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**RE: Release No. 34-49325; File No. S7-10-04
Proposed Rule: Regulation NMS**

**Release No. 34-49749; File No. S7-10-04
Proposed Rule: Extension of Comment Period and Supplemental
Request for Comment**

Dear Mr. Katz:

The Security Traders Association of New York, Inc. ("STANY")¹ respectfully submits these comments in response to the above captioned Release No. 34-49325, File No. S7-10-04 ("Reg. NMS") and Release No. 34-49749, File No. S7-10-04 ("Supplemental Request for Comment"). Speaking on behalf of the majority of our membership², we commend and support the Securities and Exchange Commission's ("SEC or "Commission") efforts to enhance and modernize the regulatory structure of the US equity markets. We are grateful that the Commission has taken time to review these important issues. Likewise, we appreciate that the Commission understands that each issue is extremely complex in its own right and has asked for comments and suggestions before finalizing the rules proposed in Reg. NMS.

STANY is in the unique position of representing the largest affiliate of The Security Traders Association ("STA"). The membership of STANY is comprised of individual traders involved in all aspects of equity trading. We have tried to garner consensus where possible on the rule proposals in Reg. NMS. Admittedly, this was not easy. We have asked our members to put aside individual interests and biases as much as possible, and we have reached some consensus on a sensible and workable approach to changes in the National Market System ("NMS"). In doing so, we have endeavored to focus on the best interests of all market participants, especially the investor.

¹ STANY is a professional trade organization serving individual traders in the New York metropolitan area. STANY works to improve the ethics, business standards, and working environment for its members, who are engaged in the purchase, sale, and trading of securities. STANY represents the shared interests of its approximately 1,500 members from over 300 firms and is the largest affiliate of The Security Traders Association ("STA").

² STANY's membership is diverse. Members are employed by order execution facilities, national securities exchanges, and national securities associations, institutions and broker-dealers, ECNs, etc. While we have attempted to gain a consensus wherever possible, given the diverse nature of the businesses in which our members are engaged, the views expressed herein may not necessarily be shared by each and every member. Specifically, STANY's approach to the issue of access fees is not, and has not been, supported by the majority of our members employed by ECNs, which account for between 2 - 3% of STANY's membership.

I. THE TRADE THROUGH RULE

Since the release of Reg. NMS, the necessity and viability of a market-wide, uniform trade-through rule has been hotly debated among members of STANY and among various constituents of the markets. In discussions, we cannot help but notice the interconnectedness of each of the sections of Reg. NMS and how changes proposed in one section affect other aspects of the proposal. While our diverse membership may disagree on certain aspects of the trade-through question, there is general agreement that a discussion of the proposed trade-through rule cannot be meaningful without first discussing and resolving the issue of access and automation. We believe that addressing these issues is essential before a decision can be undertaken concerning other aspects of Reg. NMS, specifically the proposed trade-through rule.

STANY believes that there will be no need for a uniform trade-through rule if issues of connectivity, access, and automatic execution are adequately addressed.³ If the National Best Bid and Offer (“NBBO”) in every market is immediately accessible to “away markets” then, STANY believes broker-dealers’ best execution obligations would be sufficient to protect the interests of all investors and ensure that superior prices are sought. Additional regulation, in the form of a trade-through rule, is both unnecessary and anticompetitive.

Conversely, we feel strongly that if the Commission imposes the proposed trade-through rule without prior connectivity and immediate access to away markets, the rule will cause more problems than it will solve. Without proper inter-market linkages and without automated quotes in all markets, a universal, hard trade-through rule would not only be difficult to comply with, but would quite possibly cause customers to receive inferior, rather than better, executions as explained in more detail below.

Despite the fact that STANY does not believe that a trade-through rule is necessary, we agree with the *objectives* of those who support a trade-through rule across markets. An ideal national market system would promote the interaction of orders and treat all orders and investors fairly. If we believed that a trade-through rule was necessary to achieve these ends, we would undoubtedly advocate for its adoption. If the Commission implements appropriate rules regarding linkage and fast markets, STANY believes there would be no need for additional legislation in the form of a trade-through rule. We do not believe that a trade-through rule is necessary to promote best execution or efficient and competitive pricing. Orders will flow to market centers that best meet investors’ needs. We view competition as a better alternative for the markets and for investors.

Why Certainty is Important

Common sense would dictate that, with all else being equal, reasonable investors would always opt for the best prices. Moreover, under the current best execution obligations, it is the fiduciary duty of market participants to, in all instances, try to find best execution for their customers’ orders. Very often achieving best execution means receiving the best, advertised price. But, as the Commission has acknowledged, a quote that looks like the best price may be uncertain or unavailable. Therefore, while it would seem that investors would always like to receive the best price, to some investors, and in individual circumstances, certainty of execution may be more important than facing the uncertainty of a better price, which may or may not be obtainable.

In recent public hearings, and in comment letters sent to the Commission in response to Reg. NMS, much has been made of the concept of price vs. speed. Speed is an issue where there is no immediate accessibility and no immediate response from away markets- in other words- where quotes are not firm.

³ Once the issues of connectivity, access and automation are addressed, STANY would be in a position to meaningfully review, and most likely support, a trade-through rule if it remains the Commission’s position that one is warranted.

Most customers do not care whether an execution is achieved within a millisecond or 2 to 3 seconds, but they do care if delays in execution lead to interaction with stale or unavailable quotes. (The real issue is certainty, which declines as speed decreases.) It goes without saying, that any rational investor given a choice between *certainly* buying at price X and *certainly* buying at price X + Y would select price X: the lesser of the two prices. The opposite would apply for sellers. If those were the only choices facing buyers and sellers in the market there would be no debate. Unfortunately, given the differences in the competing market models what investors face is often a choice between *certainly* buying at price X and *maybe* buying elsewhere at price X - Y. While the cheaper price of X - Y looks preferable, often times that price is no longer available by the time the execution is attempted. In those instances the buyer can either try to get price X if it is still available, or more likely, with quickly moving markets, be required to pay X + Z. The initial “better price” no longer looks so attractive.

It is with this in mind, that we think the focus must first be on the importance and the urgency for changes in how market centers communicate with each other—particularly in the inter-market and listed environments. As the Commission is aware, the Listed environment is dissimilar from the Nasdaq Stock Market (“Nasdaq”) in many ways. The New York Stock Exchange (“NYSE”) has 80% of the volume in the securities traded in that market, yet at present, the NYSE does not have full auto-execution capabilities, nor does it have quotes that automatically decrement when acted upon. Other listed markets, such as the American Stock Exchange (“AMEX”), likewise are not fully automated. Certain regional exchanges and ATSS also do not have quotes that are automatically accessible. Because certain market models do not allow their quotes to be accessed automatically, or more importantly, do not send an automatic reply that the advertised price is no longer available, a market-wide trade-through rule as currently proposed could require a market participant to bounce an order around the market in a chase for best price. A trade-through rule that requires a participant in a “fast or automated market” to access a “slow or non-automated market” for a seemingly available better price will often result in executions that, due to delays, actually miss the inside or best price at the exact instant of the trade.

Issues That Need to be addressed

In the event that the Commission institutes a market wide trade-through rule, STANY has concerns about the rule as proposed in Reg. NMS and foresees implementation difficulties. STANY is concerned that the considerable changes attendant to the rule may result in serious unintended consequences that would not justify any perceived benefit to the NMS.

In addition to the anticipated costs of compliance (which certainly are an issue of concern and which we anticipate may be even higher than projected by the Commission), we are apprehensive about the difficulty of compliance with the rule as proposed. As the Commission notes, false positive and false negative trade-throughs will occur because quotes are updated and orders are executed more rapidly than information can be communicated. Despite the SEC’s statements to the contrary, member firms are concerned that they will be held responsible for protecting better-priced quotes that the firms cannot see or access.⁴ STANY members are concerned with the language in footnote 82 to the release⁵ and request clarification on the effect of the proposed rule on parallel trading and on the anticipated impact of quote refreshing in slow markets.

Upon reading Reg. NMS we were initially concerned with how “fast markets” would ultimately be defined. We recognize that the current Nasdaq model on the one hand, and the AMEX and NYSE models on the other, are

⁴ The Commission states in the NMS Release that “an order execution facility should be required to protect a best bid or best offer of another order execution facility disseminated within the same second during which the order execution facility executed the order but which was not the best bid or offer that the executing market saw at the instant that it executed the order.” NMS Release at 11135.

⁵ The Commission notes that this exception is intended to allow the execution of an order at a price that trades through a better-priced bid or offer displayed on another order execution facility if the order execution facility executing the order has sent an order to trade with that better priced bid or offer in compliance with the requirements of the exception only during the time period after the market trading through has sent the order to the away market, but before it receives a response or the quote on the always market is updated. It is not intended to allow an order execution facility to execute orders as trade-throughs in reliance on this proposed exception after it has received a response to its order from the away market or the away market has changed its quotes.

significantly different. Our members believe that there is a place for multiple business models within the NMS. In general, STANY believes that it is in the best interest of the NMS and investors for *competition* to determine which model or models ultimately succeed and which do not. It should not be the goal of legislation or rulemaking to protect one business model over another, and the fact that one business model may suffer should not be a driving force behind change or lack thereof. Rather, it is imperative that the market as a whole and investors' best interests dictate what regulation is appropriate and necessary. We believe that allowing for fair and open competition amongst market participants will ultimately benefit the National Market System more than regulation.

In the interests of competition, we are hesitant to have the Commission define markets by strict time parameters or performance standards. In an industry built upon rapid change and innovation, we are concerned that a definition based upon strict time parameters will become archaic quickly and may set a ceiling, rather than a floor, for performance. That being said, we recognize the need for some sort of prescribed distinction between "fast markets" and "slow markets" (or "fast quotes" and "slow quotes") seeking to interact with a quote. STANY supports the definition of "automated order execution facility" proposed by the Commission in the Supplemental Request for Comment; "as an order facility that provides for an immediate automated response to all incoming orders for up to the full size of its best bid and offer...without any restrictions on executions." We would add however that the Commission should make explicit in the definition of an automated market (or automated quote) that providing an immediate automated response would include immediately sending a report back to the market center that submitted the order, either reporting an execution or cancellation. It is correctly stated that; "knowing instantaneously whether an order is executed (in full or in part) or cancelled- is key."

We fully support the suggestion that "a market center posting a bid or offer should be required to automatically update that quote, in order to be deemed an automated market" and concur with the rationale for such defining parameters outlined by the Commission in the Supplement Request for Comment.

Although we prefer that the Commission not use strict time based performance standards in defining "automated" markets or quotes, if the Commission chooses to set specific time parameters, we believe that those standards be periodically reviewed so that they can keep pace with technological advancements. Likewise, if performance standards are established, we agree with the Commission's suggestion that each market center should be required to publicly disclose the percentage of time and each actual instance in which that market center does not provide a response in compliance with the standards required by the rule.

A. Opt-Out Exception to the Trade-Through Rule

STANY appreciates that the Commission, in recognition of potential problems of dealing across different market models, has proposed exceptions to the trade-through rule. STANY concurs with the Commission's reasoning for proposing an opt-out exception to the trade-through rule and the Commission's acknowledgment that an investor may define best execution in terms other than price alone: i.e. speed of execution, certainty of execution, and low market impact. Informed market participants need the flexibility to opt-out of trade-through protection if a market center reacts slowly to incoming orders. Investors right to make choices about how they want their orders executed should be protected. Given broker-dealers' best execution obligations and our belief that competition will always step in to fill a void, we do not believe that the availability of an opt-out exception for informed investors will lead to unfettered avoidance of best prices.

STANY's endorsement of an opt-out exception is; however, reluctant. As stated above, with fully automated markets and fair access we see no rational need for a trade-through rule. It follows that, if the markets are connected, accessible and automated; and no trade-through rule is necessary: there would also be no need for an opt-out exception. However, as of the writing of this letter, certain markets are not automated and issues of access and fees have not been resolved, we believe that any trade-through rule implemented by the Commission should contain an opt-out exception. We do, however, have some concerns about the opt-out exception as currently proposed in Reg. NMS.

STANY is opposed to the Commission's proposed requirement that broker-dealers disclose to customers who have opted out, the NBBO at the time of execution for each execution for which a customer opted out. Disclosure of the NBBO will suggest that the disclosed price was obtainable by the investor, which may or may not be true, and as such is misleading. We are also concerned that it may be difficult, if not impossible, to provide accurate reports of the relevant NBBO in fast-moving markets trading in penny increments. In an environment rife with flicker quotes, and in which quotes can be updated many tens of times per second, even the slightest imperfection in clock synchronization or market data may be material and lead to the dissemination to investors of incorrect or misleading information.

Likewise, STANY believes that the proposed requirement that order-by-order consent be given for an opt-out is unduly burdensome. We favor an opt-out provision that is limited to orders placed by institutional or otherwise sophisticated investors. In this context, we recommend that the Commission introduce greater flexibility into its informed consent requirement and allow those investors for whom the exception would be available to provide consent on a global basis as well as on an order-by-order basis. Requiring consent on an order-by-order basis may delay the order handling process and execution to the point of eviscerating the exception.

Automated Execution Alternative to the Opt Out Rule

STANY agrees with the Commission's suggestion that, "To the extent that the need for trade-through flexibility is caused by the inability to trade efficiently with published quotations, this problem could be addressed more directly by requiring all market centers to provide an automated response to electronic orders at their quote."

STANY strongly believes the time has come for mandatory automated execution among market centers operating in the NMS environment. Automated execution systems are well developed and readily available. Manual systems are historical artifacts that serve to inhibit, rather than promote, best execution. It no longer serves the public interest to protect manual systems from competitive market forces.

The complex networks forming the backbone of automated execution systems from time to time suffer delays. This is true even for the most robust networks. STANY therefore believes that a mandatory automated execution standard should require most executions to occur within a short period of time, with a small percentage of executions permitted to occur within a greater period of time. We believe that any specific standard should take into account the market conditions that exist for certain securities. The markets for Microsoft and other highly liquid securities naturally are faster than the markets for stocks that "trade by appointment." Many NMS stocks trade infrequently. Any appropriate standard will take into account volume, price and other factors bearing on liquidity. If the Commission elects to set a standard, then Reg. NMS should require that standard to be reviewed and updated periodically to reflect the evolution of network systems.

To the extent that the Commission implements the Automated Execution Alternative to the opt-out exception, the question that needs to be asked is, "Are there any legitimate (non-business model related) reasons other than lack of automation, for an investor to opt-out of a published better quotation?" STANY recognizes that even with mandatory automated markets, certain investors may have legitimate reasons to opt-out of the best-priced quotation. Several come to mind:

1. To reduce the number of separate transactions and thereby reduce clearing costs or to otherwise reduce all-in-trading costs.
2. If the Commission does not level the playing field with respect to access fees, customers may choose to avoid or opt-out of a quote that looks to be the best advertised price but that carries higher access fees.
3. An investor may choose to opt out of a better price in a market that, while automated, may still be too costly or difficult to access.

4. To access greater liquidity in a market that permits sweeps of its book.

We foresee that if the opt-out exception were available, it would stand to reason that people with limit orders would think twice about sending their orders to markets that were more costly and/or less efficient since others would be more likely to opt-out of trading with those costly or inefficient markets. Ultimately, this competitive-based solution should positively impact the market prices and market efficiency.

B. Automated Order Execution Facility Exception to the Trade Through Rule

STANY strongly favors the Commission's proposed Automated Order Execution Facility Exception to the trade through rule, which would permit an automated market to execute orders within its market without regard to a better price displayed on a non-automated market. We, however, oppose the placement of de minimis parameters on this exception and believe that a market center should be allowed to trade-through a manual market by an unlimited amount.

C. Other Exceptions to the Trade-through Rule

To the extent that a uniform trade-through rule is implemented, STANY supports the other exceptions proposed by the Commission in Reg. NMS. The exceptions relating to orders sent by an order execution facility to multiple markets at the same time or prior to execution of an order in its own market, systems malfunctions, regular-way contracts, unusual markets, openings and re-openings and crossed markets are all appropriate and important.

In addition to those miscellaneous exceptions proposed by the Commission, STANY supports the inclusion of exceptions to a trade-through rule for large block orders, and orders based upon benchmarks such as VWAP trades. We believe the inclusion of such exceptions would provide freedom of choice to investors while having little or no material negative impact on price protection. Likewise, we support the Commission's suggestion in the Supplemental Request for Comment that it would be unreasonable to hold a market center responsible for protecting another market's "rapid quote changes." We suggest that the Commission adopt an exception that would identify trade-throughs of flickering quotes as "false" trade-throughs.

Automated Market v. Automated Quote

It should be kept in mind that in the first instance we do not believe that there exists a need for a trade-through rule. However, if the proposed trade-through rule is implemented the suggestion that quotes rather than markets be defined as fast or slow, may on its face be appealing to the Commission and certain market participants. We can appreciate that a shift of focus, from market centers to quotes, may make it easier for the listed markets to retain their auction capabilities, and become hybrid markets, while at the same time providing market participants with information about the nature of the quote with which they are interacting. Although, in theory, current technology may make it possible to identify quotes as automated or manual, we have concerns about whether, in practice, a quote based exception to the trade-through rule is workable.

Our members have reservations and questions about the way in which the quote based exception will operate. The Supplemental Request for Comment leaves many questions unanswered. For example, the Commission question, "...would narrowing the exception for manual quotes, which would allow a market center with an Auto-Ex Facility to display a manual quote *in particular limited circumstances*, provide more flexibility for a market center with a floor based structure to effectively integrate its trading-floor with an Auto-Ex Facility...?", begs for clarification of what "particular limited circumstances are contemplated by the Commission. (Emphasis added). Before STANY can fully and intelligently render an opinion on the quote based exception it would be helpful to know what particular limited circumstances the Commission contemplates? Likewise, we would like to know whether those circumstances would be decided by the Commission and spelled out in the rule? Or does the Commission anticipate giving market centers discretion with respect to when quotes change from auto-ex to manual?

STANY also has the following questions and concerns:

- When a limit order is executed against a manual quote, how will the transaction be treated for best execution purposes?
- Will non-manual quotes be included in the NBBO? If a market participant cannot access the manual quote, or chooses not to, based upon the exception, will that market participant be held to best execution obligations with respect to that quote? Some STANY members believe that when a quote is manual it should be excluded from the NBBO since the implication is that the quote is not real. Other members believe that it is sufficient to identify the quote as manual, but suggest that information be disseminated as to the reason for moving from auto-ex to manual. These members believe that there is an important distinction between shutting off the auto-ex feature because of an order imbalance and shutting it off due to such factors as system errors.
- What will be the Manning obligation implications?
- From a retail standpoint STANY is concerned that orders may be executed out of sequence when some are sent to the floor of an exchange in manual mode and others are executed against an electronic auto-quote.
- Will market centers be able, or required to, move manual quotes out of the way? If so, how?

To the extent that the Commission adopts a quote based exception to the trade-through rule, we suggest that modifiers or identifiers be placed on quotes that are manual rather than on quotes that are automated, assuming, as the Commission does, that the majority of quotes will be automated. We would also suggest that the modifiers be computer readable so that, in addition to being visible on a computer screen, they can be electronically identified as manual quotes by smart routers. If the Commission adopts a quote based approach, we do not object to the Commission permitting a market center to decide on a security-by-security basis whether quotes will be automated providing that other market centers can trade-through those manual quotes.

STANY suggests that manual quotes be excluded from the formula for allocation of market data fees and be excluded from 11 Ac1- 5 statistics. Since manual quotes may not be "firm", comparison of these "quotes" with automated quotes would be unfair. Likewise, we see no basis for rewarding specialists with revenue based upon quotations that are not accessible via automatic execution. We do not oppose the display of manual quotes, with identifiers in the NBBO, however, we view the comparison of manual quotes, which may not be firm, with quotes that represent a real and accessible trading interest, as inequitable. If the Commission implements a market-wide trade-through rule with a fast quote exception, manual quotes should not be used as a measure of best execution.

2. MARKET ACCESS

A. Linkages

If the Commission, as stated in the release, wants to encourage order routing firms to post limit orders, those firms need assurances that it is in the best interest of their customers to do so. If an order routing firm indicates an interest to buy 10,000 shares of XYZ at \$20.00 and that stock continually trades at \$20.01 (know as "penny jumping"), that routing firm will be discouraged from showing that order and have no incentive to do so. One may ask, " What does penny jumping and connectivity have to do with each other?" In the forgoing example, the order does not get executed immediately and gets penny jumped because of what the listed markets would call "price-improvement". No matter what term is applied to the practice, if it prevents order routing firms from posting their indications of interest, it is not good for the market. Rather than allow the market to ignore the limit order at \$20.00, the market should provide incentives to the party who has been penny jumping to post their own limit order to buy at \$20.01. This would not only protect the original limit order at \$20.00, but also increase the number of limit orders displayed in the market and enhance price discovery and liquidity. A fully connected market should result in an increase in displayed limit orders, faster executions and, in turn, more efficiency. With improved linkages between markets and auto-execution of *at least* the NBBO, order routing firms will be more inclined to post their customers' indications of interest. In this type of market, price discovery is the clear winner.

Of course, advocating for improved linkages as the key to a more efficient National Market System raises the question, "How do we get improved linkages?" Although there is a slight difference of opinion among our members on the issue of hard linkages vs. private linkages, we are optimistic that a readily available solution is already in place. The much-maligned Intermarket Trading System ("ITS") can, without too much adjustment, be improved to make it a viable option for linking markets. Already linked are the NYSE, all regional exchanges, and all third-market market makers. Problems with ITS occur today with linked markets that do not automatically execute their displayed quotes, i.e., where the quote is delivered electronically, but the execution requires manual intervention. In markets that auto-execute ITS commitments, we do not see the same issues that we see in the non-automated markets. If the facilities were to become automated, and if ITS were to have an immediate response time, as opposed to the current 30 second response time, it could effectively be used as an avenue for seamless linkage and execution. If quotes submitted to ITS were required to be firm and available for real time execution then ITS, which is free, fast and efficient, should adequately address the problems of access that currently exist and eliminate the need for a trade-through rule.

STANY advocates the use of a modified ITS, with immediate response times, as a simple and readily available solution to current access problems. We do not, however, oppose the use of private linkages and assume that if there is a need for, or benefit to be derived from private linkages, free market competition will encourage their further development and use.

B. Locked and Crossed Markets

STANY applauds the Commission's efforts to eliminate locked and crossed markets. We believe that locked and crossed markets interfere with the efforts of our members to comply with their best execution obligations and reflect underlying structural flaws in the market. STANY therefore strongly supports that portion of proposed Reg. NMS requiring national securities exchanges and national securities associations to establish and enforce rules to prevent and prohibit their members from locking and crossing markets.

Where Regulation NMS Misses the Target

Nonetheless, STANY believes that proposed Reg. NMS generally fails to correct the serious problem of locked and crossed markets, or provide a satisfactory mechanism to achieve automated execution, because it is at the same time both overbroad and too narrow to achieve its salutary goals. Reg. NMS is too broad because it attempts to impose unnecessary and counter-productive rules bearing on the relationships among broker-dealers and their customers. This is an area where market forces can be expected to achieve a better result. On the other hand, Reg. NMS is too narrow because it fails to regulate effectively the relationships between quoting market centers, which is the area where the problems of locked and crossed markets and market access are most intractable.

Regulation NMS is overly broad

STANY believes that Reg. NMS paints with too broad a brush when it provides that "a quoting market participant would be required to make its quotations accessible to all quoting market centers and all other quoting market participants *in terms as favorable as those it grants its most preferred member, customer, or subscriber.*" (*Emphasis added*) Consider, for example, a broker-dealer that has an order to buy 500,000 shares of a stock usually quoted in lots of 100 shares. To satisfy the customer's objective to obtain the best possible price for the entire order, the broker-dealer might communicate with another broker-dealer noted for significant activity in the stock and ask for an offer on the entire lot. As drafted, Reg. NMS would require each of these broker-dealers to make the quotations predicated on the handling of a large order available to all other quoting market participants. But, this would clearly not be in the best interests of the customer with the order.

STANY can understand that the Commission may have a reasonable basis for prohibiting market centers from unfair discrimination in access to quotes. Market centers bear a close resemblance to utilities and as such it is fair

and reasonable to prohibit them from unfairly discriminating. However, we are concerned with the Commission's extension of this principal to market participants. The requirement that market participants grant, "favored status" to customers and non-customers alike is unnecessarily anticompetitive without a reasonable basis. Such a rule would severely restrict competition, would remove the ability of market participants to individually negotiate with their customers on the basis of volume or other incentive discounts, and would amount to rate fixing. Offering "best" customers preferential treatment does not amount to per se discrimination and should not be viewed as a negative practice that warrants governmental intervention. We simply do not agree that it is necessary or desirable to require quoting market centers or quoting market participants to treat all other quoting market participants as favorably as their most preferred member, customer or subscriber. Such a requirement is anticompetitive.

It is not uncommon for businesses to treat customers – those who pay for their services, and non-customers – those who don't pay for services, differently. Likewise, it is not uncommon, nor limited to the securities industry, for businesses to differentiate between customers. Credit card businesses offer special incentives to those who use their cards more frequently or for larger purchases. Retail stores, airlines and others businesses offer special services and incentives to their "best" or "preferred" customers. Manufacturers offer deals to customers who buy in bulk. Banks offer free checking to large depositors. A blanket prohibition on "discrimination" in the provision of trading services is a significant and unfair intrusion on the part of the government into business practices. To carry it to its furthest extreme, to prohibit market participants from offering incentives for those who interact with them on a regular and/or large order basis would take one of the largest competitive tools away from the market.

Even if the rule against discrimination is not carried to this extreme, a less stringent rule is likely to threaten useful innovation in trading services. Recent years have witnessed a flurry of innovation in trading services. Automated execution, ECNs, electronic trading systems, SuperMontage – the list goes on and on. There have also been celebrated failures, such as Optimark. These innovations, whether or not successful, stemmed in large measure from attempts by innovators to offer a unique commercial product tailored to the perceived needs of a carefully differentiated group of customers.

Market makers and exchanges compete with each other for order flow by, among other things, offering unique services that may not be available in other trading venues. If a market participant or market center creates a service that adds value, its customers will be willing to pay the market participant or market center a higher price than could otherwise be demanded if they simply offered the same service offered by many others. Competitive market participants and centers are therefore in a constant search to discover innovative systems, processes and methods that will differentiate their service offering, enabling them to obtain a higher price for their products.

For similar reasons, STANY opposes proposals to open up the limit order books of its members. Many orders, particularly large orders, are, in and of themselves, a piece of market information. The source of an order may be a particularly sensitive source of information. Many customers, particularly institutions, recognizing the information-laden quality of their orders, select market centers to execute their orders based on their perceived ability to keep the information inherent in their orders confidential. The information content of a customer's order is the property of the customer, and the customer should determine the circumstances under which information will be disseminated to a larger audience. In turn, the ability of a market participant to protect the information content of an order is a value-added service, and market participants compete to design systems that will best achieve that objective, consistent with the requirements of best execution.

Order books are an area where customers are in the best position to make informed choices. Customers who place a high value on anonymity should be able to seek out market participants offering that service and will pay a higher price than customers who are indifferent about anonymity. Market participants will invest in the development of innovative trading services that protect anonymity to the extent it is economically attractive to appeal to such customers.

The order handling rules and the requirements of best execution often may require a broker-dealer to submit quotations to a quoting market center, but this will not always be the case. STANY believes that the access

requirements of proposed Reg. NMS should apply only to those quotations that are submitted by a broker-dealer to a quoting market center.

Regulation NMS is overly narrow

On the other hand, Reg. NMS is overly narrow in its approach to the problem of locked and crossed markets because it fails to achieve a satisfactory mechanism to eliminate locked and crossed markets among market centers. Reg. NMS does not, as presently formulated, prohibit one national securities exchange from locking or crossing the markets of another. As quoting market centers continue to compete for dual listings, the problem of locked and crossed markets across platforms sponsored by self-regulatory organizations will be exacerbated.

STANY believes that much of the current problem of locked and crossed markets arises from a desire by some market centers or participants to charge non-customers for their services. Customers who receive insufficient value compared to the price of a service will take their business elsewhere. This market discipline does not exist in circumstances where parties are forced to deal with a market center or participant due to regulatory constraints, and that market center or participant is not restricted from charging its regulatory captives for dealing with it. As pointed out in the proposal, the requirements of best execution may cause broker-dealers to access quotes from other market centers or participants that charge a fee for this access. These broker-dealers are not customers of the fee-charging market center or participant and, due to the constraints of best execution, cannot take their business elsewhere to avoid over-charging.

Investors and market participants who choose to display orders with ECNs believe the ECNs provide a service that the buyer of those services deems valuable. For example, ECNs provide market participants and investors with anonymity, which is, for those who seek it, a value added service. ECNs or other market participants who provide services that protect the anonymity of their customers' orders should be permitted to charge for those services. On the other hand, investors who do not place a high value on anonymity should not be required to subsidize those who do by being required to pay to access the public quotation of such ECNs.

We believe that each quoting market center should be required to make the quotations submitted to it by its quoting market participants reasonably available to other quoting market centers. For this purpose, we believe the rule should define a quoting market center as the quotation facilities provided by each national securities exchange, each national securities association and any ATS with a market share greater than 5%. Any ATS with a market share less than 5% should be required to submit its quotations through the facilities of a quoting market center, or if it chooses not to participate in a public quoting market, broker-dealers should not have best execution or trade-through obligations to access its quotes.

Quoting market centers, as defined above, should be required to agree on the terms of such access, including fees to reflect the reasonable cost of access, based on the parameters established by the Commission. Among other things, quoting market centers should agree on rules to prevent and prohibit locked and crossed markets among their quotes. The joint agreement we propose here, which must be enforced by Commission action in order to be effective, together with the internal rules barring locked and crossed markets among the members of national securities exchanges and national securities associations, are essential, in our view, to eliminate the problem of locked and crossed markets in NMS securities.

C. Access Fees

That proposed Reg. NMS is too limited to correct the problem of regulatory capture is apparent in its treatment of fees for quotation access. While we certainly agree that market makers ought to be able to charge fees for access if ECNs are permitted to do so, it is STANY's long-standing position that access fees currently charged to non-subscribers by ECNs should be eliminated.

While STANY is pleased with the Commission's attempt to correct the distortions in the market created by the footnote in the Order Handling Rules that permitted ECNs to "impose charges...similar to the communications systems charges imposed by various members," a preferable approach would be to eliminate access fees altogether.

STANY believes that it is important to distinguish between access fees charged by a market center to its members and subscribers and those charged to non-subscribers seeking access to published quotes. When a market participant sends an order to a market of which it is a member or subscriber it makes an affirmative decision to route to that market and pay whatever fees are associated with participation. However, when a market participant is forced by its best execution obligation (or, if implemented across markets, a trade-through rule) to interact with a quote in a market of which it is not a member, that market participant is no longer making a freely determined choice. Imposing a fee on a person accessing a quote is not only unfair but it distorts the accuracy of quotations.

While the Commission's proposed de minimis plan looks like a reasonable compromise, STANY has some specific concerns about the plan. Firstly, to the extent that the Commission implements a de minimis fee plan, we strongly believe that the limitation on access fees should apply to the entire montage, not just to the NBBO and should apply to reserve size as well as the displayed quote. A tiered approach to access fees is unworkable, unnecessarily complex, extremely costly from a compliance standpoint, and will not achieve a uniform quoting convention. The best way to truly level the playing field and establish a uniform trading convention, which would enable market participants to easily understand price, would be to eliminate access fees altogether. Short of that, only a de minimis fee plan that applies to all transactions equally would let competitive forces drive the market.

Secondly, STANY is concerned that fees charged by each quoting participant under the proposed de minimis fee plan would have to be collected. Smaller participants may be hampered from collecting fees by administrative difficulties, and this practical reality would provide an unfair advantage to larger market participants. The start-up and administrative costs associated with fee collection by smaller firms will likely be prohibitive, especially when measured against the collection of de minimis fees. To be fair and to avoid unfair discrimination against smaller participants, each national securities exchange, national securities association or other quoting market center should collect fees on behalf of its participants.

This naturally raises questions about the utility of the access fee. It would seem that an access fee, if fairly and uniformly applied, would simply amount to a redistributive tax collected by each national securities exchange or national securities association from those who access market quotes and distributed to those who provide market quotes. It is not clear to us that it is a worthy regulatory goal to provide this incentive to market participants who provide accessible quotations. If some useful purpose were served by this incentive, there would seem to be more efficient ways to reward such quoting behavior than the Commission's current access fee proposal.

The Commission's venture into rate setting among market participants also raises troubling issues. The Commission's proposal fails to provide a satisfactory principle for the proposed fees, other than the elliptical observation that some ECN business models require access fees. This rationale fails to provide any basis for determining whether the proposed rates are too high or too low.

At some future time, market participants may well wish to petition the Commission for higher rates, while their customers may wish to argue for lower rates. Will it be enough for those market participants to point to elements of their business model that require higher rates? And, since the entire purpose of "business models" is to establish a basis for profitability, doesn't the business model argument presume some exploration into the meaning of "fair profitability?" It seems to us that this attempt at rate-setting will inexorably lead the Commission into setting industry profitability standards, much the same as with public utilities, but without the justification that such rate-setting is necessary to curb otherwise unavoidably monopolistic behavior.

STANY favors elimination of access fees charged to non-subscribers by ECNs; however, if the Commission rejects arguments in favor of complete elimination, we believe that the playing field should be leveled by allowing market makers to charge access fees if ECNs continue to be permitted to do so.

Caution is Highly Advisable

STANY is mindful that the triple combination of (i) no or non-discriminatory access fees, (ii) elimination of locked and crossed markets and (iii) mandatory automated execution may result in the elimination of certain business models from the market place, or, more likely the restructuring of certain firms' business models. We believe that the mission of the securities industry must always place investors first, and our members have experienced many painful adjustments in the recent past in pursuit of that worthy goal. We remain committed to support change that favors the interests of investors, as this alone will ensure the long-term health of the securities industry.

All of that being said, it is a matter of simple economics that when a firm can access the quotes of a market center at less cost as a non-member than as a member that firm will drop its membership or be forced out of business by competitive factors. Accordingly, if a NASD member as a non-member of the New York Stock Exchange can access NYSE quotes at less cost than if it were a member of the Exchange, it will rapidly relinquish its Exchange membership. In that regard, the historical experience of the London Stock Exchange serves as an excellent example. At the time of the "Big Bang," the members of that Exchange rapidly abandoned the floor (within a month after quotes could be accessed in an upstairs environment) although millions had been spent to supply the floor with the latest technologies of the day.

If it were so simple a matter as a more advanced technology prevailing over obsolescence, change should be welcomed with open arms. We are concerned, however, that many of the cost factors that impose a higher burden on certain classes of membership may be attributable to regulatory costs, rather than less-productive technology.

Moreover, certain markets enjoy revenue streams, such as listing fees, not available to other market centers. The listing process involves a certain amount of regulatory and disclosure requirements that do not pertain to unlisted companies. An exchange without an active trading floor will quickly lose its listings, and a regulatory component that has benefited investors will perish simultaneously.

The issue is difficult to unravel because exchanges have operated as self-regulatory organizations under the Securities Exchange Act of 1934 ("the Exchange Act") since its inception. A regulatory component has therefore been built into the business model of these organizations. Recent efforts to divide the Siamese twin regulatory and business components of exchanges have so far met with mixed results. We fear the operation will probably kill the patient, but that investors will not be left better off in the process.

Since the Commission appears to be addressing fees in a broader context than fees currently charged by ECNs, STANY believes that additional discussion is necessary to ensure that Reg. NMS does not set fees in such a way as to significantly hinder either new entrants to the market or result in the elimination of valuable market participants or centers.

Alternative to Access Fee Limitations- Supplemental Request for Comment

STANY supports an alternative to the access fee limitations proposed in Reg. NMS that would eliminate access fees charged by ECNs to non-subscribers who access their quotes. On the other hand, we oppose an alternative that would maintain the status quo as it relates to access fees.

If, the Commission elects to continue to allow ECNs to charge fees to non-subscribers at unlimited rates and, at the same time, continues to prevent market makers from charging access fees, we foresee serious consequences to implementation of a trade-through rule across markets. Quotations with access fees are not equal to quotations

without fees. To treat them equally misses the fact that hidden costs impact price and ultimately best execution. To mitigate some of those anticipated negative consequences, STANY supports the suggestion that, if fees are not limited, quotations with fees of greater than a de minimis amount be excluded from trade-through protection. Likewise, we support the Commission's suggestion that, if fees are not limited, quotations with greater than de minimis fees be excluded from allocation of market data revenues.

Despite STANY's unreserved support for the elimination of sub-penny pricing (discussed below), there is one instance in which we would not oppose quoting in sub-pennies. If the Commission maintains the status quo with respect to ECN fees- in other words either fails to eliminate them altogether or fails to implement the de minimis fee structure proposed in Reg. NMS- STANY believes that a feasible alternative would be to require access fees to be displayed in the quote. We should be clear that this is in no way our preferred method of solving the problems caused by the current access fee structure, but is rather a suggestion of last resort. STANY agrees with the Commission that, "... Published quotes today do not reliably indicate the true prices that are actually available to investors." The absence of a uniform quoting convention makes it difficult for investors to compare quotations across marketplaces, and while including fees in the quote will lead to sub-penny quoting, it would also lead to quotes that accurately reflect price. We view this as the lesser of two evils. Were the Commission to follow this course, the only sub-pennies that we believe should be allowed in a quote are those that reflect access fees. This proposal is appealing in that it would allow market forces, rather than rate setting, to establish appropriate fees. On the other hand, sub-penny quoting can be confusing to investors and dilute the depth of the market at each price level⁶. We appreciate the difficulty the Commission faces in dealing with the issue of access fees, but also stress the significant costs associated with these fees and the difficulty of ascertaining true prices and meeting best execution obligations in light of hidden fees.

3. SUB PENNY QUOTING

STANY fully supports the Commission's proposed prohibition on sub-penny quoting. One of the principal benefits of the change from fractional to decimal pricing is the clarity and simplicity afforded the investing public. While there were perceived benefits to be gained by moving from fractional to decimal pricing, quoting in sub-pennies provides negligible additional benefits to investors and leads to a more obscure and confusing price structure than ever before.

Sub-penny quoting also exacerbates many of the negative consequences to transparency and liquidity that have accompanied the decimal conversion. Significantly, sub-penny quoting has been used to jump ahead of limit orders, rather than as a legitimate price improvement vehicle and has been a disincentive to customers placing limit orders. We are also concerned about the loss of depth in the market occasioned by the virtually unlimited price points attendant to sub-penny quoting. The increases in price points and decline in market depth negatively impacts the usefulness of the NBBO as an indicator of trading interest and increases the incidences of flickering quotes.

Although STANY supports a ban on sub-penny quoting, we do not think that a ban on quoting in sub-pennies should prohibit the execution of trades in sub-penny increments where sub-pennies are used for price improvement or VWAP trades.

Likewise, STANY supports the exclusion of low-priced securities from the ban on sub-penny quoting. Sub-pennies represent a smaller percentage of the total cost of low priced securities and should be permitted in securities that trade below \$1.00. The only other circumstance in which we would see any justification for sub-penny quoting is if the Commission maintains the status quo with respect to access fees and even then, only access fees should be permitted to be reflected in sub-penny increments.

⁶ Some STANY members believe a reasonable alternative would be to require access fees to be included in the quote but further require ECNs charging fees to round up to the nearest penny.

4. MARKET DATA PROPOSAL

STANY welcomes the Commission's efforts to address the "serious economic and regulatory distortions caused by the current Plan formulas" and commends the Commission and the Advisory Committee on Market Information ("Advisory Committee") for the work they have done. STANY's members are individual traders and not SROs or SIPs, and therefore do not have a level of expertise in the area of market data collection and dissemination to justify detailed comment on the specifics of the formula proposed in Reg. NMS. While STANY's members are not in a position to fully evaluate the Commission's proposal, STANY believes that certain principles should be kept in mind when fashioning changes to the rules relating to market data fees.

Access to quality market data, especially the NBBO, is vital for investors, is a key element in price discovery, and is essential for an effective national market system. Because market data is necessary to market participants, it is imperative that the Commission discharge its duty under 11A of the Securities Exchange Act to ensure that access to market data is available on "fair and reasonable" and "not unreasonably discriminatory" terms.

STANY appreciates the Commission's attempt to amend the CTA Plan, the CQ Plan and the Nasdaq UTP Plan (the "Plans") to change the current formula for allocating the Plans' net income to their SRO participants. However, without a proper understanding of the true costs, it is impossible to determine the appropriate structure to allow for either the return of these excess revenues to the investor or a model in which market data revenues equals the cost of providing that data to the public (and where appropriate, regulatory costs.) Disclosure and transparency of costs must be the first step to market data reform.

Despite the efforts of the Commission, we believe that the debate should focus on the level and rationale for those fees, rather than on revenue allocation. The Commission must determine whether the reasons why market data fees are collected, the level at which they are set, and the use to which the revenue is put, are fair, reasonable, and not unreasonably discriminatory. We believe that the Commission should take this opportunity to evaluate the level of fees and to reform the anticompetitive governance system of the current Plans, rather than reallocate revenues based on a new formula.

STANY has reservations about whether the current fees for market data are in fact fair and reasonable. The fact that SROs are in a position to rebate fees seems to suggest that there is an error in pricing. We have reason to believe that current fees are substantially in excess of the costs of collecting and disseminating market data⁷. In addition to suggesting errors in pricing, rebating of fees acts as an incentive to practices that the Commission is hoping to address in Reg. NMS such as, tape shredding and wash sales.

If data fees are set at the appropriate level, it seems to us that rebates would be superfluous. Unfortunately, market participants are not in a position to determine whether the fees currently charged for market data are appropriate and fair. Presently, market participants are unable to identify the exchanges' operating costs and how the revenues collected from market data fees are in fact used. As acknowledged in Reg. NMS, the Commission itself does not know what it costs the SIPs and their SROs to consolidate and distribute market data. This information is vital to a determination of whether current market data fees are reasonable. In order to determine

⁷ The SEC has included a table in the Reg. NMS release setting forth the Networks' revenues, expenses and net income for 2003. This financial information shows that the net income of the Networks was \$386,027,000, while Network expenses totaled only \$38,300,000. Moreover, in his testimony before the Commission held on April 21, 2004 Robert Griefeld, President of the Nasdaq Stock Market, Inc., conceded that the current market data cost for professional investors of \$20 is high (for basic market data-the NBBO). He added, "the number probably should be somewhere around five to seven dollars... The market centers today are the beneficiaries of that excessive rent and are utilizing this money to buy prints independent of market center value. If the utility rate was five to seven dollars, then the market center would have a very difficult time buying prints." See NMS Hearing Transcript at 223, 24.

reasonableness of market data fees, those fees must be accounted for transparently. To this end, the Commission should require SROs and SIPs to publicly disclose the true costs of collecting and disseminating data. These disclosures should be made available to the public on the SEC's website and should be similar to those disclosures required under Sections 11Ac1-5 and 6 of the Exchange Act.

STANY questions the current practice of using market data fees for regulatory and other costs not immediately associated with collection and dissemination of market data. We understand that market data fees are used to offset costs of market regulation and that a reduction of market data fees will impact the underwriting of the costs of that regulation. STANY appreciates the importance of regulation and believes that regulation should be adequately funded. In this regard, the Commission should review and consider whether the use of market data revenue to fund regulation is appropriate. If the Commission finds that the use of market data fees to cover regulatory costs is consistent with the statutory purpose of Section 11 of the Exchange Act, then STANY does not oppose the use of market data revenue for regulation, as long as there is a *proper and transparent accounting* of the use of market data revenue by the SROs and SIPs.

We are pleased to see the Commission propose broader industry and investor participation in Plan governance and view this as a positive step. We do not, however, believe that the presence of a non-voting Advisory Committee, as proposed in Reg. NMS, will be adequate to effect positive changes. Rather, we believe that an independent committee, empowered with sufficient authority to enforce decisions and subject to review or audit, is required. STANY is concerned that the existing Plan governance structure allows rate setting by self-interested parties without transparency and adequate review. Only in the case of a proposed reduction in fees is unanimity of Plan participants required. Moreover, the existing practice of effecting rate changes by submission by the Plan of proposed fees to the Commission, effective upon filing, does not require a truly substantive review of fees. The current lack of transparency of the Plan governance, rules that give excessive power to self-interested parties, and perfunctory review by the Commission, are, in part, responsible for excessive market data fees.

With respect to the proposed formula, we agree that in theory the inclusion of quotes in the formula, in an effort to achieve better quotations, makes sense. Changes that encourage price discovery and reward those who provide real, quality quotes, that are available to be traded against, would be constructive. STANY is however concerned that certain market participants will figure out ways in which to game a quote based model for financial advantage, just as they game the current model, without necessarily adding value to price discovery. The Commission's objectives in seeking an amended formula are commendable. However, we believe it would be preferable to remove the incentives to game the formula through requiring transparent accounting for fees, correcting the pricing mechanism, and effecting meaningful improvements to Plan governance. Towards this end, we encourage a more comprehensive review by the Commission of the issues pertaining to market data fees prior to implementation of changes.

CONCLUSION

STANY supports the Commission's attempt to enhance the regulatory structure of the US markets and modernize the NMS. STANY likewise commends the Commission for understanding the complexity of the issues facing the NMS and taking the time and effort to hear from market participants at all levels.

We agree that it is time to review rules and regulations that may be outdated and no longer effective. However, we urge that caution be used when making changes as sweeping as those proposed in the Reg. NMS release. The potential unintended consequences and hidden risk to the US markets and its participants should not be ignored or downplayed. Moreover, STANY is concerned that Reg. NMS imposes yet another major structural change in a market that in the last five years has already witnessed greater structural change than in its entire history. Inevitably, business models that currently employ hundreds, if not thousands of employees, may no longer remain viable if Reg. NMS is adopted as proposed. While STANY believes that no firm's business model should be permitted to stand in the way of change that will benefit investors, the sweeping changes contemplated by the

proposed rule dictate the need for cautious and careful consideration to avoid the potential for creating greater harm than the hoped-for benefits.

In summary, STANY opposes the concept of “trading-through”, however we view the adoption of a uniform trade-through rule as unnecessary. Given connectivity, certainty of execution, and the best execution obligations imposed upon all market participants, we do not believe that there exists a need for a trade-through rule. More importantly, we do not believe that the best way to prevent or police trade-throughs is by additional regulations where it is not necessary.

Requiring all market centers to automate at least the top of their books and become “fast markets” could better solve the current problems that we see in the listed markets. We would support a definition of “fast markets” or “fast quotes ” wherein “fast” is defined as involving an electronic and immediate computer-to-computer execution or response with no human intervention. We would be comfortable with this standard, provided that the top of the book would automatically refresh and immediately display a new top of the book that is then available for auto-execution. STANY cautions the Commission against setting specific time parameters for “fast” vs. “slow” markets or quotes. Rather, competition should drive timing.

In addition to automation of at least the top of the book, we strongly urge that all market centers be linked. We believe that for the interim, ITS can be easily upgraded and serve as a hard linkage. STANY, however, does not oppose the use of private linkages as well.

If the Commission believes that a uniform trade-through rule is necessary, we believe that in the absence of auto-execution and adequate linkages, a trade-through rule should not be implemented across markets without an opt-out provision. Investors who place a priority on certainty should be able to make trading decisions based on their own priorities. Likewise, we do not think it benefits the NMS to have a system that requires market participants to “chase a penny” around the market. The National Market System should ensure the immediate accessibility of better prices on away markets. Ultimately, the customer’s freedom of choice should be respected. The customer should be the final arbiter of what constitutes best execution of each order. STANY also strongly urges the implementation of the Automated Order Execution Facility Exception to the trade-through rule. We suggest that this exception be modified to eliminate the de minimis limits suggested in the proposal. We believe that a “fast market” or “fast quote” should be permitted to trade through a “slow market” or “slow quote” without regard to price differentials.

We believe that the majority of the problems of locked and crossed markets would be eliminated by the elimination of access fees and regulatory arbitrage caused by the current excessive market data fees and rebates attendant to both fees. STANY believes that market centers need to reach an agreement on ways in which to prevent locked and crossed markets across markets and that the Commission must put its enforcement powers to work to ensure compliance with rules designed to reduce the instances of locked and crossed markets.

STANY has, in the past, urged the elimination of sub-penny quoting. We applaud the Commission for its proposal to eliminate this practice and fully support this aspect of the Reg. NMS proposal.

STANY has long taken the position that ATs and ECNs should not be permitted to charge fees to non-members who access their quotes within the NASDAQ system. Since other market participants who provide liquidity by placing quotes in the montage are not permitted to charge access fees, STANY has seen the SEC’s comment in a footnote to the Order Handling Rules as a gift of an unfair advantage to certain market participants. We commend the Commission for attempting to rectify this imbalance. While we strongly favor the elimination of ECN and ATS access fee, STANY views the de minimis fee structure as a viable alternative if the Commission remains reluctant to abolish fees.

While STANY’s members may not be best qualified to comment on the specifics of the Commission’s proposed changes to the current Plan formulas for allocating Network income to SROs, we do appreciate the fundamental

Jonathan G. Katz
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importance for timely access to market data by all market participants. We commend the Commission for its efforts to effect change, but believe that effective change could best be achieved by an open and transparent accounting of the costs of collection and dissemination of market data fees and subsequent cost-based pricing. Likewise, we recommend structural changes to Plan governance that provides for meaningful review by an independent committee empowered to ensure that changes are effected.

STANY appreciates the opportunity to comment on the issues raised in Reg. NMS and the Supplemental Request for Comment. We support the Commission's efforts to modernize and enhance the NMS and are pleased to be able to contribute to this important discussion. STANY through its Officers, Directors, and members stand ready to assist the Commission as it continues its review of the critical and far-reaching changes anticipated in the US markets. Please do not hesitate to call upon us if we can be of assistance. We look forward to continued dialogue with the Commission.

Respectfully submitted,

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