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

RE: File Number SR- NYSEAMEX-2011-84
One-Year Pilot Program Adding New Rule 107C to Establish a Retail Liquidity Program

Dear Secretary Murphy:

UBS Securities LLC ("UBS") respectfully submits this letter in response to NYSE Euronext's proposed Retail Liquidity Pilot Program. We appreciate the opportunity the Securities and Exchange Commission ("the Commission") has provided by soliciting comments from market participants.

Introduction
On November 2, 2011 NYSE Euronext submitted a proposal to the Commission to conduct a one year Retail Liquidity Pilot Program for its NYSE and Amex US Equity Exchanges (hereafter referred to as "the Proposal"). In submitting the Proposal, NYSE Euronext indicated that their aim was to incentivize additional retail liquidity and provide the potential for cost savings through price improvement on such order flow.

Under the Proposal, NYSE would create two new classes of market participants:

- Retail Member Organizations (RMOs): Entities eligible to submit retail orders with the opportunity to receive price improvement from the inside protected best bid and offer (PBBO). They would receive rebates for taking liquidity.

- Retail Liquidity Providers (RLPs): Participants that would be required to provide potential price improvement to self-directed retail orders in the form of "non-displayed interest."[1] Providers of liquidity to self-directed retail would be charged transaction fees.

In conjunction with this Proposal, NYSE Euronext has also submitted an exemption request pursuant to Reg NMS Rule 612(c)[2] that would enable the Exchange to accept and rank the undisplayed retail Price Improvement Orders with a lower minimum price improvement threshold than the current

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[1] See NYSE & NYSE AMEX's Release No. 34-65671; File No. SR-NYSEAMEX-2011-84: "the term "Retail Price Improvement Order" would be defined as non-displayed interest in NYSE Amex Equities traded securities that is better than the best protected bid ("PBB") or best protected offer ("PBO") by at least $0.001 and that is identified as a Retail Price Improvement Order in a manner prescribed by the Exchange. http://www.sec.gov/rules/sro/nyseamex/2011/34-65671.pdf

[2] See October 19, 2011 Letter from Janet M. McGinness, Senior Vice President—Legal & Corporate Secretary, Office of the General Counsel, NYSE Euronext to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission dated October 19, 2011 ("Sub-Penny Rule Exemption Request"). http://www.sec.gov/rules/sro/nyse/2011/sr-nyse-2011-55-exemptiveapp.pdf

minimum pricing increment (Essentially "sub-penny" pricing increments. For example, $0.05 on a 500 share order or an improvement better than the PBBO by $0.001).

Summary of UBS's View

As UBS has expressed by our business model and in a variety of public statements, including our April 2010 comment letter in response to the Commission's Concept Release on Equity Market Structure (File No. S7-02-10)[3], we actively support the goals of competition, innovation, investor choice and market efficiency. These are goals that the Commission itself has also expressed in its rulemaking process.[4]

We reiterate that the US Equities Market's evolution over the last decade, and the efficiencies we've gained, have been the result of greater competition, which has stimulated innovation, pushed down the costs of trading, and broadened the equity investor's range of choice. In developing the Proposal in question, NYSE Euronext is demonstrating the positive impact of such competition by offering a subset of their constituents the potential opportunity to realize price improvement.

They've stated that the Proposal was motivated by their observation of how retail order flows have migrated toward alternative, off-exchange opportunities for price improvement and better execution.[5] Such volume migration patterns occur because the markets embrace competition and choice, which creates productive commercial pressure on venues to innovate and deliver greater value. This process of continuous evolution should confer benefits to all US Equity Market participants. Just as beneficial to this evolving landscape and to the maintenance of a fair and orderly marketplace is the existence of a level playing field -- the ongoing support of unencumbered competition.

Therefore, UBS is supportive of the NYSE Euronext Proposal in principle[6], as it aligns with our long-standing commitment to increased transparency, competition, efficiency, and investor choice in the capital markets. We are also in general support of NYSE Euronext's intentions relating to the availability of enhanced price improvement by way of its sub-penny pricing exemption letter, with a few significant recommendations/caveats.

It should be noted, however, that we support the concept of enhanced price improvement opportunities and more nuanced participant segmentation programs, provided the definitions are clear and unambiguous, and the Pilot and subsequent rulemaking are conducted with transparency and maintain fair competition and the level playing field – the very factors that inspired this Proposal. We believe they are critical to the continual pursuit of best execution on behalf of all investors.

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[3] See UBS April 28, 2011 Comment letter http://www.sec.gov/comments/s7-02-10/s70210-163.pdf

[4] See Regulation NMS Adopting Release, Exchange Act Release No. 34-51808 at 13 ("Since Congress mandated the establishment of an NMS in 1975, the Commission frequently has resisted suggestions that it adopt an approach focusing on a single form of competition that, while perhaps easier to administer, would forfeit the distinct, but equally vital, benefits associated with both competition among markets and competition among orders").

[5] See the Proposal section 2. Statutory Basis: "The Exchange notes that a significant percentage of the orders of individual investors are executed over-the-counter." In this statement NYSE Euronext further cites the Commission's Concept Release No. 61358 (January 14, 2010), 75 FR 3594 (January 21, 2010) (noting that dark pools and internalizing broker-dealers executed approximately 25.4% of share volume in September 2009).

[6] We reserve the right to disagree with some of the underlying claims and assumptions made by NYSE Euronext within the Proposal. In our view some of these comments do not present an entirely objective or empirically-based depiction of the current state of the US Equity Markets and the value conveyed to investors by alternative execution venues and broker internalization processes.

Segmentation: We believe it is appropriate to segment clients in an objective and transparent manner. The definitions of Retail Orders must be clear and unambiguous.

Dual-Priced Orders: We recommend that NYSE & NYSE AMEX make a Dual-Priced order available to all participants. This kind of order would allow market participants to submit an order that will interact with non-retail order flow at the desired whole penny increment, while simultaneously submitting a price-improving order to interact with incoming retail order flow. For the sake of a level playing field and market efficiency, we should ensure that market participants have the ability to provide liquidity to incoming retail orders and simultaneously participate at the protected quote.

Sub-Penny Exemption for Retail Flow Only: We agree that the sub-penny exemption should only be allowed for orders involving Retail Order flow[7], as we are concerned that institutions could be disadvantaged by automated trading models (often referred to as High Frequency Trading) if sub-penny orders were allowed for all liquidity. Several institutional clients have expressed concern to us about the concept of sub-penny orders mainly for two reasons:

- There is a risk they will lose priority in the queue due to a small fraction of a penny difference.

- A client-mandated whole-penny limit prevents orders at an inferior price from interacting with the order.

Avoid Locking/Crossing the Market: A lower minimum price improvement value threshold is a positive thing for retail clients and the market. However, NYSE Euronext's exemption request should be amended. Rather than their proposed explicit notional required minimum (they've defined this as one tenth of a penny), we recommend that threshold should be a tenth of the current regulated minimum increment. This will prevent locking and/or crossing the market for stocks below $1.00.

Greater Flexibility in Offerings and Segmentation for Exchanges: Allowing Exchanges greater flexibility in pricing, order types and client segmentation will provide a benefit to the market, provided that these changes are communicated and market participants have a reasonable opportunity to comment on proposals.

A Level Playing Field is of the Utmost Importance: Regulations should be used to evolve a market structure but never to advantage certain business models over others. If a program or order type is approved for one for-profit entity it should likewise be made available to other market centers, such as other exchanges and Alternative Trading Systems that are seeking to use comparable order types and participant segmentation.

It is important to note that Exchanges are for-profit enterprises dependent upon their clients and member organizations for success. While they clearly have obligations related to regulations and the maintenance of fair and orderly markets, they should be empowered to be responsive to their clients in the development of offerings, but they should not be granted product or offering exclusivity or

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[7] Defined by the NYSE Proposal as "an agency order that originates from a natural person and is submitted to the Exchange by an RMO, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology; or a proprietary order of an RMO that results from liquidating a position acquired from the internalization of an order that satisfies the requirements of the preceding subparagraph. See "Definitions", page 3 of the proposed rule at http://www.sec.gov/rules/sro/nyseamex/2011/34-65671.pdf

regulatory advantages. On balance, though Exchanges must contend with additional processes when changing their offerings, they also have material benefits that other venues do not, including the listing of companies, exclusive products and share in a market data pool worth approximately $500 million per year.

Potential Impact on Current Volumes: The Proposal, if allowed by the Commission, would not necessarily create significantly more sub-penny activity in the market. Rather, it will likely cause a shift of some of the current sub-penny executions occurring on market-making venues to the Exchanges. The majority of US equity volumes occur in stocks priced above $1 with an average spread of the current minimum increment of one penny. So providing price improvement to the majority of the US equity activity today would require sub-penny executions, though sub-penny orders are not currently allowed.

"Retail Liquidity Identifier" and Data Feed: NYSE Euronext proposes the establishment of Retail Liquidity Identifiers ("RLI") in order to build a data feed on price-improving orders. We believe this could be beneficial in making routing decisions on behalf of retail clients. The transparency that this data feed would provide to the market could be useful in the process of sourcing liquidity.

However, since this data feed means that retail price improvement orders will be widely available for viewing but will not be actually accessible by non-retail clients – a circumstance that has never previously been the case in the US Equity Markets – this will be a significant change to US market structure. Accordingly, we recommend a review and update of FINRA Rule 2320[8] Best Execution and Interpositioning rules, in order to clarify terminology and address the resulting disparity between publicly available market data and market accessibility.

We also ask NYSE Euronext to confirm that Designated Market Makers (DMMs) and Supplemental Liquidity Providers (SLPs) do not have access to any additional information, whether real-time or historic, on retail liquidity or price-improving orders provided to retail flow than other market participants have, either as a result of this Proposal or the related proposal to amend NYSE Rule 104[9].

Opt-in/Opt-out of RLI Data Feed: We recommend that NYSE and NYSE AMEX offer participants the option, at the order level, to be included in or be exempted from the RLI data feed. Providing the option will allow non-retail client orders to be managed in an optimal manner, based on their relative urgency and execution objectives.

A venue that publishes a data feed that is generally available to the public is effectively a displayed venue, and would therefore be treated as such by traders and smart order routers. This pushes the destination down the routing queue for market impact-sensitive, less urgent and dark liquidity-seeking orders. The data feed as proposed by NYSE Euronext would essentially make this Retail Pilot such a venue, with the only exception being that the displayed price is not a protected quote.

The ultimate intended benefit of the Proposal to retail investors is the provision of significant, price improving liquidity. In order to generate such liquidity, NYSE Euronext should seek to maximize the interaction between retail flow and non-retail flow within their revised rules. We therefore recommend NYSE allow non-retail flow the opportunity to have optional participation in the RLI feed. In some cases, a data feed could increase liquidity (potentially attracting greater "critical mass"). However, based on our institutional clients' concerns over information leakage and price

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[8] See http://finra.complinet.com/en/display/display_viewall.html?rbid=2403&element_id=3643&record_id=12795

[9] See Release No. 34-65736; File No. SR-NYSE-2011-56: New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change to Codify Certain Traditional Trading Floor Functions That May Be Performed by Designated Market Makers ("DMMs"), specifically references to DMM Access to Exchange Systems and order information. http://www.sec.gov/rules/sro/nyse/2011/34-65736.pdf

impact, we believe that the ability to keep this flow dark in some instances will be a significant factor in their routing decisions and could result in more price-improving flow being made available to retail clients.

Conclusion

We are in favor of NYSE's retail liquidity pilot proposal in concept, but believe a level playing field around implementation and rulemaking is absolutely necessary in order to ensure our markets function efficiently and continue to move in a positive direction. Therefore, we think the program should also be approved for other market centers, such as Alternative Trading Systems, that wish to implement similar segmentations and rules. We also believe that NYSE Euronext should offer additional options to participants with regard to certain aspects of this pilot program.

With the caveats stated above, we believe that offering sub-penny price improvement for orders involving retail clients has the potential, if carefully implemented, to broaden the market's ability to enhance execution for retail investors, enable institutional clients to interact with more retail order flow, and enhance market efficiency. As NYSE Euronext states in their proposal, it is critical that this Pilot is closely monitored by the Exchanges[10] for potential gaming activity, participants are supervised according to guidelines and that violations are swiftly addressed, since incidents of abuse could wipe out the potential benefits that sub-penny price improvement might convey to the market.

We again thank the SEC for the opportunity to comment on this issue and welcome further discussion on this and other evolving market structure issues.

Sincerely,

Mike Stewart,
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Head of UBS Global Equities
And IB Securities Americas

[10] See the Proposal: http://www.sec.gov/rules/sro/nyse/2011/34-65672.pdf "The Exchange recognizes that sub-penny trading and pricing could potentially result in undesirable market behavior. The Exchange will monitor the Program in an effort to identify and address any such behavior."