VIRTU FINANCIAL

February 20, 2019

Cicero Augusto Veira Neto (***via electronic mail***)
José Ribeiro de Andrade
B3 S.A.

Re: *Public Consultation on Change to Rule for Registration of Cross Orders in Exchange Environment*

Dear Sirs:

Virtu Financial, Inc. (together with its affiliates, "Virtu" or "we") appreciates the opportunity to comment on the Public Consultation on Change to Rule for Registration of Cross Orders in Exchange Environment (the "Proposal"). On December 19, 2018, B3 issued the Proposal to *inter alia* amend the current rule for the registration of cross orders in exchange markets and to regulate a new order type named "retail liquidity provider" ("RLP"). The effect of the Proposal would be to permit originators of aggressing retail order flow to interact as counterparties to those orders subject to compliance with best execution, suitability and adherence to the appropriate price formation process. As a general matter, we support the Proposal subject to the comments set forth herein.

Virtu is a leading financial firm that leverages cutting edge technology to deliver liquidity to the global markets and innovative, transparent trading solutions to our clients. Virtu operates as a market maker across numerous exchanges in the U.S. and is a member of all U.S. registered stock exchanges. Virtu provides liquidity in more than 25,000 instruments on more than 235 venues and marketplaces and seeks to provide liquidity on instruments traded on transparent electronic markets globally. As such, it broadly supports innovation and enhancements to transparency and fairness which enhance liquidity to the benefit of all marketplace participants. Moreover, at Virtu, our goal is not only to provide transparency regarding our activities but to also advocate for transparency across financial markets.

We commend B3's efforts to seek to modernize its markets to insure that they work efficiently and are tied to technological advancements and developments. We believe that transparency enables market participants to make better, more informed decisions and results in more efficient markets. Transparency drives increased competition and lowers costs—benefiting both the market and the end investor. Moreover, Virtu fully supports market initiatives designed to provide greater price competition and benefits to retail investors. However, there are certain important aspects of the Proposal that require careful analysis and consideration

The Proposal:

First, only intermediaries who meet the requirements established by B3 (i.e. transparency with customers, opt-in and opt-out mechanisms) would be able to use RLPs. We understand that as part of the Proposal, B3 would amend the crossing trading rules by introducing price/broker/time logic (instead of price-time priority) for aggressive retail orders. The Proposal would enable retail brokers to act as counterparties to the flow of aggressive orders its receives from its customers. We further understand that other market participants would not be able to interact with these orders. The Proposal also includes a provision that limits the aggregate volume of RLPs in the market to a suggested fifteen (15%) percent (the "RLP Volume Limit").

Virtu's Response:

Virtu is strong proponent of market transparency and competition. Virtu believes that the attributes that enhance the quality of capital markets include, among others, transparency and investor choice provided through competition between venues and market participants. Competition in the market has resulted in significant benefits to investors, which has been well reported and recognized in the United States, such as lower trading costs, price improvement opportunities, execution speed and enhanced service. Over the past several years, Virtu (and its predecessors) has provided hundreds of millions of dollars in price improvement to retail investor orders.

Regulations that would force liquidity concentration on an exchange through revisions such as suggested in the Proposal are counterintuitive to transparency and competition. Virtu believes that when transparency and competition is limited, investor costs go up while choice and market forces driving innovation go down. In other words, limiting the trading of an order through the use of RLP will eliminate the competitive forces that drive innovation, improve performance and provide investors with choice.

We respectfully submit that the Proposal as presently designed discourages the interaction of all market participants and therefore acts inconsistent with the basic notions of a fair and orderly marketplace. If enacted, only certain brokers that participate in the RLP program will be allowed to interact with aggressive retail orders. This may limit or reduce liquidity opportunities available to the non-participating market investors and, in turn, impact overall market transparency and efficiency. This problematic factor was identified in the Proposal as one possible "negative externalities":

> *The orders that are on the order book (resting orders) are exposed to risk, disclose information to the market and form prices, constituting the basis for market liquidity and the price formation process. In principle, given the essential function of such orders, the*

> *market rules should valorize and prioritize them, and any exceptions should be carefully assessed and 11 050/2018-VOP justified (e.g. registration of cross orders for large block trades, structured transactions involving several parties etc).* ***In many situations, however, resting orders would be preempted by RLPs. Free riding would occur because trading by intermediaries would depend on the information generated by the order book but would not respect its chronology. If the volume of trading by intermediaries were large enough, the probability of resting orders being matched could diminish significantly. This would discourage the placement of such orders, reducing liquidity and increasing spreads, to the detriment of the entire market.***[1] (emphasis supplied)

Virtu believes that enhanced disclosure requirements should be enacted as a condition to the Proposal. The Proposal notes that "because no orders in the overall market would be able to aggress them, RLPs would not have pre-trade transparency but would be disclosed via the market data feed immediately after the closing of trading."[2] This opaqueness does not promote the needed disclosure that is the cornerstone of an efficient market.

As expressed by former United States Securities and Exchange Commissioner Troy Paredes:

> Disclosure is the cornerstone of the federal securities laws.... The essence of the disclosure philosophy of securities regulation is that investors, when armed with information, are well-positioned to evaluate their investment opportunities and to allocate their capital as they see fit. When investors are able to make informed decisions, it is more likely that the capital that fuels our economy will finance more productive enterprises than if investors did not have the benefit of useful information when deciding how to invest.[3]

It is in this context that Virtu strongly supports the inclusion of order disclosure metrics akin to those found in Securities and Exchange Commission Rules 605[4] and 606[5] as part of the Proposal. More specifically, Virtu supports the Proposal with an overall market disclosure regime that (1) discloses the venue where the trades were executed, (2) any economic arrangements between routing brokers and executing brokers, and (3) uniform execution quality metrics that are reported by routing and executing brokers that can we used to justify routing decisions. Without

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[1] See, the Proposal at pages 10-11.
[2] See, the Proposal at page 8.
[3] Commissioner Troy A. Paredes, Remarks at The SEC Speaks in 2013, February 22, 2013, https://www.sec.gov/news/speech/2013-spch022213taphtm.
[4] https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&ty=HTML&h=L&mc=true&r=SECTION&n=se17.4.242_1605
[5] https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&ty=HTML&h=L&mc=true&r=SECTION&n=se17.4.242_1606

disclosure of uniform execution quality metrics, market participants and regulators will lack the requisite transparency to review and navigate potential broker conflicts of interest.

In addition, we believe that the RLP Volume Limit is overly complicated as written. We suggest that the B3 reevaluate the limit to make it more workable and easier for participants to manage.

Conclusion:

To reiterate, Virtu supports efforts by markets to promote pricing enhancements for retail investors. However, Virtu respectfully submits that any such program must equally address the impact on competition, disclosure on all market participants.

Thank you again for the opportunity to comment on the Proposal. We would welcome the chance to discuss our thoughts and suggestions.

Respectfully submitted,

Thomas M. Merritt
Deputy General Counsel

cc: Douglas A. Cifu, Chief Executive Officer