



November 15, 2019

BY ELECTRONIC SUBMISSION

U.S. Commodity Futures Trading Commission
Attention: FOIA Compliance Office
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: FOIA Request for Confidential Treatment for Information Provided by Eris Exchange LLC related to Proprietary Trading Group Liquidity Incentive Program Self Certification #2019-03

Dear Sir/Madam:

In accordance with Commission Regulation 145.9(d), Eris Exchange, LLC (“Eris Exchange” or “Exchange”) respectfully requests confidential treatment under the Freedom of Information Act (the “FOIA”), 5 U.S.C. § 552, for the enclosed submissions (containing the Exchange’s confidential commercial and financial information) submitted to the Commission through the CFTC Portal in compliance with the Exchange’s obligations under Commission regulation § 38.1101 on November 15, 2019, including subsequent emails and replies between Eris Exchange and Commission staff (the “Information”). Pursuant to Commission Regulation 145.9(d)(5), the Exchange respectfully requests that confidential treatment be maintained until further notice from Eris Exchange.

Eris Exchange is requesting confidential treatment for the Information pursuant to Commission regulation 145.9(d)(ii), which provides that confidential treatment may be requested on the grounds that disclosure would reveal trade secrets or confidential commercial or financial information. Under settled case law, there is a presumption of confidentiality for commercial information that is (1) provided voluntarily, and (2) is of a kind the provider would not customarily make available to the public, or where disclosure would cause substantial harm to the competitive position of the person from whom the information was obtained.¹ Eris Exchange provided the confidential Information to the Commission in connection with the above-referenced submission in compliance with Commission Regulations. The Information is proprietary information and would not customarily be made available to the public. Further, disclosure of the Information would cause significant competitive harm to the Exchange.

This request is not to be construed as a waiver of any other protection from disclosure or confidential treatment accorded by law, and Eris Exchange will rely on and invoke any such confidentiality protection. Eris Exchange requests notification from the Commission in advance of any disclosure of the Information pursuant to the FOIA or the Commission’s Rules of Practice so that this request for confidential treatment may be substantiated.

Sincerely,

A handwritten signature in black ink, appearing to read "DK", with a stylized flourish at the end.

David Karrow
Chief Regulatory Officer & Senior Counsel
david.karrow@erisx.com
(312) 626-2698

¹ See Mallinckrodt, Inc. v. West, 140 F.Supp.2d 1 (D.D.C., 2000) (comparing standards of confidentiality in Critical Mass Energy Project v. Nuclear Regulatory Commission, 975 F.2d 871, 878 (D.C. Cir 1992)(en banc) and National Parks Conservation Ass’n v. Morton, 498 F.2d 765 (D.C. Cir. 1974)).