Public Investors Arbitration Bar Association

April 16, 2007

Ms. Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: File No. SR-NASD-2007-023

Dear Ms. Morris:

I write on behalf of the Public Investors Arbitration Bar Association (PIABA) in response to the Commissions request for comments regarding the proposed consolidation of the regulatory and alternative dispute resolution departments of the National Association of Securities Dealers, Inc. (NASD) and New York Stock Exchange, Inc. (NYSE), contained at SEC Release No.
34-55495.

As you may be aware, PIABA is an international bar association which, since it was established in 1990, has pursued a mission statement that promotes the interests of the public investor in all securities and commodities arbitration forums.

Although many of the specific details that would be associated with the proposed consolidation of the NASD and NYSE regulatory and enforcement functions remain undisclosed, PIABA recognizes that, at least from a theoretical perspective, any actions that would purportedly serve to strengthen the enforcement of the laws, regulations and rules that are designed to protect public investors would be beneficial.

However, there are certain aspects of the proposed consolidation that concern us.

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Our first and primary concern is the elimination of the entire arbitration system that is presently administered under the auspices of the NYSE.

As you may be aware, a substantial majority of broker-dealers presently include, in their customer agreements, a pre-dispute arbitration provision which forces public investors to submit all disputes that they may have with the firm, and/or its associated persons, to mandatory arbitration.

In the context of a mandatory arbitration system, the existence of a choice between the NASD and NYSE administered arbitration forums is important to public investors who have disputes to resolve. For example, the NASD and NYSE dispute resolution forums each have different rules and procedures, as well as administrative practices, which can often have a significant procedural impact on an arbitration proceeding.

The disparities between these rules, procedures and administrative practices have, on a number of occasions, manifested themselves in a drastically different attitude towards the expressed concerns of public investors - a result that likely would not have occurred without competition for arbitration filings between the NYSE and NASD.

For example, the NYSE has submitted a rule proposal which would greatly expand the number of cases that would potentially be decided by a single arbitrator, as opposed to three arbitrators, thereby reducing the amount of fees and related expenses that a public investor would be forced to incur to have his or her dispute resolved. Similarly, the NYSE has taken a drastically different position with respect to the often predatory dispositive motion practice that has recently come to dominate so many of the arbitration proceedings which are being administered through the NASD - the NYSE will not permit the same before a public investor has had the opportunity to present his or her claims at a full and complete evidentiary hearing on the merits.

While neither the NASD nor the NYSE have offered specific information concerning how the different rules, procedures, and administrative practices of the two forums will be reconciled, or which of the same will prevail in the event of a conflict, there is absolutely no reason to expect that the creation of

an arbitration monopoly - similar to the creation of every other monopoly in the history of our country - will produce any recognizable benefits for the intended consumer.

We are also concerned that, while the NASD felt compelled to offer its member firms more than $210 million in order to secure their votes in favor of the proposed consolidation, public investors will not receive any financial benefit whatsoever from the anticipated cost savings that will be expected from the consolidation of the regulatory and alternative dispute resolution departments of the NASD and NYSE.

At a bare minimum, we believe that a notable portion of the anticipated cost savings should have been allocated towards the reduction of the onerous filing, administrative and forum fees that public investors are being forced to incur in order to have their disputes resolved through the mandatory arbitration system of the self-regulatory organizations.

In summary, we recommend that, before approval is given to the portion of the proposed consolidation which would provide for the creation of a single arbitration forum that would be administered solely by the NASD, the Commission should consider the necessity for open public hearings which would permit the expression and discussion of all of the anticipated benefits and/or detriments that would be associated with the same, including, but not limited to, the potential necessity for the creation of an alternative and truly independent dispute resolution forum.

Thank you for having provided us with the opportunity to submit our comments on this issue.

Very truly yours,

Public Investors Arbitration
Bar Association

s/ Steven B. Caruso

Steven B. Caruso
President

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