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May 23, 2017

**VIA FEDERAL EXPRESS**

Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Re: Request for Extension of Exemptive Order Pursuant to Rule 612(c) of Regulation NMS – NYSE and NYSE MKT Retail Liquidity Program

Dear Mr. Fields:

NYSE LLC ("NYSE") and NYSE MKT LLC ("NYSE MKT," collectively with NYSE, the "Exchanges") respectfully request that the Securities and Exchange Commission ("Commission") approve a six-month extension of the exemption from Rule 612 of Regulation NMS ("Sub-Penny Exemption") previously granted by the Commission on July 3, 2012, for the Exchanges' Retail Liquidity Program (the "Program").[1] The exemption operates coterminous

[1] The Sub-Penny Exemption was originally granted by the Commission concurrently with the approval of the Program. *See* Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40673 (July 10, 2012) (SR-NYSE-2011-55; SR-NYSEAmex-2011-84) ("RLP Approval Order"). On July 30, 2013 the Exchanges requested an extension of the exemption for the Program. *See* Letter from Janet McGinness, SVP and Corporate Secretary, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, dated July 30, 2013. The pilot period for the Program was extended until July 31, 2014. *See* Securities Exchange Act Release Nos. 70096 (August 2, 2013), 78 FR 48520 (August 8, 2013) (NYSE-2013-48) and 70100 (August 2, 2013), 78 FR 48535 (August 8, 2013) (SR-NYSEMKT-2013-60). On July 30, 2014, the Exchanges requested a second extension of the exemption for the Program. *See* Letter from Martha Redding, Chief Counsel, NYSE to Kevin M O'Neill, Deputy Secretary, Commission, dated July 30, 2014. The pilot period for the Program was extended until March 31, 2015. *See* Securities Exchange Act Release Nos. 72629 (July 16, 2014), 79 FR 42564 (July 22, 2014) (NYSE-2014-35) and 72625 (July 16, 2014), 79 FR 42566 (July 22, 2014) (SR-NYSEMKT-2014-60). On February 27, 2015, the Exchanges requested a third extension of the exemption for the Program. *See* Letter from Martha Redding, Senior Counsel, NYSE to Brent J. Fields, Secretary, Commission, dated February 27, 2015. The pilot period for the Program was extended until September 30, 2015. *See* Securities Exchange Act Release Nos. 74454 (March 6, 2015), 80 FR 13054 (March 12, 2015) (SR-NYSE-2015-10) and 74455 (March 6, 2015), 80 FR

with the pilot period of the Program. The pilot period is set to expire on June 30, 2017, and the exemption would expire on the same date.[2]

The Program was established on a pilot basis to attract retail order flow to the NYSE for NYSE-listed securities, and to NYSE MKT for NYSE MKT-listed securities as well as securities listed on The NASDAQ Stock Market LLC and traded pursuant to unlisted trading privileges. The Program allows such order flow to receive potential price improvement. The Program is currently limited to trades occurring at prices equal to or greater than $1.00 per share. Under the Program, Retail Liquidity Providers ("RLPs") are able to provide potential price improvement in the form of a non-displayed order that is priced better than the Exchange's best protected bid or offer ("PBBO"), called a Retail Price Improvement Order ("RPI"). When there is an RPI in a particular security, the Exchange disseminates an indicator, known as the Retail Liquidity Identifier, indicating such interest exists. Retail Member Organizations ("RMOs") can submit a Retail Order to the Exchange, which would interact, to the extent possible, with available contra-side RPIs.

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13047 (March 12, 2015) (SR-NYSEMKT-2015-14). On September 17, 2015, the Exchanges requested a fourth extension of the exemption for the Program. *See* Letter from Martha Redding, Senior Counsel, NYSE to Brent J. Fields, Secretary, Commission, dated September 17, 2015. The pilot period for the Program was extended until March 31, 2016. *See* Securities Exchange Act Release Nos. 75993 (September 28, 2015), 80 FR 59844 (October 2, 2015) (SR-NYSE-2015-41) and 75995 (September 28, 2016), 80 FR 59836 (October 2, 2015) (SR-NYSEMKT-2015-69). On March 17, 2016, the Exchanges requested a fifth extension of the exemption for the Program. *See* Letter from Martha Redding, Senior Counsel, NYSE to Brent J. Fields, Secretary, Commission, dated March 17, 2016. The pilot period for the Program was extended until August 31, 2016. *See* Securities Exchange Act Release Nos. 77426 (March 23, 2016), 81 FR 17533 (March 29, 2016) (SR-NYSE-2016-25) and 77424 (March 23, 2016), 81 FR 17522 (March 29, 2016) (SR-NYSEMKT-2016-39). On August 8, 2016, the Exchanges requested a sixth extension of the exemption for the Program. *See* Letter from Martha Redding, Associate General Counsel, NYSE, to Brent J. Fields, Secretary, Commission, dated August 8, 2016. The pilot period for the Program was extended until December 31, 2016. *See* Securities Exchange Act Release Nos. 78600 (August 17, 2016), 81 FR 57642 (August 23, 2016) (SR-NYSE-2016-54) and 78602 (August 17, 2016), 81 FR 57639 (August 23, 2016) (SR-NYSEMKT-2016-76). On November 28, 2016, the Exchanges requested a seventh extension of the exemption for the Program. *See* Letter from Martha Redding, Associate General Counsel, NYSE, to Brent J. Fields, Secretary, Commission, dated November 28, 2016. The pilot period for the Program was extended until June 30, 2017. *See* Securities Exchange Act Release Nos. 79493 (December 7, 2016), 81 FR 90019 (December 13, 2016) (SR-NYSE-2016-82) and 79509 (December 8, 2016), 81 FR 90389 (December 14, 2016) (SR-NYSEMKT-2016-112).

[2] Along with this exemption request, the Exchanges are proposing to extend the pilot period for the Program.

As stated in the Exchanges' previous letters requesting relief,[3] the Exchanges believe that the quality of our markets and accuracy of price discovery depend on the interaction among a diverse set of market participants, including short-term, long-term, retail, and institutional investors. As was the case when the Commission granted the Sub-Penny Exemption, the vast majority of marketable retail order flow today is executed pursuant to bilateral agreements that are not exposed to the enhanced price competition and transparency occurring on exchanges. The Program continues to offer the potential to enhance the level of order interaction and price competition experienced by retail orders through market center competition. By extending the Sub-Penny Exemption, the Commission would allow exchanges to compete for retail orders in the same manner that OTC market makers have long done--by offering sub-penny prices. At the same time, the reasonable design and limited nature of the Program avoid any risk of quote flickering because sub-penny prices are not disseminated. In addition, the Program does not undermine the incentive of market participants to display orders because the marketable retail orders that are routed to the Program would not otherwise be exposed to price competition, but, rather, executed pursuant to bilateral internalization arrangements.

As participation has been increasing more recently with additional RLPs, extending the exemptions for the Program would provide additional opportunities for greater participation in the Program and assessment of the results of such participation. Accordingly, the Exchanges request that the previously provided exemptions be extended to December 31, 2017, because the Program serves the public interest and otherwise protects investors.

Thank you in advance for your consideration of this request.

Sincerely,

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[3] *See* Letter from Janet McGinness, SVP and Corporate Secretary, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, dated October 19, 2011. The Exchanges amended the exemptive request on January 13, 2012. *See* Letter from Janet McGinness, SVP and Corporate Secretary, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, dated January 13, 2012. On July 30, 2013, July 30, 2014, February 27, 2015, September 17, 2015, March 17, 2016, August 8, 2016 and November 28, 2016, the Exchanges requested extensions of the exemption for the Program.