



February 27, 2008

Ms. Nancy Morris  
Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

**Re: Release No. 34-57236, File No. SR-NYSE-2008-03;  
Proposed Rule Change to Rescind Rule 97 (Limitation on Member's  
Trading Because of Block Positioning)**

Dear Ms. Morris:

The Equity Markets and Trading Committee of the Securities Industry and Financial Markets Association (“SIFMA”)<sup>1</sup> and SIFMA’s NYSE Rule 97 Working Group are pleased to comment on the above-referenced proposed rule change relating to Rule 97 of the New York Stock Exchange LLC (“NYSE” or “Exchange”).<sup>2</sup> The rule proposal seeks to rescind Rule 97, which prevents a member organization that holds a long position in a security that resulted from a block transaction with a customer from effecting, within twenty minutes of the close of trading on the NYSE, a purchase on a “plus” tick in that security at a price higher than the lowest price at which any block was acquired in a previous transaction that day, if the person responsible for the entry of such order to purchase the security had knowledge of the block position.

SIFMA fully supports the rescission of Rule 97, and agrees with NYSE’s view that Rule 97 no longer serves a useful purpose and may in fact hinder legitimate trading activity. As NYSE explains in its rule filing, “...this proposed rescission of the rule highlights the extent to which trading has changed and how the operation of Rule 97 hinders the ability of member organizations to legitimately conduct their

---

<sup>1</sup> The Securities Industry and Financial Markets Association brings together the shared interests of more than 650 securities firms, banks and asset managers. SIFMA’s mission is to promote policies and practices that work to expand and perfect markets, foster the development of new products and services and create efficiencies for member firms, while preserving and enhancing the public’s trust and confidence in the markets and the industry. SIFMA works to represent its members’ interests locally and globally. It has offices in New York, Washington D.C., and London and its associated firm, the Asia Securities Industry and Financial Markets Association, is based in Hong Kong.

<sup>2</sup> See Notice of Filing of Proposed Rule Change to Rescind Rule 97, 73 FR 7022 (Feb. 6, 2008) at <http://a257.g.akamaitech.net/7/257/2422/01jan20081800/edocket.access.gpo.gov/2008/pdf/E8-2075.pdf>

business and facilitate their customers' orders. Today, compliance with Regulation NMS means that the liquidation of a block position typically occurs on many different market centers. Additionally, the Exchange believes that, in active and volatile market conditions, incremental movements of a penny or more occur almost instantaneously, lessening the ability to influence the closing price of a security. Rule 97 was established at a time when the majority of block transactions were executed on the Exchange. However, in the present competitive trading environment, there are now many other venues available for market participants to effect block position transactions without the strictures of such a rule." NYSE also notes that the rescission will "encourage consistency throughout the industry with respect to the execution of block positions."

SIFMA agrees with NYSE's rationale for rescinding Rule 97, and appreciates NYSE's consideration of SIFMA member firms' views expressed to them on various occasions over the years in light of changing market structure. SIFMA also believes that changes in our markets and new regulations such as Reg NMS render this rule no longer viable, and indeed have resulted in the rule unduly restricting liquidity at the end of the trading day. SIFMA also concurs with NYSE that rescission of this rule will not result in a loss of protection of investors, in that other existing federal and Exchange rules will continue to cover any anti-manipulative behavior in this area.

SIFMA encourages NYSE to continue reviewing its existing regulations and to seek rescission of those rules, such as NYSE Rule 97, that no longer have relevance in today's market. SIFMA commends NYSE for its decision to rescind Rule 97 in light of the changes in our markets, and agrees with NYSE that rescission of this rule will not cause negative or adverse effects on the protection of investors or the public interest. If you have any questions on our position, please do not hesitate to contact me at 202.962.7300.

Sincerely,



Ann L. Vlcek  
Managing Director and Associate  
General Counsel  
SIFMA

cc: John Malitzis, NYSE  
Judy Bryngil, NYSE  
John Kroog, NYSE  
Gillian Rowe, NYSE  
Erik Sirri, Securities and Exchange Commission  
Robert L.D. Colby, Securities and Exchange Commission  
David Shillman, Securities and Exchange Commission