Organization of Independent Floor Brokers

11 Wall Street
New York, NY 10005

Re: File No. S7-10-04 – Regulation NMS

January 12, 2005

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

Dear Mr. Katz:

The Securities and Exchange Commission's (SEC) recent "re-proposal" of Regulation NMS is far reaching and will clearly change the direction and structure of US markets. It will change the way both retail and institutional investors invest, trade and seek fair and equitable pricing. The Organization of Independent Floor Brokers (OIFB), which represents the interests of 450 independent brokers working on the New York Stock Exchange trading floor, applauds the SEC for its efforts. The major impetus of the SEC action is to provide the U.S. equities market with increased fairness and transparency that attracts liquidity, fosters open and honest price discovery, and does not disadvantage any one constituency.

The SEC would like to encourage the use of limit orders and to make them immediately accessible thereby ensuring they are not ignored. We believe this goal can be achieved by maintaining and enhancing the trade through rule. We commend the SEC's recognition of the importance of upholding a rule which mandates price priority of limit orders regardless of where they are posted. Protecting the best price across all markets will foster intra-market and inter-market competition that will reward the most aggressive providers of liquidity and all customers of the market, especially the investing public.

Market forces are currently transforming the US capital markets and, therefore, the NYSE is the verge of introducing its Hybrid Market model. This hybrid model will give investors the choices they desire: automatic executions or exposure to the auction market through thoughtful broker negotiated execution.

Alternative 2 of the re-proposal would turn our market system into a virtual Consolidated Limit Order Book (CLOB). A CLOB would destroy the hybrid long before its substantial benefits to investors could be fully experienced. The proposed CLOB is intended to be voluntary requires display of the full depth of book, thereby making it a wholly involuntary system. Institutions would remove their order flow and engage in practices that would lead to the fragmentation and bifurcation of the national market system. Significant order flow, including large block orders, would be routed to crossing networks and even to markets outside of the United States. This would remove liquidity from our national market system resulting in increased market volatility and widespread participant frustration and harm. In the past, the CLOB structure has been proposed, debated at length by all members of the financial community, and flatly rejected for being detrimental to competition. It would convert the US markets, which are the envy of the free world, into a nationalized utility devoid of inter-market competition.

A total electronic environment, such as a CLOB, precludes the benefit of human interaction at the point of sale. The broker's ability to represent customer interest in the auction market will be eliminated and with it, the possibility of price betterment, and sense of levels supply and demand. Customers will be forced to "book" their interest and to potentially be traded ahead of by computerized models scanning the CLOB for levels of liquidity. The "Exchange" will act as a utility without the benefit of creative human decision-making. The investor must have the option to remain involved at the point of sale. Most institutional asset managers, and all investors for that matter, do not want their choices and ability to choose taken away. Auto-executions are not appropriate for all situations. The NYSE hybrid model addresses the need for change without a "one size fits all" approach that would be detrimental to the US capital markets, investors, and issuers.

The preferences of the issuers of our traded securities must also be considered. Increased volatility harms their ability to raise capital and as volatility increases so does their cost of capital. Issuers are aware that human involvement, specifically the judgment and accountability of trading floor professionals, reduces volatility, especially during times of market stress. Listed companies cite dampening volatility as the single most important criteria of market quality. The result of a CLOB would be increased volatility as a result of broad based market fragmentation.

The members of the OIFB believe in a system that rewards liquidity providers while preserving the customer's ability to benefit from their agent's point of sale representation. The greatest losers in an exclusively electronic, non-interactive market system would be the tens of millions of individual investors whose assets comprise our nation's pension plans, 401K plans, IRA's, 529 accounts, etc. These individual investors, a group to which we also belong, have entrusted their hard earned assets to managers who could potentially have to operate in an all-electronic, non-informative environment. We must not allow these investors to be disadvantaged by increased volatility, wider spreads and higher transaction costs. As market professionals and investors, we encourage you to adopt a platform that ensures the protection of all investors and to allow competition to shape and drive our securities market.

We remain committed to the Regulation NMS proposal with the exception of depth of book or "CLOB" alternative. Thank you for your consideration of this matter.

On behalf of the Organization of Independent Floor Brokers,

Kenneth J. Polcari	Karen Nelson Hackett	Brian D. McCarthy	Peter P. Costa
President	Vice President	Treasurer	Secretary

cc: Mr. William H. Donaldson