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April 6, 2011

Via Electronic Submission

Scott O'Malia, Commissioner
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Recommendations on Pre-Trade Practices for Trading Firms, Clearing Firms and Exchanges involved in Direct Market Access, provided by the CFTC Pre-Trade Functionality Subcommittee of the Technology Advisory Committee

Dear Commissioner O'Malia:

The Futures Industry Association ("FIA") is pleased to have the opportunity to comment on the recommendations presented by the Pre-Trade Functionality Subcommittee of the CFTC Technology Advisory Committee ("Subcommittee"). The Subcommittee's proposal recommends that pre-trade controls be required at three levels of the electronic trading "supply chain": trading firm, clearing firm, and exchange.

In general, the FIA strongly supports these recommendations, as they are consistent with the best practices published in *FIA Recommendations for Risk Controls for Trading Firms* and *FIA Market Access Risk Management Recommendations.* The FIA wishes to add some additional comments and points of clarification with regard to how trading firms, clearing firms and exchanges should work together to implement standardized risk controls that are mandatory across the exchanges.

Responsibilities of Trading Firms

We agree with the protections that the Subcommittee recommends for trading firms, but we would like to emphasize the importance of giving a trading firm freedom in implementing each protection as long as it meets the criteria set forth by its clearing firm. Each trading system is uniquely configured and the application of risk controls must take into account differences in design.

Responsibilities of Clearing Firms

The Subcommittee recommends that "clearing firms should be required to institute reasonable measures to confirm that their client trading firms generally implement the pre-trade controls mentioned above." The recommendation stops short of requiring clearing firms to have direct control over the risk filters. The FIA believes, however, because the FCM must ensure that trading firms trade within authorized credit levels, the trading firm should be organized in such a way as to facilitate clearing firm control without adding undue latency or interference with trading firms own applications. As recommended in the *FIA Market Access Risk Management Recommendations,* pre-trade order and credit controls can best be implemented through tools provided by exchanges that allow clearing firms the ability to set the controls for each client trading firm. This sharing of responsibilities would put responsibility to establish reasonable controls on the clearing firm, using tools provided by an exchange.

In addition to the controls that the Subcommittee recommends be implemented by trading firms, the FIA believes that clearing firms should also be required to set pre-trade order quantity limits and pre-trade credit limits for each trading firm. The tools provided by an exchange should allow a clearing firm to establish such limits at the account, trader, and product levels as appropriate to provide meaningful risk control. In addition, clearing firms should have the ability to block new orders and cancel working orders to prevent trading beyond pre-set limits.

Although these pre-trade controls could be implemented remotely at co-location facilities or housed in the trading firm's own environment, the FIA believes that these controls are most efficiently implemented at the exchange level with primary control being given to the clearing firm.

Responsibilities of Exchanges

The Subcommittee recommends that exchanges be required to implement pre-trade quantity limits on individual orders, intraday credit limits such as maximum long or maximum short positions or margin limits, pre-trade price collars, message throttles, clear error trade policies, and order cancellation on disconnect capability. The FIA is in agreement that these tools and policies should be implemented at the exchange and that they should be mandatory for all participants. However, it is important to clarify that pre-trade order controls and credit limits should be under the primary control of the clearing firm. The exchange should be required to enable a clearing firm to provide those pre-trade controls so that trading firms going directly to the exchange cannot bypass the clearing firm's controls.

The FIA believes that a minimum level of functionality should be provided at the exchange level, including pre-trade order size limits and credit limits by product, and the ability to set such controls at a granular level by account, trader, or firm. Merely providing tools that allow only firm-wide overall maximum long or short credit or margin limits is insufficiently granular to be meaningful. The FIA also believes that the exchange should require these controls to be in place for all participants.

Specificity of Controls

Questions have been raised as to whether it is appropriate for the CFTC or other regulatory authorities to set specific regulations as to the types and levels of pre-trade controls that should be required. The FIA agrees with the Subcommittee that the specific levels of controls that are appropriate for each trading entity will vary depending on the size of the entity and type of trading that is being conducted. Accordingly, the FIA recommends that the controls specified above be required as a matter of principle, with the specific types and levels that are set being constructed by the clearing firm and the exchange based on the specific requirements of the marketplace and the type of trading taking place. This will be particularly important in setting rules for pre-trade risk control requirements for the OTC markets where trading may take place less frequently and on multiple liquidity destinations.

Please direct any questions about FIA's comments and recommendations to Mary Ann Burns, Executive Vice President-Industry Relations, at 202-466-5460.

Respectfully yours,

John M. Damgard
President

Cc: Laura Gardy, Special Counsel