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Sent via rule-comments@sec.gov

March 12, 2010

Ms. Florence E. Harmon
Deputy Secretary
U.S. Securities and Exchange Commission
Station Street
100 F Street, NE
Washington, DC 20549-1090

Re: Release No. 34-61535 (SR-NYSEAmex-2010-14): Notice of Filing of Proposed Rule Change by NYSE Amex LLC Amending Position Limits for Certain Exchange Traded Funds

Dear Ms. Harmon:

Wolverine Trading, LLC ("Wolverine" or the "Firm") appreciates the opportunity to comment on the above rule proposal submitted by NYSE Amex, LLC ("Amex" or "Exchange"). Specifically, Amex proposes to amend portions of Amex Rule 904 by eliminating option position limits on four highly liquid Exchange Traded Funds ("ETFs"): NASDAQ 100 Tracking Stock (QQQQ), SPDR S&P 500 ETF (SPY), iShares Russell 2000 Index Fund (IWM) and DIAMONDS Trust (DIA, and along with QQQQ, SPY and IWM, collectively referred to herein as the "Four ETFs"). Based on the factors discussed briefly below, Wolverine commends the Exchange for their review of this matter and strongly supports the filing as proposed. More specifically, Wolverine believes the elimination of position limits in the Four ETFs would benefit participants in the option industry, both customers and liquidity providers, given (1) the overall, continued growth in the options market, (2) the lack of evidence of market manipulation for products similar to, or including, the Four ETFs, and (3) regulatory inconsistencies associated with a view towards comprehensive risk mitigation using stock, options and futures.

Since the time standard position limits in the Four ETFs were last officially addressed in 2008,[1] volume within the options market has grown steadily. With their development, the popularity of products such as the Four ETFs has steadily increased because, in part, their broad-based nature offers a wide diversification of investments – one of the primary reasons we believe there is no need for option position limits in these types of products. Three of the Four ETFs have consistently ranked among the top ten equity symbols by volume across all options exchanges,

[1] *See* Amex Rule 904C, *See also* Securities Exchange Act of 1934 ("Exchange Act") Release No. 51043 (January 14, 2005), 70 FR 3402 (January 24, 2005).

with SPY and QQQQ options consistently ranked first and second, respectively. To illustrate this point, Wolverine provides the following information in relation to the total year-to-date ("YTD") option volume for 2010 across all options exchanges:[2]

Total YTD Options Volume: 528,861,827

Total YTD Volume for the Top Five Underlying Securities:

Underlying	YTD Volume	YTD %
SPY	53,691,429	10.15%
QQQQ	19,848,967	3.75%
BAC	16,378,308	3.10%
C	16,320,016	3.09%
IWM	13,655,615	2.58%

As another example of the popularity of these products, consider that the total number of SPY option contracts traded on March 2, 2010, was 1,186,918, a seventy-four percent (74%) increase from the total SPY contract volume traded on January 2, 2008.[3] Despite having increased position limits in these products in the past, these increased limits do not appear to reflect the consistent, growing trend of investors regularly buying and selling these highly liquid ETFs and their related derivative products.

Rules relating to position limits, as well as their intent to deter market manipulation, principally have remained unchanged for the past thirty-seven years; however, these rules could not have contemplated products such as the Four ETFs, nor foreseen the trading volume of these products in today's modern marketplace. With the approval of trading options on ETFs in the past decade, the position limit rules have only been amended moderately without fully accounting for the popularity or, more importantly, the nature of the products at hand, e.g., while options on the Four ETFs are classified as equity options, their pricing is more akin to those options based on broad-based indices (i.e., their pricing is based primarily on the large basket of underlying component securities in the index). We believe the Commission recognized in the past that the ability of market participants to manipulate these types of broad-based, actively traded index products is so unlikely that it allowed the CBOE to eliminate position limits on its most actively traded index option products, e.g., the S&P 100 index ("OEX"), the S&P 500 index ("SPX"), as well as numerous other broad-based index products (e.g., DJX, XEO, NDX, RUT, VIX, VXN, VXD, S&P 500 Dividend Index).

[2] *Source*: The Options Clearing Corporation – Exchange Volume by Class Reports for February 2010.

[3] *Source*: Bloomberg.

The exchanges did implement a pilot program in 2005 to increase the position limits for the Four ETFs. Following this pilot period, the Chicago Board Options Exchange, LLC ("CBOE") proposed the permanent adoption of these increased position limits while noting that it had "not encountered any regulatory issues regarding the applicable position limits, and states there is a lack of evidence of market manipulation schemes."[4] This echoed the CBOE's prior remarks from 2005 when implementing the pilot program that a "lack of evidence of market manipulation occurrences over the past twenty years justifies the proposed increases in position and exercise limits."[5] Our research supports CBOE's conclusions, i.e., we found no cases in which member firms utilized market manipulation schemes relating to one or more of the Four ETFs.

The elimination of position limits also would help market-makers better manage the regulatory risk associated with exceeding position limits during periods of volatility. Consider that during the latter half of 2008, when the markets saw unprecedented volatility and volume, market activity in the Four ETFs, most notably SPY options, was unpredictable at best, and, at worst, impacted the ability of market makers to continually provide real-time liquidity while being obligated to adhere to position limits that conflicted with rapid position growth – much of which was dependant on the demands of the market. Exchange member firms, such as Wolverine, were in constant communication with the exchanges, seeking relief in order to continually provide liquidity; however, the process by which relief is granted lagged significantly behind a timeframe for member firms to either respond to immediate market interest or offset their positions.

With the ever increasing complexity of the market comes intuitive means to manage risk. Market participants are able to hedge their options position risk using an array of related or correlated products, which may include (a) the underlying ETF, (b) the basket of securities that comprise the related index (e.g., S&P 500), and/or (c) futures on both the ETF and related index. By using these available products, participants effectively offset their options position to generally create flat, delta-neutral position. These broader, more complex methods of offsetting risk are readily recognized by both The Options Clearing Corporation when used for cross-margining purposes,[6] and the futures exchanges when used for an exchange for physical,[7] but not all of them are recognized by the options exchanges, despite their neutralizing effect on position risk.

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[4] *See* Exchange Act Release No. 57352 (February 19, 2008).

[5] *See* Exchange Act Release No. 51244 (February 23, 2005).

[6] http://www.theocc.com/risk-management/margins/cross-margins.jsp

[7] http://www.cmegroup.com/clearing/trading-practices/efp-ebf-efr-trades.html

To date, we have received different and varying guidance from the exchanges regarding what are acceptable hedges or offsets to an option position and the various ways in which we must calculate hedge positions. In an effort to comply, we have spent a good deal of time and resources making internal changes to our reports and calculations on numerous occasions over the past several years (and the past six months in particular). We feel that the elimination of limits in the Four ETFs will allow us – and other broker dealers, as well – to focus available resources on current regulatory initiatives that are having, or will have, a significant impact on the marketplace now or in the near future.

In summary, Wolverine believes the elimination of position limits for the Four ETFs would benefit the industry and not have a detrimental impact on the marketplace based on the reasons stated above. Accordingly, we strongly urge the Commission to (1) approve the rule filing as proposed and (2) encourage the options exchanges to harmonize rules applicable to position limits and hedge exemptions. We thank the Commission for the consideration of our comments, and welcome the opportunity to discuss this matter further.

Best regards,

Joseph Sacchetti
Managing Director

Eoin Callery
Managing Director