

SUMMARY OF TESTIMONY OF

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- Bear Hunter Structured Products, LLC is a subsidiary of Bear Wagner Specialists LLC. Bear Wagner Specialists is one of the largest and most progressive specialist firms in the United States. It employs over 55 individual traders who specialize in the common stock of almost 350 companies listed on the NYSE and Amex. It has brought advanced trading technology to the floors of the NYSE and Amex in order to provide more efficient and liquid markets to investors and market professionals. Bear Wagner's president, Peter Murphy, sits on the NYSE Board of Executives.
- Bear Wagner and its affiliates are professional traders. We are specialists and market makers in the equity and options markets and also trade for our own account in other capacities. We are not here to protect the NYSE or to advocate for any particular market. Our concern is that our markets continue to be the most efficient and liquid in the world. As we see the Commission's actions over the past several years and its Reg NMS proposals, we see a trading environment that is becoming more fragmented, more volatile and therefore less efficient. We also see a trend where the interests of the professional trader are being put ahead of the interests of investors. We think both of these trends are bad for the markets.
- Decimalization has had a profound effect on the markets. You can no longer look at the NBBO and determine what the market really is because the NBBO often represents a small order at a penny higher than the "real" depth of the market. This is less transparency, not more. Decimalization has also made it easier for professionals with real-time market access to step ahead of the public. While spreads have narrowed, volatility has increased (Any data here?)
- Our biggest concern with Reg NMS is the opt out provision of the trade through rule. The so-called de minimis exception to the current trade through rule cost investors in only one ETF, the SPDR, over \$150 million last year alone. The opt out provision appears designed exclusively to permit day traders and others simply ignore prices and customer orders residing in other markets. If all linked markets provide automated execution as required by the trade through rule, what justification is there for simply bypassing other markets. This is not simply a matter of a professional trader electing to ignore other markets, it is a matter of public limit orders being voluntarily bypassed to their detriment. We cannot imagine a course of action that would be less in the public interest other than simply dropping all trade through protection.
- Our other main concern relates to volatility. Volatility is great for traders like us. In volatile markets we make money because we are close to the market and can rapidly

respond to market movements. However, volatility is not in the best interest of the markets as a whole. That is the reason the SEC has for almost sixty years required specialists to provide price continuity. Decimalization increased volatility. Exceptions to trade through rules will increase volatility. And most importantly, the Commission's goal to have all markets provide automated execution will increase volatility. Today, if two customer orders are sent to the floor a fraction of a second apart, a specialist is required to cross the orders. In a world of auto-execution, these orders will never meet and the specialist will make a profit on the spread. We find it curious that, at the same time the Commission is proposing universal automated execution, its Office of Inspections is telling firms that they have an obligation to cross orders received within 5 seconds. How can these two views coexist?