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EQUINIX

December 9, 2013

Melissa D. Jurgens
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Re: Comments of Equinix, Inc., on Concept Release on Risk Controls and System Safeguards for Automated Trading Environments

Dear Ms. Jurgens:

On behalf of Equinix, Inc., (“Equinix”), I appreciate the opportunity to submit the enclosed comments on the Concept Release on Risk Controls and System Safeguards for Automated Trading Environments that recently was published by the Commodity Futures Trading Commission (“CFTC” or “Commission”) in the Federal Register. 78 Fed. Reg. 56542 (Sept. 12, 2013). In summary, Equinix – an independent, third-party provider that offers co-location and proximity hosting services to all industries, including but not limited to the financial services industry – applauds the Commission for its very thorough and thoughtful Concept Release in which the Commission requests comment on a wide range of topics related to automated trading environments and poses 124 specific questions.

Equinix has an acute interest in how (or if) the Commission chooses to address the issue of latency, as articulated in Section II.A.2 of the Concept Release. Specifically, the Commission requested comment on the following question:

“Should any exchanges, vendors and firms be required to audit their systems and process on a periodic process [*sic*] to identify and then resolve such latency?”
(Question 5, 78 Fed. Reg. 56546).

As is described more fully below, Equinix believes that the Commission should seek information about market participants’ systems and transactions from market participants themselves, not from third-party providers (such as Equinix) which do not have knowledge of such content. Furthermore, Equinix would urge the Commission to gain a complete, full understanding of the issue of latency (e.g., why it matters for some and not others) prior to promulgating a rule on this topic.

We would be pleased to answer any questions the Commission may have on latency or any other issue on which we may provide helpful insight during this fact-gathering process.

About Equinix

Before addressing the specifics of the Commission's Concept Release, allow me to briefly describe our company and the services that it offers. Equinix is a leading global provider of co-location and interconnection services, operating 95 data centers in 31 markets across 15 countries in the United States, Europe, the Middle East and Asia-Pacific. Our company was founded in 1998, and employs more than 3,000 people at our headquarters in Redwood City, California, and other locations around the world. Equinix is a mission-critical Internet infrastructure provider with 9.9 million gross square feet of global data center space, more than 4,000 customers, including leading networks, cloud providers, content companies, financial institutions and enterprises.

Customers do business at Equinix because they know that their most critical information assets will be protected and connected. More than 950 different networks, carriers and ISPs are accessible at Equinix International Business Exchange™ (IBX®) data centers, including the world's largest IP backbone networks. To be clear, Equinix is neither a securities firm, nor a trading market. We do not accept orders or otherwise trade in securities. Rather, Equinix operates data centers at which financial institutions lease physical space for their own trading systems and equipment. Since Equinix is not a registrant under the Commodity Exchange Act, we do not believe that our company falls within the Commission's regulatory authority, and would urge the Commission to pay close attention to this issue.

The Benefits of Equinix Data Centers

The co-location and interconnection services provided by Equinix result in significant benefits to our customers, which span a wide range of industries. While Equinix does serve customers in the financial services industry, the company also supplies these critical services to leading Internet service and cloud providers, content companies, global enterprises, social networking sites, governmental agencies and Web commerce companies. The customer benefits include: (1) operational reliability, (2) exceptional security, (3) customer choice and competitive pricing, and (4) enhanced network connection opportunities.

(1) *Operational Reliability*: Equinix data centers are designed to ensure that customers' businesses operate in a continuous and seamless fashion. This permits customers to focus on their core business, leaving Equinix to safeguard the facility and maximize customers' uptime. For instance, the robust power and cooling systems utilized by Equinix help secure the continuity of a customer's business operations. Each customer licensing space in an Equinix data center is served usually by a first line of utility power and a second line of emergency generators. Often, the capital expenditure required to build this infrastructure is cost prohibitive for many businesses, including some financial market participants, to replicate. Therefore, third-party data centers offer an important choice in the marketplace for those businesses.

(2) *Exceptional Security*: Equinix customers benefit from housing their operations in a well-fortified security infrastructure. Entry into an Equinix data center includes multiple



layers of security, including a series of biometric readings. The security arrangements permit sophisticated industry practices to be available to those using the data center. This level of security is often changing and one of the most highly scrutinized practices for providers in the financial services industry.

(3) *Choice and Competitive Pricing*: Equinix data centers often provide a diverse set of network providers, presenting their customers with the important benefit of choice. Connecting through an Equinix data center may grant customers direct access to hundreds of carriers and network service providers, often including top global networks. Further, Equinix does not require its customers to purchase a specific type of connectivity, nor does it favor certain providers by offering high-priced bundled products or services. In addition, direct service contracts among various customers, including network service providers, market data providers, risk analytics firms and brokers located within an Equinix data center afford customers the opportunity to strategize and tailor these relationships to the distinct needs of their business. Competition for business among the numerous service providers at independent data centers, including Equinix, results in lower prices and additional savings to customers. Additionally, Equinix and other independent data centers, which have several competitive networks, help fulfill Congress's mandate for a national market system by providing competitive "links" between multiple market centers.

Furthermore, Equinix data centers offering co-location are openly marketed and available on a first-come, first-served basis to all customers, including financial services firms. Participants in electronic trading can access multiple trading venues within a single Equinix data center or campus without discrimination or limitation by size, perceived importance or volume of trading. Smaller trading firms have the same access to Equinix and other co-location facilities that their larger multi-national counterparts do. Equinix and other stakeholders in the data center industry are highly competitive and their customers are demanding. Thus, Equinix is highly motivated to provide high quality, highly secure, competitively priced services to all market participants.

(4) *Enhanced Network Connection*: For some customers, connecting directly to numerous network service providers and business partners that are within the same building increases transaction speed, while reducing cost. For other customers, transaction speed is not a high priority. Aggregating a customer's business partners and network service providers in a single location also eliminates the costs that a customer would incur in purchasing connections to its partners and providers in multiple locations.

Equinix Comments on Question 5 in the Commission's Concept Release

In short, we do not believe that third-party service providers such as Equinix can or should be required to "audit their systems and process on a periodic process [*sic*] to identify and then resolve such latency."

Equinix has very serious concerns about the technological feasibility of requiring third-party service providers to audit customer's systems and processes for latency. Furthermore, even if such audits were technologically feasible, the information and data gleaned from them, in



our experience, would be impractical, of questionable use for market participants, and potentially misleading.

The manner in which Question 5 is written (i.e., “Should any exchanges, vendors and firms be required to audit their systems ... and then resolve such latency?”) presupposes that latency generally disadvantages one set of investors while advantaging another set of investors. We do not believe this is an accurate assessment. In fact, many of our customers – both within the financial services industry and otherwise – do not require Equinix to provide information regarding latency. Furthermore, there are multiple methods and standards for calculating and disclosing latency. Thus, we believe the risk of confusing or misleading customers outweighs any marginal benefit.

In addition, if a latency auditing requirement became applicable to independent data centers, it could alter the nature of the industry and add tremendous costs, and the result would be detrimental to our customers. Equinix has no method of providing this information because our company does not monitor the content or quantity of traffic within a financial customer’s installation. If an audit requirement were applied to Equinix, it would add an entirely new function to our core business. That is, we would be forced to enter the business of examining customer data, and reporting upon it. In short, this provision would be administratively burdensome, technologically infeasible, and of questionable utility for market participants.

Finally, the Commission needs to understand that transaction speed and latency are often issues that are outside the data center’s control, and more dependent upon the needs and decision-making of the data center customer, not the data center. The customer ultimately decides what kind of computer equipment and cables that it will deploy within a data center, and it knows full well that such decisions will affect transaction speed and latency. While we can provide specific examples of differences, for example, in fiber optic versus copper wire installations customers might install, we have no interest in controlling such customer decision-making.

We urge the Commission to proceed cautiously on this issue, and to appreciate the limits of data center capabilities and the needs of individual customers. A regulation intended to put all customers on equal footing may actually limit customer choice, produce choke-points required for data monitoring, create a potential security breach, and stifle technological innovation.

Conclusion

While the Commission’s Concept Release clearly results from its desire to ensure that latency does not advantage some investors at the expense of others, we urge the Commission to consider all the ramifications of any proposal in this area. We believe the Concept Release raises additional questions for the Commission to consider, not the least of which is the Commission’s authority to regulate an industry that does not appear to fall within the CFTC’s authorizing statute.



Requiring third-party service providers to audit system latencies could provoke serious unintended consequences that harm the market participants who rely upon the independent data center industry.

We urge the Commission to proceed with caution on the issue of latency and would be pleased to answer any questions that may arise during the rulemaking process. We have previously provided a facility tour of our Ashburn, Virginia, campus to Commissioner Bart Chilton and his staff, and would like to extend an invitation to visit our campus to other Commissioners and their staffs so that they can gain a better understanding of our data centers and the customers which we serve.

Sincerely,



Brandi G. Morandi
General Counsel
Equinix, Inc

