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April 13, 2017

Brent J. Fields
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-0609

Re: Proposed Rule Change Related to Rules Regarding the Responsibility for
Ensuring Compliance with Open Outcry Priority and Allocation Requirements
and Trade-Through Prohibitions
Release No. 34-80270 File No. SR-CBOE-2016-082

Dear Mr. Fields:

The FIA Principal Traders Group (“FIA PTG”)¹ appreciates the opportunity to comment on the Chicago Board Options Exchange (“CBOE” or “Exchange”) proposed rule change clarifying the responsibility for ensuring compliance with open outcry priority and allocation requirements and trade-through prohibitions (the “Proposal”). FIA PTG supports the Proposal and strongly agrees with the February 16, 2017 comment letter submitted on behalf of nine market participants.² Additionally, FIA PTG would like to address the concerns of the U.S. Securities and Exchange Commission (“SEC” or “Commission”) with the Proposal described in the Commission’s March 17, 2017 Notice.³

The Commission expressed concern that the Proposal may diminish the Exchange’s ability to ensure compliance with CBOE’s Book Priority and Trade-Through Rules. However, under the Proposal, the Exchange makes clear that priority violations will continue to be

¹ FIA PTG is an association of more than 20 firms that trade their own capital on exchanges in futures, options and equities markets worldwide. FIA PTG members engage in manual, automated and hybrid methods of trading, and they are active in a wide variety of asset classes, including equities, fixed income, foreign exchange and commodities. FIA PTG member firms serve as a critical source of liquidity, allowing those who use the markets, including individual investors, to manage their risks and invest effectively. The presence of competitive professional traders contributing to price discovery and the provision of liquidity is a hallmark of well-functioning markets. FIA PTG advocates for open access to markets, transparency and data-driven policy and has previously made recommendations about a variety of equity market structure issues, including Regulation NMS (See <https://ptg.fia.org/keywords/equity-market-structure>).

² See February 16, 2017 [letter from nine market participants](#).

³ <https://www.sec.gov/rules/sro/cboe/2017/34-80270.pdf>

detected and disciplined with the same degree of rigor. Other market centers have already addressed the Commission's concern by programmatically preventing priority violations and by holding the aggressing party responsible. Enforcing book priority in this practical and logical manner aligns the CBOE with other market centers and allows market participants to operate in their traditional roles.

The Exchange's current enforcement practice for Book Priority and Trade-Through violations against Market Makers is similar to giving passengers in a car speeding tickets. Such a practice would be absurd since passengers have no direct control over how fast the car is traveling. Levying fines for Book Priority and Trade-Through violations to the passengers in these transactions, the Market Makers, affords them no due process and has negligible, if any, benefit to compliance with priority rules. Under the Proposal, cars will continue to be pulled over if speeding, but appropriately, only the driver will receive a ticket. In fact, compliance will arguably increase due to the establishment of a clear and predictable framework for enforcing Book Priority and Trade-Through Rules – something that is currently lacking. Additionally, the Exchange's investigations will become more efficient and have greater deterrence to future violations if completely focused on the party that controls the order and the execution price of the order and is fully equipped to increase compliance with the Rule.

The Commission is also concerned that not enforcing Trade-Through and Book Priority violations against Market Makers may be unfairly discriminatory. We would argue, however, that the current process is itself unfairly discriminatory, as the Exchange has provided the appropriate tools to avoid Book Priority and Trade-Through violations only to the Floor Brokers. In addition, many rules promulgated under the Securities and Exchange Act of 1934 ("Exchange Act") make distinctions between classes of market participants when there are clear differences in the functions, duties, and informational advantages of respective classes. Market Makers are an entirely passive participant vis-a-vis Floor Brokers in these transactions. Here, it is the Floor Brokers, not the Market Makers, who are dealing with customer orders, initiating a trade (and consequently determining its timing), setting prices for the individual legs, and systemizing and reporting the trade. Indeed, the CBOE rulebook is replete with rules that are specific to Floor Brokers, reflecting their unique position in the floor environment.⁴ Accordingly, rather than creating unfair discrimination, the Proposal is simply realigning culpability with capability and ending the unfairness in enforcement that is currently occurring, as outlined in the Proposal and other letters.

As described above, the Proposal advances many principles of the Exchange Act, including promoting just and equitable principles of trade, removing impediments to and perfecting the mechanism of a free and open market and a national market system, and not imposing any unnecessary or inappropriate burdens on competition. The Commission should heed the diverse coalition of participants who deeply understand the realities and practicalities of the issues presented and are strongly recommending the adoption of CBOE's

⁴ See CBOE Rule 6.79 Floor Broker Practices.

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interpretation. Failure to approve the Proposed Rule will leave floor Market Makers in a conundrum as to whether they can continue to provide liquidity in a timely and efficient manner. Such a result can only hurt the equity options markets by decreasing liquidity and hampering price discovery.

If you have any questions about these comments, or if we can provide further information, please do not hesitate to contact Joanna Mallers (jmallers@fia.org).

Respectfully,

FIA Principal Traders Group

A handwritten signature in blue ink that reads "Joanna Mallers". The signature is written in a cursive style and is positioned above the printed name and title.

Joanna Mallers
Secretary

cc: Michael S. Piwowar, Acting Chairman
Kara M. Stein, Commissioner