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Opening Statement  
**Chairman Michael G. Oxley**  
**House Financial Services Committee**

**Subcommittee on Capital Markets, Insurance,  
and Government Sponsored Enterprises**

**“The SEC’s Market Structure Proposal: Will It Enhance Competition?”**

**February 15, 2005**

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Thank you, Chairman Baker. This is the Financial Services Committee’s fifth hearing on market structure issues in the past two years, and I have found them all to be quite informative.

As I have stated previously, my approach to these complex issues is governed by a fundamental belief that Congress has an obligation to ensure that no markets have regulatory advantages that inhibit competition and artificially preserve market share.

Today, it is clear to most disinterested observers that the New York Stock Exchange benefits from a regulation passed nearly a quarter of a century ago. I am of course referring to the Intermarket Trading System’s trade-through rule, which has allowed the Exchange to preserve its dominant role in the trading of listed securities. Its 80 percent market share is anomalous in an otherwise hypercompetitive industry. For a stark comparison, consider the Nasdaq market, which does not have a trade-through rule: robust competition thrives among Nasdaq, Instinet, and others, and delivers to investors superior trade execution.

As a matter of free market philosophy, the easiest and most efficient solution would be to eliminate the rule altogether. The objective would not be to harm a venerable institution like the NYSE, but rather to inject some much-needed competition into the listed market.

On a practical level, however, trade-through repeal does not appear to have majority support at the Commission. We are then presented with the question of whether Regulation NMS includes enough reform to support under the banner of incremental progress.

My tentative view is that Reg NMS passes this test, with one caveat. The trade-through rule should not be extended to the Nasdaq market, which operates efficiently without one. In my view, no compelling evidence has been presented to justify this aspect of the proposal.

I applaud the Commission for its hard work in preparing this proposal. Although it is not perfect, I have reluctantly concluded that it improves upon the current regulatory framework.

I commend Chairman Baker for arranging such a distinguished panel of witnesses and I look forward to their testimony. I yield back.

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