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

Re: File No. S7-02-04

Dear Mr. Katz:

The American Stock Exchange LLC ("Amex") appreciates the opportunity to offer comments on the Securities and Exchange Commission ("Commission") proposal to amend the penny stock rules. The Amex fully supports the Commission's continuing efforts to deter fraud in the penny stock market. However, we would like to offer several clarifying comments to address certain assertions in a comment letter submitted by the Nasdaq Stock Market ("Nasdaq") regarding the proposal.[1]

The Nasdaq letter asserts that the initial listing standards for its SmallCap market are in certain respects more stringent than the Amex initial listing standards. However, the letter neglects to mention that in a number of other respects the Amex initial listing standards are significantly more stringent that the SmallCap initial listing standards. Both Amex and Nasdaq listing standards require issuers to satisfy a number of quantitative and qualitative criteria to qualify for initial listing. While SmallCap imposes a higher price requirement, a full comparison of the initial listing standards for both marketplaces reveals that the Amex standards in the aggregate subject issuers to a broader range of quantitative criteria. Specifically, the Amex standards require compliance with at least two core quantitative criteria (*e.g.,* shareholders' equity, pre-tax income, market capitalization, market value of publicly held shares) and/or with enhanced quantitative criteria, while the SmallCap standards require compliance with only one core quantitative criteria.

The Nasdaq letter goes on to assert that the proposal therefore creates an opportunity for some sort of regulatory arbitrage, and claims, without any justification or support, that SmallCap is "more transparent, more liquid and better regulated." As discussed above, the Nasdaq claim that the SmallCap listing standards are more stringent than the Amex listing standards is flawed, and accordingly we do not agree that the proposal would result in a regulatory arbitrage or encourage issuers to choose an Amex listing. Further, the contention that SmallCap is a more transparent,

[1] See letter dated March 18, 2004 from Edward Knight, Executive Vice President, Nasdaq to Jonathan G. Katz, Secretary, Securities and Exchange Commission.

liquid or better regulated market is without merit. The Amex takes its regulatory responsibilities extremely seriously, and has, particularly over the past year, taken significant steps to substantially improve its regulatory program and oversight of the program. Moreover, we believe that the Amex specialist system, which places affirmative trading obligations on specialists and efficiently consolidates order flow, is much better suited than the fragmented Nasdaq market maker trading system to deter the types of potentially abusive trading practices that the penny stock rules are designed to address.

The Amex appreciates the opportunity to provide these comments to the Commission, and would be pleased to discuss the proposal further.

Sincerely,

Michael J. Ryan, Jr.