**MANAGED FUNDS ASSOCIATION**
The Voice of the Global Alternative Investment Industry
WASHINGTON, DC | NEW YORK

October 22, 2019

**Via Electronic Delivery**
Ms. Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

**Re: Cboe EDGA Liquidity Provider Protection Delay Mechanism Proposal; File No. SR-CboeEDGA-2019-012**

Dear Ms. Countryman:

Managed Funds Association[1] ("**MFA**") appreciates the opportunity to submit comments to the Securities and Exchange Commission ("**Commission**") Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to Introduce a Liquidity Provider Protection Delay Mechanism on EDGA ("**SEC Order**").[2] In June, Cboe EDGA Exchange, Inc. ("**EDGA**") submitted a rule filing to the SEC to introduce an asymmetric speed bump (the "**Proposal**") specifically designed to protect certain liquidity providers on EDGA.[3] As we detailed in our letter to the Commission on August 2, 2019 (the "**MFA Letter**"), we have serious concerns that the Proposal will negatively impact institutional investors and we respectfully urge the Commission to disapprove the Proposal.[4] Below, we respond to several comments made by EDGA and supporters of the Proposal in response to our concerns.

## I. The Proposal Will Harm Institutional Investors Accessing Displayed Liquidity

In the MFA Letter, we raised the concern that the Proposal unfairly discriminates against liquidity takers and will lead to poor execution outcomes for institutional investors as a result. One concrete example is that our members often send orders simultaneously to more than one execution venue in order to obtain the desired size through, for example, the use of intermarket sweep orders. In our view, the Proposal will

[1] Managed Funds Association (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, based in Washington, DC, is an advocacy, education, and communications organization established to enable hedge fund 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. MFA has cultivated a global membership and actively engages with regulators and policy makers in Asia, Europe, North and South America, and many other regions where MFA members are market participants.

[2] SEC Rel. No. 34-87096 (Sept. 24, 2019), available at: https://www.sec.gov/rules/sro/cboeedga/2019/34-87096.pdf.

[3] 84 Fed. Reg. 30282 (June 26, 2019), available at: https://www.govinfo.gov/content/pkg/FR-2019-06-26/pdf/2019-13537.pdf (the "**Proposal**").

[4] *See* letter from Mark D. Epley, Executive Vice President & Managing Director, General Counsel, MFA and Jennifer W. Han, Associate General Counsel, MFA, to Vanessa A. Countryman, Secretary, SEC, dated August 2, 2019, on the Cboe EDGA Asymmetric Speedbump Proposal; File No. SR-CboeEDGA-2019-012, available at: https://www.managedfunds.org/wp-content/uploads/2019/08/MFA-Comments-EDGA-Asymmetric-Speed-Bump.final_.8.2.19.pdf.

allow EDGA liquidity providers to observe the executions on other venues, and fade their displayed quotes in anticipation of a similar order traversing the EDGA asymmetric speed bump. This will increase quote fading and reduce fill rates for institutional investors, leading to poor execution outcomes.

One supporter of the Proposal specifically acknowledged this concern, and recommended that institutional investors modify their routing methodologies to route to EDGA first in order to mitigate such likely quote fading.[5] We submit that this proposed workaround does not work; institutional investors are being asked to assume the risk that the market will move against them while holding back on sending orders to all exchanges other than EDGA. In addition, the prospect of other exchanges introducing similar asymmetric speed bumps quickly renders this type of solution unworkable in practice.

Ultimately, in our view, the Commission should not approve a proposal that is specifically designed to allow liquidity providers to fade away from larger institutional orders. This will reduce access to displayed quotations and may increase overall transaction costs.[6]

## II. The Proposal Will Discriminate Against Institutional Investors

Some commenters have argued that the Proposal is not unfairly discriminatory.[7] In fact, the Proposal does discriminate amongst liquidity providers. As highlighted by other commenters,[8] the Proposal will unfairly discriminate against institutional investors wishing to submit resting orders. The vast majority of market participants will not be able to process and respond to the cross-market signals in the same way high-speed supporters of the Proposal can, and therefore will not benefit from the asymmetric speed bump when submitting resting orders. Instead, only a few supporters of the Proposal will be able to maintain top of queue position when advantageous to do so and to fade out of the way when advantageous to do so, leaving other market participants to be adversely selected.

Moreover, we are concerned that the Proposal will serve as a discriminatory fee on institutional investors contrary to the requirements of the Securities Exchange Act of 1934 for the equitable allocation of dues, fees and other charges.[9] As compared to other liquidity incentive schemes, such as maker-taker or taker-maker, which lay out clear incentive models that apply to all market participants, the Proposal allows liquidity providers to selectively discriminate against institutional investors by fading their displayed quote. In this sense, institutional investors will pay a fee for the provision of liquidity on EDGA. However, this fee—the difference between the execution the institutional investor would have received had the liquidity provider not faded it's displayed quote and the new execution price—will not be born equally by market participants. As such, we believe the Proposal is an unfair and inequitable fee on market participants. The Proposal will impose an opaque and discriminatory fee on institutional investors, which will be difficult for institutional investors to measure and evaluate in understanding their transaction costs, fees and best execution.

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[5] XTX Markets LLC (Americas) letter (July 31, 2019) at page 3, available at: https://www.sec.gov/comments/sr-cboeedga-2019-012/srcboeedga2019012-5898688-188828.pdf.

[6] Haoming Chen et. al., The Value of a Millisecond: Harnessing Information in Fast, Fragmented Markets, Nov. 18,2017, at p. 3, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2860359.

[7] *See* SEC Order at p. 9.

[8] *See* T. Rowe Price letter (July 17, 2019) at page 2, available at: https://www.sec.gov/comments/sr-cboeedga-2019-012/srcboeedga2019012-5821032-187473.pdf.

[9] *See* Section 6(b)(4) of the Securities Exchange Act of 1934 requiring that "The rules of the exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities."

### III. The Proposal is Unlikely to Improve Overall Market Quality

We join other commenters in asserting that the design of the speed bump is unlikely to incentivize EDGA liquidity providers to improve on the best bid or offer displayed on other markets.[10] EDGA and supporters of the Proposal continue to claim that the Proposal is designed to improve market quality by reducing the adverse selection risk for liquidity providers in order to encourage the provision of liquidity that is more aggressively priced;[11] this claim is unfounded. Instead, EDGA liquidity providers will tend to join an existing quote in order to maximize the ability to observe away executions, meaning that overall market quality will not improve. The Proposal will result in illusory quotes or liquidity, and displayed liquidity will be "conditional and less accessible" as liquidity providers will be able to back away from posted quotes.[12] Finally, the Proposal will deteriorate market quality by increasing the adverse selection risk for investors. As a result, our members do not expect any benefit from the Proposal, only the unfair and discriminatory costs detailed above. We ask that the Commission disapprove the proposal.

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MFA greatly appreciates the Commission's consideration of the issues raised in this letter. If the Commission or the staff have questions or comments, please do not hesitate to contact Jennifer Han, Associate General Counsel, at [redacted].

Respectfully submitted,

/s/ Mark D. Epley
Mark D. Epley
Executive Vice President & Managing Director,
General Counsel

/s/ Jennifer W. Han
Jennifer W. Han
Associate General Counsel

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[10] *See* BlackRock letter (Aug. 2, 2019) at page 2, available at: https://www.sec.gov/comments/sr-cboeedga-2019-012/srcboeedga2019012-5944502-189107.pdf.

[11] *See* SEC Order at p. 26.

[12] *See* SEC Order at p. 21.