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March 7, 2012

Ms. Elizabeth M. Murphy
Secretary
Office of the Corporate Secretary
Securities and Exchange Commission
100 F Street, N.W.
Washington, D.C. 20549-1090

Re: Securities Exchange Act Release No. 34-66346 (File Nos. SR-NYSE-2011-55 and SR-NYSEAmex-2011-84); Order Instituting Proceedings to Determine Whether to Disapprove Proposed Rule Changes, as Modified by Amendments No. 1, Adopting NYSE Rule 107C to Establish a Retail Liquidity Program for NYSE-Listed Securities and NYSE Amex Rule 107C to Establish a Retail Liquidity Program for NYSE Amex Equities Traded Securities

Dear Ms. Murphy:

Knight Capital Group, Inc.¹ (“Knight”) welcomes the opportunity to submit a second comment letter² in connection with the above-referenced New York Stock Exchange (“NYSE”) proposal to establish a Retail Liquidity Program (the “Liquidity Program”) filed with the Securities and Exchange Commission (“SEC” or the “Commission”),³ the concurrently filed request for exemptive relief pursuant to Rule 612(c) of Regulation NMS (“Exemptive Request”),⁴ the responsive comment letter submitted by the NYSE on January 3, 2012 (“NYSE Letter”)⁵ and the SEC Order Instituting Proceedings to Determine Whether to Disapprove Proposed Rule Changes.⁶

The Liquidity Program seeks to attract retail order flow to the NYSE through the provision of price improvement from non-displayed sub-penny orders posted by professional Retail Liquidity

¹ Knight Capital Group, Inc., through its subsidiaries, is a major liquidity center for foreign and domestic equities, fixed income securities, and currencies. On active days, Knight can execute in excess of 10 million trades, with volume exceeding 15 billion shares. Knight’s clients include more than 3,000 broker/dealers and institutional clients. Knight employs more than 1,400 people worldwide. For more information, please visit: www.knight.com.

² See, Letter from Leonard J. Amoruso, Knight Capital Group, Inc., to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission (November 28, 2011) (“Knight Letter I”).

³ SEC Release No. 34-6572 (November 2, 2011). Our comments are equally applicable to a related filing made by NYSE Amex LLC: SEC Release No. 34-65671; SR-NYSEAMEX-2011-84 (November 2, 2011).

⁴ NYSE Application for Exemptive Relief (October 19, 2011).

⁵ See, Letter from Janet McGinness, NYSE, to Ms. Elizabeth M. Murphy, Secretary, Securities and Exchange Commission (January 3, 2012).

⁶ SEC Release No. 34-66346 (February 7, 2012). In addition, we note that the NYSE filed a Partial Amendment No. 2 to the Proposed Rule Changes on February 24, 2012 (SEC Release No. 34-66464). We are evaluating that filing. If we determine to submit a comment letter in response to Amendment No. 2, we will do so under separate cover.

Providers (“RLPs”) on the NYSE book.⁷ We respectfully urge the SEC to carefully study and analyze the sweeping implications of this proposed rule filing, especially the impact on Regulation NMS and the move to sub-penny quoting/ranking, prior to making a final decision on the rule. The proposed rule is not designed to cure a deficiency in market structure or to protect investors, but rather it is strictly a business initiative designed to help the NYSE acquire market share. Indeed, the NYSE stated:

While the Exchange remains hopeful that measures like the Program may improve the confidence level of the retail investor, they do not expect the Program to fundamentally increase the size of the retail segment. Rather, if successful, the Program would more likely result in a reallocation of the existing retail share [emphasis added].⁸

Thus, there is no compelling reason to move forward with any sense of urgency. Rather, in light of the myriad issues and concerns raised by several commenters and the fact that the NYSE Letter failed to adequately address many of these issues, we respectfully submit that prudence dictates that the SEC pause to carefully consider and analyze these matters. We recognize this may require the SEC to disapprove the NYSE proposal in light of the significant market structure, legal and policy issues that are raised by this proposal. There can be little dispute that the concerns raised in connection with this filing can benefit from significantly more consideration and evaluation.

As we have stated previously:

Knight fully supports market initiatives designed to provide greater price competition for retail orders. The U.S. equity market is the most effective marketplace in the world as a result of on-going innovation, prudent regulation and an unrelenting competitive dynamic. As a result, retail investors have never had better equity execution quality and access to the marketplace.⁹

We will not restate all the points made in our previous comment letter nor the dozens of other comment letters submitted in connection with this filing, but rather we will limit our comments to a few salient points.

NYSE Simply Seeks Market Share

After the implementation of Regulation NMS, many national exchanges witnessed a sharp drop in market share. During that same period, investors realized a dramatic improvement in execution quality.¹⁰ The NYSE filing is simply an attempt to regain some market share by tilting

⁷ Knight is a designated market maker (DMM) on the floor of the NYSE. Thus, even though Knight will arguably benefit from the Liquidity Program, we still oppose its adoption.

⁸ See, NYSE Letter at page 7.

⁹ See, Knight Letter I.

¹⁰ See, Equity Trading in the 21st Century, Angel, Harris and Spatt (February 23, 2010).

the playing field in its favor (i.e., providing the NYSE with a pricing and quoting convention monopoly). As we noted above, the NYSE concedes in its response letter that the purpose of the Liquidity Program is to reallocate market share.

Consequently, since there is no investor protection component to the Liquidity Program nor any clear investor benefit associated with this rule filing, it raises the question – *what problem is the NYSE Liquidity Program seeking to solve?*

The Contemplated Pilot is Flawed

The NYSE requests that the SEC approve its filing, contending that the pilot period would reveal all potential problems and issues. The dispositive flaw in this argument is that the “pilot” will consist of securities traded on only one market venue. The NYSE fails to recognize that if approved, the proverbial slippery slope will be that many market participants will seek similar relief, thereby thrusting the U.S. equities markets into a sub-penny quoting/ranking environment without adequate study and analysis. A pilot program that allows only one venue to receive an exemption from Regulation NMS is not a realistic test scenario and is unlikely to reveal any useful data.

NBBO Transparency and the Quote Rule

In August of 1997, the SEC implemented significant order handling rule changes that, among other things, enhanced the transparency of the NBBO.¹¹ Enhancements under the “Quote Rule” further improved NBBO transparency by requiring DMMs (formerly Specialists) and OTC Market Makers to effectually display their best quote to the market in the consolidated quotation. The Liquidity Program could undermine the objectives of the Quote Rule. First, as the Commission correctly noted in its recent Order, the Retail Liquidity Identifier (“RLI”) could implicate Rule 602.¹² In addition (and perhaps more importantly), the “best” order (i.e., the sub-penny orders resting on the NYSE’s book) under the Liquidity Program would not be displayed. We respectfully submit that such shifts in the microstructure of the market require careful consideration, as there could conceivably be a number of unintended consequences, including the significant loss of transparency that would result from not only the proposed filing, but also the additional programs that will inevitably be filed by other exchanges and market participants if the NYSE proposal were approved.

Sweeping Changes to Regulation NMS

The Liquidity Program raises significant issues relating to the impact of sub-penny pricing in the equities markets and may potentially undermine some of the fundamental tenets of Regulation NMS. The NYSE claims that because the proposed sub-penny quotations are not visible, it is not a substantial departure from Regulation NMS. However, the fact that the NYSE will produce a visible flag (i.e., RLI) noting the existence of such quotes is tantamount to displaying sub-penny

¹¹ Rule 602 of Regulation NMS (17 CFR 242.602).

¹² See, SEC Release No. 34-66346 (February 7, 2012), p. 22.

quotations in the lit markets (albeit such quotations would not be protected under Regulation NMS).¹³ When coupled with the fact that the NYSE will also rank the sub-penny orders, there can be little doubt that this proposal is indeed a material departure from Regulation NMS.

Rule 612 of Regulation NMS (i.e., the “sub-penny rule”) specifically prohibits:

...market participants from displaying, ranking, or accepting quotations in NMS stocks that are priced in an increment of less than \$0.01, unless the price of the quotation is less than \$1.00.¹⁴

As one of the more actively debated components of Regulation NMS, Rule 612 was the subject of numerous comment letters. Thus, material changes to this rule, like those contemplated by the Liquidity Program, require careful consideration. In its adopting release to Regulation NMS, the Commission cautioned that:

...if the minimum price variant (“MPV”) were to decrease beyond a certain level [below \$0.01], the potential costs to investors and the markets could at some point surpass any potential benefits.¹⁵

Potential costs noted by the Commission included: depriving markets of liquidity; sub-penny jumping; decreasing depth of markets; and degradation of the quote.¹⁶ It was noted that the effect of these factors would be particularly onerous to institutional investors.¹⁷ Neither the NYSE’s rule filing nor the subsequent NYSE Letter adequately responds to any of these issues.

The Liquidity Program effectively calls for the reduction of the tick size mandated by Rule 612 from \$0.01 to \$0.001. As we have previously noted, if the Commission were inclined to move in this direction, it is clear that all market centers (lit and dark) would immediately seek similar relief so as to remain competitive. Thus, we respectfully submit that the Commission needs to evaluate the magnitude of all venues moving to this model and the overall impact on the market.

In our view, the Liquidity Program may work to the detriment of both retail and institutional investors. On the institutional front, it will limit the level of engagement institutions can have with this segmented flow. On the retail front, it could divert retail flow to venues without best execution requirements and may introduce an additional layer of complexity to the execution process which could ultimately degrade overall execution quality for retail clients. As such, we question whether the Liquidity Program is truly in the public interest.

¹³ Consequently, we query whether the elimination of the RLI from the Liquidity Program could remedy some of the deficiencies noted with this rule filing.

¹⁴ See, Regulation NMS adopting release, SEC Release No. 34-51808 (June 9, 2005).

¹⁵ *Id.*

¹⁶ In fact, the NYSE noted that, “...sub-penny trading and pricing could potentially result in undesirable market behavior.” See NYSE Application for Exemptive Relief, footnote 6 (October 19, 2011).

¹⁷ See, Regulation NMS adopting release, SEC Release No. 34-51808 (June 9, 2005).

Level Playing Field

As we noted previously, in order to ensure that the NYSE is not granted a pricing convention monopoly, we submit that the Commission should consider whether a more broad-based application of the proposal among a wider group of market participants is appropriate, subject to thorough comment and analysis, rather than a rule proposal of a single market participant. To this end, we offer the following questions:

- If the SEC believes that investors will benefit from sub-penny quotes, then why keep those quotations in the dark with only one market participant?
- Stated differently, would it be better to place these sub-penny quotations in the lit market so that all market participants can compete fairly and reasonably by placing all market participants on equal footing?
- If so, we submit this topic should be placed squarely before all market participants so that they can thoroughly evaluate the proposal and its implications on market structure, and provide the Commission with specific comments on this issue.

Conclusion

The Liquidity Program raises a number of significant market structure issues that market participants and the Commission need to carefully consider. Several Commission-approved rules, as well as several pending regulations and industry practices, are directly impacted by the proposed Liquidity Program. Accordingly, the potential for unintended consequences is substantial.

As noted above, there is no compelling reason to move forward with immediacy. Rather, we respectfully submit that disapproval of the rule filing may be appropriate given the multitude of important legal and policy issues raised by the proposal.

We welcome the opportunity to discuss our comments with the Commission.

Respectively submitted,



Leonard J. Amoruso

- cc. SEC Chairman Mary L. Schapiro
 SEC Commissioner Elisse B. Walter
 SEC Commissioner Luis A. Aguilar
 SEC Commissioner Troy A. Paredes
 SEC Commissioner Daniel M. Gallagher
 Robert W. Cook, Director, SEC Division of Trading and Markets
 Duncan L. Niederauer, Chief Executive Officer, NYSE
 Lawrence Leibowitz, Chief Operating Officer, NYSE