List of All Questions in the NPRM (PG 429-474)

"Algorithmic Trading" -- § 1.3(ssss)

1. Is the Commission's definition of "Algorithmic Trading" generally consistent with what algorithmic trading is understood to mean in the industry? If not, please explain how it is inconsistent and how the definition should be modified. In your answer, please explain whether the definition inappropriately includes or excludes a particular type or aspect of trading.
2. Should the Commission adopt a definition of "Algorithmic Trading" that is more closely aligned with any definition used by another regulatory organization?
3. For purposes of the Commission's definition of Algorithmic Trading, is it necessary for the Commission to define "computer algorithms or systems"? If so, please explain what should be included in such a definition.
4. Should the Commission's definition of "Algorithmic Trading" include systems that only make determinations as to the routing of orders to different venues (which is contemplated in the proposed definition)? With respect to the definition of "Algorithmic Trading," should the Commission differentiate between different types of algorithms, such as alpha-generating algorithms and order routing algorithms?
5. Is the Commission's understanding correct that most entities using automated order routers will be using similar or related automated technology to determine other parameters of an order?
6. The Commission posits a scenario in which an AT Person submits orders through Algorithmic Trading, and a non-clearing FCM or other entity acts only as a conduit for these AT Person orders. If the non-clearing FCM or other entity does not make any determinations with respect to such orders, the conduit entity would not be engaged in Algorithmic Trading, as that definition is currently proposed. Should the definition of Algorithmic Trading be modified to capture a conduit entity such as a non-clearing FCM in this scenario, thereby making the entity an AT Person subject to Regulation AT? In other words, should non-clearing FCMs be required to manage the risks of AT Person customers? How would non- clearing FCMs do so if the non-clearing FCMs do not have risk controls comparable to the risk controls specified in proposed § 1.82?
7. The Commission, recognizing that natural person traders who manually enter orders also have the potential to cause market disruptions, is considering expanding the definition of Algorithmic Trading to encompass orders that are generated using algorithmic methods (e.g., an algorithm generates a buy or sell signal at a particular time), but are then manually entered into a front-end system by a natural person, who determines all aspects of the routing of the orders. Such order entry would not represent Algorithmic Trading under the currently proposed definition. The Commission requests comment on this proposed expansion of the definition of Algorithmic Trading, which the Commission may implement in the final rulemaking for Regulation AT. The Commission requests comment on the costs and benefits of this proposal, in addition to any other comments regarding the effectiveness of this proposal in terms of risk reduction.

"Algorithmic Trading Compliance Issue" -- § 1.3(tttt)

8. Should the definition of Algorithmic Trading Compliance Issue be modified to include other potential compliance failures involving an AT Person that may have a significant detrimental impact on such AT Person, the relevant DCM, or other market participants?

"Algorithmic Trading Disruption" -- § 1.3(uuuu)

9. Should the definition of Algorithmic Trading Disruption be modified to include other types of disruptive events that may originate with an AT Person?
10. Should the definition be expanded to include other types of disruptive downstream consequences that may result from an Algorithmic Trading Disruption originating with an AT Person, and which may negatively impact the relevant designated contract market, other market participants, or other persons? Alternatively, should the scope of the definition be reduced, and if so, why?
11. In addition, should the reference to "materially degrades" in the definition of Algorithmic Trading Disruption be expanded or otherwise modified to encompass other types of disruptions that may impact the relevant designated contract market, other market participants, or other persons? Please provide examples of real-

world events originating with AT Persons (as defined under Regulation AT) that resulted in disruptions that may not be captured by the reference to "materially degrades" in the definition.

"AT Order Message" -- § 1.3(wwww)

12. Please comment on the proposed scope of the Commission's definition of AT Order Message. Is the proposed definition too expansive, in that it would limit the submission of messages that do not have the potential to disrupt the market? Alternatively, is the scope of the AT Order Message too limited, in that it could allow messages not related to orders (i.e., heartbeat messages or requests for mass quotes) to intentionally or unintentionally flood the DCM's systems and slow down the matching engine? Please explain how this definition would be more appropriately limited or expanded.

"AT Person" -- § 1.3(xxxx)

13. The Commission notes that the FIA Guide recommends certain pre-trade risk controls and contemplates three levels at which these controls can be placed: automated trader, broker, and exchange. FIA defines "automated trader" as any trading entity that uses an automated system, including hedge funds, buy-side firms, trading firms, and brokers who deploy automated algorithms, and defines "broker" as FCMs, other clearing firms, executing brokers and other financial intermediaries that provide access to an exchange.
    a. Should the Commission's definition of "AT Person" explicitly include or exclude any of the classes of parties included in FIA's term "automated trader"? Please explain. Are there any types of entities not present in this list that should be included in the "AT Person" definition?
    b. Should Regulation AT use the term "broker," as understood by FIA? If so, please explain. Is there another term that would be more appropriate in defining the scope of AT Persons?
14. Algorithmic Trading carries technological and personnel costs, and the Commission expects that such trading will be performed by entities, not natural persons. Is this a reasonable assumption? For purposes of quantifying the number of AT Persons that will be subject to the regulations, do you believe that any AT Person (a definition that encompasses the following persons if engaged in Algorithmic Trading: FCMs, floor brokers, swap dealers, major swap participants, commodity pool operators, commodity trading advisors, introducing brokers, and newly registered floor traders using Direct Electronic Access) will be a natural person or a sole proprietorship with no employees other than the sole proprietor?
15. The Commission recognizes that a CPO could use Algorithmic Trading to enter orders on behalf of a commodity pool which it operates. In these circumstances, should the Commission consider the CPO that operates the commodity pool or the underlying commodity pool itself as "engaged in Algorithmic Trading" pursuant to the definition of AT Person?
16. The Commission notes that pursuant to § 1.57(b) of the Commission's regulations IBs may not carry proprietary accounts. However, certain customer relationships may cause an IB to fall under the definition of AT Person. The Commission requests comment on the types of IB customer relationships that could cause IBs to fall under the definition of AT Persons. What activities are currently being conducted by IBs that could cause an IB to be considered engaging in Algorithmic Trading on or subject to the rules of a DCM and would therefore cause the IB to be considered an AT Person?
17. Should the definition of AT Person be limited to persons using DEA? In other words, should the definition capture persons registered or required to be registered as FCMs, floor brokers, SDs, MSPs, CPOs, CTAs, or IBs that engage in Algorithmic Trading on or subject to the rules of a DCM, or persons registered or required to be registered as floor traders as defined in § 1.3(x)(3), in each case if such persons are using DEA? The Commission requests comment on the costs and benefits of this approach, including comments on whether this more limited definition of AT Persons would adequately mitigate the risks associated with algorithmic trading.

"Direct Electronic Access" -- § 1.3(yyyy)

18. Please explain whether the Commission's proposed definition of DEA will encompass all types of access commonly understood in Commission-regulated markets as "direct market access." In light of the proposed regulations concerning pre-trade and other risk controls and standards for the development, testing and supervision of algorithmic trading systems, do you believe that the proposed definition of Direct Electronic Access is too limited (or, alternatively, too expansive)? If so, please explain why and how the definition should

be revised.

19. Should the Commission define "routed" in its definition of DEA? If so, how? Are there specific examples of trading or routing arrangements where it would be unclear whether trading was performed through DEA?
20. Should the Commission use the term "direct market access" instead of DEA, and if so why?
21. Should the Commission define sub-categories of DEA, such as sponsored market access?
22. The Commission's proposed definition of DEA in § 1.3(yyyy) differs from definitions of direct electronic access in in 38.607 and direct access for FBOTs in 48.2(c). The Commission believes that the more technical definition in proposed 1.3(yyyy) is appropriate for Regulation AT. The Commission solicits comment regarding proposed 1.3(yyyy), whether all definitions of "direct" access should be harmonized across the Commission's rules, and if so how. Do you believe that two definitions would create confusion with respect to Commission requirements as to direct electronic access? With respect to §§ 1.80, 1.82 and 38.255(b) and (c) provisions imposing risk control requirements on AT Persons, FCM and DCMs, should the Commission use the existing definition of direct electronic access provided in § 38.607?

IV(E) Registration of Certain Persons Not Otherwise Registered With Commission – § 1.3(x)

23. Should firms operating Algorithmic Trading systems in CFTC-regulated markets, but not otherwise registered with the Commission, be required to register with the CFTC? If not, what alternatives are available to fully effectuate the purpose and design of Regulation AT?
24. Should all firms deploying Algorithmic Trading systems be required to register with the Commission? Are there additional characteristics of AT Persons that should be taken into consideration for registration purposes? For example, should the Commission limit registration to trading firms meeting certain trading volume, order or message levels? In other words, should there be a minimum volume, order or message test in order to meet the definition of "floor trader," or otherwise to meet the definition of AT Person? If so, what should be measured and what specific thresholds should be used?
25. In the alternative, should the Commission broaden the registration requirements in proposed § 1.3(x)(3)(ii) so that all persons trading on a contract market through DEA are required to register, instead of only those who are engaged in Algorithmic Trading?
26. Please supply any information or data that would help the Commission in deciding whether firms may or may not meet the definition of "floor trader" in § 1a(23) of the Act.
27. Do you believe that the registration of such firms as "floor traders" would help effectuate the purposes of the CEA to deter and detect price manipulation or any other disruptions to market integrity? If you believe that registration of such firms will not help effectuate the purposes of the CEA, or that the same purposes can be achieved by other means, please explain.

IV(F) RFA Standards for Automated Trading and Algorithmic Trading Systems – § 170.19.

28. The Commission requests comment on the scope of responsibilities assigned to RFAs under proposed § 170.19. Should RFAs be responsible for fewer or additional areas regarding AT Persons, ATSs, and algorithmic trading than specified in proposed § 170.19, prongs (i), (ii), (iii), and (iv)? Regulation 170.19 requires RFAs to consider the need for rules in the areas listed in prongs (i)-(iv). Should RFAs be responsible for considering whether to adopt rules in fewer or additional areas?
29. The Commission requests comment on the latitude afforded to RFAs in proposed § 170.19. Should RFAs have more or less latitude to issue rules than specified in proposed § 170.19?
30. The Commission requests comment on RFAs' obligation in proposed § 170.19 to establish and maintain a program for the prevention of fraud and manipulation, protection of the public interest, and perfecting the mechanisms of trading, including through rules it may determine to adopt pursuant to § 170.19. The proposed rules anticipate that an RFA's program will include examination and enforcement components. Is this the appropriate approach?
31. The Commission requests comment on whether proposed § 170.19 may result in duplicative obligations on AT Persons or any other market participant. In particular, please comment on potential duplication, if any, between algorithmic trading requirements that an RFA may impose upon its members pursuant to § 170.19, and similar requirements that may be imposed by a DCM in its role as a self-regulatory organization. What amendments would be appropriate in any final rules arising from this NPRM to clarify that unintended overlap between the role of an RFA and a DCM in this context?

IV(G) AT Persons Must Become Members of an RFA -- § 170.18.

32. The Commission requests comment on whether the regulatory framework established by Regulation AT would require all AT Persons to be members of an RFA in order to be effective. Alternatively, could the goals of Regulation AT be realized without requiring all AT Persons to be members of an RFA?

IV(H) Pre-Trade and Other Risk Controls for AT Persons -- § 1.80

33. Are any pre-trade and other risk controls required by § 1.80 ineffective, not already widely used by AT Persons, or likely to become obsolete?
34. Are there additional pre-trade or other risk controls that should be specifically enumerated in proposed § 1.80?
35. Do you believe that the pre-trade and other risk controls required in § 1.80 sufficiently address the possibility of technological advances in trading, and the development of new, more effective controls that should be implemented by AT Persons?
36. The Commission welcomes comment on whether the regulation's requirements relating to the design of controls and the levels at which the controls should be set are appropriate and sufficiently granular.
37. The Commission notes that § 1.80(d) requires that prior to initial use of Algorithmic Trading, an AT Person must notify its clearing member FCM and the DCM that it will engage in Algorithmic Trading. The Commission welcomes comment on whether the content of that notification requirement is sufficient, or whether clearing member FCMs and DCMs should also be notified of additional information. For example, should AT Persons be required to notify their clearing member FCMs of particular changes to their Algorithmic Trading systems that would affect the risk controls applied by the clearing member FCM?
38. Is § 1.80(f)'s requirement that each AT Person periodically review its compliance with § 1.80 appropriate? Should there be more prescriptive and granular requirements to ensure that each AT Person periodically reviews its pre-trade and other risk controls and takes appropriate steps to update or recalibrate them in order to prevent an Algorithmic Trading Event? Alternatively, is § 1.80(f) necessary? Does the Commission need to explicitly require AT Persons to conduct a periodic review of their compliance with § 1.80?
39. AT Persons that are registered FCMs are required by existing Commission regulation 1.11 to have formal "Risk Management Programs," including, pursuant to § 1.11(e)(3)(ii), "automated financial risk management controls reasonably designed to prevent the placing of erroneous orders" and "policies and procedures governing the use, supervision, maintenance, testing, and inspection of automated trading programs." As described in § 1.11, an FCM's Risk Management Program must include a risk management unit independent of the business unit; quarterly risk exposure reports to senior management and the governing body of the FCM, with copies to the Commission; and other substantive requirements. The Commission requests public comment regarding whether one or more of the proposed requirements applicable to FCMs in §§ 1.80, 1.81, 1.83(a), and 1.83(c) should be incorporated within an FCM's Risk Management Program and be subject to the requirements of such program as described in § 1.11. In this regard, any final rules arising from this NPRM could place all requirements applicable to FCMs in §§ 1.80, 1.81, 1.83(a), and 1.83(c) within the operational risk measures required in § 1.11(e)(3)(ii). Such incorporation could help improve the interaction between an FCM's operational risk efforts and its pre-trade risk controls; development, monitoring, and compliance efforts; and reporting and recordkeeping requirements, pursuant to §§ 1.80, 1.81, 1.83(a), and 1.83(c). It could also help ensure that an FCM's §§ 1.80, 1.81, 1.83(a), and 1.83(c) processes benefit from the same internal rigor and independence required by the Risk Management Program in § 1.11.
40. The Commission proposes to adopt a multi-layered approach to regulations intended to mitigate the risks of automated trading, including pre-trade risk controls and other procedures applicable to AT Persons, clearing member FCMs and DCMs. Please comment on whether an alternative approach, for example one which does not impose requirements at each of these three levels, would more effectively mitigate the risks of automated trading and promote the other regulatory goals of Regulation AT.

IV(I) Standards for Development, Testing, Monitoring, and Compliance of Algorithmic Trading Systems -- § 1.81

41. The Commission understands that the requirements for developing, testing, and supervising algorithmic systems proposed in § 1.81(a)–(d) are already widely used throughout the industry. Are any specific requirements proposed in this section not widely used by persons that would be designated as AT Persons

under Regulation AT, and if not, why not? If any requirements described in § 1.81(a)– (d) are not widely used, please provide an estimate of the cost that would be incurred by an AT Person to implement such requirements.

42. Are there any aspects of §1.81(a)–(d) that are unnecessary for purposes of reducing the risks from Algorithmic Trading, and should not be mandated by regulation? If so, please explain.
43. Are the procedures described above for the development and testing of Algorithmic Trading sufficient to ensure that algorithmic systems are thoroughly tested before being used in production, and will operate in the manner intended in the production environment?
44. Are there any additional procedures for the development and testing of Algorithmic Trading that should be required under Regulation AT?
45. Are any of the required procedures for the development and testing of Algorithmic Trading likely to become obsolete in the near future as development and testing standards evolve?
46. Are the procedures for designating and training Algorithmic Trading staff of AT Persons sufficient to ensure that such staff will be knowledgeable in the strategy and operation of Algorithmic Trading, and capable of identifying Algorithmic Trading Events and promptly escalating them to appropriate staff members?
47. Is it typical that persons responsible for monitoring algorithmic trading do not simultaneously engage in trading activity?
48. Proposed §§ 1.80, 1.81, and 1.83 would impose certain requirements on all AT Persons regardless of the size, sophistication, or other attributes of their business. The Commission requests public comment regarding whether these requirements should vary in some manner depending on the AT Person. If commenters believe proposed §§ 1.80, 1.81, and 1.83 should vary, please describe how and according to what criteria.

IV(J) Risk Management by Clearing Member FCMs -- § 1.82

49. Are any pre-trade or other risk controls required by § 1.82 ineffective, not already widely used by clearing member FCMs, or likely to become obsolete?
50. Are there any aspects of proposed § 1.82 that pose an undue burden for clearing member FCMs and are unnecessary for purposes of reducing the risks associated with Algorithmic Trading? If so, please explain (1) the burden; (2) why it is not necessary to reduce the risks associated with Algorithmic Trading, particularly in the case of DEA. What alternatives are available consistent with the purposes of Regulation AT?
51. Please describe the technological development that would be required by clearing member FCMs to comply with the requirement to implement and calibrate the pre-trade and other risk controls required by § 1.82(c) for non-DEA orders. To what extent have clearing member FCMs already developed the technology required by this provision, for example in connection with existing requirements under § 1.11, and §§ 1.73 and 38.607 for clearing FCMs to manage financial risks?
52. Are there additional pre-trade or other risk controls that should be specifically required pursuant to proposed § 1.82?
53. Do you believe that the pre-trade and other risk controls required in § 1.82 sufficiently address the possibility of technological advances in trading and development of new, more effective controls that should be implemented by FCMs?
54. The Commission welcomes comment on whether the requirements of § 1.82 relating to the design of controls and the levels at which the controls should be set are appropriate and sufficiently granular.
55. Proposed § 1.82 does not require FCMs to have connectivity monitoring such as "system heartbeats" or automatic cancel-on-disconnect functions. Do you believe that § 1.82 should require FCMs to have such functionality?
56. Proposed § 1.82 requires clearing FCMs to implement controls with respect to AT Order Messages originating with an AT Person. The Commission is considering modifying proposed § 1.82 to require clearing FCMs to implement controls with respect to all orders, including orders that are manually submitted or are entered through algorithmic methods that nonetheless do not meet the definition of Algorithmic Trading. Such a requirement would correspond to the requirement under proposed § 40.20(d) that DCMs implement risk controls for orders that do not originate from Algorithmic Trading. If the Commission were to incorporate such amendments in any final rules arising from this NPRM, its intent would be to further reduce risk by ensuring that all orders, regardless of source, are screened for risk at both the clearing member FCM and the DCM level. Risk controls at the point of order origination would continue to be limited to AT Persons. The

Commission requests comment on this proposed amendment to § 1.82, which the Commission may implement in the final rulemaking for Regulation AT. The Commission requests comment on the costs and benefits to clearing FCMs of this proposal, in addition to any other comments regarding the effectiveness of this proposal in terms of risk reduction.

IV(K) Compliance Reports Submitted by AT Persons and Clearing FCMs to DCMs; Related Recordkeeping Requirements -- § 1.83

57. The Commission welcomes comment on the type of information that should be included in the reports required by proposed § 1.83. Should different or additional descriptions be included in the reports, which will be evaluated by DCMs under proposed § 40.22?
58. How often should the reports required by proposed § 1.83 be submitted to the relevant DCMs? Should the report be submitted more or less frequently than annually?
59. When should the reports required by proposed § 1.83 be submitted to the relevant DCMs? Should the reports be submitted on a date other than June 30 of each year?
60. Should a representative of the AT Person or clearing member FCM other than the chief executive officer or the chief compliance officer be responsible for certifying the reports required by proposed § 1.83? Should only the chief executive officer be permitted to certify the report? Alternatively, should only the chief compliance officer be permitted to certify the report?
61. Are there any aspects of proposed § 1.83(b) that pose an undue burden for clearing member FCMs and are unnecessary for purposes of reducing the risks associated with Algorithmic Trading? If so, please explain (1) the burden; (2) why it is not necessary to reduce the risks associated with Algorithmic Trading, particularly in the case of DEA. What alternatives are available consistent with the purposes of Regulation AT, including in particular Regulation AT's intent that § 1.83 reports benefit from the third-party SRO review performed by DCMs with respect to such reports?
62. Should the reports required by proposed § 1.83 be sent to any entity other than each DCM on which the AT Person operates, such as the Commission or an RFA? For example, should the Commission require that AT Persons that are members of a RFA send compliance reports to RFA upon NFA's request?
63. Proposed § 1.83(c) includes recordkeeping requirements imposed on AT Persons, and proposed § 1.83(d) includes recordkeeping requirements imposed on clearing member FCMs. Should the recordkeeping requirements of § 1.83(c) be distributed throughout the sections of the Commission's regulations that contain recordkeeping requirements for various categories of Commission registrants that will be classified as AT Persons? Should § 1.83(d) be transferred to section 1.35 of the Commission's regulations, which contains recordkeeping requirements for clearing member FCMs?

IV(L) Direct Electronic Access Provided by DCMs -- § 38.255(b) and (c)

64. Are there any pre-trade and other risk controls required by § 38.255(b) and (c) that will be ineffective, not already widely provided by DCMs for use by FCMs, or likely to become obsolete?
65. Are there additional pre-trade or other risk controls that DCMs should be specifically required to provide to FCMs pursuant to proposed § 38.255(b) and (c)?
66. Do you believe that the pre-trade and other risk controls required pursuant to § 38.255(b) sufficiently address the possibility of technological advances in trading? For example, do they appropriately address the potential for the future development of additional effective controls that should be provided by DCMs and implemented by FCMs?
67. The Commission welcomes comment on whether §38.255(b)'s requirements relating to the design of controls and the levels at which the controls should be set are appropriate and sufficiently granular.
68. Proposed § 38.255(b) and (c) do not require DCMs to provide to FCMs connectivity monitoring systems such as "system heartbeats" or automatic cancel- on-disconnect functions. Should § 38.255 require such functionality?

IV(M) Disclosure and Transparency in DCM Trade Matching Systems --§ 38.401(a)

69. The Commission has proposed that certain components of an exchange's market architecture should be considered part of the "electronic matching platform" for purposes of the DCM transparency provision. Are there any additional systems that should fall within the meaning of "electronic matching platforms" for

purposes of proposed § 38.401(a)?

70. The Commission has specifically identified, as "attributes" that must be disclosed, latencies within a platform and how a self-trade prevention tool determines whether to cancel an order. Are there any other attributes that would materially affect the execution of market participant orders and therefore should be made known to all market participants? Should the Commission revise the final rule so that it only applies to latencies within a platform and how a self-trade prevention tool determines whether to cancel an order?
71. What information should be disclosed as part of the description of relevant attributes of the platform? For instance, with latencies within a platform, should statistics on latencies be required? If so, what statistics would help market participants assess any impact on their orders? Would a narrative description of attributes be preferable, including a description of how the attributes might affect market participant orders under different market conditions, such as during times of increased messaging activity?
72. The Commission notes that proposed §§ 38.401(a)(1)(iii) and (iv) are not intended to require the disclosure of a DCM's trade secrets. The Commission requests comments on whether the proposed rules might inadvertently require such disclosure, and if so, how they might be amended to address this concern. Furthermore, the Commission anticipates that the mechanisms and standards for requesting confidential treatment already codified in existing § 40.8 could be used by DCMs to identify and request confidential treatment for information otherwise required to be disclosed pursuant to proposed §§ 38.401(a)(1)(iii) and (iv), for example by incorporating § 40.8's mechanisms and standards into any final rules arising from this NPRM. If commenters believe that the mechanisms and standards in § 40.8 are inappropriate for this purpose, please describe any other mechanism that should be included in any final rules to facilitate DCM requests for confidential treatment of information otherwise required to be disclosed pursuant to proposed §§ 38.401(a)(1)(iii) and (iv).
73. The Commission notes that DCMs are required, as part of voluntary submissions of new rules or rule amendments under § 40.5(a) and self-certification of rules and rule amendment under § 40.6(a), to provide *inter alia* an explanation and analysis of the operation, purpose and effect of the proposed rule or rule amendment. Would the information required under §§ 40.5(a) or 40.6(a) provide market participants and the public with sufficient information regarding material attributes of an electronic matching platform?
74. The Commission recognizes that DCMs are required to have system safeguards to ensure information security, business continuity and disaster recovery under DCM Core Principle 20. The Commission understands that some attributes of an electronic matching platform designed to implement those safeguards should be maintained as confidential to prevent cybersecurity or other threats. Does existing § 40.8, 17 CFR § 40.8 (2014) provide sufficient basis for DCMs to publicly disclose the relevant attributes of their platforms while maintaining as confidential information concerning system safeguards?
75. With respect to material attributes affecting market participant orders caused by temporary or emergency situations, such as network outages or the temporary suspension of certain market functionality, what is the best way for DCMs to alert market participants? How are DCMs currently handling these situations?
76. The Commission proposes that DCMs provide a description of the relevant material attributes in a single document "disclosed prominently and clearly" on the exchange's website. The Commission also proposes that this document be written in "plain English" to allow market participants, even those not technically proficient, to understand the attributes described. Would these requirements be practical and help market participants locate and understand the information provided?
77. The Commission proposes requiring DCMs to disclose information on the relevant attributes: (a) when filing a rule change submission with the Commission for changes to the electronic matching platform; or (b) within a "reasonable time, but no later than ten days" following the identification of such attribute. Do the proposed timeframes provide sufficient time for DCMs to disclose the relevant information? Do the proposed timeframes offer sufficient notice of changes or discovered attributes to market participants to allow them to adjust any systems or strategies, including any algorithmic trading systems?
78. The Commission proposes requiring disclosure of newly identified attributes within 10 days of discovery. Does this provide DCMs sufficient time to analyze the attribute and provide a description? Should DCMs be required to provide notice of the existence of the attribute and supplement as further analysis is performed?

IV(N) Pre-Trade and Other Risk Controls at DCMs -- § 40.20

79. The Commission proposes to require DCMs to set pre-trade risk controls at the level of the AT Person, and allows discretion to set controls at a more granular level. Should the Commission eliminate this discretion, and require that the controls be set at a specific, more granular, level? If so, please explain the more appropriate level at which pre-trade risk controls should be set by a DCM.
80. The Commission requests public comment on the pre-trade and other risk controls required of DCMs in proposed §40.20. Are any of the risk controls required in the proposed rules unhelpful to operational or other risk mitigation, or to market stability, when implemented at the DCM level?
81. Are there additional pre-trade or other risk controls that should be specifically enumerated in proposed § 40.20?
82. The Commission proposes, with respect to its kill switch requirements, to allow DCMs the discretion to design a kill switch that allows a market participant to submit risk-reducing orders. The Commission also does not mandate particular procedures for alerts or notifications concerning kill switch triggers. Does the proposed rule allow for sufficient flexibility in the design of kill switch mechanisms and the policies and procedures concerning their implementation? Should the Commission consider more prescriptive rules in this area?
83. Does existing § 38.1051 provide the Commission with adequate authority to require DCMs to adequately test planned changes to their matching engines and other automated systems?

IV(O) DCM Test Environments for AT Persons -- § 40.21

84. Should the test environment provided by DCMs under proposed § 40.21 offer any other functionality or data inputs that will promote the effective design and testing of Algorithmic Trading by AT Persons?

IV(P) DCM Review of Compliance Reports by AT Persons and Clearing FCMs – § 40.22

85. In lieu of a DCM's affirmative obligation in proposed § 40.22 to review AT Person and clearing member FCM compliance reports, should DCMs instead be permitted to rely on the CEO or CCO representations required by proposed §1.83(a)(2)? If so, what events in the Algorithmic Trading of an AT Person should trigger review obligations by the DCM?
86. Should §40.22(c) provide more specific requirements regarding a DCM's establishment of a program for effective periodic review and evaluation of AT Person and clearing member FCM reports? For example, § 40.22(c) could require review at specific intervals (e.g., once every two years). Alternatively, § 40.22(c) could provide greater discretion to DCMs in establishing their programs for the review of reports. Please comment on the appropriateness of these alternative approaches.
87. Should §40.22(e) provide more specific requirements regarding the triggers for a DCM to review and evaluate the books and records of AT Persons and clearing member FCMs required to be kept pursuant to § 40.22(d)? For example, § 40.22(e) could require review at specific intervals (e.g., once every two years), or it could require review in response to specific events related to the Algorithmic Trading of AT Persons. Please comment on the appropriateness of these alternative approaches.
88. Does § 40.22 leave enough discretion to the DCM in determining how to design and implement an effective compliance review program regarding Algorithmic Trading? Alternatively, is there any aspect of this regulation that should be more specific or prescriptive?
89. Should § 40.22 specifically authorize a DCM to establish further standards for the organization, method of submission, or other attributes of the reports described in § 40.22(a)?

IV(Q) Self-Trade Prevention Tools – § 40.23

90. The Commission seeks to require self-trade prevention tools that screen out unintentional self-trading, while permitting bona-fide self-matched trades that are undertaken for legitimate business purposes. Under the regulations proposed above, DCMs shall implement rules reasonably designed to prevent self-trading ("the matching of orders for accounts that have common beneficial ownership or are under common control"), but DCMs may in their discretion implement rules that permit "the matching of orders for accounts with common beneficial ownership where such orders are initiated by independent decision makers."
    a. Do these standards accomplish the goal of preventing only unintentional self-trading, or would other standards be more effective in accomplishing this goal? For example, should the Commission consider adopting in any final rules arising from this NPRM an alternative requirement modeled on FINRA Rule 5210 and require market participants to implement policies and procedures to review

their trading activity for, and a prevent a pattern of, self-trades?

b. While the regulations contain exceptions for bona fide self-match trades (described in § 40.23(b)), the regulations are intended to prevent all unintentional self-trading, and do not include a de minimis exception for a certain percentage of unintentional self- trading. Should the regulations permit a certain de minimis amount of unintentional self-trading, and if so, what amount should be permitted (e.g., as a percentage of monthly trading volume)?
c. The following terms are used in proposed § 40.23(a) and (b): (1) self-trading, (2) common beneficial ownership, (3) independent decision makers, and (4) common control. Do any of these terms require further definition? If so, how should they be defined? Should any alternatives be used and, if so, how should such substitute terms be defined?
d. With respect to “common beneficial ownership,” the Commission requests comment on the minimum degree of ownership in an account that should trigger a determination that such account is under common beneficial ownership. For example, should an account be deemed to be under common beneficial ownership between two unrelated persons if each person directly or indirectly has a 10% or more ownership or equity interest in such account? The Commission refers commenters to the aggregation rules in part 150 of its regulations, including specifically § 150.4, and requests comment on a potential Commission definition of common beneficial ownership that is modeled on § 150.4.
e. The Commission also requests comment on whether “common beneficial ownership” should be defined in any final rules arising from this NPRM, or whether such definition should be left to each DCM with respect to its program for implementing proposed § 40.23.

91. Are there any other types of self-trading that should be permitted in addition to the exceptions permitted in § 40.23(b)(i) and (ii)? If so, please describe such other types of acceptable self-trading and explain why they should be permitted.
92. Proposed § 40.23 provides that DCMs may comply with the requirement to apply, or provide and require the use of, self-trade prevention tools by requiring market participants to identify to the DCM which accounts should be prohibited from trading with each other. With respect to this account identification process, the Commission’s principal goal is to prevent unintentional self-trading; the Commission does not have a specific interest in regulating the manner by which market participants identify to DCMs the account that should be prohibited from trading from each other, so long as this goal is met. Should any other identification methods be permitted in § 40.23? For example, please comment on whether the opposite approach is preferable: market participants would identify to DCMs the accounts that should be permitted to trade with each other (as opposed to those accounts that should be prevented from trading with each other).
93. The Commission believes that its requirements concerning self-trade prevention tools must strike the appropriate balance between flexibility (allowing market participants with diverse trading operations and strategies the discretion in implementation so as effectively prevent only unintentional self-trades) and simplicity (a variety of design and implementation options may render this control too complex to be effective). Does the Commission allow sufficient discretion to exchanges and market participants in the design and implementation of self- trade prevention tools? Is there any area where the Commission should be more prescriptive? The Commission is particularly interested in whether there is a particular level at which it should require implementation of self-trade prevention tools, i.e., if the tools must prevent matching of orders from the same trading firm, the same trader, the same trading algorithm, or some other level.
94. Proposed § 40.23(a) would require DCMs to either apply, or provide and require the use of, self-trade prevention tools. Please comment whether § 40.23(a) should, in addition, permit market participants to develop and use their own self- trade prevention tools, and if so, what additional regulations would ensure that DCMs are able to: ensure that such tools are comparable to DCM-provided tools; monitor the performance of such tools; and otherwise review such tools and ensure that they are sufficiently rigorous to meet the requirements of § 40.23.
95. Is it appropriate to require implementation of self-trade prevention tools with respect to all orders? Should such controls be mandatory for only a particular subset of orders, i.e., orders from AT Persons or orders submitted through DEA?
96. Please comment on the requirement that DCMs disclose self-trade statistics. Is the data required to be disclosed appropriate? Is there any other category of self- trade data that DCMs should be required to

disclose?

97. Should DCMs be required to disclose the amount of unintentional self-trading that occurs each month, alongside the self-trade statistics required to be published under proposed § 40.23(d)?
98. As noted above, the Commission understands that there is some potential for self- trade prevention tools to be used for wrongful activity that may include disruptive trading or other violations of the Act or Commission regulations on DCMs. Are there ways to design self-trade prevention tools so that they do not facilitate disruptive trading (such as spoofing) or other violations of the Act or Commission regulations on DCMs? Are additional regulations warranted to ensure that such tools are not used to facilitate such activities?

IV(R) DCM Market Maker and Trading Incentive Programs -- §§ 40.25–

99. To what extent do market participants currently trade in ways designed primarily to collect market maker or trading incentive program benefits, rather than for risk management purposes?
100. To what extent do that market maker and trading incentive programs currently provide benefits for self-trades? To what extent do market participants collect such benefits for self-trades?
101. The Commission requests comment regarding whether the information proposed to be collected in § 40.25 would be sufficient for it to determine whether a DCM's market-maker or trading incentive program complies with the impartial access requirements of § 38.151(b). If additional or different information would be helpful, please identify such information.
102. The Commission requests comment regarding whether DCMs should be required to maintain on their public websites the information required by proposed §§ 40.25(a) and 40.25(b) for an additional period beyond the end of the market maker or trading incentive program. The Commission may determine to include in any final rules arising from this NPRM a requirement that such information remain publicly available pursuant to proposed § 40.25(b) for an additional period up to six months following the end of a market maker or trading incentive program.
103. The Commission requests comment regarding whether the text of proposed § 40.27(a) identifies with sufficient particularity the types of trades that are not eligible for payments or benefits pursuant to a DCM market-maker or trading incentive program. What amendments, if any, are necessary to clearly identify trades that are not eligible?
104. Section 40.27(a) provides that DCMs shall implement policies and procedures that are reasonably designed to prevent the payment of market-maker or trading incentive program benefits for trades between accounts under common ownership. Are there any other types of trades or circumstances under which the Commission should also prohibit or limit DCM market-maker or trading incentive program benefits?
105. The Commission is proposing in § 40.27(a) certain requirements regarding DCM payments associated with market maker and trading incentive programs. Please address whether the proposed rules will diminish DCMs' ability to compete or build liquidity by using market maker or trading incentive programs. Does any DCM consider it appropriate to provide market maker or trading incentive program benefits for trades between accounts known to be under common beneficial ownership?
106. In any final rules arising from this NPRM, should the Commission also prohibit DCMs from providing trading incentive program benefits where such benefits on a per-trade basis are greater than the fees charged per trade by such DCMs and its affiliated DCO (if applicable)? The Commission also specifically requests comment on the extent, if any, to which one or more DCMs engage in this practice.
107. Proposed § 40.25(b) imposes certain transparency requirements with respect to both market maker and trading incentive programs. The Commission requests public comment regarding:
    a. The most appropriate place or manner for a DCM to disclose the information required by proposed § 40.25 (b);
    b. The benefits or any harm that may result from such transparency, including any anti-competitive effect or pro-competitive effect among DCMs or market participants;
    c. Whether transparency as proposed in § 40.25(b) is equally appropriate for both market maker programs and trading incentive programs, or are the proposed requirements more or less appropriate for one type of program over the other?
    d. Whether any of the enumerated items required to be posted on a DCM's public website pursuant to proposed § 40.25(b) could reasonably be considered confidential information that should not be

available to the public, and if so, what process should be available for a DCM to request from the Commission an exemption from the requirements of proposed § 40.25(b) for that specific enumerated item?

A. Calculation of Number of Persons Subject to Regulations

108. The Commission requests comment on its calculation of the number of AT Persons, newly registered floor traders, clearing member FCMs, and DCMs that will be subject to Regulation AT.

C. Regulatory Flexibility Act Analysis

109. The Commission requests comment on each element of its RFA analysis. In particular, the Commission specifically invites comment on the accuracy of its estimates of potential firms that could be considered "small entities" for RFA purposes.
110. The Commission also requests comment on whether any natural persons will be designated as AT Persons under the proposed definition of that term.

E. Cost Benefit Considerations

111. Beyond specific questions interspersed throughout its discussion, the Commission generally requests comment on all aspects of its consideration of costs and benefits, including: (a) identification, quantification, and assessment of any costs and benefits not discussed therein; (b) whether any of the proposed regulations may cause FCMs or DCMs to raise their fees for their customers, or otherwise result in increased costs for market participants and, if so, to what extent; (c) whether any category of Commission registrants will be disproportionately impacted by the proposed regulations, and if so whether the burden of any regulations should be appropriately shifted to other Commission registrants; (d) what, if any, costs would likely arise from market participants engaging in regulatory arbitrage by restructuring their trading activities to trade on platforms not subject to the proposed regulations, or taking other steps to avoid costs associated with the proposed regulations; (e) quantitative estimates of the impact on transaction costs and liquidity of the proposals contained herein; (f) the potential costs and benefits of the alternatives that the Commission discussed in this release, and any other alternatives appropriate under the CEA that commenters believe would provide superior benefits relative to costs; (g) data and any other information to assist or otherwise inform the Commission's ability to quantify or qualitatively describe the benefits and costs of the proposed rules; and (h) substantiating data, statistics, and any other information to support positions posited by commenters with respect to the Commission's consideration of costs and benefits.

§ 1.80 Pre-Trade and Other Risk Controls

112. How would an alternative definition of Algorithmic Trading that excludes automated order routers affect the costs and benefits of the pre-trade and other risk controls in comparison to the costs and benefits of the proposed definition that includes automated order routers? Would such an alternative definition reduce the number of AT Persons captured by Regulation AT?
113. Would the benefits of Regulation AT be enhanced significantly if the definition of Algorithmic Trading were modified to capture a conduit entity such as a non- clearing FCM, thereby making the entity an AT Person subject to Regulation AT? How would such a modification affect costs?
114. Would the benefits of Regulation AT be enhanced significantly if the definition of Algorithmic Trading were expanded to encompass orders that are generated using algorithmic methods (e.g., an algorithm generates a buy or sell signal at a particular time), but are then manually entered into a front-end system by a natural person? How would such a modification affect costs? Please comment on the costs and benefits of an alternative whereby the Commission would implement specific rules regarding the appropriate design of the specific controls required by Regulation AT and compare them to the costs and benefits of the Commission's proposal whereby the relevant entities – trading firms, clearing firms, and DCMs – would have the discretion to determine the appropriate design of those controls.
115. Does one particular segment of trading firms, clearing member FCMs or DCMs (e.g., smaller entities) currently implement fewer of the pre-trade and other risk controls required by Regulation AT than some other segment of trading firms, clearing member FCMs or DCMs? If so, please describe any unique or

additional costs that will be imposed on such persons to develop the technology and systems necessary to implement the pre-trade and other risk controls required by Regulation AT.

116. In question 14, the Commission asks whether there are any AT Persons who are natural persons. Would AT Persons who are natural persons (or sole proprietorships with no employees other than the sole proprietor) be required to hire staff to comply with the risk control, testing and monitoring, or compliance requirements of Regulation AT?
117. Do you agree with the accuracy of cost estimates provided by the Commission as to how much it will cost a trading firm, clearing member FCM or DCM to internally develop the technology and systems necessary to implement the pre- trade and other risk controls required by Regulation AT? If you disagree with the Commission's analysis, please provide your own quantitative estimates, as well as data or other information in support. Please specify in your answer the type of entity and which specific pre-trade risk or order management controls for which you are providing estimates. In addition, please differentiate between the situations where an entity (i) already has partially compliant controls in place, and only needs to upgrade such technology and systems to bring it into compliance with the regulations; and (ii) needs to build such technology and systems from scratch. Please include, as applicable, hardware and software costs as well as the hourly wage information of the employee(s) necessary to develop such risk controls (i.e., technology personnel such as programmer analysts, senior programmers and senior systems analysts).
118. The Commission has assumed that the effort to adjust any one risk control (by "control," in this context, the Commission means the pre-trade risk controls, order cancellation systems, and connectivity systems required by § 1.80) will require assessment and possible modifications to all controls. Is this assumption correct, and if not, why not?
119. As indicated above, the Commission lacks sufficient information to provide full estimates of costs that a trading firm, clearing member FCM or DCM will incur if it chooses not to internally develop such controls, and instead purchases the solutions of an outside vendor in order to comply with Regulation AT's pre- trade and other risk controls requirements. Please provide quantitative estimates of such costs, including supporting data or other information. In addition, please specify in your answer the type of entity and which specific pre-trade risk or order management control for which you are providing estimates. In addition, please differentiate between the situations where an entity (i) already uses an outside vendor to at least some extent to implement the controls; and (ii) does not currently implement the controls and must obtain all applicable technology and systems from an outside vendor necessary to comply with Regulation AT. Please include, if applicable hardware and software costs as well as the hourly wage information of the employee(s) necessary to effectuate the implementation of such controls from an outside vendor.
120. Do you agree with the Commission's estimates of how much it will cost a trading firm, clearing member FCM or DCM to annually maintain the technology and systems for the pre-trade and other risk controls required by Regulation AT, if it uses internally developed technology and systems? If not please provide quantitative estimates and supporting data or other information with respect to how much it will cost a trading firm, clearing member FCM or DCM to annually maintain the technology and systems for pre-trade and other risk controls required by Regulation AT, if it uses an outside vendor's technology and systems.
121. Is it correct to assume that many of the trading firms subject to § 1.80 are also subject to the SEC's Market Access Rule, and, accordingly, already implement many of the systems required by Regulation AT for purposes of their securities trading? Please specify in your answer the type of entity and which specific pre-trade risk or order management control is already required pursuant to the Market Access Rule, and the extent of the overlap.
122. Please comment on the costs and benefits (including quantitative estimates with supporting data or other information) to clearing FCMs of an alternative to proposed § 1.82 that would require clearing FCMs to implement controls with respect to all orders, including orders that are manually submitted or are entered through algorithmic methods that nonetheless do not meet the definition of Algorithmic Trading and compare those costs and benefits to those costs and benefits of proposed § 1.82.
123. Please comment on the additional costs (including quantitative estimates with supporting data or other information) to AT Persons of complying with each of the following specific requirements of § 1.80:
    a. § 1.80(a)(ii) (pre-trade risk control threshold requirements);
    b. § 1.80(a)(iii) (natural person monitors must be alerted when thresholds are breached) 464
    c. § 1.80(d) (notification to DCM and clearing member FCM that AT Person will use Algorithmic Trading);

d. § 1.80(e) (self-trade prevention tools); and
e. § 1.80(f) (periodic review of pre-trade risk controls and other measures for sufficiency and effectiveness).

124. The Commission welcomes comment on the estimated costs of the pre-trade risk controls proposed in § 1.80 as compared to the annual industry expenditure on technology, risk mitigation and/or technology compliance systems.
125. Please comment on the costs to AT Persons and clearing member FCMs of complying with DCM rules requiring retention and production of records relating to §§ 1.80, 1.81 and 1.82 compliance, pursuant to § 40.22(d), including without limitation on the extent to which AT Persons and clearing member FCMs already have policies, procedures, staffing and technological infrastructure in place to retain such records and produce them upon DCM request.
126. The Commission anticipates that Regulation AT may promote confidence among market participants and reduce market risk, consequently reducing transaction costs, but has not estimated this reduction in transaction costs. The Commission welcomes comment on the extent to which Regulation AT may impact transaction costs and effects on liquidity provision more generally.

AT Person Membership in RFA; RFA Standards for Automated Trading and Algorithmic Trading Systems

127. The Commission estimates that the costs of membership in an RFA associated with proposed § 170.18 will encompass certain costs, such as those associated with NFA membership dues. Has the Commission correctly identified the costs associated with membership in an RFA?
128. The Commission expects that entities that will be required to become members of an RFA would not incur any additional compliance costs as a result of their membership in an RFA. The Commission requests comment on the accuracy of this expectation. What additional compliance costs, if any, would a registrant face as a result of being required to become a member of an RFA pursuant to proposed § 170.18?
129. Has the Commission accurately estimated that approximately 100 entities will be affected by the membership requirements of § 170.18?
130. The Commission invites estimates on the cost to an RFA to establish and maintain the program required by § 170.19, and the amount of that cost that will be passed along to individual categories of AT Person members in the RFA.

Development, Testing and Supervision of Algorithmic Systems

131. Proposed § 1.81(a) establishes principles-based standards for the development and testing of Algorithmic Trading systems and procedures, including requirements for AT Persons to test all Algorithmic Trading code and related systems and any changes to such code and systems prior to their implementation. AT Persons would also be required to maintain a source code repository to manage source code access, persistence, copies of all code used in the production environment, and changes to such code, among other requirements. Are any of the requirements of § 1.81(a) not already followed by the majority of market participants that would be subject to § 1.81(a) (or some particular segment of market participants), and if so, how much will it cost for a market participant to comply with such requirement(s)?
132. Proposed § 1.81(b) requires that an AT Person's Algorithmic Trading is subject to continuous real-time monitoring and supervision by knowledgeable and qualified staff at all times while Algorithmic Trading is occurring. Proposed § 1.81(b) also requires automated alerts when an Algorithmic Trading system's AT Order Message behavior breaches design parameters, upon loss of network connectivity or data feeds, or when market conditions approach the boundaries within which the ATS is intended to operate, to the extent applicable, among other monitoring requirements. Are any of the requirements of § 1.81(b) not already followed by the majority of market participants that would be subject to § 1.81(b), and if so, how much will it cost for a market participant to comply with such requirement(s)?
133. Proposed § 1.81(c) requires that AT Persons implement policies designed to ensure that Algorithmic Trading operates in a manner that complies with the CEA and the rules and regulations thereunder. Among other controls, the policies should include a plan of internal coordination and communication between compliance staff of the AT Person and staff of the AT Person responsible for Algorithmic Trading regarding Algorithmic Trading design, changes, testing, and controls. Are any of the requirements of § 1.81(c) not already followed

by the majority of market participants that would be subject to § 1.81(c), and if so, how much will it cost for a market participant to comply with such requirement(s)?

134. Proposed § 1.81(d) requires that AT Persons implement policies to designate and train their staff responsible for Algorithmic Trading, which policies should include procedures for designating and training all staff involved in designing, testing and monitoring Algorithmic Trading. Are any of the requirements of § 1.81(d) not already followed by the majority of market participants that would be subject to § 1.81(d), and if so, how much will it cost for a market participant to comply with such requirement(s)?

AT Person and FCM Compliance Reports

135. Please comment on whether any of the alternatives discussed above regarding compliance reports would provide a superior cost-benefit profile relative to the Commission's proposal.

DCM test environments

136. Do any DCMs not currently offer a test environment that simulates production trading to their market participants, as would be required by proposed § 40.21? If so, how much would it cost a DCM to implement a test environment that would comply with the requirements of § 40.21?

DCM review of compliance reports

137. Please comment on the cost estimates provided above with respect to DCMs' review of compliance reports provided under § 40.22 and related review requirements, including the estimated cost for DCMs to: establish the review program required by § 40.22; review the reports provided by AT Persons and clearing member FCMs; communicate remediation instructions to a subset of AT Persons and clearing member FCMs; and review and evaluate, as necessary, books and records of AT Persons and clearing member FCMs as contemplated by proposed § 40.22(e).

Section 15(a) considerations

138. The Commission requests comment on its discussion of the effects of the proposed rules on the considerations in § 15(a) of the CEA.
139. Are the compliance costs associated with the proposed rules of sufficient magnitude to potentially cause smaller market participants, FCMs, or DCMs to cease or scale back operations? Do these costs create significant barriers to entry?

Registration -- § 1.3(x)(3)

140. The Commission estimates that the costs of registration will encompass direct costs (those associated with NFA membership, and reporting and recordkeeping with the Commission), and indirect costs (e.g. those associated to risk control requirements placed on all registered entities). Has the Commission correctly identified the costs associated with the new registration category? What firm characteristics would change the level of direct and indirect costs associated with the registration?
141. Has the Commission accurately estimated that approximately 100 currently unregistered entities will be captured by the new registration requirement in proposed § 1.3(x)(3).
142. Has the Commission accurately estimated that each currently unregistered entity captured by the new registration requirement in proposed § 1.3(x)(3) will have approximately 10 persons required to file Form 8-R?
143. As defined, the new floor trader category restricts the registration requirement to those who make use of Direct Electronic Access. Is this requirement overly restrictive or unduly broad from a cost-benefit perspective? Are there alternate, or additional, characteristics of trading activity to determine registration status that would be preferable from a cost-benefit standpoint? For example, should persons with trading volume or message volume below a specified threshold be exempted from registration?
144. Will any currently unregistered entities change their business model or exit the market in order to avoid the proposed registration requirement?
145. The Commission believes that the risk control protocols required of registered entities, specifically those under the new registration category, will provide a general benefit to the safety and soundness of market

activity and price formation. Has the Commission correctly identified the type and level of benefits which arise from placing these requirements on a new set of significant market participants?

146. The Commission requests comment on its discussion of the effects of the proposed rules on the considerations in § 15(a) of the CEA.

Transparency in Exchange Trade Matching Systems

147. The Commission anticipates that costs associated with the transparency requirement would come from some additional testing of platform systems and from drafting and publishing descriptions of any relevant attributes of the platform. What new costs would be associated with providing descriptions of attributes of electronic matching platforms that affect market participant orders and quotes?
148. Please compare the costs and benefits of the alternative of applying the transparency requirement only with respect to latencies within a platform and how a self-trade prevention tool determines whether to cancel an order with the costs and benefits of the proposed rule.
149. What benefits might market participants receive through increased transparency into the operation of electronic matching platforms, particularly for those market participants without direct electronic access who may not be able to accurately measure latencies or other metrics of market efficiency?
150. The Commission requests comment on its discussion of the effects of the proposed rules on the considerations in § 15(a) of the CEA.

Self-Trade Prevention

151. Please comment on the cost estimates described above for DCMs and market participants to comply with the requirements of § 40.23. The Commission is interested in commenter opinion on all aspects of its analysis, including its estimate of the number of entities impacted by the proposed regulation and the amount of costs such entities may incur to comply with the regulation.
152. Please comment on the benefits described above. Do you agree with the Commission's position that self-trade prevention requirements will result in more accurate indications of the level of market interest on both sides of the market and help ensure arms-length transactions that promote effective price discovery? Are there additional benefits to regulatory self-trade prevention requirements not articulated above?
153. Are there any DCMs that neither internalize and apply self-trade prevention tools, nor provide self-trade prevention tools to their market participants? If so, please provide an estimate of the cost to such a DCM to comply with the requirement under § 40.23(a) to apply, or provide and require the use of, self- trade prevention tools.
154. Would any DCMs that currently offer self-trade prevention tools need to update their tools to meet the requirements of § 40.23? If so, please provide an estimate of the cost to such a DCM to comply with the requirements of § 40.23.
155. What percentage of market participants do not currently make use of exchange- provided self-trade prevention tools, when active on a DCM that provides, but does not require such tools? Please provide an estimate of the cost to such a market participant to initially calibrate and use exchange-provided self-trade prevention tools, in accordance with § 40.23. Please also comment on any other direct or indirect costs to a market participant that does not currently use self- trade prevention tools arising from the proposed requirement to implement such tools.
156. The Commission estimates above that the number of market participants that will submit the approval requests described by § 40.23(c) is approximately equivalent to the number of AT Persons. Please comment on whether the estimate of the number of market participants submitting such approval requests should be higher or lower. For example, should the estimate be raised to account for proprietary algorithmic traders that will not be AT Persons, because they do not use Direct Electronic Access and therefore will not be required to register as floor traders?
157. Proposed § 40.23 provides that DCMs may comply with the requirement to apply, or provide and require the use of, self-trade prevention tools by requiring market participants to identify to the DCM which accounts should be prohibited from trading with each other. With respect to this account identification process, the Commission's principal goal is to prevent unintentional self-trading; the Commission does not have a specific interest in regulating the manner by which market participants identify to DCMs the account that should be

prohibited from trading from each other, so long as this goal is met. Should any other identification methods be permitted in § 40.23? For example, please comment on whether the opposite approach is preferable: market participants would identify to DCMs the accounts that should be permitted to trade with each other (as opposed to those accounts that should be prevented from trading with each other). In particular, please comment on whether this approach or other identification methods would reduce costs for market participants or be easier for both market participants and DCMs to administer.

158. The Commission requests comment on its discussion of the effects of the proposed rules on the considerations in § 15(a) of the CEA.

Market-Maker and Trading Incentive Programs

159. The Commission requests comment on the accuracy of its cost estimates.
160. To what extent are the costs imposed on the DCMs by the proposed rule already incurred pursuant to existing rules?
161. To what extent are the benefits of the proposed rule currently being realized?
162. Do DCM web sites currently provide adequate information regarding market- maker and trading incentive programs, and is such information easily located?
163. To what extent do DCMs currently make payments for self-trades pursuant to market-maker and trading incentive programs?
164. The Commission requests comment on its discussion of the effects of the proposed rules on the considerations in § 15(a) of the CEA.