To Whom it May Concern,

Thank you for the opportunity to comment on Regulatory Notice 24-13, "Effectiveness and Efficiency of [FINRA] Requirements Relating to Day Trading." I am a strong believer in the benefits of engaging the community in this way, and sincerely appreciate the authority's time and attention.

Over the past 20 years I have worked in the equity options markets in numerous capacities; as a market maker, a financial advisor, and always an individual trader. Each of these lenses has informed a different understanding of the market structure that defines each group's success.

My comments are specifically targeted at Rule 4210, and the Special Requirements for Pattern Day Traders (PDT) in the listed equity options market. I would strongly recommend that the authority completely eliminate all minimum equity requirements that are determined based on the frequency of day trading activity.

It is with a strong fidelity to the Act of 1934 that I can say the rules as implemented are harmful to the very customer they are intended to protect. They create inefficiencies in the market mechanism that impact all participants. Not only are the current limitations inconsistent and redundant, they ultimately rely on a false premise that continues to be invalidated by the changing market environment.

Markets are built by participants who commit capital, but more importantly who learn, adjust, and reprice. If this process is handicapped at any level, everyone operates in a slightly less optimal landscape.

Customer Harm:

The PDT rules prevent a customer from acting in their own best interest. With a blanket restriction on the ability to place more than a certain number of trades, they are unnecessarily limited in their ability to manage their account. Rather than address a risk, it creates one.

Due to their nature as derivatives, options are risk management tools. Their price is a direct, often exponential, function of the underlying equity price. For many different strategy implementations, this movement necessitates active management. By restricting same day

opening and closing transactions, both the ability to take profit and stop a loss are removed from the trader's toolkit.

This forces unnecessary bad trades. It obligates investors to hold positions they would not have otherwise. It prevents the capture of opportunity due to a regulatory handicap.

Thanks to the robust liquidity of our options markets, flagged PDT accounts have found ways to economically mitigate an unclosable position. But that in itself creates an inefficiency that directly benefits the structural alpha community of exchanges and liquidity providers at the expense of their customers. Every other aspect of order routing, pricing, and market structure treats customers the exact opposite way – as the priority they should be.

The PDT rule is an effective prohibition on trading "0DTE" options. These are leveraged by professionals to manage their short term risk profile, but the customer with less than $25,000 in their account can't do the same. The industry is proud that this expiration cycle represents 49% of SPX volume[1], yet customers with small accounts can't access the opportunity because they can't trade it in the same way as larger accounts.

It's not just millions of contracts a day that participant types are excluded from, it's an entire domain of usefulness. Options are a multi-faceted tool kit that allow an investor to take a scalpel to every part of their equity risk profile. Customers are harmed when they are contained to a more limited sphere of opportunity.

Distorted Market Structure:

When customers are structurally absent or are trading for non-economic reasons, the market pricing becomes distorted. Liquidity providers operate from a mindset of risk management. They are able to provide tight and deep markets when the participant composition is diverse and rational.

When you restrict customers from trading a product or expiration, it changes the risk calculus. Retail orderflow is an incredibly important part of the market structure because of its low information value. Low because of individual sizes and the independent likeliness to move microstructure pricing.

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[1] https://go.cboe.com/0DTE

The prevalence of this class of orderflow subsidizes the cost of liquidity for everyone. Already benefiting from the auction mechanisms and payment for orderflow relationships that allow for mid-spread price improvement, increased retail participation also tightens the goal posts off which their execution quality is measured.

Uninformed orderflow is distinctly different from unintelligent orderflow. Dealers who set their bid and ask prices have first order reactions to large trades - size moves markets. But so do frequency and count of unique trades. A dozen one lots will move the market farther with less spend than a 12, 24, or 144 lot.

On a per capital basis, retail orderflow does more for the pricing of securities than any institutional participant. Markets will become tighter with unencumbered retail participation, and they will more quickly arrive at an accurate and fair price. A richer market is built with more diverse players committing capital.

Inconsistent and Redundant:

Inflation might be slowly working in investors favor, but the existing minimum equity level of $25,000 is inconsistent with the realities of the marketplace. Not only have enhancements in clearing infrastructure made margin concerns trivial, but settlement time adjustments have created a logical conflict with activity in cash based accounts.

The current liquidity of the marketplace is one of the strongest arguments for eliminating this account size restriction. Thanks to a prolific expansion of strikes and expirations, there are levels and tenors to match any margin balance. And even better, in the securities where the most activity is concentrated, bid-ask spreads are only pennies wide. It is far cheaper to execute in both slippage and transaction cost terms than it has ever been.

Further, there already exist a number of credential checks and disclosures to prevent against the presumed negative impact of frequent daily transactions. Beyond the review and disclosures of Rules 2130 and 2270, in order to open an options margin account an investor must meet certain risk objectives, along with income and net worth requirements.

Experience is an important factor in determining options approval levels. Brokers require everything from multiple years of demonstrated experience to individual questionnaires and interviews to be granted options approval levels for margin trading. With all of this vetting, the account holder has proven they are capable of the minimal responsibility required to manage PDT.

The absolute size of an account is barely reflective of the experience of an investor. Whether it's for testing a new strategy, broker, or generally segregating capital, the limitation can also hampers even the most sophisticated investor.

False Premise:

Ultimately the balance requirements of PDT are based on an entirely false premise. Investors with small accounts are marginalized and prevented from making regular closing trades due to the misguided belief that their strategy is harmful to themselves.

Frequent transactions are a poor indicator of the riskiness of a trading strategy. Very tight risk management might necessitate this. Conversely, an account of any value can dump their entire balance into the riskiest of equities in one single highly risky investment.

The combined evolution of technology has rendered this even more true. Not only are markets more liquid and accessible, there is far more education and guidance available to investors. Traders who have cleared multiple competency hurdles should be allowed to manage their account no matter what the size is.

Conclusion:

If we want to protect investors, we must encourage them to trade and learn. There is not a single financial professional who has not hit buy versus sell, mis-sized a position, or even traded the wrong security. Mistakes teach us how to be better investors, and the faster that learning happens, the better off the individual and market as a whole both are.

When investors are in their most fragile stage of understanding, they must be nurtured, not restricted. Traders with small accounts are undeserving of this bias against their participation in markets. There is no better path to understanding, than the ability to put true risk capital on the line.

As an ecosystem we have developed many ways for customers to have a superior experience with regards to cost, execution quality, and participation rights. Pattern Day Trading rules should also support this by eliminating the minimum equity balance.

Sincerely,

/s/ Mark A. Phillips

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