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June 16, 2017

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

**Re: SEC Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to Adopt the CHX Liquidity Enhancing Access Delay (“Order”)**  
Release No. 34-80740; File No. SR-CHX-2017-04

Dear Mr. Fields:

Consistent with our previous two comment letters<sup>1</sup> opposing the proposed Chicago Stock Exchange (“CHX” or “the Exchange”) Liquidity Taking Access Delay (“LTAD”), which was subsequently withdrawn, and our most recent comment letter<sup>2</sup> opposing the proposed CHX Liquidity Enhancing Access Delay (“LEAD”), the FIA Principal Traders Group (“FIA PTG”)<sup>3</sup> believes the proposal should not be approved because it is not consistent with the Securities Exchange Act of 1934 (the “Exchange Act”) and Regulation NMS (“Reg NMS”). While we appreciate the opportunity to comment again, we are going to limit our response this time to the general discriminatory nature of this proposal and refer the Commission to our previous three letters for all of our other more specific concerns.

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<sup>1</sup> <https://www.sec.gov/comments/sr-chx-2016-16/chx201616-5.pdf> and <https://www.sec.gov/comments/sr-chx-2016-16/chx201616-1502061-130587.pdf>

<sup>2</sup> <https://www.sec.gov/comments/sr-chx-2017-04/chx201704-1641494-145349.pdf> Except as may be modified in this letter, we reaffirm and incorporate herein by reference our previous comments on the CHX LEAD.

<sup>3</sup> 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>).

CHX states in their letter dated March 24, 2017 letter<sup>4</sup> (“CHX Response”), “...the Proposal is consistent with Section 6(b)(5) of the Act in that it permissibly discriminates between members in furtherance of a principal goal of Regulation NMS and consequently the protection of investors. Regardless of whether a delay is symmetric (e.g., IEX) or asymmetric (e.g., LEAD), any intentional delay designed to address latency arbitrage must necessarily discriminate among members. That is, **correcting asymmetry in the market requires asymmetry in the remedy.**”<sup>5</sup> [Emphasis applied.]

FIA PTG continues to strongly disagree. In its latest Order, the Commission inquired as to the impact of such a rule change if an exchange with a greater percentage of trading volume were to adopt it. We do not believe overall trading volume is the appropriate metric under the Exchange Act. Discrimination is discrimination and it should not matter whether the venue that is discriminating amongst participants has 0.4% of equity trading share (the percentage attributed to CHX in a recent FT article<sup>6</sup>) or a more significant amount. The Exchange Act is clear, the Commission must not enable an exchange to unfairly discriminate between market participants. In its first iteration (“LTAD”), CHX proposed discriminating between those “making” and those “taking” liquidity; now they are proposing discriminating between certain select market participants and everyone else (“LEAD”). Neither form of discrimination is acceptable.

We remain unaware of any current structural bias against displayed liquidity. Without the proposed speed-bump, as far as we are aware, it is possible to cancel a resting order just as quickly as it is to send a new marketable order. Without an asymmetrical problem, there is no justification for an asymmetrical remedy, especially one with many negative side effects.

Further, in response to the concern raised by FIA PTG that the LEAD would have the effect of giving **certain** favored traders, extra time to move their quotes out of the way when the market is moving against them, CHX responded that “...the 350-microsecond delay is so short that it does not provide an incremental advantage to a LEAD MM other than neutralizing a structural bias that permits latency arbitrageurs to profit off of symmetric public information. To the extent a market participant has a better algorithm or better information, LEAD is too short to have a negative impact on such non-latency arbitrage strategies, much less permit a LEAD MM to back away from a quote on a quotation-by-quotation basis.”<sup>7</sup>

FIA PTG does not agree. The Exchange appears to be arguing that LEAD MMs will be able to use the additional time to “neutralize” other market participants’ advantage, but that the delay is too short for LEAD MMs to do anything else with this additional time. Further the Exchange asserts that 350 microseconds is so short as to only allow LEAD MMs to use that time to act on information that is already in their possession. We are unsure of how the

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<sup>4</sup> <https://www.sec.gov/comments/sr-chx-2017-04/chx201704-1668613-149115.pdf> (“CHX Response”).

<sup>5</sup> CHX response at 10-11.

<sup>6</sup> <https://www.ft.com/content/4c805dd6-449f-11e7-8519-9f94ee97d996>

<sup>7</sup> CHX response at 14.

Exchange reached that conclusion. If the LEAD MM can spend that extra time processing and acting on information already in their possession why can't they also use that time waiting for new information to arrive prior to making trading decisions. Any increased amount of time given to one market participant to pull a quote will surely disadvantage all other market participants routing orders to CHX.

We reiterate our previous position that the result of this asymmetric speed bump is unfair discrimination among market participants. Allowing some market participants to have a structural latency advantage over others frustrates the purposes of Rule 611 by impairing fair and efficient access to an exchange's quotations. The unfair discrimination in CHX's new LEAD proposal is even more egregious than it was in its previous LTAD proposal. The old proposal, while discriminating against firms with different trading styles and technological capabilities, was at least theoretically open to any market participant willing to use computer algorithms to place and manage resting orders. The new LEAD proposal is explicit in its discrimination. While the proposal provides some objective criteria to be eligible to be a LEAD market maker, meeting those criteria is insufficient. Only firms that meet those criteria and are selected by CHX are given the speed advantage.

In addition to our objections to this specific proposal, FIA PTG strongly reiterates our call for the Commission to impose a moratorium on new types of artificial delays like this proposal until it is able to complete a comprehensive review of Regulation NMS. As we have stated in our responses to the various latency-introducing proposals – IEX, CHX LTAD, NYSE MKT Delay Mechanism and CHX LEAD – all four of these iterations highlight the need for a holistic market structure review. We remain very concerned about layering the additional complexity that accompanies these latency introducing mechanisms on our already complex and fragile equity market structure. We strongly support action by the Commission to address the fundamental complexity in market structure instead of taking a piecemeal approach to individual exchange proposals.

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



Joanna Mallers  
Secretary

cc: Walter J. Clayton, Chairman  
Michael S. Piwowar, Commissioner  
Kara M. Stein, Commissioner