Ms. Elizabeth M. Murphy
Secretary, Securities and Exchange Commission
100 F Street, NE, Washington, DC 20549-1090
File Number- SR-NYSE-2009-08

RCMM letter to SEC

We are writing in opposition to a proposed rule change by the New York Stock Exchange LLC, rescinding NYSE Rule 110 which establishes the Role of Competitive Traders and Exchange Rule 107A, which Establishes the Role of the Registered Competitive Market Maker. We believe the Exchange has failed to adequately articulate a rational for removing this potentially important source of liquidity, market stability and competition. In any case, by acting unilaterally and without consultation with the existing RCMM community, or any one else for that matter, the Exchange leaves serious doubt about its methodology and ultimate conclusions on these changes.

The Exchange argues that CT's and RCMM's have outlived their usefulness in today's newer, faster electronic marketplace. And, since the community numbers only five RCMM's and one CT, that any market impact they have is insignificant.

The Exchange's argument that RCMM trading is immaterial relative to overall volume fails on two counts. First, it fails to account for the fact that for the last several years the Exchange has restricted the size of the RCMM community. Despite widespread demand from members wishing to become RCMM's, – a number that easily exceeds 100 -- the NYSE has refused to expand the category beyond those five members who were "grandfathered" following an October 2005 moratorium. We believe the wait list for new RCMM's exceeded 130 members at one point.

The NYSE cannot artificially, and for that matter arbitrarily, constrain proprietary trading on the NYSE floor while simultaneously arguing that the class of members is too small to warrant attention or have an impact on market volumes or stability. Of course, five RCMM's trading for their own accounts create a tiny ripple in a giant ocean of liquidity, but would 100 members? Or 1000 members? Unfortunately, we won't know what positive impact an expanded class might have on U.S. markets, since the Exchange hasn't bothered to test it.

The Exchange's "immaterial impact" argument also fails because the data they submitted only accounts for trading done through hand-held systems or "paper" trades on the floor, and doesn't include volume traded away from the floor via the DOT system. If it did, the number would be dramatically larger. Fast markets make DOT execution the preferred execution choice for RCMM's currently. On floor trading, meanwhile, is limited almost entirely to "blue lights", those 100 share stabilizing trades RCMM's are required to make on average each day. Of course, even RCMM DOT volume wouldn't attract much attention from just five traders, but it would certainly make an impact from 500 or 1000.

Further, the Exchange acknowledges the importance of competitive pools of capital in its recently re-engineered Designated Market Makers, and Supplemental Liquidity Providers. SLP's are pools of capital outside the exchange floor that compete with DMMs to add depth to the market. Why sponsor SLP's upstairs, and not allow liquidity providers on the floor? Wouldn't it make sense to allow another layer of "local" competition on the floor? Is there a rational that says markets will be deeper and more liquid if entrance is restricted?

We believe strongly that more players, equal more liquidity and more efficient price discovery. That's especially true if the activity is concentrated on an exchange floor. A deep pool of competitive market makers comprised of DMM's, SLP's and NYSE "locals" or RCMM's would be a powerful improvement to the current fragmented landscape that has contributed to fractured order flow, poor price visibility and reduced market efficiency.

Arguing that the community is too small and too expensive to write rules for and to regulate, again makes little sense since, the community is being artificially limited. In any case, is bureaucratic inertia a basis for good public policy? Just because the Exchange doesn't want to do something, does it make it good policy? At a minimum we could delay this rule change long enough for additional input and testing, and for setting a one-year trial period. Why allow a change that hasn't been fully studied, or in this case, a change that hasn't been studied at all? For the benefit of the marketplace, aren't we at least required to ask the question, "if as many RCMM's existed as DMM's and SLP's , and they were provided with the same rebate incentives, would they have a similar, or even greater impact?"

While we believe DMM's and SLP's are capable of adding liquidity, mitigating price fluctuations and enhancing competition, we find it curious that the Exchange provides no information with respect to the market impact from these two communities. Our guess is that DMM's participation continues to fall, and represents a tiny fraction relative to the participation of the old specialist community. Likewise, we get no supporting data on SLP's.

In an electronic age, it is equally possible to access electronic markets from upstairs, on the floor at a DMM post or via a mildly upgraded floor hand-held. So why not expand market participants? There seems to be very little risk, and a great potential for success. With hand held algorithms and mandatory liquid replenishment targets, RCMM's could provide an excellent source of additional capital and competition to the market. Moreover, unlike SLP's that are very large market dominant participants who may or may not use the NYSE, and whose capital is highly concentrated in a few hands, a robust RCMM community would be "floor-centric." AND, their diverse capital base would be less susceptible to catastrophic failure in stressful markets. Imagine the market impact of a collapse of an SLP with 15% market share.

Let's improve our equity markets on the basis of study, not speculation.

Robert Baxter and Charles Bocklet
Partners, Green Mountain Trading LLC