

300 Vesey Street
New York, NY 10282
Tel: [REDACTED]
Fax: [REDACTED]



October 3, 2018

Mr. Brent J. Fields
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Exchange-Traded Funds, Release Nos. 33-10515; IC-33140; File No. S7-15-18

Dear Mr. Fields:

Virtu Financial Inc. (together with its affiliates, “Virtu” or “we”) is pleased to offer its comments on and support of the Securities and Exchange Commission’s (“the Commission”) proposed new Rule 6c-11 under the Investment Company Act of 1940 (the “Investment Company Act” or the “Act”) that would create uniform rules and permit exchange-traded funds (“ETFs”) that satisfy certain conditions to operate without the expense and delay of obtaining an exemptive order (“the Proposed Rule” or the “Proposal”).

Virtu is a leading technology-enabled market maker and liquidity provider to the global financial markets. As a market maker, Virtu provides liquidity that helps to create more efficient markets around the world in equities, ETFs, options, foreign exchange, fixed income, and commodities. Virtu participates as a lead market maker for ETFs in virtually all of the exchange market making programs, creates and redeems ETFs as an Authorized Participant (“AP”), facilitates block ETF transactions, and provides significant off-exchange ETF liquidity to retail investors.

Virtu broadly supports sensible rule making that lowers costs, encourages innovation and competition, increases transparency, provides investors with choice, promotes fairness, and improves investor confidence in our markets.

Virtu supports the Proposal as we believe it is consistent with these objectives. ETFs are an important segment of the market. We believe the Proposal will help to ensure a level playing field for all ETFs operating under the Rule, allow for new ETFs to come to market more efficiently, and will help to ensure similarly situated products do not trade differently due to differences in the exemptive orders relied on when they came to market.



Virtu offers comments on ETF's as redeemable securities, the disclosure provisions, portfolio holdings transparency, basket flexibility, affiliates, and our recommendations with regard to payments to market makers.

ETFs as Redeemable Securities

A feature of the existing orders and the Proposed Rule is that ETF shares can only be created or redeemed in creation unit aggregations at NAV by Authorized Participants ("APs"). Retail and other secondary market investors can only purchase and sell ETFs at secondary market prices. Although there has historically been a concern that the redemption of redeemable securities at market prices could lead to dilution of the value of outstanding redeemable securities, Virtu agrees with the Commission that the creation and redemption process together with secondary market trading in ETF shares has provided arbitrage opportunities that generally keep the market price of ETF shares at, or close to, the ETF's NAV per share. As such, Virtu believes it is appropriate to treat ETFs as redeemable securities.

Virtu also recommends that ETF issuers have flexibility to design creation unit aggregations in sizes that are sensible for the particular ETF. We believe that allowing for this kind of flexibility will promote product innovation.

Disclosure

We recognize that in periods of market stress and for certain structural reasons an ETF's market price may diverge from its components. We support the Proposal's disclosure conditions which are intended to provide investors with information about costs, the degree and the frequency at which ETFs trade at premiums and discounts to NAV. We believe these types of disclosures will allow ETF investors to appropriately assess differences in ETFs products and the risks of purchasing or selling ETFs during periods of market stress or during other periods when premiums or discounts may be greater than normal.

Virtu also suggests that the Commission develop a naming convention or classification system that differentiates ETFs that operate under the conditions of the Proposed Rule and other types of exchange traded products such as levered ETFs, products that track commodities and structured notes. Virtu believes that such a classification system will further awareness of differences in these products, their costs and associated benefits and their risks. This separate classification system is especially important for retail investors



Transparency of Portfolio Holdings

Virtu supports the conditions in the proposed rule that require an ETF to provide investors with information concerning portfolio composition. Transparency in this regard is necessary for participants to value and trade the ETF and supports the arbitrage mechanism.

While we endorse the Proposal's requirement that ETFs provide portfolio composition information on their website, Virtu also recommends that the Rule require ETFs to provide portfolio composition files to the National Securities Clearing Corporation ("NSCC"). APs are generally contractually required to be members of NSCC and typically utilize the portfolio composition files that ETFs provide to NSCC as part of their operational and trading processes. NSCC is a convenient central location to obtain these files in standardized file formats that can readily be used by an AP's electronic systems.

Basket Flexibility

Virtu supports the provisions of the Proposed Rule that provide for basket flexibility and that allows all ETF's operating under the Rule to create and redeem baskets that do not reflect a pro-rata representation of the fund's portfolio or that differ from other baskets used in transactions on the same business day ("Custom Baskets").

Basket flexibility benefits ETFs, AP's and the market. ETFs can more efficiently add or remove instruments to and from their portfolios. Basket flexibility provides APs with the ability to create and redeem in situations where they may not be able to trade a particular security. Basket flexibility promotes operational efficiency and facilitates the arbitrage mechanism that keeps market prices in line with NAV.

Virtu also supports the provisions of the Proposed Rule that requires ETF adopts written policies and procedures for the construction and acceptance of custom baskets that are designed to ensure that each custom basket is in the best interests of the ETF and its shareholders.

Affiliates

Virtu supports codifying in the Proposed Rule exemptive relief from Section 17(a) of the Act for in-kind purchases and redemptions of creation units to persons affiliated with the ETF (or affiliates of those persons) by reason of holding the power to vote 5% or more of the ETF's shares, including purchases and redemptions of creation units involving custom baskets. Virtu also supports extending this relief to other types of transactions such as portfolio rebalancing transactions.



Market makers like Virtu can, as part of the ordinary course market making activities, at times accumulate positions that would result in it being deemed to be affiliates of the ETF as a result of holding the power to vote 5% or more of the shares. This is more likely to occur in ETFs that are new to the market and other ETFs that are less widely held. Market makers typically do not seek to exercise their power to vote ETF shares and routinely agree contractually in the context of AP Agreements to cede their voting rights to ETF fund managers. Thus, concerns regarding undue influence are in practice not present as it relates to AP's like Virtu.

Payments

Virtu suggests that the Commission includes provisions in Rule 6c-11 that would permit ETFs to make direct payments to ETF market makers outside the context of exchange-administered programs. Virtu has similarly lobbied FINRA to make changes to Rule 5250.

The incentive structure of existing exchange-intermediated programs, has limited their success in promoting liquidity in new and less widely held ETFs. In particular, because these programs largely reward market makers based on trading volume – which for new or less widely held ETFs is necessarily lower – they offer less incentive for market makers to quote those new ETPs. In some cases, there have been efforts to address this issue by bundling Lead Market Maker (“LMM”) assignments of the most active ETPs with LMM assignments in new or less liquid ETPs. Even where implemented, however, this bundling does not fully achieve the benefits that would result from direct payments and is only available to ETP issuers with active ETPs to bundle with new or less liquid ETPs.

This modification would expand potential competition among ETF sponsors and issuers through increased liquidity for new and innovative products. Moreover, it would do so in a manner that would allow issuers and sponsors of ETPs to tailor incentives more directly to the products most in need of enhanced market making services. This is particularly true for new ETPs whose successful launch depends on the availability of market makers with adequate reason and risk appetite to undertake the necessary commitment of time and capital. Properly implemented, this suggested modification would also continue to provide investors with the protections necessary to mitigate the potential conflicts of interest that the rule was initially adopted to address.

In addition, direct and transparent payments to market makers could enhance competition and efficiency by permitting all ETP issuers and sponsors to target incentives to those new or less active ETPs that would most benefit from greater market liquidity (i.e., by more directly aligning incentives with beneficial market making services).



Once again, we appreciate the opportunity to share our thoughts on this important Proposal. Virtu supports the Proposal as it contributes to the efficient operation of ETFs and provides transparency to ETF investors, especially retail investors. If you have any questions, please do not hesitate to contact me at [REDACTED].

Sincerely yours,

A handwritten signature in blue ink, appearing to read 'John Dibacco', written over the typed name and title.

John Dibacco
Head ETF Group

cc: The Honorable Jay Clayton, Chairman, U.S. Securities and Exchange Commission
The Honorable Kara M. Stein, Commissioner, U.S. Securities and Exchange Commission
The Honorable Robert J. Jackson Jr., Commissioner, U.S. Securities and Exchange Commission
The Honorable Hester M. Peirce, Commissioner, U.S. Securities and Exchange Commission
The Honorable Elad L. Reisman, Commissioner, U.S. Securities and Exchange Commission
Dalia Blass, Director, Division of Investment Management, U.S. Securities and Exchange Commission
Brett Redfearn, Director, Division of Trading and Markets, U.S. Securities and Exchange Commission