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VIA EMAIL AND FEDERAL EXPRESS

December 15, 2010

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Re: File Nos. SR-EDGA-2010-18 and SR-EDGX-2010-17

Dear Ms. Murphy:

NYSE Euronext, on behalf of New York Stock Exchange LLC ("NYSE"), NYSE Amex LLC ("NYSE Amex"), and NYSE Arca, Inc. ("NYSE Arca"), appreciates the opportunity to comment on the proposals of EDGA Exchange, Inc. and EDGX Exchange Inc. (collectively "DirectEdge" or "DirectEdge Exchanges") to modify their Step-up Order flash mechanisms.[1] The DirectEdge proposals consist of several changes that collectively would serve to expand the use of DirectEdge's flash order mechanism. First, the proposals would provide for an auction mechanism through which flashed orders would be executed. Second, DirectEdge proposes to allow all orders on the DirectEdge books to interact with flash orders, rather than limiting responses to orders that have expressly elected to interact with flash orders. Third, DirectEdge would add a new order type, the Mid-Point Match, which could be entered only in response to a flashed order to execute at the midpoint of the National Best Bid and Offer ("NBBO") at the end of the flash period. As described more fully below, NYSE Euronext respectfully urges the Securities and Exchange Commission ("Commission") to disapprove the DirectEdge proposals because they are inconsistent with the Commission's pending prohibition on flash orders.[2]

1 *See* Securities Exchange Act Release No. 63335 (November 18, 2010), 75 FR 71783 (November 24, 2010) (SR-EDGA-2010-18); Securities Exchange Act Release No. 63336 (November 18, 2010), 75 FR 71781 (November 24, 2010) (SR-EDGX-2010-17).

2 Securities Exchange Act Release No. 60684 (September 18, 2009), 74 FR 48632 (September 23, 2009).

The DirectEdge Proposals are Inconsistent with the Commission's Proposal to Prohibit Flash Orders

DirectEdge's Step-up mechanism operates to allow certain types of orders to be flashed to a subset of market participants ("Electing Members") before being routed to other trading centers as required by Rule 611 of Regulation NMS under the Securities Exchange Act of 1934 ("Exchange Act"). Specifically, Step-up Orders are flashed exclusively to Electing Members for a period of 25 milliseconds (the "Step-up Display Period"). DirectEdge now seeks to permit orders of DirectEdge Members that have **not** elected to receive Step-up order information ("Non-Electing Members") to participate in the execution of Step-up Orders. At the end of the Step-up Display Period the orders of Non-Electing Members that are priced better than the NBBO at the time the Step-up Order was first displayed ("Eligible Book Orders") would be eligible for execution against the flashed Step-up Order.

Under the proposals, DirectEdge would provide for an auction mechanism though which orders submitted in response to a flashed order would be accumulated during the Step-up Display Period. At the end of the Step-up Display Period, orders submitted in response to the flashed order would be executed against that order in price/time priority. We believe that adding this auction mechanism would increase the number of orders whose execution is artificially delayed to include not only the flashed order but also the orders submitted in response to the flashed order. In effect, the auction mechanism would have the effect of increasing the number of orders missing execution opportunities in other markets and being traded ahead of. Overall, our view is that the creation of this auction mechanism would not satisfy the fundamental concern that the Commission expressed in its proposal to prohibit flash orders; namely, that the Step-up Order mechanism would continue to promote the notion of private, non-transparent markets and would increase the disincentive to display limit orders.

In addition, the proposed expansion of DirectEdge's flash mechanism to include the orders of Non-Electing Members effectively eliminates Member choice as to whether its orders will interact with flashed orders. In this regard, NYSE Euronext agrees with an earlier statement on behalf of DirectEdge that a marketplace should provide its members with the ability to "reflect a conscious willingness to participate"[3] in such a mechanism. DirectEdge has not explained the inconsistency between its previous statement and its current proposals.

[3] *See* letter dated November 20, 2009 from Mr. Eric W. Hess, General Counsel, DirectEdge, in response to the Commission's proposal to prohibit flash orders.

DirectEdge's proposal to allow Electing Members to enter Mid-Point Match orders in response to a Step-up Order would further expand the use of DirectEdge's flash mechanism. In our view, DirectEdge members that are willing to provide price improvement should be willing to do so for all market participants, through their published quote, rather than only to a select group of participants that have access to the Step-up feed.

The Commission has expressed specific concern about the use of mechanisms, such as DirectEdge's Step-up Order mechanism, that flash orders only to a subset of market participants. NYSE Euronext believes that the DirectEdge proposals should be disapproved because they would be inconsistent with the requirements of Rule 602 of Regulation NMS as the Commission has proposed, and because the proposals seek to expand the ability to use the Step-up Orders mechanism during a time when the Commission is expressly considering banning flash mechanisms entirely.

II. NYSE Euronext Continues to Believe that Flash Orders should be Prohibited

As stated in our comment letters on the Commission's proposal to prohibit flash orders, NYSE Euronext supports the Commission's efforts to address those trading practices that undermine the fairness, transparency, and efficiency of our national market system and to identify regulatory approaches to curtail such practices.[4] Specifically, we believe that flash mechanisms are troubling because they create a disincentive to post limit orders, create private, locked markets that are neither transparent nor fair, and are anti-competitive. Although our comments in this context focus on equities markets issues, we continue to believe that our concerns about flashing mechanisms apply equally to the options markets. We respectfully urge the Commission to take these considerations into account when it is determining whether to approve or disapprove the DirectEdge proposals.

We agree with the Commission's concern about flash orders being inconsistent with Regulation NMS and the goals of a national market system because the flashing of order information could lead to a two-tiered market in which the public does not have access, through the consolidated quotation data streams, to information about the best available prices for U.S.-listed securities that is available to selected market participants. Moreover, if flash orders were to be quoted publicly, they would lock the market, in violation of Rule 610(d) of

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4 *See* letters dated November 23, 2009, August 9, 2010 and October 29, 2010 from Janet Kissane, Senior Vice President, Legal and Corporate Secretary, NYSE Euronext. In particular, and as noted in the November 23, 2009 letter, NYSE Euronext supports eliminating flash orders, but believes that the Commission's proposal to delete Rule 602(a)(1)(a) is unnecessarily broad and may result in banning long-standing and appropriate trading practices. NYSE Euronext similarly supports the elimination of flash orders from the listed options marketplace.

Regulation NMS. NYSE Euronext believes that marketable interest routed to a market center should be executed immediately with any available interest in the market center, including displayed liquidity, reserve interest, or interest that offers price improvement from certain market participants, and that any portion of the order that does not execute immediately should either cancel (if the order is an immediate or cancel order) or route to away markets to trade with protected bids or offers, unless otherwise instructed by the customer.

In addition, we agree that flash order mechanisms create a disincentive for the display of limit orders in equity markets. Because flash orders are marketable orders willing to trade at the NBBO, the participant that receives the flashed order information therefore can take advantage of the information provided by the flashed order, but that participant is under no obligation to provide liquidity at that price or trade with the flashed order. Instead, that market participant may do nothing in response to the flashed order or trade ahead of the flashed order at a price away from the NBBO. At the very least, the flash recipient gains information about pending market trends that provide an information advantage compared to other market participants that do not have knowledge of that actionable interest.

Moreover, we agree with the point noted in the Commission's proposal to prohibit flash orders that the artificial delay in executing a flash order increases the likelihood that the flashed order will miss the opportunity for price improvement during the flash period. If an away market has contra-side interest available at the flash order's price, the order generally would route to execute against that interest. However, flashed orders are instead held by a market center to attract contra-side interest to that market center. During that holding period the price might move, perhaps driven by a market participant who learns of the flash order and attempts to move the market while the flash order is pending. In such a case, the flashed order would miss an execution that it otherwise may have received had it been routed. The flashed order therefore does not receive any additional benefit from being artificially held at a market center. Rather, the primary driver for holding the order is to attract interest to a market center for competitive purposes, rather than to guarantee price improvement or even to find contra-side liquidity for the flashed order.

Separately, we reiterate our concerns about the broader growth trend for liquidity that does not participate in the price discovery process, of which flash orders are a component. Over the past four years, there has been a dramatic increase in the level of activity that is reported to the FINRA Trade Reporting Facility ("TRF") – almost tripling in some cases, with absolute values in excess of 40% in many small-cap names:

	Oct-08	Oct-09	Oct-10
Tape A	15%	24%	32%
Tape B	11%	23%	32%
Tape C	17%	27%	34%
All US	14%	25%	32%
Amex-listed (small cap)			40%
source: NYSE-calculations, CTA data			

In addition to concerns about when these increasing levels begin to impact the price discovery process,[5] the increased TRF volume raises concerns about the "toxicity" levels on the public markets as increasing levels of "attractive" flows are skimmed from the public markets. Based on Rule 605 Realized Spread data for both the NYSE and the TRF over the past few years, this attractiveness differential becomes apparent (note that lower/negative values signify adverse profitability for the liquidity provider):

	Marketable Orders		
	NYSE Listed		
	On NYSE	TRF-reported	
2007	**0.45**	**3.98**	
2008	**0.28**	**3.78**	
2009	**-0.59**	**6.66**	
2010	**-0.65**	**4.30**	

Source: Rule 605 data, NYSE calculations

As we stated in our comment letter on the Commission's Concept Release on Market Structure,[6] we strongly encourage the Commission to take a broader review of these issues as part of its ongoing review of equities market structure.

III. Conclusion

NYSE Euronext recognizes and supports the Commission's ongoing leadership in reviewing and addressing trading practices that cause harm to the national market system and supports

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5 *See* comment letter from Professor Dan Weaver at http://www.sec.gov/comments/s7-02-10/s70210-127.pdf

6 *See* letter dated April 23, 2010, from Janet Kissane, Senior Vice President, Legal and Corporate Secretary, NYSE Euronext.

the Commission's proposal to ban flash orders. We continue to believe that flash mechanisms are detrimental to the industry.

We respectfully urge the Commission to disapprove the DirectEdge proposals because they would expand the population of orders against which Step-up Orders could execute, thereby increasing the reach of the DirectEdge Exchanges' flash mechanism while the Commission is considering an outright prohibition on flash mechanisms. We believe that it is inappropriate for such an expansion to become effective and inconsistent with the Commission's current statements on flash mechanisms.

Very truly yours,

Janet L McGinness