



By Electronic Mail and CFTC Comment Portal

April 22, 2024

Mr. Christopher J. Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
1155 21st Street NW
Washington DC 20581

Re: RIN 3038–AF37 – Foreign Boards of Trade – 89 Fed. Reg. 15083 (Mar. 1, 2024)

Dear Mr. Kirkpatrick:

The Futures Industry Association¹ (“**FIA**”) welcomes the opportunity to comment on the Commodity Futures Trading Commission’s (“**CFTC**” or “**Commission**”) “Foreign Board of Trade” Notice of Proposed Rulemaking (the “**Proposal**”).² It is important that CFTC regulations keep current with market developments, in particular the realities of trading on global markets. Firms’ risk management needs do not stop at oceans or timezones. The Proposal would update Part 48 to provide another means for U.S. market participants to access global derivatives markets safely and efficiently. FIA supports the objectives of the Proposal and urges the Commission to adopt it.

CFTC Regulation 48.4 permits certain firms to have direct access to Foreign Boards of Trade (“**FBOTs**”). Specifically, under the current version of the rule, last updated in 2011, only U.S. futures commission merchants (“**FCMs**”), proprietary trading firms, commodity pool operators (“**CPOs**”) and commodity trading advisors (“**CTAs**”) have direct access to FBOTs, with certain qualifying conditions.³ The Proposal would amend Regulation 48.4(b) to broaden the types of intermediaries eligible for direct access for submission of customer orders to FBOTs to include introducing brokers (“**IBs**”) registered with the Commission as such and located in the United States.⁴

¹ FIA is the leading global trade organization for the futures, options, and centrally cleared derivatives markets, with offices in London, Brussels, Singapore, and Washington, DC. FIA’s mission is to support open, transparent, and competitive markets; protect and enhance the integrity of the financial system; and promote high standards of professional conduct. FIA’s membership includes clearing firms, exchanges, clearinghouses, trading firms, and commodities specialists from about 50 countries, as well as technology vendors, lawyers, and other professionals serving the industry. FIA’s core constituency consists of firms that operate as clearing members in global derivatives markets.

² 89 Fed. Reg. 15083 (Mar. 1, 2024).

³ See CFTC Regulation 48.4(b).

⁴ 89 Fed. Reg. 15084. An IB is generally defined as an individual or organization that solicits or accepts orders to buy or sell futures contracts, commodity options, retail off-exchange forex or commodity contracts, or swaps, but does not accept money or other assets from customers to support these orders. See CEA section 1a(31).

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FIA believes that adding IBs to the intermediaries that may directly access FBOTs will benefit U.S. markets and is in the public interest for the potential benefits it will bring to U.S. customers seeking safe and efficient access to foreign products. IBs have been filling an increasingly critical execution role for U.S. market participants, in particular with respect to block trading, since the current version of Regulation 48.4 was approved by the CFTC in 2011. IBs can scout the market for anonymous clients and then execute the trades on their behalf and subsequently give the trades up for clearing. With IBs currently not allowed FBOT direct access under Regulation 48.4(b), U.S. participants are left without this access route after European-based IBs close, which we understand is usually around 1 p.m. EST. Updating the rules to expand direct access to U.S.-registered IBs would allow U.S. market participants extended access to the relevant foreign markets after the closure of brokers in Europe that provide access earlier in the day. This is especially important for U.S. participants' ability to conduct risk management during periods of high market volatility, such as those experienced with the collapse of Silicon Valley Bank and Russian invasion of Ukraine.

The Proposal would extend access to IBs located in the United States on the same terms that CPOs and CTAs currently access FBOTs.⁵ Under proposed Regulation 48.4(b), all trades effected by eligible IBs through submission of U.S.-customer orders will have to be guaranteed by a registered FCM or a firm exempt from FCM registration pursuant to Regulation 30.10. We agree with the Commission that updating Regulation 48.4 to provide consistent means of access for these registration categories may provide U.S. market participants with more choice in their brokers and broker arrangements and also work to increase competition in brokering foreign products, all while serving the CFTC's core regulatory goal of protecting customers.

Thank you for your consideration of these comments. If the Commission or any member of the staff have any questions regarding the matters discussed herein or need any additional information, please contact me at alurton@fia.org or 202.772.3057.

Respectfully submitted,



Allison Lurton
General Counsel and Chief Legal Officer

cc: Honorable Rostin Behnam, Chairman
Kristin N. Johnson, Commissioner
Christy Goldsmith Romero, Commissioner

⁵ See CFTC Regulation 48.4(b)(3).

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