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January 10, 2014

Ms. Melissa D. Jurgens
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

Re: CFTC Concept Release – Risk Controls and System Safeguards for Automated Trading Environments, RIN 3038-AD52

Dear Ms. Jurgens:

We are pleased to provide you with our comments and views on the Commodity Futures Trading Commission's ("CFTC's" or the "Commission's") recent concept release on Risk Controls and System Safeguards for Automated Trading Environments (the "Concept Release").[1]

Virtu Financial, LLC (together with its affiliates, "Virtu") is a leading electronic market maker and liquidity provider to the global financial markets. Virtu operates from offices in New York, Austin, Singapore and Dublin. Virtu operates as a registered market maker across numerous exchanges and asset classes, and is a direct member of most recognized futures exchanges in the United States and around the globe.

Discussion

Virtu generally supports the CFTC's Concept Release on risk controls and system safeguards as an important step towards improving the industry's overall system controls and real-time risk management processes. The Concept Release raises some very important issues and asks critical questions that need to be addressed by the industry. We provide our views below on several of these critical issues raised in the Concept Release.

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1 CFTC Concept Release on Risk Controls and System Safeguards for Automated Trading Environments, 78 Fed. Reg 56542 (Sept. 12, 2013).

Participant Definitions

As a member of the High Frequency Trading Subcommittee of the CFTC's Technical Advisory Committee ("TAC"), we have experienced firsthand how difficult it is to define the commonly used, yet rarely defined, term "HFT".[2] Today, many different types of futures market participants create and deliver electronic orders in a manner that may be considered "high-frequency." In addition, as technology rapidly evolves, so do the trading behaviors of these various and diverse end users. As a result, creating a definition which is not so encompassing as to be rendered meaningless, while also being flexible enough to preserve its intention in a dynamic and innovative market, is an especially challenging exercise. However, rather than discussing the difficulties of defining the term HFT in depth, we believe it is more important to identify why and how the term "HFT" could be used in the context of CFTC rules and regulation. The Concept Release provides very little insight into how such a definition would be used or why it would be needed. In fact, the Concept Release asks for comment on how the definition of HFT could "be applied for regulatory purposes".[3] While we understand that it may be helpful to identify specific electronically enabled firms that are highly active in our futures markets, we do not believe that our regulatory framework or market surveillance regime would truly be enhanced by such a definition or a unique identifier. Today, exchange surveillance and the CFTC have trading record information that identifies the firm, the trading system (if one is used) and the responsible trader on every order and every trade. Such granularity will not be improved with the addition of a poorly crafted definition. More importantly, we believe it is important to consider that any rules or regulations which are predicated on such a static definition are ultimately at risk of regulatory arbitrage.

Risk Controls

Virtu is very supportive of the Commission's proposal for mandating additional risk controls in the futures market, and believes it is appropriate to require risk controls that include both pre-trade and post-trade risk management obligations. While exchange-sponsored risk controls provide an important risk mitigant, we also believe the adoption of end user risk control obligations would add further protection to our markets from the most disruptive events and behaviors.

A multilayered system of risk controls is a key ingredient to protecting the market from disruptive events. While we recognize the benefits of the recent steps taken by the Commission to require clearing members to establish risk-based limits, we believe the Commission should go further. Specifically, the privilege of direct exchange access should bring with it the obligation to deploy a system designed to protect the integrity of the marketplace. As such, all exchange members should be required to employ pre-trade and post-trade risk controls. Additionally, all non-members should be required to access exchanges only through a member's risk control layer. This is a well recognized approach, and has been adopted by the U.S. Securities and Exchange Commission, Canadian regulators and other jurisdictions.

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2 We note that the German Government recently adopted a definition of the term "High Frequency Trader" which was largely based on the TAC Subcommittee's proposed definition. The German regulator, BaFin, is currently struggling with interpreting that definition and its application under BaFin rules.

3 See Concept Release pp. 15.

With regard to the details of required risk controls, we believe that a prescriptive rule that mandates specific risk management controls would require regular updates in order to ensure its continued relevance in an evolving industry. Therefore, mandating risk controls and supervisory systems that are "reasonably designed" or "provide reasonable assurance" of protection would allow participants to tailor these controls to the specific risks associated with their business. While there are some specific minimum safeguards that the Commission could require in order to satisfy the "reasonably designed" standard (i.e., credit controls, price range controls, order size limits, message limits, etc.), we believe that the adoption of a principled based rule would be more appropriate given the variety and complexity of participants, market access technology and instruments in the futures market.

Registration of Firms

With regard to registration, Virtu believes in direct registration for participants that have direct access to exchanges and markets. Virtu has expressed this view consistently across all global markets. Our view is simple: if an exchange or market affords a participant the ability to connect directly, absent any technological intervention or intermediation by another member, then that participant enjoys all the rights and privileges of a member and should be regulated on both the exchange level and at the federal level. Federal registration and oversight should be the standard for privileged access to our financial and commodity markets. This position complements and supports our position, as noted above, with regard to mandated risk controls and system safeguards for those with direct access to our markets.

In summary, Virtu supports the Commission in its effort to enhance risk controls and safeguards that protect our market. We believe there are additional obligations that could be mandated by the Commission in the areas of risk controls and registration which would improve the overall health, function and transparency of futures markets. However, due to the complexity of our markets and the variety of their participants, we encourage the Commission to continue to seek the input of the industry and end users.

Sincerely,

Chris Concannon