Securities and Exchange Commission
Equity Market Structure Advisory Committee
Rule 611
May 13, 2016

Statement of Thomas Farley, President
New York Stock Exchange

Chair White, Commissioners and Equity Market Structure Advisory Committee (EMSAC) members, thank you for inviting me to present to you during the inaugural event of the EMSAC to speak about SEC Rule 611, or the order protection rule. The New York Stock Exchange (NYSE) has been at the center of securities trading and regulation since its inception in 1792. Representing three exchanges that list and trade public companies and exchange traded funds, we believe we are uniquely situated to continue to provide valuable insight into the regulation and market structure of the securities markets and are happy to be a participant in today's and future EMSAC meetings to ensure that the views of the listing exchanges, listed companies and Self-Regulatory Organizations are adequately represented.

The NYSE takes seriously its role as a self-regulatory organization. The Securities and Exchange Act of 1934 (34 Act) and the SEC's rules establish that the exchanges and FINRA have wide-ranging regulatory responsibilities to complement and supplement the SEC's authority and resources. In addition to the enforcement of exchange and SEC rules, the SROs have developed at the direction of the SEC, market-wide initiatives, such as the recently approved Tick Size Pilot Program, the Limit Up Limit Down plan, and the recently filed Consolidated Audit Trail plan.

SEC Rule 611 is one of the rules the SEC adopted as part of Regulation NMS. The exchange monitors to ensure that all trades executed through its systems comply with this rule. The Order Protection Rule has a dual purpose. First, and best known, the rule ensures that investors' orders, regardless of the venue on which executed, will trade at prices at least as good as the best publicly displayed price. In this regard, the rule has been beneficial in significantly reducing trade through rates. Second, the order protection rule is intended to encourage displayed liquidity and to provide a benefit to market participants who show their hand by stating publicly the price and number of shares at which they are willing to buy or sell a stock. The rule was designed to provide a level of fairness and protection for orders in the market that contribute to the public quote on which the overall marketplace depends, with a limited priority to trade with other orders. This priority, however, is so limited that, as we show in a few of the observations below, this second purpose of the rule does not appear to be met.

NYSE management has been publicly advocating for the past three years for changes to the market structure that would realign those incentives. One of those suggested changes has been to alter the order protection rule to incorporate a trade-at rule. As you might expect, just as Rule 611 was the most controversial rule during the development of Regulation NMS, trade-at is the most controversial issue discussed today because it would require that the investors displaying orders on markets be given execution primacy over orders at the same price that are not displayed. We also believe that any such change should not be made in isolation of other important changes such as a significant decrease in the access fee cap that markets with protected quotes can charge to access those quotes.

We make this recommendation due to our review of several aspects of the market structure which, in our view, Rule 611 has contributed to:

- Extreme fragmentation: Today, there is a proliferation of at least 46 trading venues including 11 exchanges, over 35 ATSs and lit ECNs, and many more broker-dealer internalization trading desks which execute the largest portion of off-exchange trading. Excessive fragmentation has brought overly complex markets, high infrastructure costs and less transparency. Today approximately 35% of the market's volume is traded on opaque, private markets that are not openly accessible to all participants and routinely segment order flow for select participants which contributes to an on-going string of market wide meltdowns.

- Lack of displayed order protection: As noted, Rule 611 was designed to provide a benefit to investors who publicly display their order by rewarding them with a timely execution. However, the Rule allows dark trading centers to simply match the best displayed prices. As a result, an estimated 58% of all off-exchange activity occurs at the NBBO and 71% of all off-exchange activity is executed near the NBBO, as shown in Chart 1 (this includes an estimated 13% of volume with $0.0010 or less of price improvement). In Chart 2, we provide an example of trading in Interpublic Group (IPG) between 9:59:28 and 10:00:06 on May 7th which further illustrates the point. During this 38 second period of time, there were 2,300 display shares offered at $20.78 on five exchanges, however, 17 trades occurred off-exchange at the offering price totaling 2,100 shares. This example occurs thousands of times every day.

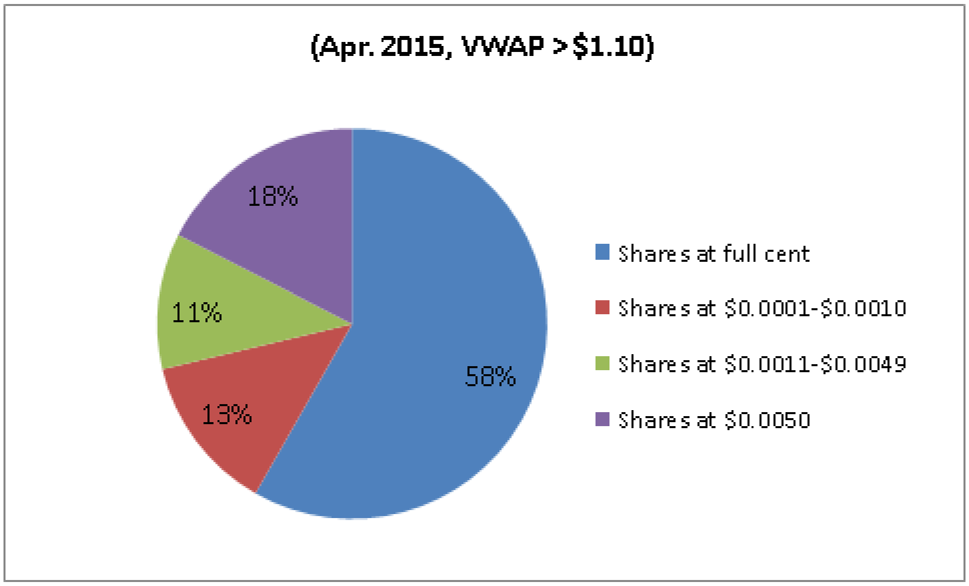
- Adverse impact on market quality (quoted spreads, fill rates): Extreme levels of order segmentation in today's marketplace has degraded the quality of order flow in the public markets. First, we find generally wider quoted spreads for stocks that trade a higher proportion off-exchange when compared against issues with similar price and CADV ranges (ETPs were not part of the analysis as they are priced derivatively), as shown in Chart 3. Additionally, the SEC's Fragmentation literature review notes *"The majority of papers – ASIC (2013); Hatheway, Kwan, and Zheng (2013); CFA Institute (2012); Comerton-Forde and Putnins (2012); Degryse, de Jong, and van Kervel (2011); Weaver (2011) – that focus specifically on dark fragmentation conclude that it can detract from market quality, both in the form of higher transaction costs and less efficient price discovery."*[1] The general decline in quoted spreads since Reg. NMS is largely attributed to declining volatility, with the VIX ®near record lows. Second, the rise in off-exchange trading coincides with lower fill rates on exchanges, as shown in Chart 4. Lower exchange fill rates, coupled with the drop in VIX ® may explain why quoted size

[1] http://www.sec.gov/marketstructure/research/fragmentation-lit-review-100713.pdf

has increased in the last few years for the most liquid stocks. Conversely, quoted size for illiquid securities has not increased.

In conclusion, we again want to thank the SEC for inviting us to the inaugural EMSAC meeting to discuss Rule 611 and we look forward to participating in future meetings that the EMSAC holds.

Chart 1: 71% of Off-Exchange Activity Occurs Near the NBBO



Source: Consolidated tape

Chart 2: Off-Exchange Trading in IPG

IPG, Interpublic Group, 51% TRF			
May 7, 2015, Volume: 4,275,030			
Time	Price	Shares	
9:59:28	$20.7800	100	
9:59:28	$20.7800	100	
9:59:28	$20.7800	100	
9:59:28	$20.7800	100	
9:59:28	$20.7800	100	
9:59:28	$20.7800	100	
9:59:28	$20.7800	100	
9:59:28	$20.7800	100	
9:59:28	$20.7800	100	
9:59:28	$20.7800	300	
9:59:28	$20.7800	200	
9:59:31	$20.7800	100	
9:59:36	$20.7800	200	
9:59:36	$20.7800	100	
9:59:46	$20.7800	100	
9:59:46	$20.7800	100	
10:00:06	$20.7800	100	
Bid/Ask for this period was $20.77/$20.78			
2300 shares on offer from five exchanges			

Source: Consolidated tape

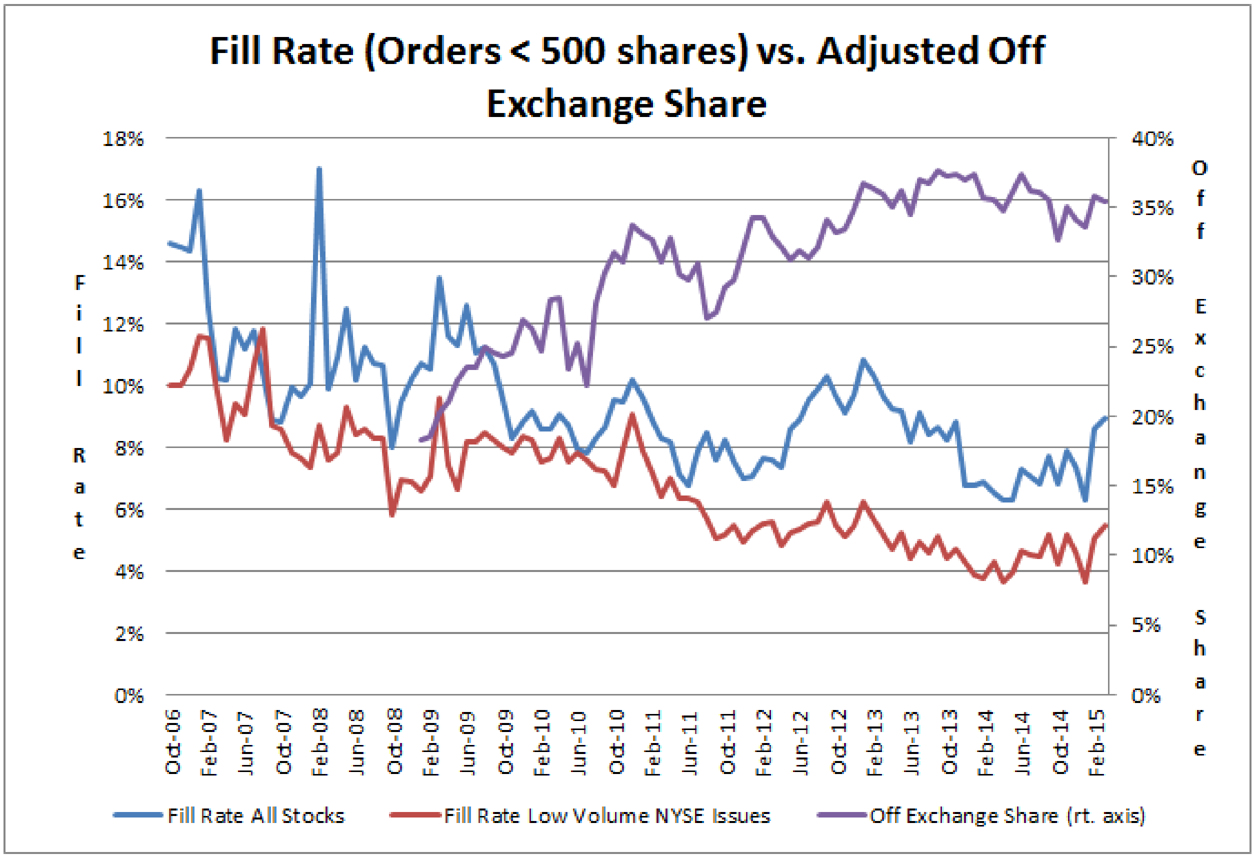
Chart 3: Quoted Spreads Are Higher in Comparable Stocks With High Off-Exchange Trading

Restricted to 1-cent quote
Sample size under 10
Primary market segment focus

	>$100	$50-$100	$20-$50	$10-$20	$5-$10	$2-$5	$1-$2
100K-500K	28.1% 62 $0.0034 0.35%	29.4% 241 $0.0444 1.23%	33.5% 594 $0.0109 2.75%	39.2% 488 $0.0017 2.06%	40.3% 234 ($0.0013) 1.02%	43.4% 149 $0.0030 0.62%	50.3% 83 $0.0004 0.35%
500K-1M	27.1% 64 $0.0336 0.82%	28.2% 125 $0.0181 1.65%	31.4% 249 $0.0117 3.14%	33.8% 106 $0.0071 1.35%	38.0% 73 $0.0003 0.93%	40.8% 42 $0.0012 0.54%	47.9% 17 $0.0009 0.21%
1M-2M	27.5% 45 $0.0177 1.09%	27.4% 100 $0.0039 2.64%	31.3% 177 $0.0082 4.50%	32.7% 102 $0.0073 2.61%	36.0% 50 $0.0009 1.28%	36.2% 31 $0.0009 0.76%	45.6% 11 ($0.0009) 0.26%
2M-5M	28.1% 29 $0.0453 1.52%	28.1% 91 $0.0073 4.99%	29.7% 133 $0.0017 7.52%	33.4% 56 $0.0004 3.07%	34.3% 39 $0.0000 2.19%	38.3% 38 $0.0003 2.21%	45.3% 11 $0.0000 0.59%
5M-10M	30.6% 4 $0.1228 0.45%	28.5% 30 $0.0107 3.56%	29.8% 38 $0.0040 4.51%	31.1% 22 $0.0005 2.94%	36.0% 18 $0.0002 2.31%	35.7% 11 $0.0003 1.23%	43.3% 10 $0.0000 1.15%
10M-20M	36.9% 2 $0.0149 0.47%	28.0% 8 ($0.0004) 2.10%	31.5% 19 $0.0000 4.61%	33.2% 17 ($0.0001) 4.32%	36.9% 11 ($0.0000) 2.87%	39.3% 8 $0.0001 2.00%	54.7% 1 0.25%
20M-50M	36.8% 1 0.88%	38.3% 2 $0.0136 0.80%	31.3% 8 $0.0001 4.03%	35.8% 1 0.48%	32.0% 5 $0.0000 2.73%	42.4% 2 ($0.0001) 0.90%	(null) 0 0.00%

- The top line in each box represents the median TRF share for issues in this box.
- The second line is the count of issues.
- The third line is the difference between consolidated quoted spread for stocks above the median TRF share and below the median TRF share (green means stocks with higher TRF share had higher spreads).
- The bottom line represents the percent of consolidated volume each box represents.
- With the exception of extremely low volume issues, stocks with higher TRF almost always display higher spreads.
- Source: Consolidated tape, December 2014.

Chart 4: Decline in Exchange Fill Rates Coincides With Rise in Off-Exchange Trading



Source: Consolidated tape and SEC Rule 605 Statistics