



January 11, 2017

VIA ELECTRONIC SUBMISSION

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

Re: Supplemental Notice of Proposed Rulemaking on Regulation Automated Trading (RIN 3038-AD52)

Dear Mr. Kirkpatrick:

On behalf of The Commercial Energy Working Group (the “**Working Group**”)¹ and the Electric Power Supply Association (“**EPSA**”),² Sutherland Asbill & Brennan LLP submits this letter in support of the request submitted by several trade organizations and commodity market participants on December 7, 2016,³ seeking a 180-day extension of the comment deadline of the Commodity Futures Trading Commission’s (the “**CFTC**” or “**Commission**”) Supplemental Notice of Proposed Rulemaking, *Regulation Automated Trading* (“**Supplemental Proposal**”).⁴

¹ The Working Group is a diverse group of commercial firms in the energy industry whose primary business activity is the physical delivery of one or more energy commodities to others, including industrial, commercial, and residential consumers. Members of the Working Group are producers, processors, merchandisers, and owners of energy commodities. Among the members of the Working Group are some of the largest users of energy derivatives in the United States and globally. The Working Group advocates regarding regulatory, legislative, and market developments with respect to the trading of energy commodities, including derivatives and other contracts that reference energy commodities.

² Celebrating its 20th Anniversary in 2017, EPSA is the national trade association representing leading independent power producers and marketers. EPSA members provide reliable and competitively priced electricity from environmentally responsible facilities using a diverse mix of fuels and technologies, including generators and marketers. Power supplied on a competitive basis collectively accounts for 40 percent of the U.S. installed generating capacity. EPSA seeks to bring the benefits of competition to all power customers. EPSA members utilize a broad variety of commercial tools to ensure the reliable delivery of natural gas, oil, power, and other nonfinancial commodities to their facilities and plant assets located throughout the United States.

³ See *Futures Industry Association, et al.*, Extension Request regarding Supplemental Notice of Proposed Rulemaking on Regulation Automated Trading, RIN 3038-AD52 (submitted Dec. 7, 2016) (“**Extension Request**”).

⁴ *Regulation Automated Trading*, Supplemental Notice of Proposed Rulemaking, 81 Fed. Reg. 85,334 (Nov. 25, 2016).

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The Working Group and EPSA appreciate the Commission's continued efforts to promote market integrity in the derivatives markets and incorporate improvements to this proposed rulemaking. However, additional time is required to understand and provide thoughtful feedback on the Supplemental Proposal given its complex and technical nature. Specifically, the Supplemental Proposal continues to raise certain fundamental concerns with respect to the structure and impact of this proposed regulatory framework on commercial firms, particularly on those not otherwise required to register with the Commission.

Consistent with the Extension Request, the Working Group and EPSA believe that this complex and technical rulemaking would benefit from consideration by a new, full Commission. Accordingly, allowing time for the new Commission to determine the direction it wishes to take with respect to the Supplemental Proposal before requiring market participants to respond to the Supplemental Proposal will result in more meaningful commentary and a final rule.

In light of the foregoing, the Working Group and EPSA request that the Commission promptly grant the Extension Request.

Respectfully submitted,

/s/ R. Michael Sweeney, Jr.

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