INSTITUTE FOR AGRICULTURE AND TRADE POLICY

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Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission ("CFTC" "Commission")
Three Lafayette Center
1155 21st Street NW
Washington, DC 20581

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Notice of Proposed Rulemaking ("NPRM"): Regulation Automated Trading ("AT")[1]

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Preface

The Institute for Agriculture and Trade Policy ("IATP")[2] appreciates this opportunity to comment on the Commission's proposed regulation for Automated Trading Systems ("ATS"). IATP commented on the Commission's "Concept Release and System Safeguards for Automated Trading Environments" ("Concept Release") in December 2013.[3] We became interested in the impact of ATS on commodity prices after reading research demonstrating the sustained and high price correlations among agricultural contracts, energy contracts and the S&P E Mini Futures Index of equities resulting from High Frequency Trading ("HFT"). Indeed, as the open interest share of commodity index trading has waned somewhat, active and even aggressive HFT arbitrage strategies across all asset classes have increased.[4] The Commission's study of two years of futures contract data showed that "ATSs were presented in at least 38 percent of [agricultural] futures volume analyzed" (Federal Register, Vol: 80, No. 42, December 17, 2013, p. 78826, footnote 6).

For farmers and ranchers who rely on futures markets to provide reliable benchmarks for forward contracting row crops, livestock and soft commodities, ATS price correlations and volatility may seem a distant concern in the current below cost of production futures and forwards price environment.[5] However, according to Commission's own research, agricultural price formation is not immune to the mini-flash crashes that affected oil prices 35 times in 2015.[6] If you are either hedging in the futures market or forwarding contracting in a mini-flash crash environment, price formation will be distorted to an extent and in a time frame that commercial hedging strategies will not be able to manage.

As the Commission notes in the discussion of this NPRM, IATP was among the commenters who proposed a prescriptive approach to regulating ATSs (FR 78838). Our approach was dictated by concern over HFT as a front-running trading strategy that employs ATS algorithms to disrupt market integrity and price discovery, and cash in on the induced volatility.

The Commission has proposed a principles-based regulation "not intended to discriminate across registration categories, connectivity methods or even "high-frequency" or slower trading strategies. Rather, Regulation AT is focused on reducing risk, increasing transparency and disclosure and related DCM [Designated Contract Market] procedures" (FR 78828). The proposed rule focuses less on how ATS are used in algorithmic investment strategies than on the "how" of automated trading technique and risks, i.e. "automation of order origination, transmission and execution and the risks that may arise from such activity" (FR, 78827). The NPRM synthesizes and codifies industry best practices in controlling pre-trade risks and testing ATS algorithms at various points in the trading cycle from order origination to clearing.

Commissioner Christopher Giancarlo questions the need for the NPRM, suggesting that proposed Regulation AT would add no value to the industry's own self-regulation "while adding heavy compliance costs" (FR 78945). IATP disagrees with Commissioner Giancarlo's suggestion both that there is a "dearth of [ATS price formation disruptive] incidents" (FR 78945) to justify the NPRM and that a finalized Regulation would add no value to industry best practices. As Chairman Timothy Massad notes, "our staff estimates that roughly 35 percent of the futures trading in our markets is done by traders who use direct electronic access and are not registered with us" (FR 78944). Registration of those traders and their consequent compliance with the proposed pre-trade risk controls, algorithm testing and other requirements will add value to U.S. industry best practices. Furthermore, the Commission must finalize and implement a Regulation AT, if only to have a legal and operational basis with which to negotiate an equivalence agreement for cross-border automated trading with the European Commission concerning the rules on ATS and HFT authorized by the revised Market in Financial Instruments Directive (MiFID II), as discussed below.

IATP will respond to a few of the 168 questions posed (FR 78926-78936) in the NPRM, but not without first discussing some of the risks in a proposed rule that largely overlooks HFT trading strategies, to focus on risks attendant to ATS order origination and trade execution.

General comment

The NPRM should be informed by an empirical analysis of the macro-market disruptions and myriad micro-market disruptions, such as those summarized in the Better Markets' comment on the Concept Release.[7] Such an analysis is no easy task. The Commission has both produced its own very thorough study of the equities HFT "flash crash" of May 6, 2010[8] and participated in the interagency study of the asset interconnected AT driven volatility of October 15 2014 (FR 78827, footnote 10). The Commission has furthermore surveyed "Recent Disruptive Events in Automated Trading Environments" (FR 78837), so it has no lack of empirical knowledge. However, it is not clear whether, when or how this knowledge informs and justifies specific aspects of the proposed Regulation AT. The Americans for Financial Reform comment on the Concept Release posed the question of risks and benefits in broader terms: "The very need for the Release (*i.e.* that pervasive ATS operating at current speeds operating inherently pose risks of market disruption) raises the question of whether their value in improving market functioning justifies these costs [of market disruption]."[9] The NPRM does not attempt to raise, and therefore does not attempt to answer, that question, at least in public interest terms, even though Chairman Massad has recognized the need for the Commission and market participants to study and discuss "whether our markets are best served by this speed [of HFT] and what are its impacts on volatility and liquidity" (FR 78944).

Furthermore, the proposed Regulation AT should incorporate what the Commission has learned about the harmonized deregulation of financial markets in 2005 that resulted from the Securities and Exchange Commission's Regulation NMS (New Market Structure) and the European Commission's first version of the Market in Financial Instruments Directive (MiFID). According to Finance Watch testimony to the German Parliament, "High frequency trading as we know it surged as a result of this (de-)regulation of market macro- and microstructure: MiFID in Europe and Reg NMS in the US. It is not simply the result of technological evolution."[10] Indeed, without the MiFID and NMS elimination of the minimum trading size, the radical reduction of minimum pricing increments (tick sizes), and the creation of new order types, there would have been little economic incentive for the strategic co-location of HFT computers and data feed services at the multiple trading venues authorized under MiFID and NMS.

Since 2005, the deregulation of the equity markets that helped to enable HFT has migrated to other asset classes that fall under the Commission's authority. It may seem unfair that the Commission should have to regulate a trading strategy and attendant techniques that arose from deregulation by another agency in an asset class that the Commission does not regulate. However, Section 747, "Anti-Disruptive Practices Authority" of the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act ("DFA") authorizes the Commission to promulgate and enforce rules "reasonably necessary" to prohibit three specific kinds of trading practices and "any other trading practice that is disruptive of fair and equitable trading" (paragraph 6). One of the prohibited practices is "spoofing," i.e. "(bidding or offering with the intent to cancel the bid or offer before execution)." Although the Commission has been able to charge a few traders with "spoofing" by satisfying the high burden of proof of demonstrating the trader's intent,[11] the computer automation of high order-to-cancelation ratios characteristic of HFT largely has eluded enforcement because of the difficulty of demonstrating the intent of the natural persons that design and use automated trading technology. As a result, the Commission must propose a rule to prevent "any other trading practice" that disrupts "fair and equitable trading" <u>in effect</u>, whether that practice is intentional or automated.

The Commission has decided not to use its "Anti-Disruptive Practices Authority" to propose rules to prohibit those HFT practices, other than "spoofing," that disrupt "fair and equitable trading." Nor does Regulation AT propose to require that firms specifically employing HFT practices to register with and be authorized and monitored by the Commission, even though there is ample academic analysis and market data to distinguish high frequency from lower frequency algorithmic trading, e.g. regarding HFT's high turnover of positions and the dearth of reportable open positions at the end of trading day.[12] Although the Commission's own empirical analysis of incidents of HFT generated market disruption would dictate that the Commission propose at least some rules specifically responding to HFT strategies, "the risk control requirements under proposed Regulation AT do not vary in response to a market participant's algorithmic trading strategies; the same risk controls would be required in connection with high-frequency and low-frequency algorithmic trading. In particular, HFT is not specifically identified under the proposed regulations and is not regulated in a different fashion from other types of algorithmic trading under proposed Regulation AT" (FR 78827). The Commission's decision to propose Regulation AT as a trading speed and strategy neutral rule may reduce the capacity of the Commission to implement and enforce the breadth of the DFA's "Anti-Disruptive Practices Authority."

Notwithstanding IATP's concerns about the Commission's decision not to define "High Frequency Trading" or to develop rules specific to HFT strategies and practices known to the Commission, the proposed Regulation AT provides a solid floor of measures to prevent algorithmic trading from disrupting market integrity and price formation. The Commission's approach to regulating AT contains basic elements, such as the codification of definitions and registration requirements for AT entities that, for the most, part are not objectionable and can be implemented in the near term without posing a significant burden to the Commission or to market participants. From the viewpoint of ensuring an effective use of Commission resources that the Congress is likely to keep inadequate to implement and enforce DFA authorized rules,[13] the modest ambition of the Commission's approach is virtuous, but perhaps too virtuous.

The Commission's decision to not apply Regulation AT to trading activity on Swaps Execution Facilities ("SEFs") is in part because "the Commission believes that neither execution nor order entry on SEF markets are sufficiently automated at this time to require the degree of automated safeguards proposed herein" (FR 78827). The belief may be derived from the lack of uniformly formatted data reported by the SEFs to the CFTC. In the words of one market observer, "U.S. swaps data reporting remains pretty much a disaster."[14] However, what is reported or not reported to the CFTC is not equivalent to the data universe of swaps trading activity, e.g. as recorded in the Thomson-Reuters tick data for micro-second trading.

A 2011 study by the Tabb Group calculates that HFT proprietary firms account for about a third of the volume of OTC energy swaps.[15] Hedge funds' commodity trade advisors used AT programs to short crude oil futures and swaps, driving prices on the regulated futures markets in 2015.[16] As Dow-Jones Wire reported on January 25, "A tumbling oil price, sharp declines in global stocks and big moves in currencies this month have provided near ideal conditions for commodity trade advisors, or CTAs, which run around $260 billion globally, providing the market trends and volatility that they can latch onto and profit from."[17] Unless the hedge funds' automated CTAs have greatly increased their portion of the volume of HFT trading, it is likely that both HFT proprietary firms and banks have profited even more handsomely from the early volatility of 2016. According to the Tabb Group, in 2011, hedge funds accounted for six percent of the HFT volume, while investment banks accounted for 46 percent and HFT proprietary houses accounted for 48 percent.[18]

Granted, this HFT energy swap volume—arguably sufficient to justify applying Regulation AT to swaps—is just in one asset class. However, the process of moving from voice-brokered swaps to electronically traded swaps can happen quickly, relative to the timeframe of the Commission's rule-making and implementation process. One market observer noted in 2014, "it will take six to twelve months at a minimum for the interest-rate swap market to migrate to full electronic trading."[19] IATP urges the Commission to review commercially available tick data and other indicators of ATS activity in swaps in all assets classes before finalizing its decision not to apply Regulation AT to trading on SEFs. The failure or refusal of swaps dealers to agree on uniform data elements for reporting to SEFs and the CFTC should not be rewarded by excluding SEFs from the Regulation AT, due to an insufficiency of uniformly formatted swap trade data reported to the Commission.

The proposed Regulation RT more likely would survive a challenge in court than would a rule with specific HFT elements. A lawsuit against the Commission might demand an empirical demonstration of the "necessity" of HFT elements to prevent disruption caused by the use of a specific algorithm. Such a proof of "necessity" would be very difficult in the absence of Commission access to the source codes of specific algorithms of AT entities, as urged in boldface by Better Markets.[20] Indeed, IATP believes that unless Regulation AT requires that the Commission have access to those source codes, it will not be able to investigate comprehensively, accurately and efficiently the causes and consequences of AT triggered market integrity disruption.

There are no doubt other virtues to the Commission's principles-based approach to the Regulation AT that IATP does not have the market knowledge or experience to appreciate. But we are very concerned that Regulation AT may not stipulate sufficient risk controls for Designated Contract Markets ("DCMs") and SEFs to prevent or even contain an AT market disruption starting in one asset and spreading to another asset class, as erstwhile AT market makers flee stressed markets. A Bank for International Settlements report on HFT of foreign exchange contracts noted that the paucity of official HFT data left them reliant on dealer anecdotes to judge the role of HFT traders in providing and withdrawing liquidity during the stressed market of May 6, 2010.[21] The capacity of central bank monetary policy to support economic growth is on the wane as macro-economic "storm clouds" gather, according to a recent BIS report.[22] Economic growth requires financial markets to provide transparent trading and price formation. Effective regulation of AT practices and entities in the trade cycle, to enable regulators to prevent market disruptions, is a pre-requisite for economic growth to break up the "storm clouds."

Comments on questions raised in the NPRM

IATP is not a market participant and so lacks the expertise to answer most of the questions posed in the NPRM. However, we will answer those which have a more direct bearing on the Commission's public interest requirements. In response to the questions that follow, IATP generally supports an expansion in the scope of the proposed definitions, risk controls and algorithm testing procedures to ensure that Regulation AT applies to all AT market participants. Because AT occurs across borders, IATP believes that the Regulation AT should include placeholder language that would enable negotiation of equivalence agreements concerning AT rules with foreign jurisdictions, particularly the European Union member states that will be subject to Market in Financial Instruments Directive II ("MiFID II") rules on AT and HFT. Finally, the delegation of Commission authority to market participants, DCMs and clearing houses to design AT pre-trade risk controls, post-trade monitoring and algorithm testing procedures requires that Regulation AT include provisions for the Commission to verify that the delegation of authority has resulted in compliance.

Should the Commission adopt a definition of "Algorithmic Trading" that is more closely aligned with any definition used by any other regulatory organization? (FR 78841, Question 2)

As stated in the NPRM, the Commission's proposed definition of "Algorithmic Trading" is similar to the definition recommended by the European Securities and Markets Authority ("ESMA") to the European Commission ("EC"). (FR 78840). For the purpose of eventually negotiating an equivalence agreement with the EC on algorithmic trading, it is very desirable that the CFTC and EC's definitions be similar. However, as the Commission knows, the European Parliament has rejected past ESMA recommendations as not conforming to the legislative language of MiFID II. Despite the implementation delay that would result from rejection, it is not inconceivable that the Parliament will reject some of ESMA's recommended Regulatory and Implementing Technical Standards ("RTSs") on automated trading and HFT.[23]

MiFID II requires a more prescriptive approach to regulating automated trading than that proposed for Regulation AT. (FR 78833 and 78839). For example, ESMA reports that "Under Articles 48(6) and 18(5) of MiFID II, trading venues must have in place effective systems, procedures and arrangements to ensure algorithmic trading systems cannot create or contribute to disorderly trading conditions on their market and to manage any disorderly trading conditions arising from such algorithmic trading systems, including systems to limit the ratio of unexecuted orders to transactions that may be entered into the system by a member or participant."[24] Industry lobbying has succeeded in reducing the scope of standardization of the proposed ESMA automated trading RTSs by persuading ESMA to delegate to each trading venue the responsibility of setting order to cancellation ratios and other pre-trade risk controls.[25] It appears that the Commission is similarly persuaded, insofar as Regulation AT "would require particular controls but allow the relevant entity—a trading firm, clearing member FCM or DCM—discretion in the design of such control and the parameters that would be used" (FR 78838).

Delegating the Commission's authority to implement risk control requirements stipulated by the Commission entails the Commission's verification of whether the "relevant entity" has designed and applied the risk controls to prevent market disruption. Regulation AT should clearly stipulate how such verification will occur, beyond the proposed requirement that DCMs report annually on their AT pre-trade risk controls and algorithm testing.

Proposal to expand "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" (Question 7).

IATP supports the proposed expansion of the definition of Algorithmic Trading, first, because the expanded definition reflects an industry practice. Furthermore, if an algorithm malfunctions, an investigation into the cause and consequences of the malfunction will require an understanding of the routing of the trade orders, whether or not that routing is automated. The added costs of reporting manual entry will be more than offset by the benefits of added efficiency and clarification of investigation in algorithmic trade disruptions and/or failures to comply with Regulation AT. Efficient, accurate and comprehensive investigation into the causes and consequences of Algorithmic Trade Events (in the Commission proposed definition) will expedite implementation of corrective measures and restoration of investor confidence in the AT entities, DCMs and clearing members affected by the algorithm malfunction. The Commission should include in the expanded definition a provision to allow for the possibility that a chain of command of natural persons, rather than an individual natural person, may be involved in "determining all aspects of the routing of the orders."

Regarding the definition of "AT Person" (Question 14)

IATP supports the Commission's definition of "AT Person." However, we note that the definition encompasses swaps dealers and major swaps participants, if engaged in Algorithmic Trading. This inclusion, which we support, appears to contradict the Commission's proposal not to apply Regulation AT to Swaps Execution Facilities (SEFs) (FR 78827), as discussed above. We do not understand how swaps dealers and major swaps participants could comply with Regulation AT if their automated swaps trading were not reported to SEFs and hence to the Commission. Our strong preference, as stated above, is to apply Regulation AT to the SEFs, including eventually SEFs in non-U.S. jurisdictions. However, if the Commission decides not to apply Regulation AT to SEFs, then it should delete swaps dealers and major swaps participants from the definition of "AT Person."

The Commission recognizes that a CPO [Commodity Pool Operator] could use Algorithmic Trading to enter orders on behalf of a commodity pool which it operates. In these circumstances, should the Commission consider the CPO that operates the commodity pool or the underlying commodity pool itself as "engaged in Algorithmic Trading" pursuant to the definition of AT Person? (Question 15)

IATP believes that the separation of CPOs and their underlying commodity pools as separate legal entities (FR 78927, footnote 715), as noted by the Commission, should not prevent the Commission from considering that they both should be included in the definition of "AT Person." Since the CPO must be authorized by the underlying commodity pool to be engaged in Algorithmic Trading, operationally, the CPO and underlying commodity pool should be one for the purpose of inclusion in the "AT Person" definition, even though they are legally separate for liability, tax and other purposes.

Should firms operating Algorithmic Trading systems in CFTC-regulated markets, but not otherwise registered with the Commission, be required to register with the CFTC? (Question 23)

Yes, such non-registered firms should register with the CFTC in order to ensure optimal application of Regulation AT to all firms operating Algorithmic Trading Systems (ATSs). However, "the Commission does not define the term "ATS" in this NPRM" (FR 78839), presumably because the systems in question are varied enough and their technology evolves rapidly enough as to inhibit even a generic definition of ATS. The Commission should either propose an "ATS" definition or find another way to frame the issue of registration with the Commission to ensure that all relevant AT operating firms are covered.

The Commission requests comment on RFA's [Registered Futures Association] obligation in proposed §170.19 to establish and maintain a program for prevention of fraud and manipulation, protection of the public interest, and perfecting the mechanisms of trading, including through rules it may adopt pursuant to §170.19. The proposed rules anticipate that a RFA's program will include examination and enforcement components. Is this the appropriate approach? (Question 30)

The Commission rightly relies on industry member organizations to articulate effectively the delegation of Commission authorities. It is appropriate for the Commission to expect that the RFA will develop and submit for the Commission's review and approval a program to implement Regulation AT that will include examination and enforcement components. The RFA must notify the Commission of significant changes to this regulatory program in response to changes in the design of RFA member pre-trade risk controls, algorithm testing and other measures to comply with Regulation AT. In order for this program to be effective in ensuring RFA member compliance with Regulation AT, all AT Persons must become members of a RFA (responding to question 32). IATP assumes that the RFAs will have a graduated membership fees structure, so that membership is not a cost burden for smaller volume AT entities. If RFA member requirements for complying with its program of delegated enforcement of Regulation AT overlap or are duplicative of DCM requirements, IATP views any such redundancy as one compliance assurance with minimal costs for the regulated entities. (responding to Question 31)

*The Commission proposes to adopt a multi-layered approach to regulations intended to mitigate the risks of automated trading, include pre-trade risk controls and other procedures applicable to AT Persons, clearing member FCMs [Futures Commission Merchants] and DCMs. Please comment on whether an alternative approach, for example one that does not impose requirements at each of these three levels, would effectively mitigate the risks of automated trading and promote the other regulatory goals of Regulation AT. (*Question 40*)*

IATP believes that a multi-layered approach to implementing Regulation AT is prudent and will be effective in mitigating the risks of automated trading, provided that all "layers" cooperate with the Commission. A less cooperative approach might not mitigate some of those risks. For example, an off the shelf trading algorithm that an AT Person did not test for compatibility for trading on a DCM could result in compliance failure or market disruption, because a clearing member FCM did not test the algorithm before it entered into trade. As the Commission notes (question 56, FR 78929), each kind of risk control does not need be replicated at each "layer" of trade supervision, so those compliance costs of AT Person risk controls will not be replicated at the FCM and DCM levels of algorithmic trading.

Should a representative of the AT Person or clearing member FCM other than the chief executive officer or the chief compliance officer be responsible for certifying the reports required by proposed §1.83? Should only the chief executive officer be permitted to certify the report? Alternatively, should only the chief compliance officer be permitted to certify the report? (Question 60)

The position of chief compliance officer has been called "the most thankless job on Wall Street," in part because of the liability exposure that comes with the job.[26] For an AT Person that is a Systematically Important Financial Institution (SIFI), the sheer size and complexity of the SIFI is such that it might seem unfair to ask the chief executive officer to certify that the report verifying compliance with Regulation AT. The CEO, so the argument would go, has too many responsibilities to review and certify the report that the chief compliance officer has prepared. Likewise, a chief compliance officer might have so many compliance programs to supervise that the preparation of the Regulation AT compliance report might be outsourced to a law firm specializing in algorithmic trading law and algorithmic testing. The chief compliance officer might demand that a partner in that law firm certify the compliance report prepared on behalf of the client. Or if the partner were not satisfied with the quality of the AT data and information received from the client to prepare the report, but still wished to receive future business from the client, the partner might demand that a law associate certify the compliance report. However, in IATP's view, given the growing volume of algorithmic trading and centrality of AT in the business plan each of the entities under Regulation AT, the chief executive officer should be responsible for certifying the compliance and benefitting from bonuses for successful compliance or the burden of liability for erroneous or false certification.

The Commission proposes, with respect to kill switch requirements, to allow DCMs the discretion to design a kill switch that allows a market participant to submit risk-reducing orders. The Commission also does not mandate particular procedures for alerts or notifications concerning kill switch triggers. Does the proposed rule allow for sufficient flexibility in the design of kill switch mechanisms and the policies and procedures concerning their implementation? Should the Commission consider more prescriptive rules in this area? (Question 82)

IATP does not have the expertise to have a view on the degree of discretion that the Commission should permit for the design of kill switch mechanisms, but we assume that some granting of discretion is required, according to the design of the algorithms that trade on the DCM. However, to help avoid competition among DCMs to design more trade permissive kill switches, IATP believes that the Commission should be more prescriptive about mandating procedures for alerts or notifications concerning the use of kill switches. The Commission should consider proposing for comment three model alerts or notifications, one for a kill switch trigger that responds to a minor algorithm malfunction that allows trade not affected by the minor malfunction to continue; another that responds to a major malfunction with a threat that trade might stop; and a third for a malfunction that occurs during the last 15 minutes of the U.S. trading day, when the kill switch might not be able to correct market distortions resulting from the malfunction and the market distortions could migrate to non-U.S. markets on which U.S. AT Persons trade.

The Commission seeks to require self-trade prevention tools that screen out unintentional self-trading, while permitting bona-fide self-matched trades that are undertaken for legitimate business purposes. Under the regulations proposed above, DCMs shall implement rules reasonably designed to prevent self-trading ("the matching of orders for accounts that have common beneficial ownership or are under common control"), but DCMs may in their discretion implement rules that permit "the matching of orders for accounts with common beneficial ownership where such orders are initiated by independent decision makers." (Preface to multi-part question 90)

IATP understands that an algorithm malfunction in automated trading, whether or not trade orders are managed and entered by a natural person, may result in unintentional self-trading that distorts price formation and market integrity. IATP does not understand how the Commission will enforce the DCM rules that would allow self-trading "for legitimate business purposes." If AT Person 1 accused AT Person 2 of benefitting from DCM rules that enabled self-trading trading that did not appear to AT Person 1 to have a legitimate business purpose, would the test of innocence reside in the DCM's demonstration AT Person 2's self-trading, however damaging to AT Person 1, was legal because the orders, perhaps even traded with a common algorithm, were initiated by independent decision makers? If the Commission is going to give DCMs discretion about deciding what self-trading is bona fide and which is unintentional and illegal, the final rule needs to have some non-exhaustive illustrations about the exercise of that discretion. Of the many complex proposed rules in Regulation AT, the self-trading rules are among the most complex. Granted that IATP is not a market participant engaged in self-trading, but because self-trading can cause deep and widespread market integrity damage, any discretion to allow DCMs to write self-trade rules has to come with bright line examples about unintentional and bona fide self-trades.[27]

Conclusion

Given the growing preponderance of algorithmic trading among the asset classes and the DCMs under the Commission's authority, the finalizing and implementation of Regulation AT is a critical rule for protecting market integrity. The Commission and its staff are to be congratulated for proposing a carefully drafted rule, much of which this non-market participant could appreciate for its defense of the public interest, as well as that of the market participants. IATP believes that this rule will generate controversy among market participants that may result in re-proposal of some aspects of the rule. IATP looks forward to assisting the Commission to finalize a robust and effective Regulation AT.

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[1] http://www.cftc.gov/idc/groups/public/@lrfederalregister/documents/file/2015-30533a.pdf

[2] IATP is a nonprofit, 501(c)(3) nongovernmental organization, headquartered in Minneapolis, Minn., with an office in Washington, D.C. Our mission states, "The Institute for Agriculture and Trade Policy works locally and globally at the intersection of policy and practice to ensure fair and sustainable food, farm and trade systems." To carry out this mission, as regards commodity market regulation, IATP has participated in the Commodity Markets Oversight Coalition (CMOC) since 2009, and the Derivatives Task Force of Americans for Financial Reform since 2010. IATP has submitted several comments on CFTC rulemaking, and on consultation papers of the International Organization of Securities Commissions, the European Securities and Markets Authority, and the European Commission's Directorate General for Internal Markets.

[3] http://comments.cftc.gov/PublicComments/ViewComment.aspx?id=59442&SearchText=

[4] David Bicchetti and Nicolas Maystre, "The synchronized and long-lasting change on commodity markets: evidence from high-frequency data," Munich Personal RePEc Archive, March 2012, at 23 -25. http://mpra.ub.uni-muenchen.de/37486

[5] E.g. Steve Jordan, "With no sign of increased demand, farmers battle falling corn prices," *Omaha World Herald*, August 3, 2014.

[6] Gillian Tett, "How humans can wrest back control of the markets from computers," *Financial Times*, October 22, 2015.

[7] Better Markets Comment on the "Concept Release," December 11, 2013. https://www.bettermarkets.com/sites/default/files/documents/CFTC-%20CL-%20ATS-%2012-11-13.pdf

[8] http://www.cftc.gov/idc/groups/public/@otherif/documents/ifdocs/staff-findings050610.pdf

[9] Americans for Financial Reform Comment on the "Concept Release," December 11, 2013, at 2. http://ourfinancialsecurity.org/wp-content/uploads/2013/12/AFR-CFTC-High-Frequency-Trading-Comment-Letter-12.13.13.pdf

[10] Statement by Finance Watch at Public Hearing on the High-Frequency Trading Act (Jan. 11, 2013), at 3. http://www.bundestag.de/bundestag/ausschuesse17/a07/anhoerungen/2013/123/Stellungnahmen/1 1-Finance_Watch__Benoit_Lallemand.pdf.

[11] E.g. http://www.cftc.gov/PressRoom/PressReleases/pr7156-15 and http://www.cftc.gov/PressRoom/PressReleases/pr7264-15

[12] Better Markets, *op cit.* at 13.

[13] Ben White, "CFTC chair slams budget deal," *Politico*, December 21, 2015. http://www.politico.com/tipsheets/morning-money/2015/12/pro-morning-money-211857

[14] George Bollenbacher, "ESMA Gets Semi-Serious About Swaps, the CFTC Not So Much," *OTC Space*, June 19, 2015. http://www.theotcspace.com/2015/06/19/esma-gets-semi-serious-about-swaps-reporting-cftc-not-so-much

[15] Isabella Kaminska, "Tabb: HFT makes up a third of OTC energy swap trading," *Financial Times*, July 18, 2011. http://ftalphaville.ft.com/2011/07/18/625701/tabb-hft-makes-up-a-third-of-otc-energy-swap-trading/

[16] E.g. Dan Murtaugh, "Speculators Shorting Crude Oil to End 'Great Year'." Bloomberg, January 4, 2016.

[17] "Automated Hedge Funds Make Millions in January's Sell-off," *Dow-Jones Wire*, January 25, 2016. http://www.morningstar.com/news/dow-jones/TDJNDN_201601253652/automated-hedge-funds-make-millions-in-januarys-market-selloff.print.html

[18] Will Psomadelis and Stuart Baden Powell, "High frequency trading – credible research tells the real story," Schroeders, November 2011, at 1.

[19] Terry Flanagan, "OTC Swap 'Futurization' Parsed," Markets Media, October 2, 2014. http://marketsmedia.com/otc-swaps-futurization-parsed/

[20] Better Markets, *Op cit.* at 4.

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[22] "Uneasy calm gives way to turbulence," Bank for International Settlements Quarterly Review, March 2016. https://www.bis.org/publ/qtrpdf/r_qt1603a.pdf

[23] Michael Beaton, "ECON motion rejecting EMIR Regulatory Technical Standards," DRS, February 6, 2013. http://www.drsllp.com/regulatory-timeline/legislation/emir/econ-motion-rejecting-emir-regulatory-technical-standards/

[24] *Draft Regulatory and Implementing Technical Standards MiFID II MiFIR*, European Securities and Markets Authority, September 28, 2015, at 237, paragraph 1.

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[26] Emily Glazer, "The most thankless job on Wall Street gets a new worry," *The Wall Street Journal*, February 3, 2016. http://www.efinancialnews.com/story/2016-02-03/wall-street-compliance-officers-get-a-new-worry

[27] Val Srinivas, "Algorithmic self-trading in the Treasury markets: Do we need more effective pre-trade risk controls?" August 25, 2015. https://www.linkedin.com/pulse/algorithmic-self-trading-treasury-markets-do-we-need-more-srinivas