October 23, 2014

Sent by Electronic Mail to Rule-Comments@sec.gov

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

Re: Wolverine Trading Comment on Proposed New ISE Mercury Exchange

Dear Ms. Murphy:

Wolverine Trading, LLC ("Wolverine" or the "Firm") appreciates the opportunity to comment on International Securities Exchange, LLC ("Exchange" or "ISE") Form 1 application to create its third options exchange, ISE Mercury. As set forth below, Wolverine urges the Commission to deny ISE's application, as the creation of a thirteenth U.S. options market would further fragment existing options liquidity and impose additional costs on member firms and the investing public without providing sufficient benefit.

Wolverine, by way of background, was founded in 1994 and is an options market maker on all 12 U.S. options exchanges. The Firm provides continuous quotations in the majority of all listed options across all exchanges and, along with other industry market makers, provides a key source of liquidity to the marketplace which serves to dampening market volatility and allowing industry participants to more efficiently monetize and transfer risk.

Wolverine opposes the ISE's proposed creation of their third options exchange, ISE Mercury. The Firm believes that the complexity and fragmented liquidity in the U.S. listed options arena can hinder best execution for clients, and that the additional thirteenth exchange would further impact the primary goal of an effectively functioning marketplace without providing benefits that are commensurate with such added fragmentation. The more distinct execution venues that exist, the harder it becomes for buyers and sellers to interact at the best possible price for both. The additional fees incurred by the industry for another exchange, which come in many forms including the increased message traffic that must be generated, transmitted, and stored, as well as the Options Regulatory Fees assessed on all trades, regardless of whether such trades occur on the exchange collecting such fees - argue strongly against the need for this new marketplace.

The number of options market maker quotes generated on a daily basis has expanded exponentially in the last few years. Advances in technologies have made it easier than ever for market maker firms to update their published quotes more frequently to provide their most competitive prices to the marketplace. Due to numerous factors, including the number underlying securities on which exchanges list options, which include not just listed equities but an ever-expanding number of new ETFs, and the increasing number of options exchanges, options market makers now generate roughly ten billion quotes a day. Each of those ten billion quote messages are routed to exchanges, processed by those markets, disseminated via the consolidated OPRA feed and those exchange's direct market data feeds, and - most importantly - stored by firms and the industry for years to comply with our recordkeeping obligations under SEC and SRO rules. The costs of storing this data are magnified by the number of distinct industry participants who each must retain this same or similar data, and those costs are eventually reflected either directly through customer fees, or indirectly through widening spreads to account for additional costs. While many factors that drive quote traffic cannot be easily controlled, such as volatility in the market and trading volume, there is one factor that can easily be controlled: the number of unique execution venues. No matter how much volume traded on any new exchange, the new market will list the same options products currently quoted and traded on 12 other markets, and that exchange will collect substantially similar quotes from the same liquidity providers, and such quotes will add to the ever-growing industry quote total.

In recent years, the industry has seen increased regulatory scrutiny in the area of "quote stuffing" - a threat scenario in which a market participant may intentionally transmit an excessive number of options quotes to the marketplace with the intention of causing latency in the consolidated market data feed to the disadvantage of others. Wolverine believes that granting a thirteenth exchange SRO status would create far more message traffic on a regular basis than any single market participant who wished to impact the consolidated data feed would. In regulatory reviews related to such activity, Wolverine must answer to the “legitimacy” of our quote traffic, and demonstrate that messages were bona fide and added value to the market. The Firm urges the commission to closely evaluate whether the increased message traffic from this thirteenth options market would meet the same criteria.

The launch of several new options exchanges in past years has demonstrated that there may not be sufficient industry volume or interest in these new offerings to warrant their further creation. Of the three most recent new markets - ISE Gemini, MIAX, and Nadsaq's BX Market, none have garnered a significant market share, and the volume that each has attracted appears to have largely been at the expense of existing industry volume, as opposed to attracting new interest. While exchange operators frequently argue that they need multiple SROs to provide diverse market models to investors, this ignores the fact that there are few new ideas among options market models, and many of these offerings only serve to mimic existing models offered by competitors. An important distinction exists between the need to offer a new model to the marketplace, and a single exchange operator's desire to create a new market that significantly replicates the structure of other existing exchange at the expense of the investing public and the securities industry.

Another way in which this new exchange would impose costs to the industry and, in turn, the investing public, is through the assessment of Options Regulatory Fees ("ORFs"). The first ORF was instated in 2009 by the Chicago Board Options Exchange, and today 10 of the 12 U.S. options Exchanges assess ORFs on all trades that clear in the customer range at the OCC. As a practical matter, ORF fees are often passed through by exchange members to their customers or reflected in wider bid-ask spreads. The inherent flaw in these fees is that they are levied on members' total options trades, and are not limited to trades that a member executes on the exchange assessing the fee. This means that ISE Mercury could launch an exchange that never traded a single contract, yet could tax the activity of its participants on all of their current market activity, even if that Exchange does not provide a market model and fee structure that incentives competitive quoting. Wolverine feels strongly that ORFs are detrimental to the industry and serve as unfair incentive for exchange operators to continue to push for new markets without sufficiently incentivizing competitive market structures to attract volume.

In conclusion, Wolverine asserts that marginal utility that could be provided by a thirteenth options exchange with a slightly differentiated market model is drastically outweighed by the direct and indirect costs that such new exchange would impose on its members and the investing public, and that the increased fragmentation created by this new market would only hinder the desired goal of an efficient and effective marketplace in which the highest bidders and lowest sellers can interact expeditiously without additional complexity and fragmentation.   We urge the Commission to deny the Form 1 Application for ISE Mercury.

Very truly yours,

Kurt Eckert
Principal
Wolverine Trading

cc: Mary Jo White, Chair
        Luis A. Aguilar, Commissioner
        Daniel J. Gallagher, Commissioner
        Kara M. Stein, Commissioner
        Michael S. Piwowar, Commissioner

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