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Elizabeth M. Murphy, Esq.
Secretary
Securities and Exchange Commission
Station Place
100 F Street, NE
Washington, D.C. 20549-9303

Re: SR-NYSE-2009-08 – Response to Comment Letter (“Response”)

Dear Ms. Murphy:

The New York Stock Exchange LLC (“NYSE” or the “Exchange”) submits this letter in response to the sole comment letter received by the Securities and Exchange Commission in connection with SR-NYSE-2009-08 (the “Rule Filing”), which proposes the elimination of two classes of traders on the NYSE trading floor, Registered Competitive Market Makers (“RCMMs”) and Competitive Traders (“CTs”).

The comment letter is written by two individuals who are registered as RCMMs. They state in their letter that the Exchange “has failed to adequately articulate a rational [sic] for removing this potentially important source of liquidity, market stability and competition.” They also assert that the Exchange acted “unilaterally and without consultation with the existing RCMM community”. With all due respect, the Exchange believes that these assertions are unwarranted, and that in fact the Exchange in its filing did articulate an appropriate rationale. We also note that the Exchange has consulted extensively over a period of years with the RCMM community regarding whether there is a reasonable basis under which the Moratorium might be discontinued and the RCMM trading category continued. However, the Exchange has quite reasonably concluded that it is not cost effective to devote resources to the ongoing facilitation and regulation of RCMM or CT trading on the floor of the Exchange in view of the limited liquidity provided by these categories of floor traders.

While the comment letter asserts that the RCMM community is small because that community has been “artificially limited” by the Exchange, that community has never been large. In the filing, the earliest volume figures cited by the Exchange were for a period that preceded the implementation of the Moratorium, and as specified that figure was a miniscule portion of overall trading volume. The eleven (11) registered RCMMs at the time the Moratorium was first imposed are close to the high water mark for the number of RCMMs, at least in the last decade. In fact, since the year 2000, Exchange records show that there have never been more than thirteen (13) individuals registered as RCMMs.

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The comment letter notes that “[f]ast markets make DOT execution the preferred execution choice for RCMMs currently,” and observes as well that “[i]n an electronic age, it is equally possible to access electronic markets from upstairs,” We can agree with these statements, and point out that our elimination of the RCMM and CT categories will not revoke the trading licenses (i.e., memberships) of these individuals. Assuming they retain those trading licenses they will be entitled to trade from off the Floor through the Exchange’s electronic systems, and in fact they will be able to do so free of the affirmative and negative obligations associated with trading today as an RCMM.¹ There is nothing about the elimination of the RCMM or CT categories that will preclude these individuals from trading to add liquidity to the market.

Because these categories of members have been allowed to trade for their own account from the trading floor, they have been required to operate under a specific set of obligations, which the Exchange is in turn obligated to surveil. As noted in the filing, continuation of these categories would entail expense not only to regulate these traders, but to develop technology to enable them to access the new, more automated, Exchange trading systems.² The Exchange is entitled to make its own decision about whether doing so is cost effective, and it has concluded that it is not.

In view of all of the foregoing, the Exchange respectfully submits that the decision to eliminate the classes of CT and RCMM is a commercially reasonable decision that is consistent with the provisions of the Exchange Act and NYSE Rules.

* * *

If you have any questions regarding the foregoing, please feel free to contact Claudia Crowley, Senior Vice President and Chief of Staff, NYSE Regulation, at (212) 656-2475, Deanna Logan, Managing Director, Office of the General Counsel, NYSE Regulation, at (212) 656-2389 and Jennifer D. Kim, Counsel, Office of the General Counsel, NYSE Regulation, at (212) 656-6438.

Sincerely yours,



Pia K. Thompson

¹ Of course, they would also be free to seek to become either floor brokers or DMMs should they wish to continue to engage in business on the floor of the Exchange.

² Surveillance is currently reliant on predominantly manual surveillance methods.