

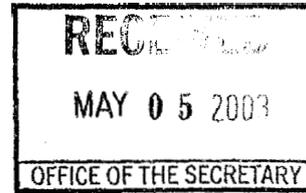


*Spear, Leeds  
& Kellogg*

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May 1, 2003

Jonathan G. Katz  
Secretary  
Securities and Exchange Commission  
450 Fifth Street NW  
Washington, D.C. 20549-0609



**Re: File No. SR-NASD-2003-37, Release Nu. 34-47588**

Dear Mr. Katz:

Spear, Leeds & Kellogg, L.P. (“SLK”) appreciates the opportunity to comment on The Nasdaq Stock Market, Inc’s (“Nasdaq”) proposal to make permanent its pilot program allowing Order Entry Firms (“OE Firms”) to enter non-marketable limit orders into Nasdaq’s SuperMontage System using the SIZE Market Maker Identifier (“SIZE”). SLK respectfully supports, and urges the Securities and Exchange Commission (“Commission”) to approve Nasdaq’s proposal.

SLK believes that allowing OE Firms to participate in SIZE enhances the liquidity of SuperMontage by promoting the display of market interest by a greater number of market participants. SLK also believes that OE Firms’ participation in SIZE serves to reduce the degree of fragmentation in the Nasdaq market that is attributable to the absence of linkages between the Alternative Display Facility, the regional UTP exchanges and SuperMontage. In addition, allowing OE Firms’ direct participation in SIZE decreases the execution times for customer orders because the OE Firms are no longer required to interpose an electronic communications network or market maker between themselves and SuperMontage.

SLK further believes that allowing OE Firms to participate in SIZE reflects the trend towards agency trading, and builds on Nasdaq’s efforts to accommodate different business models, including as they relate to different methods of compensation for a market participant’s service.’ Allowing OE Firms to participate in SIZE by representing, as agent, non-attributable customer orders is not only consistent with, but builds upon, the trend started by Nasdaq, and recognized by the Commission, of allowing agency orders to interact with market maker and other agency orders.<sup>2</sup>

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<sup>1</sup> See Special NASD Notice to Members 01-85 (Dec. 2001).

<sup>2</sup> *Id.* See also Commission Guidance on the Scope of Section 28(e) of the Exchange Act, Release No. 34-45194 (Dec. 27, 2001).



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SLK appreciates the opportunity to comment on Nasdaq's proposal to extend permanently its pilot program allowing OE firms to access SIZE, and respectfully requests that the Commission approve the rule change as proposed. Please telephone me at (212) 433-5664 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Duncan L. Niederauer', written in a cursive style.

Duncan L. Niederauer  
Managing Director and  
Co-Chief Executive Officer

cc: William H. Donaldson, Chairman  
Paul S. Atkins, Commissioner  
Roel C. Campos, Commissioner  
Cynthia A. Glassman, Commissioner  
Harvey J. Goldschmid, Commissioner  
Annette L. Nazareth, Director, Division of Market Regulation  
Robert L.D. Colby, Deputy Director, Division of Market Regulation  
Katherine England, Assistant Director, Division of Market Regulation  
Terri Lee Evans, Assistant Director, Division of Market Regulation  
Marc F. McKayle, Special Counsel, Division of Market Regulation