



DSG SUMMARY OF INDUSTRY COMMENT LETTERS ON CFTC PROPOSED REGULATION AUTOMATED TRADING

REGULATION AUTOMATED TRADING (REG AT) ¹				
TOPIC	SUB-TOPIC	VIEWPOINT	ORGANIZATION(S) ²	DESCRIPTION
Reg AT	Generally	Rulemaking should be separated	CME ³ ; ICE ⁴ ; FIA ⁵ ; MFA ⁶ ; MGEX ⁷ ; NASDAQ ⁸	<ul style="list-style-type: none"> -Rulemaking should be segregated into natural divisions and order. Pre-trade risk controls and other controls should be pursued first, and other topics contemplated later in separate rulemakings. (MGEX; FIA; MFA) -Disclosure and transparency requirements for DCM trading and matching systems are flawed and should be the focus of a separate and independent rulemaking. (ICE; NASDAQ) -Registration should be considered only after risk controls and software guidelines are in place (if registration is necessary, pursue in a separate rulemaking). (FIA)
	Cost/ Benefit	Costs are underestimated	SIFMA ⁹ ; MGEX; MFA; ICE; CME; and several others	<ul style="list-style-type: none"> -Costs are significantly underestimated. (SIFMA; MGEX; MFA; ICE; CME) -Reopen the comment period to conduct a more informed cost benefit analysis. (ICE)
	Cross-Border		AIMA ¹⁰ ; IATP	<ul style="list-style-type: none"> -Provide substituted compliance for firms (AT Persons) in compliance with Article 17 of MiFID II. Duplicative and conflicting rules should be avoided to promote increased cross-border futures trading, competition, liquidity, and to reduce transaction costs. (AIMA) -The algorithmic (algo) trading definition should be adopted as close as possible to the MiFID II definition, which excludes “any system that is only used for the purpose of routing orders to . . .” for purposes of eventually negotiating an equivalence agreement on algo trading. (IATP)
Definitions & Registration	Registration	Registration is unnecessary	FIA; CTC ¹¹ ; Nodal ¹² ; Nadex ¹³ ; NGFA ¹⁴ ; IECA ¹⁵ ; Mercatus ¹⁶ ; AGA ¹⁷ ; CMC & CEWG ¹⁸ ; SIFMA; MGEX; CME	<ul style="list-style-type: none"> -Registration status does not create the risk of causing a market disruption, but rather the algorithmic trading itself. (FIA) -Instead of focusing on new registrants (floor traders), the CFTC should focus on exchange/ DCM oversight as they are the appropriate regulators of an AT Person’s risk controls. (CTC; Nodal; SIFMA) -DCMs provide the DEA that defines this new class of market participants and are in the best position to regulate their activity and protect the integrity of the market and the public interest. (NGFA; IECA; Mercatus; SIGMA); DCMs already require firms to use unique identifications and maintains an audit trail. (CMC & CEWG) -Unnecessary to register firms to effectuate purposes of the CEA because the Commission already has authority to regulate and bring enforcement actions. CME questions whether CFTC has legal authority to require registration. (IECA; CME; CTC) -Floor trader registration subjects firms manually entering trades for its own account on a DCM using DEA to onerous recordkeeping burdens that the Commission exempted them from (1.35), and these firms would be transformed to financial end-users under the margin, clearing, and reporting rules. (IECA; AGA) -Market participants have already largely adopted Reg AT’s proposed risk controls, and it makes little sense to create a new category of registrants. (CTC; Nadex) -Registration regime will capture more than 100 proprietary trading firms. (IECA; CMC & CEWG)
		Actions that should/ should not trigger registration	Olam ¹⁹ ; Nadex; LCHF ²⁰ ; NIBA ²¹ ; NGFA; IECA; AGA; TT ²² ; CBOE ²³ ; CMC & CEWG; AIMA	<ul style="list-style-type: none"> -Commercial end-users of third-party systems should not be required to register and should not be qualified as AT Persons. (Olam; TT). Floor trader definition should not be amended as proposed, or in the alternative, commercial end-users should be excluded from registration. (AGA) -Commission should not broaden registration requirements so all persons trading on a DCM through DEA must register. This results in commercial hedgers, who invested in DEA to respond to the speed of the marketplace and that do not meet the AT Person definition to be subject to the same regulatory requirements as unregistered algo traders. (NGFA; IECA; AGA)



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				<ul style="list-style-type: none"> -More reasonable to base registration on the notional value of contracts traded using ATS. (Nadex; NIBA) -Not eager to establish a <i>de minimis</i> level for registration, but with a broad registration regime. Supports one which exempts firms that do not trade a large volume of futures contracts. (IECA) -Entity or individual should register based on some metrics related to its potential to cause a material impact on the market, such as volume traded or number of messages generated per unit of time. (LCHF) -Commission should clarify that 1.35 recordkeeping requirements and related exemptions continue to apply to registrants and entities currently subject to those requirements and exemptions, even if required to register under Reg AT. (CBOE; CMC & CEWG) -Supports registration for all persons undertaking AT with DEA to a DCM to be registered. (AIMA)
		Supports registration	AFR ²⁴ ; IATP ²⁵	-The Commission should define high-frequency trading (HFT). (AFR)
	AT Person	Defining “AT Person” is unnecessary and duplicative / too broad	FIA; ISDA ²⁶ ; NASDAQ; Bloomberg ²⁷ ; LCHF; QIM ²⁸ ; IAA ²⁹ ; CMC & CEWG; AIMA; SIFMA; MGEX; MFA; CME	<ul style="list-style-type: none"> -Definition of AT Person fails to work with other proposed requirements of Reg AT. Proposed definition requires a narrow group of market participants to implement pre-trade and other risk controls, whereas, risk controls should apply to all electronic trading. Also, imposes unnecessary and burdensome documentation, reporting, and testing costs and requirements that would be inappropriately applied to all AT Persons, but certainly should not apply to a more broadly defined group of AT Persons. (FIA) -Application is too broad in terms of persons to which it would apply. (ISDA; NASDAQ) -Where an FCM provides an AT System for use by its customers, AT Person should include only the FCM and not its customers. (Bloomberg) -Revise to include companies or individuals based on their potential to impact the market, regardless of means used to actually transmit orders, manual or automatic. Include only organizations or individuals with potential to cause a major disruptive event, measured by amount of trading over a period of time or size of AUM above a given threshold. (LCHF) -Registered CTAs/CPOs should not be defined as AT Persons (FCM provides risk controls). CFTC could simply limit to those with DEA. (IAA; SIFMA; QIM); If investment models are included, it may lead to consolidation. (QIM) -AT Person should include only entities with DEA and should be based on the nature of a market participant’s algo trading and the risks posed, which are significantly different for DEA versus non-DEA participants. (IAA; CME) -Commission should limit AT Persons status solely to algo traders using a black box system to access DCMs through DEA, and eliminate the CPO and CTA elements. If CPOs and CTAs are included as AT Persons, should be clarified to only apply to persons directly engaged in algo trading. (SIFMA) -Where AT orders flow through risk parameters established and monitored by the FCM and do not have ability to directly place a trade on a DCM, the focus for risk controls should be at the point of entry to a DCM. (IAA) -Fund managers that actually place the trade should be deemed as AT Person, not the underlying fund. (AIMA; SIFMA) -Obligations to protect stability of DCM markets should fall on DCMs and FCMs which AT Persons access the DCM. Definition proposed by AIMA. (AIMA) -Focus the scope and applicability of Reg AT on activities that create identifiable systemic market risks while treating existing registrants and non-registrants equally, and avoid unnecessary costs to DCMs and market participants. Definition proposed by CMC & CEWG. (CMC & CEWG)



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				<ul style="list-style-type: none"> -Definition should be omitted or modify the definition so market participants who utilize well-vetted off-the-shelf and DCM-provided order entry tools are not deemed AT Persons. (MGEX) -Define AT Person as a registrant that engages in algo trading through an AT system that it developed and operates to narrow the scope. (MFA) -Many market participants use a third party's, ISV's, or DCMs execution algos to submit orders and it would be unfeasible for them to comply with Reg AT for third-party execution algos. (MFA)
		Too narrow	IATP	-CPOs and their underlying commodity pools, although separate legal entities, should both be included. (IATP)
	Algo Trading Systems (ATS)	Overly prescriptive and/or impractical	Olam; CTC; QIM; CMC & CEWG; MFA; CME; SIFMA	<ul style="list-style-type: none"> -Simple use of spreadsheets or automated macros should not fall within the definition. (Olam) -CTC has no incentive to take on risk through poorly designed ATSs and has every incentive to ensure its systems properly execute its prop trading strategy. Controls are available at the clearing FCM. (CTC) -Any operational risk associated with our trading will come only from ISV operated execution algos which use DEA that is monitored and managed by an FCM with additional risk controls. (QIM) -CMC & CEWG members generally utilize order management functionality (OMF), off-the-shelf programs provided by a DCM or ISV. They do not own and should not be required to adopt written policies and procedures governing the development, testing, and monitoring – only the owners of OMF should. (CMC & CEWG) -Market participants should be allowed to determine the most appropriate manner to monitor their systems. (MFA) -Requirement to have a staff member oversee a trader's actions continuously and in real-time is burdensome. Modify this requirement to provide flexibility allowing AT Persons to determine how to best monitor its ATSs. (SIFMA; MFA)
		Recommendation	IATP	-Either propose a definition or find another way to frame the issue of registration to ensure all relevant AT operating firms are covered. (IATP)
	Direct Electronic Access (DEA)	Clarification needed/ too broad	FIA; Olam; Nadex; QIM; IECA; AGA; CMC & CEWG; MGEX; ICE; CME	<ul style="list-style-type: none"> -All market participants trading electronically should utilize pre-trade and other risk controls (FIA; ICE) -If DEA definition is kept, clarify what “passing through a separate person who is a member of the relevant DCO” means. Definition proposed by FIA. (FIA; Olam; ICE) -Natural persons or a sole proprietorship should not qualify as AT Person with DEA. (Nadex) -Mandating pre-trade risk controls on firms who do not have DEA is redundant, counterproductive, and unduly expensive. CFTC should tailor the regulation to organizations that operate trading software that directly interacts with a DCM and customers should be exempt from Reg AT requirements. (QIM; CMC & CEWG) -Commission should distinguish between DEA to trading (not using pre-programed computer algos to automatically initiate, modify, or cancel trades on DCMs) from algo trading using DEA to trading and pre-programed computer algos to automatically initiate, modify, or cancel trades on DCMs. (IECA) -Market participants using exchange-sponsored or ISV software to connect to a DCM should be considered as DEA participants. Clarify that DEA refers to situations where a market participant is not using exchange-sponsored or ISV provided software, and distinguish the definition from how it is used by choosing another name. (MFA) -Definition should be removed as it is outdated and does not correlate to actual use of an algo program. “Without the order first being routed through a separate person who is a member of a DCO” is unclear. (ICE)
		Exclude access to a DCM	Nodal; CMC & CEWG;	-Requirement to “route” orders through a separate FCM clearing member is too limiting and should have no bearing on

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		via third-party systems	Bloomberg; TT; MGEX	<p>DEA. Excluding all orders routed through a separate clearing member does not add any protection to the market. (Nodal; CMC & CEWG; Nodal)</p> <p>-Electronic access to a DCM via an ATS provided by an FCM where such AT system allows the FCM to establish pre-trade risk controls should not be considered DEA. (Bloomberg)</p> <p>-Definition of DEA should exclude access to a DCM through the systems of either an executing or a clearing FCM. Definition proposed by Bloomberg. (Bloomberg; CMC & CEWG)</p> <p>-Clarify that there is no DEA where the orders are routed to a DCM through the trading/ order routing system of a member of a DCO where the pre-trade and other risk controls are controlled by such member, including when a third-party maintains the physical location of the systems. Controls of the risk parameters is the relevant issue. (TT)</p> <p>-DEA should focus on use of bespoke, proprietary application programming interface (API) and routing infrastructure developed by market participants to directly connect to a DCM using their own front-end automated order generation systems that lack pre-trade risk and other controls administered by a separate person who is an FCM or clearing member of a DCO. Definition proposed by CMC & CEWG. (CMC & CEWG)</p> <p>-If definition is maintained, should be tailored to market participants that use their own technology, including proprietary APIs, to directly link their order entry systems with the matching engine, bypassing any infrastructure or technology owned or controlled by an FCM. (MGEX)</p>
		Should be broader	BM ³⁰	<p>-Footnote 202 of the proposal should be included: “An arrangement where a person electronically transmits an order to a DCM, without the order first being routed through a separate person who is a member of a DCO to which the DCM submits transactions for clearing.” (BM)</p> <p>-Should explicitly define the term “routed” to provide regulatory certainty and to prevent regulatory arbitrage. (BM)</p> <p>-All existing definitions in CFTC regulations should be harmonized with the proposed definition. (BM)</p>
	Algo Trading	Modification is needed / too broad	FIA; ISDA; NASDAQ; Nodal; LCHF; QIM; NGFA; Mercatus; IAA; CMC & CEWG; AIMA; SIFMA; MGEX; MFA; ICE	<p>-Clarify that only systems that “automatically initiate, modify, or cancel orders” are covered by Reg AT. Definition proposed by FIA. (FIA; ISDA)</p> <p>-Commission should distinguish between order routing automation and algo trading, and exclude order routing and/or order processing algos from the definition. (ISDA; ICE)</p> <p>-Expand term to include execution algos used by large institutional investors. (LCHF)</p> <p>-If CFTC does not exclude entities without DEA from proposal, it should amend and clarify algo trading definition. Refine the definition to include only those transactions placed using systems or algos that deliver the trade directly to the DCM. Definition proposed by IAA. (IAA)</p> <p>-Investment decision-making algos that simply process market and other data to recommend trade ideas for an adviser to submit do not pose risks to DCMs – focus should be on algos that both generate AND place an order with a DCM (black box trading). (IAA)</p> <p>-Definitions should be narrowed to capture ATS presenting material risks to the market (i.e. black box) transmitted to a DCM without human intervention. (SIFMA)</p> <p>-Exempt registered CTAs that have hired other advisers to manage a client’s assets as the firm that actually executed the orders and trading function should be subject to rules. (IAA)</p>

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				<ul style="list-style-type: none"> -Use of a pure investment decision algo should not constitute AT unless it is also accompanied by automated execution with limited or no human intervention. Definition proposed by AIMA and SIFMA. (AIMA; SIFMA) -Remove “otherwise makes determinations with respect to an order” from 1.3(zzzz), any automated order routers that function merely to route orders to particular venues without amending their particular parameters should be excluded. (AIMA; SIFMA) -Delete language “with no further discretion by any computer system or algo, prior to its electronic submission for processing or subject to the rules of a DCM.” (SIFMA) -Remove this definition and simply require that pre-trade controls be required for all electronically submitted orders prior to entering a match engine. (MGEX) -If a definition is needed, partition into different categories or types of algo trading, with an exception to exclude commonly used off-the-shelf functionality such as auto-spreaders (safe-harbor). (MGEX) -Black box systems are one type of electronic and automated trading that may warrant its own definition. (MGEX) -Definition should be more nuanced and reflect the level of human judgment that is involved in trade execution. (ICE)
		Exclude certain systems	Nodal; NGFA; AGA; SIFMA; QIM; ICE; AIMA; IAA; CMC & CEWG; MFA	<ul style="list-style-type: none"> -Definition should exclude any order manually entered by a natural person (front-end system) because no further discretion by any computer system or algo would exist. (Nodal; NGFA; AGA; SIFMA) -Commission needs to establish a clear line between technology that merely facilitates activity manually entered by a natural person versus a technology that plays a more active and determinative role in the transaction. (NGFA) -Definition should be changed from “entering” to “confirming” a trade. Focus on where the order is executed, not the front-end system. (QIM) -Order routing or execution systems should be excluded. Routing systems cannot modify any of the key parameters of an order determined by the individual trader, and does not make any determination regarding the parent order. (IAA; AIMA; ICE) -Automated order generation systems can be easily distinguished from the order management functionality (OMF) used by CMC & CEWG members wherein a natural person retains the discretion to trade and establish parameters by which the order will be executed. Commission should categorically exclude basic OMF or provide a safe harbor that provides market participants with certainty that such OMF would not fall within the AT definition. (CMC & CEWG) -Disagrees with decision only to exclude orders “whose every parameter or attribute is manually entered into a front-end system by a natural person, with no further discretion by any computer or algo.” Extension to manual trading is unnecessary. Should clarify that the carveout encompasses any means of communication. (AIMA; SIFMA) -Execution algos and investment algos are different. Fewer market participants are manually entering orders into a front-end system and trading without the use of trading software. To address concerns of the overly broad definition, introduce the term “AT System” to mean all computer, network, electronic, technical, automated, or similar systems that transmits, receives or processes an AT order message. (MFA)
		Supports proposed expansion	IATP	<ul style="list-style-type: none"> -Expanded definition (encompassing orders that are generated using algo methods, i.e. manually entered in front-end system) reflects an industry practice and allows 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.” (IATP)

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	Algo Trading Compliance Issue (ATCI)	Clarification needed / inappropriate	FIA; ISDA; Citadel ³¹ ; CTC; IAA; AIMA; MFA; ICE; ISDA	<ul style="list-style-type: none"> -No violation of an AT Person’s own internal requirements or its clearing member should constitute an ATCI. Eliminate “the AT Person’s own internal requirements.” (FIA; Citadel; IAA; AIMA; MFA) -If an AT Person could be held liable for not meeting all of its own internal requirements, it might change its internal requirements to the minimum requirements by law or regulation. (IAA; MFA; ICE) -ATCI should only be an event at an AT Person that has caused any algo trading of such entity to operate in a matter that does not materially comply with relevant laws and rules and causes a market disruption. Definition proposed by FIA. (FIA; ISDA; MFA) -Goal should be to prevent market disruption and ATCI should not only be directed at AT Persons. (CTC) -An analogous definition to Reg SCI is not appropriate. Makes sense to be analogous only if Reg AT proposes centralized regulatory controls. (MFA) -Revise to limit its application to non-compliance with the proposal and DCM or FCM rules specific to algo trading. (ISDA)
	Algo Trading Disruption (ATD)	Change / clarification needed	FIA; CTC; CMC & CEWG; AIMA; MFA	<ul style="list-style-type: none"> -ATD should not be seen as intent to cause market disruption, and if a disruption affects only a market participant’s activity and has no adverse impact on a DCM or FCM, it should be excluded. (FIA) -Remove the phrase “disrupts, or materially degrades” and replace with “materially disrupts.” (FIA) -Amend ATD to require a material practical disruption to have occurred, and that purely internal operational issues without broader consequences for the DCM or other participants within an AT Person are excluded. (AIMA; MFA) -ATD should focus on material disruptions and material degradations by at AT Person to the operation of the DCM or the ability of other market participants to trade on such DCM. Definition proposed by MFA. (MFA) -CFTC should focus on exchanges rather than implementing prescriptive requirements at the AT Person level. (CTC) -Market participants using routing infrastructure should not be required to build a duplicative set of pre-trade risk and other controls that cannot be applied to the third-party infrastructure. (CMC & CEWG)
	Algo Trading Event (ATE)	Change / clarification needed	MFA; NGFA; SIFMA	<ul style="list-style-type: none"> -ATE is unnecessary and redundant. Should simplify by eliminating this term. (MFA) -AT Persons should be provided flexibility in designing and implementing, under exchange and CFTC oversight, pre-trade and other risk controls reasonably designed to prevent an ATE. (NGFA) -DCM staff of ATE that are purely internal incidents or other types with no material adverse effect on the market should not be ATE. (SIFMA)
AT Persons – Risk Controls	Risk Controls Generally	Should be flexible / principles-based	CCMR ³² ; NGFA; CMC & CEWG; SIFMA; MGEX; MFA; AIMA	<ul style="list-style-type: none"> -Permit each market participant to adopt controls commensurate with its individual role in the marketplace and the degree of risk it poses to orderly market operations. (CCMR) -Supports maximum order message and execution frequencies, order price parameters and maximum order size limits, order management controls, cancel resting orders, kill switches, notification of algo trading, and STP tools at the exchange. (NGFA) -Supports order message frequency throttles, mandatory introduction of repeat execution throttles, mandatory application of appropriately calibrated fat-finger limits by each AT Person, mandatory use of internal price collars calibrated to the particular strategy and trading activities of each AT Person, maintenance of system connectivity heartbeats, notification of AT, and periodic review for sufficiency and effectiveness of ATS controls. (AIMA)



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				<p>-Certain pre-trade and other risk controls already exist across the transaction chain. Limited benefit to integrity of DCMs in energy and ag commodities given systemic risk concerns do not arise generally from trading activity engaged by commercial users and a tiered, robust set of risk and operational controls exist throughout each segment of the transaction chain for market participants using FCMs, ISVs, or DCM routing infrastructure. (CMC & CEWG)</p> <p>-Supports required use of pre-trade risk controls provided by DCMs, but the principle that any order that is electronically submitted must go through pre-trade controls at some stage before it reaches the matching engine, and at a minimum, that some controls reside at the matching engine. (MGEX)</p> <p>-Supports centralized risk controls at the DCM, and 1.80 applied at the DCM and clearing FCM levels with standardized controls, ensuring that all market participant orders go through the same set of controls and to increase transparency for regulators. Commission should review and build upon the existing infrastructure, rather than require a significant portion of market participants to each build the same infrastructure on their own systems. Multiple layers are inefficient and ineffective. (MFA)</p> <p>-AT Persons should have discretion when an automated alert should be triggered, as alerts will become meaningless when there are too many or too easily triggered. (MFA)</p>
		Supports proposal	BM	-Strong defenses, such as minimum resting periods or <i>de minimis</i> transaction fees, may ultimately be required to ensure market stability. (BM)
		Supports risk controls at every level	IATP; ICE; Citadel	<p>-Supports risk controls at the AT Person, FCM, and DCM levels. (IATP)</p> <p>-Risk management should be applied uniformly to the relevant trading activity, without regard to registration status or method of connectivity to the DCM to maintain a level playing field. (Citadel)</p> <p>-Limiting risk controls and safeguards to only AT Persons complicates the rulemaking and does not enhance oversight of algo trading. All market participants should have responsibility to implement risk controls appropriate to their participation in the life of an order and all persons engaged in electronic trading should be required to use controls to minimize likelihood of market disruption. (ICE)</p>
	Personnel	Requirements are unnecessary or costly	Mercatus; IAA; MFA; AIMA; SIFMA	<p>-Separation of trading and monitoring functions will burden smaller firms. (Mercatus)</p> <p>-“Staff of the AT Person to review ATs in order to detect potential ATCI, and “such staff must include staff of that AT Person...” seems to preclude outside consultants, which could be more affordable for smaller firms. (Mercatus)</p> <p>-Amend requirement that AT Persons maintain persons to monitor algo trading, and separate persons to determine whether it is compliant. (IAA)</p> <p>-Designating in a formal regulation a training obligations for certain personnel is a radical departure from precedent in these markets, and specific requirements may not be appropriate in all circumstances. CPOs and CTAs have overall supervision obligations and fiduciary responsibilities that provide the protection intended by the CFTC. This requirement should be dropped. (MFA)</p> <p>-Supports continuous real-time monitoring, but clarification that the obligation is not intended to require all AT Persons to maintain an additional layer of real-time risk management supervision of individual traders whose primary function is real-time supervision. (AIMA)</p> <p>-Requirement to have a staff member oversee a trader’s actions continuously and in real-time is burdensome. Modify this</p>



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				requirement to provide flexibility allowing AT Persons to determine how to best monitor its ATs. (SIFMA; MFA)
	Stress Testing	Change / clarification needed	MFA; AIMA	-Limit the requirement to conduct stress tests to AT Persons operating execution algos or to require stress tests in the context of business continuity planning. (MFA) -Supports AT Persons obligation for regular stress testing of their ATs, but urges that final wording make reference that turning off systems during particularly stressed market conditions is an appropriate response. (AIMA)
	Maximum Execution Frequency	Should not be prescribed as part of Reg AT	FIA	-Unintended executions can be better managed by other controls such as order size limits and order price parameters. (FIA)
		Supports	NGFA	
	Order Cancellation System (OCS)	Automatic OCS or systems that enable “immediate” cancellation of orders should not be mandated	FIA; LCHF; MGEX; CME; AIMA	-Unintended or disruptive orders can be better prevented by application of other pre-trade controls rather than kill switches. Must be careful of blocking legitimate orders. (FIA) -Propose not to differentiate between normal and risk-reducing orders, but only disconnect a participant from the market after some risk levels are broken. (LCHF) -Supports a kill switch and cancel-on-disconnect services, but mandating it for all AT Persons or clearing FCMs could pose complications and introduce greater risk for certain firms. (CME) -Supports kill switches, but more prescriptive about mandating procedures for alerts or notifications concerning the use of kill switches. Three kill switch triggers: responds to a minor malfunction to continue, major malfunction, and one for a malfunction occurring during the last 15 minutes of the trading day. (AIMA) -Required use by a DCM may expose them to potential liability. Commission should provide immunity to DCMs and more discretion to design and implement. DCM, FCM, or AT Person might reach different conclusions on whether to cancel based on the same facts, all levels should have discretion. (MGEX)
		Supports kill switches	Citadel; NGFA; IATP	-Support execution venues to have kill switches to immediately block activity that appears erroneous and likely to materially impact members of the market. (Citadel) -Supports call for AT Persons to consider kill switches and the degree of flexibility to implement them most appropriate for each AT Person’s ATS and trading activities. (AIMA)
	Inappropriate Duplication	Avoid duplication	FIA; Mercatus	-Controls should permit flexibility appropriate for their location, with varying degrees of sophistication and granularity depending on who is setting the controls. (FIA) -Controls should not be duplicated in the same manner across the market participants, FCM, and DCM. (FIA)
FCM Risk Controls / Management	Pre-trade and Other Risk Controls	Should apply to all electronic trading / principles-based	FIA; AIMA; MGEX; MFA	-All electronic trading should be subject to risk controls reasonably designed to mitigate market disruption caused by excessive messages and errant orders, based on nature of trading activity and controls implemented by third parties. Any clearing member of a DCM that provides electronic access for its customers or its own trading on a DCM should implement controls. (FIA) -Should be applied in a flexible and proportionate manner to all AT Persons and clearing FCMs to their structure and business activities. An entity providing market access to AT Persons should be subject to obligations, but should not be limited to clearing FCMs but all firms providing market access. (AIMA)



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				-In some cases an FCM or ISV is better positioned to understand actual risks posed by certain software or technologies than DCMs, so should have responsibility to address those risks. (MGEX) -Clearing firm requirements (compliance requirement with requirements of the AT Person’s clearing member for AT Persons) are not subject to administrative procedures and could be an unconstitutional delegation of authority. Contractual agreements between an AT Person and its clearing firm should remain contractual and enforceable by law by each signatory. (MFA)
	Inappropriate Duplication	Avoid duplication	FIA; Mercatus	-Controls should permit flexibility appropriate for their location, with varying degrees of sophistication and granularity depending on who is setting the controls. (FIA) -Controls should not be duplicated in the same manner across the market participant, FCM, and DCM. (FIA)
	Maximum Execution and Order Frequency	Mandated controls not recommended	FIA	-Maximum execution frequency per unit of time is generally not set pre-trade. Unintended executions are better managed by order size limits and order price parameters. (FIA) -Maximum order frequency per unit of time is typically set across all market participants and is not tuned to specific clients or types of clients. (FIA)
	Order Cancellation Systems and Alerts on Limit Breaches	Kill switches should be treated as a back stop, not as a primary risk control	FIA	-Better protection may be provided by appropriately tailored implementation of controls such as pre-trade order size limits, order throttles, and order price parameters. (FIA) -Alerts should be generated appropriate to the type of control, as limits are approached and if and when they are breached. (FIA)
	FCM as an AT Person	Should be principles-based	FIA	-FCMs should be subject to same principles-based requirements as any other person engaged in algo trading, where an FCM uses algo trading for its own business or provides it for its customers. (FIA)
		Alternative proposed	CBOE	-DCMs should be able to set maximum risk controls at the clearing firm level per AT Person with DEA to the DCM, rather than aggregating risk controls for AT Persons with DEA across multiple clearing firms. (CBOE) -CBOE only permits trading privilege holders (TPHs) to have DEA to its market. CBOE should have flexibility to set its own maximum risk controls for that TPH by clearing firms as it would be difficult and costly for CBOE to modify its systems to implement CBOEs own risk controls in a different manner. (CBOE)
DCM Risk Controls	DCM Risk Controls (Generally)	Flexibility needed	FIA; AI ³³ ; OCX ³⁴ ; AIMA; MGEX	-DCMs do not have sufficient information to independently apply customized pre-trade risk controls at the market participant level. Inappropriate to apply pre-trade execution throttles at a granular level. (FIA) -Rules requiring order cancellation tools should not be overly prescriptive and should not imply such controls be applied in an automated fashion. (FIA) -Commission should go further in requiring the operational details made publicly available be analyzable by modern automated reasoning techniques, and “plain English” is the wrong format for communicating operational details of a DCM. Disclosure format should be in Precise Specification. (AI) -DCMs should have flexibility to determine which levels these controls should apply to, and not required to apply or offer controls at all levels. (OCX) -Stressed significant operational disruption that can be caused using kill switches particularly at the DCM itself. Supports option of AT Persons to advise their DCMs on how to deal with resting orders upon system disconnection. (AIMA) -Commission should let DCMs determine which minimum controls are needed on the matching engine. Prescribing



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				<p>controls might become the ceiling, which should be avoided. (MGEX)</p> <p>-Each time a DCM takes steps to create systems and controls, it also creates a barrier to entry. (MGEX)</p> <p>-Supports system heartbeat requirement for a DCM system that provides real-time market data, but not for any downstream recipients or for delayed data. (MGEX)</p>
	Maximum AT Order Message Frequency Per Unit of Time	Should be excluded from proposal	CME	-CME employs mandatory automated messaging volume controls at each connection point to the Globex match engine. These controls are not implemented by a clearing FCM and cannot be set more granularly than the trading session level. (CME)
	Maximum Execution Frequency Per Unit Time	Flexibility needed	OCX; CBOE; CME	<p>-DCMs should be permitted to customize to ensure minimum interference with the matching algo architecture, as these controls might interact with various DCM trading platforms differently. (OCX)</p> <p>-DCM should have discretion to exclude cancellations from a message throttle, rejecting cancel messages with this would potentially trap a customer in a position increasing their risk. (CBOE)</p> <p>-Remove this requirement for any sort of execution throttle control to be applied on a pre-trade basis. CME publishes a trade ratio expectation for certain products. (CME)</p>
	Order Price Parameters	Does more harm than good	OCX; CBOE; CME	<p>-Price bands would require constant readjustment and widening, rendering them mostly useless. Requests an exemption to this requirement for products that trade below a minimum frequency per specified unit of time. (OCX)</p> <p>-Clearing members setting their own price parameters for each AT Person with DEA would create confusion because market participants would not know the price parameters by which all other participants are abiding in the market, hurting market confidence and liquidity. Makes sense to set levels at the DCM if implemented by the DCM. (CBOE)</p> <p>-CME price banding controls cannot be implemented by clearing FCMs or AT Person levels. Tools work vastly different than CFTC proposed. CME's tools are effective measures to mitigate ATEs. (CME)</p>
	Maximum Order Size Limits	Alternative offered	OCX; CBOE; CME	<p>-Maximum notional value limits per order provides a more accurate assessment of an order's potential market impact because of the wide range of prices for products traded on DCMs. (OCX)</p> <p>-DCMs should have discretion to structure an execution throttle as a volume limit per trading day. (CBOE)</p> <p>-CME requires all clearing member firms to utilize its Globex Credit Control system. (CME)</p>
	Risk Controls Offered to FCMs (and/or AT Persons)	Should be less prescriptive, more flexible	FIA; OCX; CBOE	<p>-FCMs should be granted ability to implement controls similar to those required of market participants going through FCM infrastructure. (FIA)</p> <p>-FCMs should implement maximum order size limits by product at a level high enough not to contradict limits established by market participants or FCMs, message policies, and product or spread-specific price collars. (FIA)</p> <p>-DCMs should have discretion determining how to apply risk controls to FCMs providing access to customers through one gateway. Burdensome for an exchange to require individual controls for each retail customer accessing the DCM through the FCMs systems. (OCX)</p> <p>-DCM should not be required to implement two separate risk controls systems and to then run orders through both systems (DCM & clearing firm levels). (CBOE)</p> <p>-DCMs should not be required to provide or set risk controls at a more granular level than the level of each AT Person with DEA to the DCM for each product and for each clearing firm for that AT Person, as this requires the DCM to build</p>



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				overly complicated risk control systems, difficult and cumbersome to implement given the large number of iterations of different risk control levels needed to be checked for each order. (CBOE)
	Inappropriate Duplication	Avoid duplication	FIA; Mercatus	-Controls should permit flexibility appropriate for their location, with varying degrees of sophistication and granularity depending on who is setting the controls. (FIA) -Controls should not be duplicated in the same manner across the market participant, FCM, and DCM. (FIA)
DCM Test Environments		Should be principles-based	FIA; CBOE; AIMA; MGEX; CME	-Environments cannot truly emulate a real trading environment given the limitations of today’s technology. DCMs should only be required to provide test environments that simulate production environments to the maximum extent practical. (FIA) -Agrees DCMs should provide test environments enabling AT Persons with DEA to the DCM, but currently not possible within bounds of a reasonable investment to develop a testing environment that simulates trading in a production environment or that a firm could use to test how an ATS would behave under actual market conditions. (CBOE) -Commission should permit a DCM to comply by providing a test system to AT Persons with DEA and by making historical market data available for sale to market participants to utilize in-house to back-test their ATSs. (CBOE) -DCMs and FCMs providing market access should provide AT Persons viable non-live testing solutions for market participants and invest in relevant technology to develop a range of economically viable non-live testing solutions for market participants. (AIMA) -DCMs should be provided reasonable discretion over the availability and use of the test environment. (MGEX) -Providing test environments that replicate production functionality is reasonable, but simulating performance level production trading could be burdensome and difficult to scale. Clarify “simulate” and allow for public comments. Market participants are in the best position to maintain responsibility for conducting appropriate performance testing of their trading algos. Urges adoption of a functional testing regime. (CME)
		Unnecessary and burdensome	Nodal; OCX	-Should study costs burdens on smaller DCMs. Ensure exemptions are available for unintended parties. (Nodal; OCX) -Propose a <i>de minimis</i> exception for small DCMs based on number of traders per day or frequency of trades per day, and that the Commission permit DCMs to use production environments for test purposes on weekends or to use disaster recovery environments during non-disaster recovery conditions. (OCX)
Self-Trade Prevention (STP)		Requirements are difficult or unnecessary	FIA; SIFMA; MGEX; MFA; ICE	-Mandatory self-trading measures are unnecessary and conflict with the intent of Congress, and could prevent legitimate trading. Questions whether CFTC should prohibit unintentional self-trades by rule, as Congress prohibited only certain transactions that require intent. (FIA) -CFTC should retain the current trade surveillance system. Creation of new concept through commonly controlled accounts is vague, overbroad, and unwarranted. (MFA) -Reconsider the mandate and instead permit DCMs to continue to allow firms to use alternative tools appropriately tailored to their needs. (SIFMA) -STP rules are premised on erroneous assumptions of the types, purposes, and levels of self-trading that is occurring. (MGEX) -Should permit some market participants from using STP tools, and permit others to use their own STP tools in lieu of DCM-provided ones. (MGEX)



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				<ul style="list-style-type: none"> -Commission should perform more analysis to better identify and quantify the relationship between self-trading and price discovery. (MGEX) -New prescriptive changes would require a complete rewrite of current STP tools by mandating it to be applied at the account level, as well as applying the functionality to all orders where it would be detrimental to the technical implementation and price discovery process. (ICE)
		Supports flexible DCM STP tools	ICE; CME; LCHF; NGFA; OCX; CBOE; AIMA; MGEX; MFA	<ul style="list-style-type: none"> -DCM provided tools produce the fairest result, and there is no viable alternative to locating the anti-matching function at the DCM level. (MFA) -Would supports STP functionality of a specified subset of market participants (i.e. principal trading firms) engaged in algo trading that access a DCMs match engine through DEA. (CME) -Remove prescriptive requirements and require DCMs employ STP functionality generally as part of Core Principles and test for effectiveness during its regular review process. (ICE) -Supports STP tools by exchanges and optional by trading participants. (LCHF; MGEX) -Supports flexible STP tools by exchanges. Burden should not fall on the individual firm. (NGFA; OCX; CBOE; MGEX) -DCMs should have flexibility in designing their STP systems, and its post-trade surveillance is sufficient to address the proposal's goals. (CBOE) -Include an exemption if the level of self-trading is nominal. (MGEX) -Would be difficult from a technological standpoint and costly to create an STP system that was able to identify orders from different trading privilege holders (TPHs), which have a common beneficial ownership or are under common control. (CBOE) -Supports STP tools by DCMs, but flexibility in application of controls to enable AT Persons to undertake <i>bona fide</i> trading without overly burdensome restrictions. (AIMA) -Recommend flexibility on how to deal with self-trades once detected, rather than default of immediate cancellation of related trades. (AIMA)
	Disclosure	Supports disclosure	Citadel	<ul style="list-style-type: none"> -Public disclosure to amount of approved self-trading can increase and enhance market efficiency and resiliency by requiring the implementation of effective STP tools. (Citadel)
		Opposes disclosure	OCX; CBOE; MGEX	<ul style="list-style-type: none"> -Supports STP tools by DCMs, but not the requirement that all DCMs post self-trade statistics on their websites, as it offers no value. (OCX; CBOE; MGEX) -Disclosure of self-trading statistics on its website and listing percentage of trades and volume representing approved self-trading is costly and burdensome. If ratio of order where STP system prevented matching is retained, the provision should use the number of matched trades prevented by the STP system instead of the number of orders that would match into those trades to calculate the ratio to avoid double counting. (CBOE)
	Approval Process	Permit self-certification	FIA; CBOE; MFA; AIMA	<ul style="list-style-type: none"> -DCM approval process is unwieldy, requiring firms to potentially submit thousands of approval requests. 40.23 is overly burdensome and appears to be a costly solution in search of a problem. (FIA; CBOE; MFA) -Approval for exceptions should be utilized without a DCMs pre-approval. Subject to disciplinary action after the fact if they do not meet requirements. (CBOE) -CPO self-certification system should be employed, subject to verification on examination by the NFA. (MFA)



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				-Against requiring AT Persons to obtain positive DCM approval for a permitted self-trade exemption on a case-by-case basis and recommend each AT Person be able to unilaterally apply the exemption, subject to DCM monitoring. Definition proposed by AIMA. (AIMA)
		Supports	IATP	-Any discretion to allow DCMs to write self-trade rules has to come with bright line examples about unintentional and <i>bona fide</i> self-trades. (IATP)
DCM Market Maker/ Trade Matching Transparency	Disclosure	Supports public disclosure	Citadel; LCHF; NGFA; BM; OCX; XTX ³⁵ ; AIMA; MGEX; MFA; CME	<p>-Trading protocols and matching engines and details of any market maker or trading incentive programs should be public information. (Citadel; LCHF; NGFA)</p> <p>-Support readily accessible and timely access in plain language. All known attributes of an electronic matching platform that materially affect the time, priority, price or quantity of execution of market participant order messages, or the ability to cancel, modify or limit display of, market participant order messages, should be disclosed. (NGFA)</p> <p>-Supports disclosure of material attributes to trade matching systems, but the Commission should provide a sample list of items that might be considered material attributes to avoid underreporting due to a vague term. (OCX)</p> <p>-Market maker and trading incentive programs should restrict types of payments by DCMs in connection with such programs, and require DCMs to perform surveillance programs to prevent abusive practices. (BM)</p> <p>-DCMs should disclose information on their website in a clear and conspicuous manner, and maintain this information for an additional six-months after the end of any programs. (BM)</p> <p>-Matching engine transparency and information is fundamental to the ability for buy-side participants to make efficient decisions as to venue selection and trade execution. Supports extension of greater transparency in SEFs. (AIMA; MFA)</p> <p>-Supports greater public disclosure and restrictions on market making and trade incentive programs, but concerned about real benefits provided by the scale and type of market making incentive programs currently offered (in situations of liquidity during extreme market conditions). (AIMA)</p> <p>-Supports disclosure on matching engines, but more guidance on materiality and confidential treatment needed. Market maker or trading incentive program disclosure is good but not for self-trades. (MGEX)</p> <p>-Pricing and availability of rebates should be transparent; corporate structure should not influence eligibility for these programs; eligibility for market making programs should include meaningful requirements (spreads, sizes, and percentage of day coverage); net rebates from purely volume-based programs should be prohibited; outsized net rebates should be prohibited; and programs should be subject to careful monitoring by the CFTC and DCM. Impartial access should be maintained. (XTX)</p> <p>-Transparency requirements should be applied to all trading markets, not just DCMs. (CME)</p>
		Opposes public disclosure	NASDAQ; ICE	<p>-If adopted, the Commission should conclude ordinary commercial arrangements between a DCM and its participants should not be required to be disclosed publicly – could diminish ability to compete and hinder innovation. (NASDAQ)</p> <p>-Commission should identify specific individual elements of a trading and matching system that should be subject to transparency requirements and characteristics of such elements that need to be described through DCM rules or other means of disclosure. (ICE)</p> <p>-Clarify that switches, routers, ports, and similar elements of any systems architecture of the DCM are not considered part of the electronic matching platform. Limit definition to the matching algo logic developed by the DCM that determines</p>



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				<p>the treatment of order priority and the corresponding logic that drives market data dissemination. (ICE)</p> <p>-Definition of “attribute” (and material and discernable effect) is overly broad and latency as an attribute is problematic. Unless intentionally created, latencies are not attributed. (ICE; CME)</p> <p>-Specifically identify elements of a system’s architecture that affect an order such as matching algos, STP functionality, price limits, implied spread functionality and order types, as well as dissemination of market data. (ICE; CME)</p>
	Specific Programs	Prohibitions	BM	<p>-40.25(a) threshold test: Commission should only permit programs where market participants must maintain a two-sided market during distressed periods and must be subject to penalties for abusing their privileges, to receive liquidity provider benefits – if threshold is not satisfied, should deny the application (no further analysis needed). (BM)</p> <p>-40.27(a) per trade basis benefits: Supports decision to prohibit DCMs from paying market maker incentive program benefits for trades between accounts under common ownership. Also prohibit per trade basis benefits, which provide nothing more than a subsidy for un-economic trades and potentially risks distorting the overall market. (BM)</p>
		Any incentive programs should be equally applied across all trading venues	FIA; Citadel	-Whether specific trades are entitled to incentive payments should be left to DCM discretion in accordance to their policies and procedures. (FIA; Citadel)
		STP system is sufficient	CBOE	-Required use of an STP system is sufficient to prevent the payment of market maker or trading incentives program benefits in relation to self-trades. (CBOE)
Annual Reports		Requirements are overly burdensome with no attendant benefits	FIA; ISDA; NASDAQ; Nadex; LCHF; NIBA; OCX; CBOE; IAA; CMC & CEWG; AIMA; SIFMA; MGEX; MFA; ICE; CME	<p>-Annual reports by AT Persons and clearing member FCMs are unnecessary and redundant (CCO Annual Report already required). A certification process for AT Persons should replace annual reports by clearing FCMs. Reports will be stale by the time DCMs review. (FIA; ISDA; NASDAQ; OCX; ICE; CME)</p> <p>-40.22 is unduly burdensome for small DCMs and could impact entry of new DCMs – costs outweigh benefits. (NASDAQ; Nadex; MGEX)</p> <p>-Review should be done at the RFA. (Nadex; LCHF); DCM reviews are inefficient and duplicative. (MFA; ICE)</p> <p>-Annual reports, if imposed, should only be on large market participants. (LCHF; NIBA)</p> <p>-Commission should permit DCMs to rely on attestations by FCMs and AT Persons and allow DCMs to be responsible for setting maximum limits for AT Persons, where AT Persons set its own limits. (OCX)</p> <p>-Ad hoc/ need based reviews should be permitted versus annual reviews. (OCX); Reporting deadlines should be staggered to avoid bottlenecking the system. (AIMA)</p> <p>-DCM review should only apply to AT Persons with DEA to the DCM. (CBOE)</p> <p>-CPOs or CTAs already address compliance of operations under the SEC’s Advisers Act and NFA rules. (IAA)</p> <p>-Certifying and submitting to DCMs annual reports is unnecessarily duplicative and burdensome on AT Persons, and provide little if any benefit. Eliminate this requirement. (CMC & CEWG)</p> <p>-Suggests focus would be for DCMs to make sure theirs and their FCMs systems and controls are effective to prevent ATDs. (AIMA)</p> <p>-Confidentiality of information send to DCMs should be maintained. (AIMA)</p> <p>-Should be removed entirely. (SIFMA)</p> <p>-Does not see cost-effective benefit for each DCM reviewing compliance programs at AT Persons. Instead only require</p>



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				review as part of an investigation. (MGEX) -CFTC should require CTAs and CPOs as part of their annual NFA self-examination questionnaire, to describe and certify that they have appropriate risk controls in place tailored to their ATs. (MFA)
		Supports annual reports	AFR; IATP	-The CEO should be responsible for certifying the compliance and benefitting from bonuses for successful compliance or the burden of liability for erroneous or false certification. (IATP)
NFA / Registered Futures Associations (RFA)		Rules should not be duplicative and/or prescriptive. Registration imposes unnecessary burdens	FIA; ISDA; CTC; CCMR; CBOE; ICE; CME; MFA	-NFA requirements seem duplicative of DCM obligations. (FIA; ISDA; CTC; CCMR; CBOE; CME) -Recommends the Commission to designate DCMs rather than the NFA as the frontline regulator responsible for ensuring that algo-trading firms have appropriate risk controls, development, and testing protocols. (CCMR; CBOE)- -- Commission should narrow the focus and scope of Reg AT to exclude CPOs and CTAs, and to direct NFA to promulgate CTA/CPO regulatory requirements on operational system risk controls related to algo trading, and to report to the Commission on data it collects from an amended CTA/CPO self-examination questionnaire that includes questions on operational system risk controls. With more information, Commission will be in a better position on how to amend Part 4 of the regulations. (MFA) -CFTC should implement oversight similar to a joint audit committee, by assigning a lead regulator to common members responsible for audits and financial reviews. (CBOE) -NFA or a DCM should not be required to review the risk control books and records of AT Persons and clearing firms based solely on their trading volume. Trigger for review of risk control books and records should be potential or actual problematic behavior by the AT Person. (CBOE) -Should minimize conflicts with existing rules and practices of DCMs and RFAs. Additional layer of regulation can cause confusion, unnecessary complexity, and costs. (ICE; CME)
		Good, even if redundant and duplicative	IATP	-Registration for all members is not an issue as IATP assumes RFAs will implement a graduated membership fee structure for smaller AT Persons. (IATP) -If member requirements and delegated enforcement overlap or are duplicative of DCM requirements, this redundancy is one compliance assurance with minimal costs for regulated entities. (IATP).
Source Code (Books & Records)	Source Code	Should not be available to the CFTC or the DOJ under a routine inspection process	FIA; HRT ³⁶ ; ISDA; NASDAQ; Citadel; TwoSigma ³⁷ ; CTC; Bloomberg; QIM; ITI & USCC ³⁸ ; CCMR; Mercatus; TT; IAA; CMC & CEWG; AIMA; SIFMA; MGEX; MFA; ICE; CME	-Reg AT fails to protect market participants' critically important and sensitive proprietary information. This standard of inspection without requiring any formal process of law potentially violates source code owners' constitutional rights. (FIA; Citadel; Bloomberg; ITI & USCC; TT) -Access should be obtained through a subpoena, but even under subpoena should be subject to appropriate protections. (FIA; HRT; ISDA; Citadel; TwoSigma; CTC; CMC & CEWG; AIMA; MGEX; MFA; ICE) -Enhance information security: restrict how and where staff obtain (or maintain) access to sensitive information; limit and document staff access to sensitive information; implement safeguards to protect intellectual property (IP) equivalent to industry best practices; conduct regular staff training on policies and procedures with respect to protecting confidential information; and inform and remind employees and former employees of post-employment obligations. (MFA) -No precedent exists for the asserted inspection authority. Sets bad precedent. (FIA; HRT; Citadel; CTC; ITI & USCC; CCMR; MFA); Source code will reveal little if anything about a given underlying market event. Examples provided by TT (ITI & USCC; TT)



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				<ul style="list-style-type: none"> -Registered CPO or CTA does not have access to the ISV or other third-party's source code and impossible to comply with this requirement. Applying the same requirements (1.81) to AT Persons for third-party systems is not appropriate. (FIA; TwoSigma; SIFMA; CME; IAA; CMC & CEWG; AIMA) -Commission may face Congressional demands (via FOIA) for information and Congress will use its own discretion whether to disclose the information to the public, setting bad precedent. (MFA) -Concern leaving source code with NFA. (MFA)
		Supports	AFR; BM; IATP	<ul style="list-style-type: none"> -No firm is required to make any part of their code public or submit it for unsolicited examination or approval. Benefits outweigh the costs. (BM) -Crucial to have source code so market regulators do not face the impossible task of reconstructing manipulative algos from market data alone. (BM) -Unless the Commission has access to source codes, it will not be able to investigate comprehensively, accurately, and efficiently the causes and consequences of AT triggered market integrity disruptions. (IATP)
	Books and Records	Trade secrets are not ordinary books and records	FIA; ISDA; NASDAQ; Citadel; TwoSigma; CTC; Bloomberg; Nadex; LCHF; Traderserve ³⁹ ; JackWeaver ⁴⁰ ; NIBA; CCMR; Mercatus; CMC & CEWG; AIMA; SIFMA; CME	<ul style="list-style-type: none"> -Source code embodies significant trade secrets created through expenditure of time, money, research, and talent. Once exposed, its protected character cannot be retrieved. (FIA; ISDA; TwoSigma; CTC; Bloomberg; LCHF; NIBA; AIMA) -Source code is forward-looking in that it dictates the firm's future trading strategies and is a firm's trade secret and IP. (CCMR)
	Retention	Supports retention of source code	TwoSigma; AIMA; SIFMA; MGEX; MFA	<ul style="list-style-type: none"> -Supports retaining source code, but not have to provide it to the government without due process and strong confidentiality protections. (TwoSigma; AIMA; MGEX) -If this provision is not removed, supports retention but with special confidentiality requirements and additional protection. (SIFMA) -Supports retention for five years. (MFA)
	Cybersecurity	Potential for cyber breaches are enhanced	FIA; Citadel; TwoSigma; Bloomberg; LCHF; NIBA; ITI & USCC; CCMR; Mercatus; TT; IAA; CMC & CEWG; AIMA; MFA; ICE; CME	<ul style="list-style-type: none"> -Risk of cyber-attacks and theft of proprietary information is not only a risk for financial markets, but also for every person who provides confidential information to the U.S. government. AT Person's privacy interests significantly outweighs the CFTC's interests that may occur from inadvertent disclosure. (FIA; TwoSigma; CTC; Bloomberg; ITI & USCC; CCMR; AIMA; MFA; CME)
	Source Code Repository	Impractical and unduly burdensome	FIA; NASDAQ; ITI & USCC; CCMR; IAA; CMC & CEWG; AIMA; MFA	<ul style="list-style-type: none"> -Retention of related systems and source code is vague and overly broad. Unclear how 1.81 and existing 1.31 interact. (FIA) -CFTC should eliminate any reference to 1.31 and the 5-year retention period with a provision clarifying that Reg AT will permit each firm to adopt retention periods that are reasonable in view of the firm's size, resources, risk to orderly market operations, and other salient characteristics. (CCMR) -Mandating companies to maintain government accessible source code repositories creates an automated trading



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				environment that is less secure, costly, and inefficient. Becomes a cyber target. (ITI & USCC; CCMR; Mercatus; AIMA) -1.31 should be amended before the Commission adopts Reg AT. (MFA)
Software Development, Testing, Deployment, and Monitoring (1.81)	1.81 Generally	Too prescriptive or unnecessary	FIA; ISDA; Citadel; CTC; IAA; CMC & CEWG; SIFMA; MFA; AIMA; NGFA	-One-size-fits-all requirements may disrupt a market. 1.81 does not account for market participants of differing sizes and complexities – rules should allow each AT Person “some degree of flexibility.” (FIA; Citadel; CTC; MFA) -1.81 requirements (policies) do little to reduce risks in the market and costs are burdensome. (CTC) -CFTC should differentiate ATs designed by an AT Person and by a third party (AT Person does not have access to source code of third party providers) – same obligations for both are impractical. (FIA; ISDA) -CMC & CEWG members generally utilize order management functionality (OMF), off-the-shelf, provided by a DCM or ISV. They do not own and should not be required to adopt written policies and procedures governing the development, testing, and monitoring – only the owners of OMF should. (CMC & CEWG) -Clarify that AT Persons will experience system problems on occasion despite best efforts, and that it will not permit enforcement actions solely on the basis of experiencing any issue without a material adverse market impact. (SIFMA) -Should include development and testing practices for an AT Person to consider “where appropriate” rather than to establish as minimum standards. (MFA) -Clarify physical separation (virtual is ok) is not necessary and may not be feasible for smaller participants (development environment adequately isolated from the production trading environment). (MFA) -Supports proportionate isolation of production and development systems, but not an obligation for full-hardware separation. Supports re-testing of systems and code that have undergone “material” changes. (AIMA) -Supports a principles-based approach. (NGFA)
		Back-testing is ineffective	Traderserve; AI; AIMA; MFA	-Non-live testing is more effective than back testing. Using measures of disorder provocation for aggressive and passive orders than relying upon heuristics to identify individual special cases. (Traderserve) -“Thorough testing” should be defined. The assumption that the future resembles the past has led to disaster (back-testing). (AI) -Testing standards ought to be flexible and proportionate to the nature, scale, and complexity of a particular AT Person’s business, with principal responsibilities on DCMs and clearing FCMs facilitating testing by AT Persons. (AIMA) -Commission should require an AT Person conduct back-testing of new trading algos prior to use in a live trading environment – not require re-testing of previous algos. (MFA)
	Implementation	Additional time required	CBOE; IAA	-The Commission should provide a minimum two-year implementation period following effectiveness of rules, prior to the date compliance is required. (CBOE) -Extend compliance date. Advisers should have at least an 18-month implementation period to develop systems and personnel to comply. (IAA)
SEFs		Swaps should be excluded	TrueEX ⁴¹	-As the only DCM listing swaps, imposing Reg AT requirements on DCM market participants, clearing firms, and trueEX puts them at a competitive disadvantage to its SEF competitors. (TrueEX)
		SEFs should be included	AFR; BM; CBOE; IATP; CME	-Swap execution facilities (SEFs) should be included in Reg AT. (AFR; BM) -SEFs and DCMs should be treated the same. SEFs gain a competitive advantage over DCMs. Exclusion creates a regulatory gap. (CBOE)



DSG SUMMARY OF INDUSTRY COMMENT LETTERS ON CFTC PROPOSED REGULATION AUTOMATED TRADING

REGULATION AUTOMATED TRADING (REG AT) ¹				
TOPIC	SUB-TOPIC	VIEWPOINT	ORGANIZATION(S) ²	DESCRIPTION
				-CFTC should not exclude SEFs from Reg AT due to insufficiency of uniformly formatted swap trade data reported to the Commission. (IATP) -Reg AT should apply to SEFs, if not, it should delete swap dealers and major swap participants from the AT Person definition. (IATP). -SEFs and FBOTs (besides FBOTs with DEA) are not included in Reg AT – new DCMs are not afforded same exclusions. (CME)

¹ Proposed Reg AT and all comment letters can be found [here](#).

² Other commenters either did not provide any comments specifically related to Reg AT or requested an extension of the comment period. R.T. Leuchtkafer offered an [HFT Research Paper](#) but did not provide comments specific to Reg AT.

³ [CME Group, Inc. \(CME\)](#)

⁴ [Intercontinental Exchange \(ICE\)](#)

⁵ [FIA](#)

⁶ [Managed Funds Association \(MFA\)](#)

⁷ [Minneapolis Grain Exchange, Inc. \(MGEX\)](#)

⁸ [NASDAQ](#)

⁹ [SIFMA Asset Management Group \(SIFMA\)](#)

¹⁰ [Alternative Investment Management Association \(AIMA\)](#)

¹¹ [Chicago Trading Company \(CTC\) Trading Group, LLC](#)

¹² [Nodal Exchange LLC](#)

¹³ [Nadex](#)

¹⁴ [National Grain and Feed Association \(NGFA\)](#)

¹⁵ [International Energy Credit Association \(IECA\)](#)

¹⁶ [Mercatus Center at George Mason University \(Mercatus\)](#)

¹⁷ [American Gas Association \(AGA\)](#)

¹⁸ [Commercial Energy Working Group \(CEWG\) & Commodity Markets Council \(CMC\)](#)

¹⁹ [Olam International Limited](#)

²⁰ [LCHF Capital Management](#)

²¹ [NIBA](#)

²² [Trading Technologies International, Inc. \(TT\)](#)

²³ [CBOE Futures Exchange \(CBOE\)](#)

²⁴ [Americans for Financial Reform \(AFR\)](#)

²⁵ [Institute of Agriculture and Trade Policy \(IATP\)](#)

²⁶ [ISDA](#)



DSG SUMMARY OF INDUSTRY COMMENT LETTERS ON CFTC PROPOSED REGULATION AUTOMATED TRADING

- 27 [Bloomberg Tradebook LLC](#)
- 28 [Quantitative Investment Management, LLC \(QIM\)](#)
- 29 [Investment Advisers Association \(IAA\)](#)
- 30 [Better Markets \(BM\)](#)
- 31 [Citadel](#)
- 32 [Committee on Capital Markets Regulation \(CCMR\)](#)
- 33 [Aesthetic Integration Ltd. \(AI\)](#)
- 34 [One Chicago, LLC \(OCX\)](#)
- 35 [XTX Markets Limited \(XTX\)](#)
- 36 [Hudson River Trading LLC](#)
- 37 [Two Sigma](#)
- 38 [Information Technology Industry Council \(ITT\) and the U.S. Chamber of Commerce \(USCC\)](#)
- 39 [TraderServe Limited](#)
- 40 [Jack Weaver](#)
- 41 [TrueEX](#)