



January 10, 2023

**VIA ELECTRONIC MAIL**

Assistant Secretary of the Commission for FOI  
Privacy and Sunshine Acts Compliance  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, DC 20581  
FOIAsubmissions@cftc.gov

**Re: FOIA Confidential Treatment Request**

Dear Sir or Madam,

We write to inform you that Railbird Exchange, LLC (“Railbird” or “we”) submitted on December 30, 2022 to the Commodity Futures Trading Commission (“CFTC”) the documents described in Appendix A to this letter (the “Confidential Submission”), as part of Railbird’s designated contract market (“DCM”) application, via electronic mail to the Secretary of the Commission and the Division of Market Oversight.

Pursuant to CFTC Regulation 145.9, 17 C.F.R. § 145.9, we hereby request that the CFTC afford confidential treatment to the Confidential Submission and any copies thereof. Furthermore, we request confidential treatment of any memoranda, notes, transcripts or other writings of any sort that are made by, or at the request of, any employee of the CFTC (or of any government employee, agent, or agency) and that: (1) incorporate or relate to any aspect of the Confidential Submission; or (2) refer to any conference, meeting, or telephone conversation between Railbird, its current or former employees, representatives, agents, auditors, or counsel on the one hand and employees of the CFTC (or of any other government agency) on the other hand, relating to the Confidential Submission (“Derivative Materials”).

We request confidential treatment on the grounds that, pursuant to 17 C.F.R. § 145.9(d)(1)(ii), the Confidential Submission and any Derivative Materials contain and constitute Railbird’s “trade secrets or confidential commercial or financial information” and other competitively sensitive information. Disclosure of the Confidential Submission or any Derivative Materials would place Railbird at a competitive disadvantage with competitors who do not publicly reveal such information. Therefore, the Confidential Submission and any Derivative Materials are subject to, at a minimum, the exemption from mandatory disclosure under Exemption Number 4 of the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). We also request confidential treatment pursuant to 17 C.F.R. § 145.9(d)(1)(iii) on the basis that disclosure of the Confidential Submission or any Derivative Materials would constitute a clearly unwarranted invasion of Railbird’s personal privacy and its employees’ personal privacy.

If any person (including any government employee who is not an employee of the CFTC) requests an opportunity to inspect or copy any of the Confidential Submission (or any Derivative Materials) or the CFTC receives any FOIA request or any other court order, subpoena or summons for the Confidential Submission (or any Derivative Materials), we request that we be immediately notified of any such request, be promptly furnished with all written materials pertaining to such request, and be given a reasonable opportunity to respond, as required by 17 C.F.R. § 145.9(e).

If the CFTC or its Staff tentatively concludes that the Confidential Submission or any Derivative Materials are not exempt from disclosure pursuant to FOIA or applicable CFTC regulations, we request, pursuant to 17 C.F.R. § 145.9(f), a nonpublic hearing on these claims of exemption and that we be given at least ten business days' notice prior to any intended release so that we may pursue any available remedies if deemed appropriate. Pursuant to 17 C.F.R. 145.9(d)(2), a copy of this letter is being provided to the relevant members of Staff at the CFTC who received the Confidential Submission. Additionally, we request that a copy of this letter accompany the Confidential Submission and related materials at all times.

In accordance with 17 C.F.R. §145.9(d)(5), we request that the Confidential Submission and any Derivative Materials be afforded confidential treatment in perpetuity. Thank you for your anticipated cooperation.

If you have any questions or require further information, please contact the undersigned at the address and telephone number below.

Miles Saffran  
Chief Executive Officer  
Railbird Exchange, LLC  
169 Madison Avenue  
New York, NY 10016  
(646) 362-9401  
[miles.saffran@railbirdexchange.com](mailto:miles.saffran@railbirdexchange.com)

With a copy to:

Neal Kumar  
Willkie Farr & Gallagher LLP  
1875 K Street, N.W.  
Washington, DC 20006  
(202) 303-1143  
[nkumar@willkie.com](mailto:nkumar@willkie.com)

Commodity Futures Trading Commission  
January 10, 2023

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Miles Saffran". The signature is written in a cursive style with a large, stylized "S" at the end.

Miles Saffran  
Chief Executive Officer

cc: Neal Kumar

**Appendix A**

**EXHIBIT U: Request for Confidential Treatment**

Railbird requests confidential treatment of the following information pursuant to §145.9 of the CFTC's regulations:

1. Exhibit A (ownership)
2. Exhibit B (officers and directors)
3. Exhibit C (fitness standards)
4. Exhibit D (organizational structure)
5. Exhibit E (personnel qualifications)
6. Exhibit F (staffing requirements)
7. Exhibit H (material pending litigations)
8. Exhibit I (financial resources and agreement and estimate of future operations)
9. Exhibit J (affiliate balance sheet and income statement)
10. Exhibit K (fees)
11. Exhibit N (third party contracts)
12. Exhibit O (trade practice, market and financial surveillance)
13. Exhibit P (disciplinary and enforcement)
14. Exhibit Q (trading system algorithms)
15. Exhibit R (trade practice violations)
16. Exhibit S (maintenance of trade data)
17. Exhibit T (clearing)
18. Exhibit V (Technology Questionnaire)