June 22, 2004

Mr. Jonathan Katz
Securities and Exchange Commission
450 Fifth Street, NW
Washington, DC 20549.

Comment to File No. S7-10-04

Dear Mr. Katz:

Thank you for taking comment on proposed Reg NMS (the "proposal').

The proposal seems to move forward the concept of the NMS, as outlined in the 1975 Amendments to the Securities Act of 1934.

I support elimination of the trade-through rule and a requirement for automated execution of public quotes. The proposal's plan to preserve the rule, with exceptions, is too complicated with things like "fast" and "slow" markets and a list of opt-out exceptions that would be impossible to enforce.

I generally support the access proposals. While the SEC says order routing is "Guided by little more than the fiduciary duty of best execution," the Commission should not dismiss the high standard of fiduciary duty. Market participants Participants are keenly aware of best-execution obligations, the business necessity of achieving it, and their legal liabilities for failure. Any significant trade-through problems are easy to spot in an automated environment and orders will be routed accordingly. Limit orders will be honored by agency markets.

Regarding market data fees, the proposal shows some sign that the Commission is beginning to regulate the market-data system. Distortions like trade "shredding" described in the proposal are crying out to the Commission that the entire system is flawed. The proposed changes to change the allocation formula may be beneficial, and a first step.

However, the SEC's regulation of market data still comes up short. I attach a February 2000 comment letter I wrote in response to a concept release on market data. (See http://www.sec.gov/rules/concept/s72899/jamieso1.htm) As I said then, market data is a public good, and the monopoly profits SROs have enjoyed have been a huge public subsidy to Wall Street. Market data should be free, or nearly so.

According to this proposal, in 2003 the markets got $424 million in market data revenue and distributed $386 million to the SROs (after expenses). That's a nice business, and a huge subsidy from public investors to SROs/BDs. The SEC must call market data what it is—a public good—disallow SRO profiteering, and then work with SROs and industry to come up with another funding source if need be. If SRO fees to Bds need to rise, so be it. At least the big firms that dominate the SROs are in a position to negotiate and cajole with their self-regulatory associations, unlike hapless retail investors who have no representation on the market-data plan committees. Even today, average investors do not have such a basic necessity as access to real-

time quotes on the Internet. This is an inexcusable state of affairs.
Sincerely,

Dan Jamieson