



December 5, 2011

Commissioner Scott O'Malia  
U.S. Commodity Futures Trading Commission  
Three Lafayette Centre, 1155 21st Street NW  
Washington, DC 20581

**RE: TAC letter dated November 14, 2011**

Dear Commissioner O'Malia,

As a member of the CFTC's Technology Advisory Committee (TAC), I agree with your goal of developing a precise and reasoned definition of what constitutes High Frequency Trading (HFT).

Therefore, in response to your request to review the seven-part test for what constitutes an HFT, I provide the following thoughts on behalf of BG Group:

1. The use of extraordinarily high speed order submission, cancellation, or modification systems with speeds in excess of five milliseconds or generally very close to minimal latency of a trade.
  - In my view, this is the overarching test that must, at a minimum, be met first for any entity to be considered an HFT. Passing this (Speed) test, in and of itself does not make an entity an HFT; however, it is difficult to understand how any entity could be an HFT without this capability.
2. The use of computer programs or algorithms for automated decision making where order initiation, generating, routing and execution are determined by the system without human direction for each individual trade or order.
  - This (Program) test seems very broad. As written, the Program test could inadvertently capture end-users and traders who occasionally use proprietary trading tools or trading tools provided by exchanges to better manage their portfolio risk. For example,

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the Intercontinental Exchange (ICE) provides a free tool to its customers called the “ICE formula trader” that provides end-users with natural gas fired electricity generation the ability to execute automatic swaps trades between natural gas and power markets.

- This Program test should not be considered in isolation, but rather in conjunction with a Speed test and the holding period of the trade (Holding Period test) that I will cover in number 4.
3. The use of co-location services, direct market access, or individual data feeds offered by exchanges and others to minimize network and other types of latencies.
    - It would seem that this test is unnecessary and would be covered by the Speed test.
  4. Very short time frames for establishing and liquidating positions.
    - This Holding Period test should specify a period of time to be defined.
    - The Holding Period test should not be considered in isolation, but rather in conjunction with a Speed test and the Program test.
  5. High daily portfolio turnover and/or a high order-to-trade ratio intraday.
    - A high daily portfolio turnover and/or a high order-to-trade ratio intraday should not be used to determine an HFT.
    - There are many day traders that have high daily portfolio turnover, but would not pass the Speed, Program and Holding Period tests.
  6. The submission of numerous orders that are cancelled immediately or within milliseconds after submission.
    - The type of activity described herein appears to be “spoofing” since the “intent” to cancel the bid before execution would be programmed into the trades. Spoofing is prohibited by law and Commission regulation<sup>[1]</sup>. If my assumption is correct, then this test seems unnecessary.
  7. Ending the trading day in as close to a flat position as possible (not carrying significant, un-hedged positions overnight).
    - Numerous entities end the trading day carrying a flat position. This should not be considered as a test to determine an HFT.

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<sup>[1]</sup> New CEA section 4c(a)(5)(C) prohibits any trading, practice, or conduct that “is, is of the character of, or is commonly known to the trade as, “spoofing” (bidding or offering with the intent to cancel the bid or offer before execution).” See also Antidistruptive Trading Practices Authority, Proposed Interpretative Order, 76 Fed. Reg. 14943 (Mar. 18, 2011) (the “Proposed Order”).



In my opinion the seven-part test is too broad and could be reduced to a three-part test. Should the entity meet the Speed, Program and Holding Period tests then they would be an HFT. Meeting the actions of only one or two of the tests, including the Speed and Program tests, should not cause an entity to be designated an HFT.

I offer these preliminary thoughts as a basis for discussion and look forward to working with the group to develop an appropriate definition of HFT. Should you have additional inquiries, please do not hesitate to contact me.

Sincerely,

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