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

August 2, 2019

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

Re: Cboe EDGA Asymmetric Speedbump 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 ("**SEC**" or "**Commission**") on Cboe EDGA Exchange, Inc.'s ("**EDGA**") filing to introduce an asymmetric speed bump (the "**Proposal**").[2] This asymmetric speed bump is specifically designed to protect certain liquidity providers. While we appreciate EDGA's efforts at marketplace innovation, we have significant concerns that the Proposal is inconsistent with the Securities and Exchange Act of 1934 (the "**Act**") and would harm investors. As such, we respectfully urge the Commission to disapprove the Proposal.

The Proposal provides for an asymmetric speed bump, which would slow down incoming executable orders by four-milliseconds before trading with resting orders on the order book.[3] Non-executable orders that would add liquidity are excluded from the speed bump, as are cancelations and modifications of existing resting orders. Under the Proposal, quotes on EDGA would not be protected.

I. The Proposal is Inconsistent with the Act

MFA is concerned that the Proposal will discriminate against market participants, harm investors and impose an undue burden on competition. EDGA's Proposal is unlike existing exchange speed bumps that have been approved by the Commission.[4] These speed bumps have been implemented symmetrically,

[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] 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**").

[3] *Id.*

[4] *See, e.g.,* IEX Rule 11.510 available at: https://iextrading.com/docs/Investors%20Exchange%20Rule%20Book.pdf; *and* NYSE Rule 7.29E available at:

applying equally to all inbound (incoming orders, and requests to cancel or modify resting orders) and outbound (execution report) communications; thus, not providing a speed advantage to incoming or resting orders. MFA is concerned that the Proposal is inconsistent with Sections 6(b)(5) and (8) of the Act, which require that the rules of an exchange "not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers", "protect investors and the public interest" and to "not impose any burden on competition not necessary or appropriate".[5]

A speed bump that only applies to incoming executable orders and not to resting orders is unfairly discriminatory because it creates and provides an informational advantage to select broker-dealers over customers and other broker-dealers.[6] The Proposal provides market participants with speed advantages (*i.e.*, fast traders) the ability (during the four-millisecond delay) to observe traders' actions on other venues and use such information leakage to cancel a resting order ahead of executing against a *delayed* incoming order. We disagree with EDGA's view that the Proposal is not unfairly discriminatory because the delay is based on whether the incoming order is priced to remove or add liquidity on entry.[7] The reality is that the Proposal will only benefit a small subset of traders who have the ability and intention of exploiting a four-millisecond window to cancel or modify orders when the market moves against the order. We are concerned that the Proposal creates an unlevel playing field by allowing certain fast traders to benefit from information from other venues to the disadvantage of other market participants—namely investors. In addition, we are concerned that the asymmetric speed bump could undermine competition among market makers and other liquidity providers to the detriment of investors. This is inconsistent with the Act's provision against unfair discrimination between customers, issuers, brokers, or dealers.

A study of the Canadian exchange TSX Alpha's asymmetric speed bump (the "**TSX Alpha study**") found that "advance knowledge – even for a millisecond—of institutional investors' trading intentions (in a probabilistic sense) is valuable . . . [and] can enable substantial (costly) information leakage across venues."[8] The TSX Alpha study found that TSX Alpha's asymmetric speed bump increased total transaction costs and reduced the resiliency of the order book.[9] Further, the TSX Alpha study found that TSX Alpha's asymmetric speed bump had a negative impact on other trading venues.[10] The TSX Alpha study findings are very concerning as they indicate that asymmetric speed bumps promote unfair discrimination among different categories of market participants, harm investors through information

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http://wallstreet.cch.com/AmericanTools/PlatformViewer.asp?SelectedNode=chp_1_5&manual=/american/rules/american-rules/.

[5] 15 U.S.C. 78f(b)(5) and (8).

[6] *See, e.g.*, Memorandum from Rick A. Fleming to SEC, Recommendation of the SEC Investor Advocate, Feb. 27, 2018, (responding to the Chicago Stock Exchange proposal to implement an intentional access delay for all new incoming orders, cancel, and cancel/replace messages, except for orders that would provide liquidity by designated market makers and cancel messages from designated market makers) available at: https://www.sec.gov/comments/sr-chx-2017-04/chx201704-3169295-161957.pdf.

[7] Proposal *supra* n. 2 at 30290.

[8] 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. While TSX Alpha's asymmetric speed bump differs from the Rule amendment in that TSX Alpha provided the option for market participants to pay a higher fee to enter and cancel limit orders without experiencing a delay, we believe the findings of the TSX Alpha study continue to be relevant and are concerned with the implications of an asymmetric speed bump for institutional investors.

[9] *Id.*

[10] *Id.* at 3 (finding that realized spreads on other venues fell as a result of TSX Alpha's asymmetric speed bump).

leakage of their trading intentions and greater transaction costs, and impose an undue burden on competition by giving liquidity providers on EDGA an advantage over liquidity providers on other markets. The latter point also raises concerns that the Proposal is inconsistent with the objectives of Section 11A of the Act to assure fair competition among brokers and dealers, and among exchange markets.[11] Thus, MFA respectfully urges the Commission to disapprove the Proposal.

II. The Proposal Raises Best Execution Concerns for Investors

In addition, MFA believes that the Proposal introduces a number of issues with respect to best execution in which SEC guidance would be helpful. It is not clear to MFA and its members what the Commission's expectations are in applying the best execution principles to the routing of quotes to an unprotected exchange compared to other protected exchanges. Further, it's not clear to MFA members how to evaluate whether their broker-dealers provide best execution regarding the routing of quotes to an unprotected exchange compared to protected exchanges. To the extent the Commission approves the Proposal, we believe it is important for the Commission to issue guidance in advance of such approval.

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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 (202) 730-2600.

Respectfully submitted,

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[11] 15 U.S.C. 78k-1(a)(1)(C).