



March 16, 2016

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

Re: Regulation Automated Trading – 80 Fed. Reg. 78824 (December 17, 2015) (RIN 3038–AD52)

Dear Mr. Kirkpatrick:

Olam International Limited (listed on the Singapore Exchange) (“*Olam*”) welcomes the opportunity to comment on the proposed rule of the Commodity Futures Trading Commission (“*CFTC*”) regarding risk controls, transparency measures, and other safeguards to enhance the regulatory regime for automated trading on U.S. designated contract markets (“*DCMs*” or “*Exchanges*”) (“*Regulation AT*”).¹

Olam was established in 1989 and is a leading agri-business operating from seed to shelf in 70 countries, supplying food and industrial raw materials to over 14,000 customers worldwide. Our company has built a leadership position in many businesses including cocoa, coffee, cashew, rice and cotton. We have 44 different products across 16 platforms including a network of 3.9 million farmers and 135 processing plants worldwide. This global footprint includes upstream (e.g., rubber plantations, cocoa plantations, peanut farming, dairy farming, fertilizer manufacturing), midstream (e.g., tomato processing, palm oil refining, spice grinding) and downstream (e.g., packaged food business) operations.

Olam is a proprietary trading firm that trades futures as a proprietary trader (and some of its affiliates trade as liquidity providers) on various Exchanges in the U.S. and overseas. Olam is a member firm on CBOT and may desire to have “Direct Electronic Access” (“*DEA*”) to several Exchanges in order to manage its risk more effectively as market dynamics change. Olam provides the perspective of a market participant that must use a futures commission merchant (“*FCM*”) to clear trades and, in some instances, uses *DEA* to execute futures transactions on Exchanges. Olam is not a swap dealer or a de minimis swap dealer but one of its affiliates is registered as commodity pool operator (“*CPOs*”) and a commodity trading advisor (“*CTA*”).

As other similarly positioned commodity traders, Olam and / or its affiliates utilize various third-party automated trading systems and market solutions to trade futures contracts in the U.S. These third-party systems have been recently developed to allow commodity traders to automate otherwise routine tasks in their ordinary course of business.

¹ Notice of Proposed Rulemaking, Regulation Automated Trading, 80 Fed. Reg. 78,824, 78,824 (proposed December 17, 2015) (hereinafter “*NPRM*”).



As Regulation AT is currently drafted and proposed in the NPRM, it is likely that Olam's (as well as many other similarly situated commodity traders) futures trading strategies described above may fall within the restrictions of Regulation AT. We believe that the "Floor trader" registration and compliance requirements applicable to commercial entities similar to Olam would have unintended consequences for the following reasons:

(1) **Definition of DEA.** Regulation AT should clarify that routing through an FCM, or using sponsored access through an FCM, or directly using DEA to transact on a futures exchange that provides intermediated clearing, but allow direct (non-intermediated) trading should not make one either a "Floor trader" or an "AT Person, requiring registration and the other regulatory obligations that are required of such categories of entities. The rules do not require this now, and should not require this in the future.

(2) **Use of Third-Party Algorithmic Trading Systems.** Using third-party algorithmic trading systems should not make the user of these systems an AT Person and require that this person register as a "Floor trader." Operators of these third-party algorithmic trading systems should be the target of the regulation, since they are the entities who write the code, design, market, implement and control these trading systems. Commercial users of these systems should not be required to register and ensure compliance with respect to these systems that they have not designed and do not control, and should not be qualified as AT Persons.

(3) **Definition of Algorithmic Trading Systems.** Not all automated trading is algorithmic and simple use of spreadsheets or automated macros to make determinations as to what instruments, contracts or what venues should be chosen at a particular time to hedge, should not fall in the definition whether or not the trade itself is manually entered by a human being using a computer keyboard. Requiring a human interface in all instances in the 21st century trading environment is impractical and overly prescriptive given rapid development of technology of the human interface systems. For example, even today, Autospreader (by Trading Technologies) functionality when used in conjunction with manual trade entry have not traditionally been treated the same as algorithms by Exchanges and Regulation AT should not change that.

(4) **Unintended Consequences for End Users.** The definitions in Regulation AT, as proposed, are structured in such a way that, if a commercial end-user employs DEA to access an Exchange to transact in a single futures contract, without intermediation by an FCM, that commercial end-user becomes as "AT Person" and is required to register as a "Floor Trader." As a registered Floor trader, the commercial end-user no longer qualifies as "Unregistered Member" and is subject to the full scope of recordkeeping obligations under CFTC Regulation §1.35. More importantly, as a registered Floor trader, that commercial end-user also falls within the defined term "financial end-user" for purposes of the Margin Rules for Uncleared Swaps. All of that commercial end-user's (now Floor trader's) registered "swap dealer" counterparties, whether regulated by the prudential regulators, or the CFTC, would be required to post and collect variation margin for uncleared swaps. Such a result is clearly unintended, but the result of proposed Regulation AT's over-inclusive attempt to regulate and register any entity that uses DEA to access the futures markets.



Olam recognizes that given the rapidly developing technological innovation (*e.g.*, trade automation and artificial intelligence) and the changing trading environment on DCMs (*e.g.*, demise of pit trading and proliferation of electronic execution instead) appropriate regulation of unrestricted Algorithmic Trading is essential to the safety and soundness of the market. At the same time, the CFTC must recognize that overly prescriptive and broad rules, such as Regulation AT, may actually become counterproductive considering that the industry has already largely adopted risk control measures that have been successful in mitigating the risks posed by automated systems that form the backbone of modern trading systems, without prescriptive CFTC regulation.

As noted by many other commenters and as noted during the recent CFTC Technology Advisory Committee meeting,² any efforts to introduce additional regulation should ultimately seek to improve the safe, healthy, robust functioning of U.S. commodity and derivatives markets, which requires a balance between the regulations market participants must follow, the costs of complying with those regulations, and the latitude to innovate for the benefit of all market participants in the future. Accordingly, any regulations the CFTC adopts should balance the need for putting in place necessary protections and compliance requirements to mitigate future market emergencies and disruptions (such as “Flash Crash”)³ while allowing organic growth of markets and recognizing compliance systems already implemented by market participants.

Unfortunately, while the goals of Regulation AT are laudable, it largely misses the mark in contributing to the safety and soundness of the markets from the perspective of commercial commodity traders, while adding registration requirements with unintended consequences and additional restrictions on DEA that will stifle the advancement and progress of futures markets to allow un-intermediated trading, while providing clearing services to market participants.

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If you have any questions concerning our comments, please feel free to contact the undersigned. Olam welcomes the opportunity to discuss these issues further with the CFTC and its Staff.

Respectfully submitted,

Stephan A. Ariyan
VP, Market Compliance & Chief Compliance Counsel
Olam International Ltd.

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

² See, http://www.cftc.gov/PressRoom/Events/opaevent_tac022316 (February 23, 2016).

³ See, <http://www.cftc.gov/PressRoom/SpeechesTestimony/chiltonstatement100710>. The Staff of the CFTC concluded that Flash Crash was not caused by commodity traders hedging their commercial risks and physical commodity positions.