

EXHIBIT A

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff,

v.

DONALD R. WILSON AND DRW
INVESTMENTS, LLC,

Defendants.

**NOTICE OF MOTION FOR
LEAVE TO FILE BRIEF AS
AMICI CURIAE**

No. 13-7884 (AT/KF)

PLEASE TAKE NOTICE THAT, pursuant to Rule 6.1 of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York, the *amici*—CME Group Inc.; Commodity Markets Council; Futures Industry Association, Inc.; Intercontinental Exchange, Inc.; and Managed Funds Association—upon the accompanying Declaration of Boris Bershteyn, the proposed brief of *amici curiae* attached thereto, and the Memorandum of Law in Support of Motion for Leave to File Brief as *Amici Curiae*, will move this Court, before the Honorable Analisa Torres, United States District Court Judge, at the Daniel Patrick Moynihan Courthouse, 500 Pearl Street, New York, NY 10007, for leave to file the proposed brief of *amici curiae*.

Dated: New York, New York
January 12, 2016

/s/ Boris Bershteyn

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**DECLARATION OF BORIS
BERSHTEYN IN SUPPORT OF
MOTION FOR LEAVE TO FILE
BRIEF AS AMICI CURIAE**

I, Boris Bershteyn, hereby declare:

I am a member of the Bar of this Court and the law firm of Skadden, Arps, Slate, Meagher & Flom LLP, attorneys for the *amici*—CME Group Inc.; Commodity Markets Council; Futures Industry Association, Inc.; Intercontinental Exchange, Inc.; and Managed Funds Association. I submit this declaration in support of the motion for leave to file a brief as *amici curiae*. Attached hereto is a true and correct copy of the proposed brief of *amici curiae*.

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury that the foregoing is true and correct.

Executed on January 12, 2016.

/s/ Boris Bershteyn

Boris Bershteyn

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**MEMORANDUM OF CME
GROUP INC.; COMMODITY
MARKETS COUNCIL;
FUTURES INDUSTRY
ASSOCIATION, INC.;
INTERCONTINENTAL
EXCHANGE, INC.; AND
MANAGED FUNDS
ASSOCIATION IN SUPPORT
OF THEIR MOTION FOR
LEAVE TO FILE BRIEF AS
*AMICI CURIAE***

Preliminary Statement

This memorandum is submitted on behalf of CME Group Inc. (“CME Group”); Commodity Markets Council (“CMC”); Futures Industry Association, Inc. (“FIA”); Intercontinental Exchange, Inc. (“ICE”); and Managed Funds Association (“MFA”) in support of their motion for leave to file a brief as *amici curiae*. Defendants Donald R. Wilson, Jr. and DRW Investments, LLC consent to the relief sought. The Commodity Futures Trading Commission (“CFTC”) does not.

Interests And Identities Of The Amici

The issues presented in this motion are of significant importance to the *amici*, who represent the interests of futures exchanges, clearing houses, futures brokerage firms, and major futures market participants subject to regulation by the CFTC.

CME Group consists of four separate exchanges: the Chicago Mercantile Exchange, Inc. (“CME”), the Board of Trade of the City of Chicago, Inc., the New York

Mercantile Exchange, Inc., and the Commodity Exchange, Inc. These exchanges offer a wide range of benchmark derivatives products available across all major asset classes, including futures and options based on interest rates, equity indexes, foreign exchange, energy, metals, agricultural commodities, and alternative investment products. CME also includes CME Clearing, one of the largest central counterparty clearing services in the world, which provides clearing and settlement services for exchange-traded contracts, as well as for over-the-counter derivatives transactions.

CMC is a trade association that brings together producers, processors, merchants and commercial users of commodities, and commodity exchanges. CMC members include the complete spectrum of commercial end-users of all futures markets including energy and agriculture. Specifically, CMC industry member firms are regular users of exchanges owned by the CME Group, ICE, and others and are customers of many FIA members.

FIA is the leading trade organization for the futures, options, and centrally cleared derivatives markets worldwide. FIA's membership includes clearing firms, exchanges, clearinghouses, and trading firms from 48 countries as well as technology vendors, lawyers, and other professionals serving the industry. FIA's mission is to support open, transparent, and competitive markets, to protect and enhance the integrity of the financial system, and to promote high standards of professional conduct.

ICE operates ICE Futures U.S., a CFTC-licensed futures exchange. ICE also owns and operates four derivatives clearinghouses registered with the CFTC: ICE Clear U.S., ICE Clear Credit, ICE Clear Europe, and The Clearing Corporation.

MFA represents the global alternative investment industry and its investors by advocating for sound industry practices and public policies that foster efficient, transparent, and

fair capital markets. MFA is an advocacy, education, and communications organization established to enable hedge funds and managed futures firms in the alternative investment industry to participate in public policy discourse, share best practices and learn from peers, and communicate the industry's contributions to the global economy. MFA members help pension plans, university endowments, charitable organizations, qualified individuals, and other institutional investors to diversify their investments, manage risk, and generate attractive returns.

Argument

A district court has broad discretion to decide whether to accept an *amicus curiae* brief. See, e.g., *City of New York v. United States*, 971 F. Supp. 789, 799 n.3 (S.D.N.Y. 1997); see also *Ass'n of Proprietary Colleges v. Duncan*, No. 14-CV-8838 LAK, 2015 WL 1649146, at *1 (S.D.N.Y. Apr. 8, 2015) (“[T]he question whether to grant leave to file an *amicus* brief is committed to the broad discretion of the Court.”). In deciding a motion for leave to file an *amicus* brief, courts consider whether the interests of the *amici* are adequately represented. See *Village of Westfield, N.Y. v. Welch's*, 170 F.3d 116, 123 (2d Cir. 1999) (permitting party to be heard as *amicus* “if its interests need[ed] to be represented”). The Court may also consider whether “the *amicus* has unique information or perspective that can help the court.” *C & A Carbone, Inc. v. Cty. of Rockland, NY*, No. 08-CV-6459-ER, 2014 WL 1202699, at *4 (S.D.N.Y. Mar. 24, 2014) (granting leave to file an *amicus curiae* brief where the court “find the *Amici*'s perspective to be helpful”).

Unless the Court grants the *amici* leave to file a brief, their interests will not be adequately represented, as neither the *amici* nor similarly situated entities are a party to the proceeding. The *amici* represent futures exchanges, clearing houses, futures brokerage firms, and futures market participants, and therefore offer a useful and pertinent perspective to the

instant case. Furthermore, a ruling from the Court on the standard for attempted price manipulation may have policy implications that significantly affect the daily business activities of the *amici*, their constituent members, and their customers. It is therefore appropriate and helpful that the Court have before it the proposed *amici curiae* brief to explain the interests of the *amici*.

Conclusion

The *amici* respectfully request that their motion for leave to file a brief as *amici curiae* be granted.

Respectfully submitted,

/s/ Boris Bershteyn

Boris Bershteyn

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