

**From:** Gary LaFever  
**To:** Shillman, David S.; Brigagliano, James A.; MeedanAD@sec.gov  
**Cc:** Doug Kittelsen ; Nazareth, Annette L.  
**Sent:** Wed Apr 29 14:15:41 2009  
**Subject:** Follow-Up to 4-16-09 FTEN / SEC Meeting[WARNING : MESSAGE ENCRYPTED]  
Messrs. Shillman, Brigagliano and Meehan,

FTEN appreciated the opportunity to meet with representatives of the SEC's Divisions of Market Regulation and Trading & Markets and the Office of Compliance Inspections and Examinations on April 16<sup>th</sup>. It was clear to us from the meeting that everyone shares the common goal of protecting the US financial markets from accidental or intentional abuse.

The attached document outlines FTEN's proposed suggestions for "Minimum Pre-trade Risk Management Best Practices" at the Order and Account level for the US markets.

Please note that each of the proposed controls listed in the attached document is in production use today by many of the largest prime brokers to protect themselves, their clients and the markets. Beyond FTEN's own solutions, there are also other third-party solutions and prime broker internal systems that offer true pre-trade risk controls.

As we discussed in our meeting, our concern is that there are prime brokers that allow customer's unfettered ("naked") access to liquidity destinations without any pre-trade risk controls. As a result, they gain unfair advantage (no risk tests means faster access to the markets) and create significant counter party risk for all market participants (including those that use pre-trade risk controls) which could result in systemic damage / collapse of the US markets.

On a related note, we would welcome the opportunity to demonstrate FTEN's real-time, market-wide surveillance capabilities that facilitate monitoring of high speed trade flow to produce the following reports:

- BAIT Report
- Fictitious Orders
- Shred Report
- Marking the Open/Close
  - Large/Small Pattern Report
  - Single Large Orders Report
  - Order Cluster Report
- Odd-Lot Reports
  - Basic
  - Order Cluster
- Short Sale Verification with Locate Info
- Wash Report

We thank you again for the opportunity to share our thoughts and perspectives on these important matters.

If we can be of any further assistance, please let us know.

Respectfully,

Gary

**Gary LaFever** | FTEN, Inc. | Chief Corporate Development Officer  
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April 29, 2009

David S. Shillman, Associate Director - Division of Market Regulation  
James A. Brigagliano, Associate Director - Division of Trading and Markets  
A. Duer Meehan, Associate Director - Office of Compliance Inspections and Examinations  
**United States Securities and Exchange Commission**  
**100 F Street, N.E.**  
**Washington, D.C. 20549**

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Respectfully,

A handwritten signature in black ink, appearing to read 'Gary La Fever', is written over a white background.

Gary La Fever  
Chief Corporate Development Officer & General Counsel

cc: Doug Kittelsen  
Annette Nazareth

### Existing Pre-trade Order Level Risk Checks for Equities

Risk Checks	Description	Exchange Solution	Third-Party Solution
Price checks	Comparison of current market price with order price to ensure trade is within accepted tolerance. If not, order is rejected.	Y	Y
Order Type Checks	Restricts pre-defined, specific order types. Order types not allowed are rejected.	Y	Y
Short Sales/Locates	Ensures full compliance with Reg SHO with regards to locate management and decrements.	N	Y
Restricted List	Stops a client's attempt to trade a stock that is on the Restricted Stock List.	Y	Y
Easy to Borrow	Stops a trade that attempts to short a symbol not on the ETB list or without a valid locate.	N	Y
SOQ Limit	Pre-set limit for the maximum share count allowed on an order. If the order share count is higher than this limit, order is rejected.	Y	Y
SOV Limit	Pre-set maximum dollar value allowed for a single order. If the order value is higher than this limit, order is rejected.	Y	Y

### Existing Pre-trade Account Level Risk Checks for Equities

Risk Checks	Description	Exchange Solution	Third-Party Solution
Buy Limit	Running sum of all Buy orders (shares x price) consumed for the day for all activity across all exchanges. If account exceeds this limit, all inbound orders will be rejected and current open orders will be cancelled.	N	Y
Committed Capital Limit	Pre-set limit for the amount of Net Committed Capital available for this customer account for all activity across all exchanges. If the account exceeds this limit, all inbound orders will be rejected and current open orders will be cancelled.	N	Y
Committed Capital Used	Running sum of Committed Capital Used for all activity across all exchanges. Committed Capital Used increases when Buys add to long positions and Sells add to Short positions. Committed Capital Used is reduced when Buys offset existing Short position and Sells offset Long positions. If the account exceeds this limit, all inbound orders will be rejected and current open orders will be cancelled.	N	Y

<b>Gross Market Value Limit</b>	Pre-set limit for current market gross value of total unboxed positions (total open longs at market + total open shorts at market) for all activity across all exchanges. If the account exceeds this limit, inbound orders will be rejected and current open orders will be cancelled.	N	Y
<b>Long Market Value Limit</b>	The current market value of long positions across all activity across all exchanges. If the account exceeds this limit, all inbound orders will be rejected and current open orders will be cancelled.	N	Y
<b>Sell Limit</b>	Running sum of all Sell orders (shares x price) consumed for the day for all activity across all exchanges. If the account exceeds this limit, all inbound orders will be rejected and current open orders will be cancelled.	N	Y
<b>Realized P&amp;L Loss Limit</b>	Real-time Realized P&L Loss limit – reflected as a percentage of Committed Capital. If the account exceeds this limit, all inbound orders will be rejected and current open orders will be cancelled.	N	Y
<b>Unrealized P&amp;L Loss Limit</b>	Real-time Unrealized P&L Loss limit – reflected as a percentage of Committed Capital. If the account exceeds this limit, all inbound orders will be rejected and current open orders will be cancelled.	N	Y

### Existing Pre-trade Order Level Risk Checks for Options

<b>Risk Checks</b>	<b>Description</b>	<b>Exchange Solution</b>	<b>Third-Party Solution</b>
<b>SOQ – Market Orders</b>	Single Order Quantity check for options contracts that are market orders.	Y	Y
<b>SOQ – Limit Orders</b>	Single Order Quantity check for options contracts that are limit orders.	Y	Y
<b>SOV – Market Orders</b>	Single Order Value check for options contracts that are market orders.	Y	Y
<b>SOV – Limit Orders</b>	Single Order Quantity check for options contracts that are limit orders.	Y	Y
<b>Max Number of Contracts by Name</b>	Maximum number of contracts allowed under one name.	Y	Y
<b>Restricted Products List</b>	Rejects an order when a client attempts to trade a product on the Restricted Product List.	Y	Y



## Existing Pre-trade Account Level Risk Checks for Options

Risk Checks	Description	Exchange Solution	Third-Party Solution
Max Position Quantity by Symbol	Total maximum number of contracts allowed for a specific underlying asset.	N	Y
Committed Capital	Indicates when Net Committed Capital Used > Net Committed Capital limit.	N	Y
Cash	Indicates when Net Cash Used > Net Cash limit.	N	Y
Delta	Measures an option's sensitivity to changes in price of the underlying asset.	N	Y
Gamma	Measures the delta sensitivity to changes in price of the underlying asset.	N	Y
Vega	Measures an option's sensitivity to changes in volatility of the underlying asset.	N	Y
Theta	Measures an option's sensitivity to time decay.	N	Y