

Via Electronic Filing

March 16, 2016

Christopher Kirkpatrick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

Re: Regulation Automated Trading – CFTC RIN 3038-AD52

Dear Mr. Kirkpatrick:

The Investment Adviser Association (“IAA”)¹ appreciates the opportunity to comment on the CFTC’s proposed Regulation AT, which addresses a series of risk controls and other measures to govern the regulatory regime for automated trading on U.S. designated contract markets (“DCMs”).² The IAA’s members are investment advisers registered with the SEC, many of which are also registered as commodity pool operators (“CPOs”) or commodity trading advisors (“CTAs”). In that capacity, they manage assets for their clients as fiduciaries under the Investment Advisers Act of 1940 (the “Advisers Act”).

As buy-side participants, IAA members trade on DCMs on behalf of clients and have a strong interest in markets that are fair and orderly for all participants. The IAA recognizes that the manner in which DCMs operate has increasingly migrated from a floor-based open outcry environment to the use of various electronic means for the execution of orders. We also understand the CFTC’s objective to “foster transparency with respect to DCM programs and activities, including market maker and trading incentive programs” and to take account

¹ The IAA is a not-for-profit association that represents the interests of investment adviser firms that are registered with the U.S. Securities and Exchange Commission (“SEC”). The IAA’s membership consists of about 600 firms that collectively manage \$16 trillion for a wide variety of individual and institutional investors, including pension plans, trusts, investment companies, private funds, endowments, foundations, and corporations. For more information, please visit www.investmentadviser.org. The terms “investment adviser” and “adviser” throughout our comments refer to SEC-registered investment advisers that are also registered under the Commodity Exchange Act (“CEA”).

² Regulation Automated Trading, 80 Fed. Reg. 78823 (Dec. 17, 2015) (“Proposed Rulemaking” or “Proposal”), available at <http://www.cftc.gov/idc/groups/public/@Irfederalregister/documents/file/2015-30533a.pdf>. Each “AT Person” would be required to implement written policies and procedures for testing, monitoring and compliance of its algorithmic trading systems, as well as pre-trade risk controls and compliance reports for DCMs.

of the evolution of the way in which DCM trading is conducted through the use of technology.³

The IAA supports the CFTC's goals of ensuring the safety and integrity of U.S. markets—in particular, DCM and market participants' trading systems—as they experience continued rapid technological changes.⁴ However, the IAA believes that the scope of the Proposed Rulemaking is too broad in that it would apply to all market participants, irrespective of the different ways in which they access DCMs and the differing levels of risk that their trading activity may pose. We submit that the CFTC's goals can be accomplished in other, more targeted ways.

Specifically, we recommend that the CFTC: (A) amend the definition of “AT Person” to exclude entities without direct electronic access (“DEA”);⁵ (B) confirm that investment algorithms used by buy-side investment advisory firms are excluded from the definition of “algorithmic trading” and exclude order routing from the definition of “algorithmic trading;” (C) reduce the scope of the proposed standards for AT systems to exclude registered CPOs and CTAs that do not have DEA and do not own any source code but rather license it from the developer or other owners; and (D) allow for an appropriate compliance period.

We discuss our recommendations below.

A. The Definition of “AT Person” Should Include Only Those Entities with “Direct Electronic Access”

“AT Person” is defined to mean “any person registered or required to be registered as an FCM, floor broker, swap dealer, major swap participant, commodity pool operator, commodity trading advisor, or introducing broker that engages in ‘Algorithmic Trading’ on

³ The proposed risk controls and other rules are “focused on algorithmic order origination or routing by market participants, and electronic order execution by DCMs. In addition to mitigating risks arising from algorithmic trading activity, the proposed rules are intended to increase transparency around DCM electronic trade matching platforms and the use of self-trade prevention tools on DCMs.” Proposed Rulemaking at 78827.

⁴ Proposed Rulemaking at 78826.

⁵ “Direct electronic access” is defined under proposed Regulation 1.3(yyyy) to mean “an arrangement where a person electronically transmits an order to a designated contract market, without the order first being routed through a separate person who is a member of a derivatives clearing organization to which the designated contract market submits transactions for clearing.”

or subject to the rules” of a DCM; or a “floor trader.”⁶ The CFTC seeks comment on whether the definition of “AT Person” should be limited to persons using DEA.⁷

We believe the definition of “AT Person” is overbroad and should be limited to persons using DEA. We recommend the CFTC regulate the algorithmic activities that represent increased risk and focus on how entities access the market. The electronic trading market consists of a broad and diverse group of market participants that utilize algorithms in significantly different manners and for different purposes. We believe the scope of the Proposal should be based on the nature of the market participant’s algorithmic trading and the risks posed thereby, which are significantly different for DEA market participants as compared to non-DEA market participants. Regulating specific activity at the DCM level, rather than across every market participant, would more effectively address the Commission’s concerns about potential disruptive trading. Accordingly, we recommend excluding from the definition of “AT Person” entities, including registered CPOs and CTAs, that do not have DEA.⁸

Recognizing the potential risk of DEA, the CFTC took this kind of tailored approach, in the amended “Floor Trader” definition by exempting floor traders that do not have DEA from the proposed regulations.⁹ In so doing, the Commission exempted an entire category of market participants based on their non-DEA status. The same reasoning should apply to other market participants. Accordingly, the Commission should provide a similar exemption by defining “AT Person” based upon how an entity accesses the market.

Most investment advisers who are also registered as CPOs and CTAs do not have DEA, but rather access DCMs through their clearing member FCMs. For such buy-side

⁶ See Proposed Regulation 1.3(xxxx).

⁷ See Question 17, Proposed Rulemaking at 78844 (“[s]hould the definition of AT Person be limited to persons using DEA?”).

⁸ In any event, registered CPOs and CTAs should be excluded from the definition of “AT Person” because they are already subject to registration and comprehensive regulation by the CFTC and the National Futures Association (“NFA”), including through quarterly systemic risk reporting on Forms CTA-PR and CPO-PQR, and periodic NFA reporting and examinations.

⁹ The term “floor trader” would be amended to include any person who, “(i) in or surrounding any other place provided by a contract market for the meeting of persons similarly engaged purchases or sells solely for such person’s own account— (A) Any commodity for future delivery, security futures product, or swap; or (B) Any commodity option authorized under section 4c of the Act; *and* (ii) Who uses Direct Electronic Access as defined in paragraph (yyyy) of this section, in whole or in part, to access such other place for Algorithmic Trading; and (iii) Who is not registered with the Commission as a futures commission merchant, floor broker, swap dealer, major swap participant, commodity pool operator, commodity trading advisor, or introducing broker.” See Proposed Regulation 1.3(x)(3) (emphasis added).

advisers, all of their AT orders flow through the risk parameters established and monitored by the FCMs, and such advisers do not have the ability to directly place a trade on a DCM. Limiting the definition of “AT Person” to persons with DEA would help focus regulatory resources on the most important locations for risk controls—at the point of entry to a DCM.

For all of these reasons, the “AT Person” definition should be revised to exclude entities that do not have DEA.

B. If the CFTC Chooses to Proceed with the Proposal in its Present Scope, the Definition of “Algorithmic Trading” Should Be Amended

If the CFTC determines not to exclude entities that do not have DEA from the scope of the Proposal, we recommend that the CFTC amend and clarify the definition of “algorithmic trading.” We also urge the CFTC to exclude those market participants, including registered CPOs or CTAs, that use third-party “algorithmic trading systems” from the proposed rules relating to developing, testing and monitoring the third-party “algorithmic trading systems,” including the requirement to maintain a source code repository. We discuss the recommendations below.

1. The Definition of “Algorithmic Trading” Should Be Amended

Proposed Regulation 1.3(zzzz) includes a definition of “Algorithmic Trading” that would encompass trading in any commodity interest on or subject to the rules of a DCM where:

(1) One or more computer algorithms or systems determines whether to initiate, modify, or cancel an order, or otherwise makes determinations with respect to an order, including but not limited to: The product to be traded; the venue where the order will be placed; the type of order to be placed; the timing of the order; whether to place the order; the sequencing of the order in relation to other orders; the price of the order; the quantity of the order; the partition of the order into smaller components for submission; the number of orders to be placed; or how to manage the order after submission; and

(2) Such order, modification or order cancellation is electronically submitted for processing on or subject to the rules of a designated contract market; provided, however, that Algorithmic Trading does not include an order, modification, or order cancellation whose every parameter or attribute is manually entered into a front-end system by a natural person, with no further discretion by any computer system or algorithm, prior to its electronic submission for processing on or subject to the rules of a designated contract market.

The IAA believes that this definition is overly broad and should be narrowed by adding clarification to the second prong of the definition. As proposed, it could include any trading that uses automation of any kind by market participants. While the algorithmic trading definition attempts to exclude trading that is manually executed, we believe it would inadvertently capture trading by many market participants, including those that use manual processes to determine their investment or hedging strategies. For example, buy-side investment advisers often use automated systems to facilitate and optimize their portfolio management. These activities do not raise the same concerns as high frequency trading or algorithms that generate a trade recommendation and electronically execute an order (*i.e.*, “black box trading,” as described further below) without further discretion by a natural person or another computer algorithm or system prior to the order’s electronic delivery to a DCM. Refining the definition to include only those transactions placed using systems or algorithms that deliver the trade directly to the DCM would better tailor the rule to the types of activities the CFTC intended to address.

Specifically, we recommend the CFTC amend the second prong of the definition to read as follows:

(2) Such order, modification or order cancellation is electronically submitted for processing on or subject to the rules of a designated contract market; ~~provided, however, that Algorithmic Trading does not include an order, modification, or order cancellation whose every parameter or attribute is manually entered into a front-end system by a natural person, with no further review, interaction or discretion by any~~ imposed by a natural person or another computer system or algorithm or system prior to its electronic ~~submission for processing on or subject~~ delivery to the ~~rules of a designated contract market.~~

This amendment would better clarify the proposed intent of the regulation.

2. Investment-Decision Making Algorithms are Appropriately Excluded

The CFTC asks whether the definition of “Algorithmic Trading” should be even broader, to include scenarios where a natural person trader manually enters orders, where an algorithm was used to generate the buy or sell signal.¹⁰ We urge the Commission not to do

¹⁰ Paragraph 7 states, “The Commission, recognizing that natural person traders who manually enter orders also have the potential to cause market disruptions, is considering expanding the definition of Algorithmic Trading to encompass orders that are generated using algorithmic methods (e.g., an algorithm generates a buy or sell signal at a particular time), but are then manually entered into a front-end system by a natural person, who determines all aspects of the routing of the orders. Such order entry would not represent Algorithmic Trading under the currently proposed definition. The Commission requests comment on this proposed expansion of the definition of Algorithmic Trading, which the Commission may implement in the final rulemaking for Regulation AT. The

so. As we noted above, we believe the proposed definition is already too broad. In fact, we believe it should be more narrowly tailored, not expanded.

IAA members may use typical buy-side models (using algorithms) as part of their investment process in managing assets for clients. In our view, these models appropriately are not covered by the proposed definition of algorithmic trading, and the definition should not be expanded, for a number of reasons, to include situations where a trader manually enters orders.

First and foremost, investment decision-making algorithms that simply process market and other data to recommend trade ideas for an adviser to submit do not pose risks to the orderly functioning of DCMs. These trading recommendations do not affect the market until a trade is *actually* placed on a DCM. In situations where orders are manually entered, a trader exercises her or her investment discretion to initiate the trade. In these instances, the natural person trader may determine to revise or change the trade recommendation, including the order's key parameters (*e.g.*, contract, exchange, direction, maximum size, and limit price), further distancing the nexus between the investment algorithm that generated the recommendation and the market. These investment algorithms themselves do not submit trades and, therefore, do not result in trading activity unless the algorithm were to both generate orders and transmit such orders directly to the DCM. Accordingly, the more appropriate focus of the definition should be with algorithms that both generate and place an order with a DCM, such as "black box trading" algorithms that have broad discretion in both generating orders (including determining key parameters such as contract, exchange, quantity, and limit price) and whether to submit such orders for execution on a DCM.

We also note, as the CFTC recognizes, that the proposed definition of algorithmic trading would be at odds with the standards adopted by the European Securities and Markets Authority ("ESMA"). The CFTC states that it may adopt as part of the final rulemaking for Regulation AT a definition of algorithmic trading that includes orders that are generated using algorithmic methods, even if such orders are manually entered into a front-end system by a natural person, who determines all aspects of the routing of the orders. That activity would not constitute algorithmic trading under ESMA's rules. Many IAA members are either themselves subject to ESMA requirements or part of a related group of companies that is subject to ESMA standards. Such enterprises often attempt, where feasible, to implement compliance policies and procedures on a global basis, so any deviation by the CFTC from what the industry and regulators have heretofore understood to constitute algorithmic trading can only make a difficult regulatory burden even more complicated and costly.

For all of these reasons, the CFTC should not expand the definition of algorithmic trading to include orders that are input by a natural person, in whole or in part. Algorithms

that do not both generate and place an order directly with a DCM should, as proposed, be excluded from the definition of algorithmic trading.

3. Order Routing or Execution Systems Should be Excluded

The other aspect of the algorithmic trading definition that the IAA believes needs revision relates to order routing systems. The IAA recommends that the CFTC not include as part of the definition of algorithmic trading “systems that only make decisions as to the routing of orders to one or more trading venues.”¹¹ Order routing systems used by asset managers do not take the place of an individual trader making investment decisions, and they do not operate in isolation without an investment decision first made by an asset manager to execute an order as part of an investment strategy on behalf of one or more of the manager’s clients. Additionally, order routing systems cannot modify any of the key parameters of an order determined by the individual trader exercising the investment decision. Where an order router is not used by a buy-side investment advisory firm to make discretionary investment decisions in a particular strategy, the order router is not making any of the determinations regarding the “parent” order (large order) and should be excluded from the definition of algorithmic trading.

Similarly, investment advisers often use “execution” algorithms to achieve efficient execution of a pre-determined buy/sell order or to optimize the execution of such order. Most registered CPOs and CTAs do not create their own proprietary algorithms, but rather, license algorithms from third-party algorithm providers (typically, FCMs). Importantly, these third-party algorithms are “execution” algorithms and do not generate orders or have the ability to change the parameters of orders that are established by the adviser and communicated to the algorithm by the adviser’s trader. These key parameters include, for example, the contract, direction, time, limit price threshold, maximum quantity, and aggressiveness.

In particular, once the key parameters of the trade are entered into the front-end system, they are messaged to the third-party algorithm provider’s server, on which the algorithm resides. The algorithm partitions the order based on the proprietary source code, which is designed and solely controlled by the algorithm provider, and transmits the order to the DCM. Functionally, this transmission is no different than if the trader were to pick up the phone and place the order with the FCM or broker, and request that the order be executed using the same parameters, including the same execution algorithm offered by the FCM. While an adviser may select the use of a third-party algorithm for a given order, the adviser does not have access to the third-party algorithm’s source code, and therefore is unable to revise the functionality of the algorithm.

¹¹ Proposed Rulemaking at 78840.

These execution algorithms do not pose the same risks as algorithms that both generate and submit orders to the DCM without any further human or systematic/algorithmic discretion, and should therefore be excluded from “algorithmic trading” in the Proposal. Accordingly, the CFTC should revise the definition of algorithmic trading to apply where the same algorithmic trading system both: (i) generates orders and (ii) submits such orders directly to the DCM. The definition should specifically exclude algorithms that are merely designed to partition “parent” orders into “child” orders (trades executed over time) for submission to the DCM where an adviser inputs the parent order and certain key parameters.

Moreover, including order routing systems would present another way in which the CFTC’s definition would differ from other industry regulators. For example, the European Commission’s new Directive on markets in financial instruments (“MiFID II”), published on June 12, 2014,¹² does not include in its definition of algorithmic trading systems that only make decisions as to the routing of orders to one or more trading venues.¹³ The definition of that term adopted by the Financial Industry Regulatory Authority (“FINRA”) does not include such systems either.¹⁴ FINRA’s proposal would not capture standard order routers that are not designed to implement a particular strategy.

In support of extending the definition to include order routing systems, the CFTC does not cite to any incident involving a DCM, but rather cites to two cases involving broker-dealers—Knight Capital¹⁵ and Goldman Sachs.¹⁶ Both are distinguishable from the use of order routing systems used by buy-side investment advisers that are also registered as CPOs or CTAs. Knight Capital involved the violation of the SEC’s market access rule in connection with errors related to the code of a broker-dealer’s automated equity router, which was unable to recognize when orders had been filled causing the firm to acquire unwanted positions and sustain losses. The Goldman Sachs case involved a configuration error in an

¹² See European Commission, “Updated rules for markets in financial instruments: MiFID 2” (June 12, 2014), available at http://ec.europa.eu/finance/securities/isd/mifid2/index_en.htm.

¹³ Proposed Rulemaking at 78840.

¹⁴ See FINRA, Regulation Notice 15–06, “Registration of Associated Persons Who Develop Algorithmic Trading Strategies,” (Mar. 2015), available at http://www.finra.org/sites/default/files/notice_doc_file_ref/Notice_Regulatory_15-06.pdf. In the Notice, FINRA defines an “algorithmic trading strategy” as “any program that generates and routes (or sends for routing) orders (and order-related messages, such as cancellations) in securities on an automated basis.” *Id.* at 3. FINRA generally considers an “algorithmic trading strategy” to be any program that generates and routes (or sends for routing) orders or order-related messages in securities into the marketplace on an automated basis without material intervention by any person. The FINRA proposal would not capture standard order routers that are not designed to implement a particular strategy. *Id.* at 7.

¹⁵ Proposed Rulemaking at 78840.

¹⁶ Proposed Rulemaking at 78837.

options order router. Importantly, FINRA determined, even after the Knight Capital and Goldman Sachs cases, to **not** include order routing systems that are not designed to implement a particular strategy within its algorithmic trading definition. The CFTC should take a similar approach.

Further, we recommend the CFTC specifically exempt from the definition of “AT Person” registered CTAs that have hired other advisers to manage a client’s assets (*e.g.*, contractually delegated the responsibility to manage the underlying portfolio in a managers of managers arrangement). Only the firm that actually executes the orders and the trading function, not those that delegate the trading function out under an investment management agreement, should be subject to any rules under the Proposal.

4. The Definition of “Algorithmic Trading Compliance Issue” Should Be Amended

The proposed definition of “Algorithmic Trading Compliance Issue” includes a violation of “the AT Person’s own internal requirements.” We recommend that the CFTC eliminate this provision. Market participants have different internal requirements tailored to the particular risks at their firm, and firms may set high internal standards, above and beyond legal and regulatory requirements. If an AT Person could be held liable for not meeting all of its own internal requirements, an AT Person might change its internal requirements to the minimum requirements by law or regulation to ensure that it never violated any internal requirements and thus, avoid a “compliance issue” under the Proposal. This result would obviously defeat the CFTC’s intended goals by potentially reducing the inclusion of best practices in the firm’s internal requirements.

C. The CFTC Should Narrow the Scope of Proposed Rules Requiring Developing, Testing and Monitoring

We encourage the Commission to reconsider the scope of Proposed Regulation 1.81, which would require that each AT Person implement written policies and procedures for the development and testing of its algorithmic trading systems, including the requirement to maintain a source code repository and requirements for the development, testing and monitoring of algorithmic trading. Under the Proposal, each AT Person would be required to implement written policies and procedures that would include, among other things:

Maintaining a source code repository to manage source code access, persistence, copies of all code used in the production environment, and changes to such code. Such source code repository must include an audit trail of material changes to source code that would allow the AT Person to determine, for each such material change: who made it; when they made

it; and the coding purpose of the change. Each AT Person shall keep such source code repository, and make it available for inspection, in accordance with § 1.31.¹⁷

The IAA opposes the source code repository concept in general as overly prescriptive. Although the CFTC claims that the Proposed Regulation “does not impose a prescriptive standard for how the source code repository must be structured or maintained,”¹⁸ the regulatory text clearly states that the source code must be maintained and made available in accordance with CFTC Regulation 1.31.¹⁹ This provision would require advisers to make copies of all source code used in a production environment for inspection by any CFTC or U.S. Department of Justice representative for any reason or for no particular reason, without a subpoena. The IAA is not aware of any similar requirement in any jurisdiction that permits automated trading.

Source code is extremely valuable intellectual property. For many firms, it is their “secret sauce.” Owners of the source code take extraordinary measures to safeguard it, because any breach of access to it has the potential to severely impact their business, present competitive disadvantages, or leak franchise-threatening confidential information and intellectual property (which in some cases may be protected by copyright, patent, or trademark laws) to third parties or regulatory bodies. The IAA and its member firms therefore share the CFTC’s concerns with respect to cybersecurity and the potential for this sensitive proprietary information to fall into the wrong hands. In fact, in our view, requiring it to be available to numerous government representatives without a subpoena presents an unacceptable risk that this material could be compromised. Given the limited benefit to the CFTC of routine access to source code, we do not support the requirement as proposed. We urge the CFTC to eliminate this aspect of the Proposal in any final rule on algorithmic trading.

If the CFTC nevertheless determines to adopt a source code repository requirement generally, the IAA requests that the source code repository requirements do **not** apply to any firm that does not own or have unrestricted access to the source code of the algorithmic

¹⁷ Proposed Regulation 1.81(a)(1)(vi).

¹⁸ Proposed Rulemaking at 78848.

¹⁹ The IAA is on record expressing concerns about the difficulties and costs of complying with the outdated standards set forth in CFTC Regulation 1.31. We filed a petition for rulemaking with the CFTC, together with the Managed Futures Association (“MFA”) and the Alternative Investment Management Association Limited (“AIMA”), in July 2014 to amend and update CFTC Regulation 1.31, and we await the CFTC’s response thereto. *See also*, Statement of Commissioner Giancarlo (noting that he “previously expressed reservations about Commission Regulation 1.31” in the CFTC’s previous proposal to amend recordkeeping regulation 1.35, and noting that “[u]nfortunately, the Commission has not acted on this [joint IAA petition] request.”). Proposed Rulemaking, Appendix 4, at 78947.

trading system being used. Investment advisers that are also registered CPOs or CTAs make use of various sub-advisers, consultants, or other third parties in developing trading strategies on behalf of clients, and therefore it will often be the case that an adviser does not itself develop and own source code for any particular algorithm. For example, such an adviser would generally access a DCM through a third-party trading systems as a result of licensing that system from an “independent software vendor” (“ISV”) whose services are listed through a DCM’s website. As noted above, the source code is extremely valuable intellectual property that is carefully protected by the developers and owners, who would not share it with an adviser for commercial and security reasons.

Accordingly, because such a registered CPO or CTA does not have access to the ISV’s or other third-party’s source code, it would be impossible for the registered CPO or CTA to comply with the source code repository requirement and other aspects of the proposed rules, including the pre-trade risk controls, the development, testing, and monitoring of the source code. In reality, such a requirement would force an adviser to forego the use of algorithms that it may deem useful to its clients, thus disadvantaging the adviser’s clients without providing any benefit to the CFTC. Although advisers that are registered CPOs or CTAs would, as a matter of their regulatory obligations under the CEA and the Advisers Act, oversee the functioning of the ISV’s system as it relates to the registered CPO or CTA’s own trading on its clients’ behalf, CPOs and CTAs rely on the ISV providing the algorithm to provide robust test environments and to code the relevant pre-trade risk controls into the algorithm. In addition, the main proposed risk control requiring automated alerts when the behavior of an algorithmic trading system’s AT Order Message to a DCM by an AT Person breaches certain parameters²⁰ is a function of the algorithm *itself*. As noted above, registered CPOs and CTAs using an ISV’s or other third-party’s system do not have access to the algorithm’s source code, and are thus unable to implement any risk control related to an AT system’s AT Order Message.

In any event, and importantly, registered CPO and CTA trades are subject to FCMs’ risk controls. It is thus unnecessary and not beneficial for the CFTC to require multiple levels of market participants to implement identical risk controls on the same third-party algorithm. Further, it would be duplicative and unnecessary to require a party that has purchased or arranged for the use of an off-the-shelf or third-party algorithm for use in its

²⁰ Parameters could include controls designed to prevent excessive messaging or trading which could disrupt, slow down, or impede normal market activity caused by either inadvertent or intentional submission of AT Order Messages. *See* Proposed Regulation 1.81(b)(ii) (AT Person’s policies and procedures must include automated alerts when an AT system’s AT order message behavior breaches design parameters, upon loss of network connectivity or data feeds, or when market conditions approach the boundaries within such AT system is intended to operate). *See also*, Proposed Regulation 1.3(www) (defining “AT Order Message” to mean “each new order or quote submitted through Algorithmic Trading to a designated contract market by an AT Person and each change or deletion submitted through Algorithmic Trading by an AT Person with respect to such an order or quote”).

investment management process to perform independent testing in addition to the owner's obligations under the Proposed Regulation.

We also urge the CFTC to reconsider some of the more prescriptive aspects of the Proposal that require certain monitoring and other requirements for compliance personnel. In particular, we request that the CFTC amend the proposed requirement that AT Persons maintain one or more persons to monitor algorithmic trading, and one or more separate persons to determine whether the algorithm is compliant with the CEA and other regulatory requirements. The Proposal could achieve the CFTC's goals simply by requiring AT Persons to design a compliance program that is reasonably designed to meet the requirements of the rule.

In addition, we oppose the proposed requirement that AT Persons submit an annual compliance report to the DCMs. Advisers that are registered CPOs or CTAs would already address the compliance of their operations during their annual compliance reviews under the Advisers Act and pursuant to NFA rules, and thus, such an additional report is unnecessary.

D. The CFTC Should Provide an Extended Compliance Date

The Proposed Rulemaking does not include a proposed timetable for implementation and compliance by affected parties, including AT Persons. If the CFTC determines to proceed without excluding those without DEA from the definition of AT Person, we strongly urge the CFTC to provide advisers at least an 18 month implementation period to develop compliant programs and to put in place the systems and personnel required to comply with the various provisions, including proposed reporting obligations and recordkeeping requirements. Advisers will need substantial time to update their operating budgets for the resulting compliance and implementation costs, upgrade and develop internal systems and policies, and, where needed, source external service providers to provide training.

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Christopher Kirkpatrick, Secretary
Commodity Futures Trading Commission
March 16, 2016
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We truly appreciate the CFTC's consideration of our comments on the Proposed Rulemaking. We trust that Commissioners or staff will not hesitate to contact us if we may provide any additional information or assistance during the evaluation of the comments. Please contact me or Monique S. Botkin, IAA Associate General Counsel, at (202) 293-4222 with any questions regarding these matters.

Respectfully,

/s/

Robert C. Grohowski
General Counsel

cc: The Honorable Timothy G. Massad, Chairman
The Honorable Sharon Y. Bowen, Commissioner
The Honorable J. Christopher Giancarlo, Commissioner

Vincent McGonagle, Director, Division of Market Oversight
Sebastian Pujol Schott, Associate Director, Division of Market Oversight
Marilee Dahlman, Special Counsel, Division of Market Oversight
Mark Schlegel, Special Counsel, Division of Market Oversight