

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

R. BRUCE JOSTEN  
EXECUTIVE VICE PRESIDENT  
GOVERNMENT AFFAIRS

1615 H STREET, N.W.  
WASHINGTON, D.C. 20062-2000  
202/463-5310

July 11, 2016

The Honorable K. Michael Conaway  
Chairman  
Committee on Agriculture  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Collin C. Peterson  
Ranking Member  
Committee on Agriculture  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Conaway and Ranking Member Peterson:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors and regions, as well as state and local chambers and industry associations and dedicated to promoting, protecting and defending America's free enterprise system, applauds your continued oversight of the Commodity Futures Trading Commission (CFTC) and its recently proposed regulation on automated trading (Reg AT).

During your upcoming hearing on Reg AT, the Chamber strongly urges you to examine and question the CFTC's unprecedented requirements on source code disclosure and retention. In short, the Chamber believes that these provisions trample fundamental due process rights, invite similar global responses on disclosing proprietary source code, increase the potential for cyberattacks, and do nothing to assist the CFTC in its market surveillance activities.

The attached letter from eight associations representing financial services firms, software and information technology companies, and businesses of all sizes demonstrates that there is a very real concern about the safety of proprietary source code data in the hands of the CFTC. This is particularly true in light of several recent cyberattacks on government agencies, which have targeted highly sensitive information such as social security numbers and tax returns. Moreover, the CFTC has not adequately demonstrated that it has the technical capability to even analyze source code once it is in its possession. The Chamber questions the purpose of requiring the disclosure of valuable intellectual property when it cannot even be used.

Moving forward with Reg AT in its current form would also contradict the U.S.'s response to comparable proposals in other countries, including China, India, Korea, and even the Trans-Pacific Partnership. Requiring source code retention and disclosure through Reg AT would only open the door for copycat measures from other countries, while contradicting established U.S. policy on intellectual property disclosure.

In conclusion, the Chamber strongly encourages you to examine why on-demand access to proprietary source code and the development of source code repositories are necessary for the CFTC's market surveillance activities. Without an adequate justification on why the information is necessary and whether it will be able to be used, the Chamber strongly believes that these provisions should be eliminated from Reg AT in their entirety.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten". The signature is fluid and cursive, with the first name "R." and last name "Josten" being the most legible parts.

R. Bruce Josten

cc: Members of the Committee on Agriculture