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S7-10-04

April 12, 2004

The Honorable William H. Donaldson,
Chairman
Securities and Exchange Commission
450 Fifth Street N.W.
Washington, DC 20549

Re: "Opt out" provision of the Trade-Through Rule

Dear Honorable Chairman:

I would like to thank the SEC for their time and hard work. The document is an honest attempt to make the equities market a level playing field for all. The document gives and takes like a negotiation between parties. However, I take issue with one piece of the trade through rule, the "opt out" clause. If there were a vote in congress today, it would be considered a vote of conscience. I believe it is a basic right to have a bid or offer respected…it is the backbone of the auction market and price discovery.

The "opt out" rule as you know, already exists de facto. Block traders print stock wherever they want on a system called ACT. At the time of the print, the customer knows full well they are not the only buyer or seller of the stock. One example is a block trader satisfying a single customer on a regional market system. This shows that block trader while satisfying one customer, is disenfranchising any number of customers in the market place. The Block trader offers their single customer for a commission plus a quid pro quo of future commissions. The block trader then enters the market place to cover or liquidate their position.

Another example, and common practice, is when a block trader stops a customer at a price to buy or sell a security. For example, a customer is a buyer and is stopped at a price and subsequently other buyers come into the market. Then the Block trader offers stock at an inferior price than the bid; and trades it off board. Is this what opt out is intended for?

The "opt out" rule is for the privileged few to take advantage of the market participants. It runs counter to the overall goal of getting customers to display Bids and Offers. Why display a Bid that won't have precedence?

People will opt out when it fits only them and gives them an unfair advantage over smaller accounts that can't request or choose not to request a capital commitment. It gives a bully like power to bigger customers who will demand a capital commitment and may even dictate the price. This activity will hurt the market because it prevents supply and demand from dictating the price of the stock for a short period of time... but long enough. I should point out that these Block traders often say, "I am the market in XYZ". This could not be farther from the truth. They are just paying for order flow in another way; but when asked where they liquidate their positions, they say the "NYSE".

Sincerely,

Patrick J. Collins

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