April 24, 2024

Via Electronic Submission

Mr. Christopher J. Kirkpatrick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Request for Comment on the Use of Artificial Intelligence in CFTC-Regulated Markets

Dear Mr. Kirkpatrick:

Cboe Global Markets, Inc. ("Cboe") appreciates the opportunity to provide its comments to the Commodity Futures Trading Commission ("Commission" or "CFTC") regarding the above referenced request for comment ("Request") relating to the use of artificial intelligence ("AI") in CFTC-regulated markets. The Request seeks public comment regarding the definition of AI and its various applications, including trading, risk management, compliance, cybersecurity, data analytics, and customer interactions, as well as potential risks such as market manipulation, fraud, governance, and privacy.

AI refers to a broad range of technology used for tasks typically requiring human intelligence, such as analyzing behavior, problem-solving, and decision-making. Recent developments, specifically around generative AI, have catalyzed mass adoption across industries. This has brought AI to the forefront of discussions on use cases and associated regulation, piquing the interests of developers, industry members, and policymakers alike. While these technological advancements and the legitimate concerns they raise around managing generative AI are notable, past scrutiny and established controls of AI should not be dismissed. Still, the potential to substantially enhance market efficiency and improve overall resiliency makes this evolving technology especially advantageous for use in financial services, where data analysis and speed hold immense weight in influencing productivity, efficiency, and competition. While the benefits are many, there are justified reservations concerning uncertainties around nascent and ever-growing AI technologies. For these reasons, we commend the CFTC for taking the first steps toward an incremental approach to the regulation of AI in its markets through this request for comment, and hope the Commission continues to foster an open dialogue among industry members.

Cboe has created a series of internal processes in response to developments around the use of AI in financial services to establish a framework to encourage process efficiency, exploration, and active engagement with these topics. As a leading global operator of market infrastructure, including several CFTC-registered entities, Cboe supports the thoughtful and intentional use of AI in the financial services sector. These entities include two designated contract markets ("DCMs") (Cboe Futures Exchange, LLC and Cboe Digital Exchange, LLC), a swap execution facility ("SEF") (Cboe SEF, LLC), and a derivatives clearing organization ("DCO") (Cboe Clear Digital, LLC). Adopting technological innovation to improve the products and services we offer our customers has a longstanding history at Cboe, and one we have striven to be at

the forefront of. We are proud of the strides we have made as a company – often made possible by technological advancements – and we believe that AI holds the same transformative potential.

Responsible AI use offers a host of potential benefits. These include promoting the integrity and vibrancy of derivatives markets, enhancing decision-making and transparency, and reducing operational risks, ultimately improving individual investor outcomes. In addition, AI could be beneficial to regulators as part of oversight of industry participants and market surveillance, helping to detect potential fraud and market manipulation in real-time.

In many ways, defining AI and permissible applications will set the tone for its trajectory and signal the scope of its utility in the financial markets. This definition must therefore be deliberate – to acknowledge current and potential technologies of use – and specifically tailored – so as to not encompass more than is intended or necessary. An overly broad definition would create more complexity than clarity by implicating wide-reaching compliance obligations and the Commission should exercise caution to avoid this while still allowing accommodation for the diverse and evolving nature of this technology. This is especially critical in the derivatives market, where a broad definition could be detrimental to the advancement of technological improvements. For this reason, the Commission should prioritize market efficiency consistent with principles-based standards for the use of AI rather than scrutinize the technologies being employed.

In that vein, the Commission should apply a principles-based approach to any potential regulatory framework for AI utilized in its markets, as has been customary in the past. Application of such a "do no harm" framework is best in this case to ensure that future innovation is not stifled and does not significantly limit and/or disadvantage the industry. Overly prescriptive regulation that is incompatible with the innovative and extremely dynamic nature of this technology stands to be quickly outgrown, making any rushed or strict actions ineffective. This would also likely stifle the responsible use of AI and could have the unintended consequence of pushing AI development offshore. It is also important that the CFTC allows time for key players to adapt to new technologies through gradual regulatory adoption, which will give the Commission a better understanding of the potential risks and benefits associated with AI.
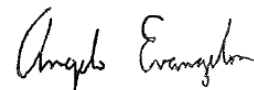
Additionally, the Commission should aim to align any potential AI-specific regulatory framework with other agencies in furtherance of clarity and consistency across the financial services industry and globally, to the extent possible. Rather than individual agencies independently addressing rulemaking to govern AI, regulatory cooperation can avoid creating unnecessary complexities for market participants. It would also be beneficial for the CFTC to leverage the existing frameworks of regulated entities that are already using AI technology in their operations. For example, there are existing risk management processes surrounding the use of AI in financial services which could be adapted utilizing a principles-based regulatory framework for the oversight of AI technology. This includes oversight processes established around the policies and procedures of AI broadly, development of AI software, and third-party risk management. Emerging risks can be similarly addressed through monitoring and oversight associated with these established risk management processes.

Specific use cases must be further examined to classify all risks and determine appropriate corresponding regulatory obligations. For example, minor risk cases should not be subject to the same level of compliance obligations as high-risk cases would be. By outlining these boundaries, AI regulation can better ensure that oversight and governance of AI use is robust, and that record-keeping, transparency, and effective risk and quality management are sufficiently evolved.

While there are important considerations related to the adoption of AI that are certainly worth discussion, the Commission should focus any potential regulatory framework only on those that are material to CFTC-regulated markets. These focus areas include understanding the implications of AI regulation on different types of CFTC–registered entities – such as the disparities between large and small institutions and providers and deployers of AI systems. There is also a critical need to recognize the global effects of any regulatory framework to ensure alignment with international standards which can facilitate cross-border compliance.

Engaging registered entities and industry stakeholders to gather insights, as is the purpose of this Request, will encourage collaboration in developing industry standards and best practices for AI adoption in CFTC-regulated markets. This could also be helpful in identifying specific areas where regulatory guidance may be required, further informing a constructive framework that enables continued innovation and growth. Cboe is committed to supporting the Commission in their goal to foster responsible and practical AI regulation in CFTC-regulated markets and looks forward to the opportunity for further discussion.

Sincerely,

Angelo Evangelou
Chief Policy Officer
Cboe Global Markets, Inc.