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The Honorable Arlen Specter
Chairman
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510-6275

Dear Mr. Chairman:

Further to your request, please find below answers to your follow-up questions to your hearing entitled, "Illegal Insider Trading: How Widespread is the Problem and is There Adequate Criminal Enforcement" on September 26, 2006. I appreciate the opportunity to testify before your committee and I hope that you find the following answers to your questions responsive.

If I can be of any further assistance, please feel free to contact me.

Sincerely,

Robert A. Marchman

1. Please provide the Committee information concerning what the SEC does with New York Stock Exchange referrals.

The Market Trading Analysis ("MTA") Departments of the Market Surveillance Division of NYSE Regulation, Inc. ("NYSE Regulation") send electronic referral letters to the United States Securities and Exchange Commission ("SEC") via the SEC's Electronic SRO Referral System. As requested by the Office of Market Surveillance of the SEC, referral letters contain as much relevant information as possible, in addition to trading activity, in order to preliminarily inform staff at the Division of Enforcement of the SEC of the type of referral and size of trading and reason for the referral.

Electronic referrals are reviewed by Joe Cella, Mark Lineberry and Eric Ribelin – the assigned senior staff of the Office of Market Surveillance of the SEC -- and entered into an electronic tracking process.

After some processing, the Office of Market Surveillance circulates the referral to staff of the Division of Enforcement of the SEC in Washington, D.C. and to the SEC regional offices to determine whether there is interest in the referral. If the referral is assigned to staff in the Division of Enforcement of the SEC, the referral is given an MUI (Matter Under Investigation) number or its may be designated as a Formal Order of Investigation.

On occasion, and as appropriate, MTA staff may telephonically contact the Office of Market Surveillance of the SEC to inform them of an impending referral before the referral is entered through the electronic referral system. By way of example, MTA staff may contact the SEC by phone where time is of the essence, such as the referral of a foreign account where the SEC may want to seek a court order freezing foreign assets; where the chief executive officer or chief financial officer of the company is involved; or where the SEC has expressed a particular interest in the matter.

When SEC senior staff determines that a the referral should be forwarded to SEC staff for further investigation, MTA may be contacted by SEC staff for additional information, which may include an inquiry into what is in the files of the SRO such as account statements, chronology information, or other trade information. Also, staff from the Office of Market Surveillance will, at times, directly contact MTA staff about a referral.

Aside from the initial referral to the SEC, MTA staff may also make supplemental referrals related to the original referral. If the SEC has closed the initial referral with a decision of "no action," the SEC may nevertheless elect to pursue the supplemental referral or reopen the prior referral resulting from receiving additional information. If the SEC pursues the initial referral, then supplemental referrals are typically included within the SEC's review of the initial referral.

After a referral is made, MTA remains available to discuss the subject matter of the referral with the SEC and to provide additional information and assistance as requested.

2. Please provide the Committee with the NYSE's view of the adequacy of SEC and Department of Justice enforcement actions of insider trading cases based upon NYSE referrals.

NYSE Regulation works cooperatively with both the SEC and Department of Justice to ensure appropriate enforcement action is taken with respect to insider trading referrals made to each agency. While the number of referrals has increased, a referral itself is not dispositive of an insider trading case ripe for prosecution. We believe that both the SEC and Justice Department thoroughly review, evaluate and, when appropriate, prosecute the cases we refer to them.