

WOLVERINE

TRADING, LLC
175 West Jackson Blvd., Suite 200
Chicago, Illinois 60604
312.884-4000
312-884-3050 (fax)

May 13, 2003

Mr. Jonathan G. Katz
Secretary
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-0609

RE: File No. SR-NASD-2003-73

Dear Mr. Katz:

Wolverine Trading, LLC (“Wolverine” or the “Firm”) is a registered broker-dealer and a member of all United States options exchanges. We have a presence on all physical and electronic exchanges, trading as both Market Makers and Specialists. Wolverine engages exclusively in proprietary trading. The Firm’s Designated Examining Authority (“DEA”) is the Chicago Board Options Exchange (“CBOE”). Wolverine appreciates the opportunity to respond to NASD File No. SR-NASD-2003-73, in which the NASD seeks to replace its existing fee structure with a new fee structure including a Trading Activity Fee (“TAF”) assessed on listed stock and options transactions.

According to the NASD Filing, subsequent amendments, Notice to Members and the NASD Response to Comments, “the TAF is an assessment on NASD members and is never assessed on non-members”. Wolverine is not a member of the NASD, however the Firm clears its activity through an NASD member clearing firm. As previously stated, Wolverine engages exclusively in proprietary trading mainly as option Market Makers and Specialists. As a liquidity provider in the options markets, Wolverine must offset options risk with the underlying stock. The Firm enters orders either directly to these market centers as a member or through electronic trading systems whereby our clearing firm’s name is given up for the transaction. As a registered broker-dealer, Wolverine is ultimately responsible for all of the trading activity, which the Firm initiates regardless of how the trades are entered and/or processed. The firm is subject to routine examination and oversight by the CBOE, Wolverine’s DEA, in addition to regulatory oversight by each of the Exchanges of which the Firm is a member.

According to NASD Notice to Members 02-75:

Question 6: Will the Trading Activity Fee be assessed on transactions for non-member broker-dealers who clear through an NASD member broker-dealer?

No. The Trading Activity Fee only applies to NASD member firms. However, if the NASD member clearing firm also acts as the executing broker in a transaction, then the NASD clearing member will be assessed a fee for that transaction.

The NASD has consistently represented that the TAF is intended to fund the NASD *member* regulatory activities and will never be assessed on non-members. The previous illustration contradicts this assertion. Whenever Wolverine enters an order at an Exchange or ECN that the Firm is not itself a member, the Firm's clearing firm will "act as the executing broker." The result, contrary to what the NASD contends, will be a direct pass through of the TAF fee assessed on the clearing member, being charged to the non-NASD member firm. Why is it appropriate for a non-NASD member firm to fund the regulatory activities of the NASD, while already supporting the regulatory structure of the exchanges where they maintain memberships?

Conclusion

We would urge the Commission not to approve the proposal in its current form as it poses an inequitable financial burden on non-NASD member firms. Wolverine respectfully submits that if the Trading Activity Fee only applies to NASD member broker-dealers, then the filing must specifically exclude fees for transactions executed by NASD clearing members on behalf of non-member broker-dealers.

Wolverine appreciates the opportunity to comment on the NASD Proposal. If you have any questions or need further clarification, please do not hesitate to contact the undersigned.

Very truly yours,
Wolverine Trading, LLC

Robert Bellick

Christopher Gust

cc: Chairman William H. Donaldson
Commissioner Cynthia A. Glassman
Commissioner Harvey J. Goldschmid
Commissioner Paul S. Atkins
Commissioner Roel C. Campos
Annette L. Nazareth, Director, Division of Market Regulation
Lori Richards, Director, Office of Compliance Inspections and Examinations
Robert L. D. Colby, Deputy Director, Division of Market Regulation
Elizabeth King, Associate Director, Division of Market Regulation
Deborah Flynn, Assistant Director, Division of Market Regulation