

**MEMORANDUM**

June 29, 2004

TO: Files

FROM: Luis de la Torre  
Counsel to Commissioner Goldschmid

RE: Regulation NMS, Release Nos. 34-49325 (Feb. 26, 2004) and 34-49749  
(May 20, 2004), File No. S7-10-04

On May 6, 2004, John Thain and David Shuler of the New York Stock Exchange, Inc. met with Commissioner Harvey J. Goldschmid and myself, counsel to the Commissioner. Messrs. Thain and Shuler expressed views that they stated the Exchange intended to include in its comment letter on proposed Regulation NMS. They discussed the subjects of an automated market under Regulation NMS; the possibility of replacing or upgrading the Intermarket Trading System; and the trade-through rule of Regulation NMS, including the opt-out provision. They expressed concerns about the opt-out and about application of the access fee cap of Regulation NMS to an exchange, and stated general support for the goals of the market data proposal but urged that it be simplified.