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June 23, 2023

Ms. Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
Washington, D.C. 20549-1090

RE: **Release No. 34-97143; File No. S7-07-23; Regulation Systems Compliance and Integrity**

Dear Ms. Countryman:

Themis Trading appreciates the opportunity to comment on the SEC's Regulation Systems Compliance and Integrity proposal. While much of the attention of the retail and institutional communities has recently been focused on the SEC's Market Structure proposals, some market participants may have missed this important update to Reg SCI. We write today in support of this proposal.

Reg SCI was adopted in 2014 "to strengthen the technology infrastructure of the U.S. securities markets." The rule currently covers national securities exchanges and ATSs that meet certain volume thresholds and requires these entities to "have comprehensive policies and procedures reasonably designed to ensure that their systems have levels of capacity, integrity, resiliency, availability, and security adequate to maintain operational capability and promote the maintenance of fair and orderly markets."

As part of the updates to Reg SCI**,** the SEC has proposed expanding the rule to a broader range of entities which would include "broker-dealers registered with the Commission under Section 15(b) that exceed a total assets threshold or a transaction activity threshold in NMS stocks, exchange listed options, U.S Treasury securities, or Agency securities." We understand this to mean that certain large market makers would now be covered under the rule. Based on some of the comment letters that the SEC has received so far, it appears that these market makers are not happy with this proposal. Here are some of the comments from two of the largest market makers:

Citadel Securities
"The Proposal should be withdrawn. The Commission is a markets regulator and does not have the authority or expertise to micromanage the technology operations of the nation's largest

securities firms. Yet, that is exactly what it proposes here, at a cumulative cost of billions of dollars without any tangible benefit."

"Given the Commission's lack of legal authority to extend Regulation SCI to broker-dealers and the absence of any adequate justification for imposing onerous, costly, and impractical requirements on a small group of those firms, we urge the Commission to withdraw this Proposal."

Virtu Financial
"Unlike systemically important entities, as defined by Regulation SCI such as exchanges, SIPs, and registered clearing agencies, broker dealers are competitive substitutes for each other and therefore are not critical components of the market infrastructure that should be subject to the requirements of Regulation SCI."

"Just like the Commission's misguided December 2022 equity market structure proposals that would jeopardize billions of dollars in benefits to retail investors, the Proposal represents yet another flank of an all-out assault by the current Commission on wholesalers like Virtu because of the Chair's clear preference for reduced market center competition and a desire to concentrate market activity on exchanges."

Market Makers Are Important

Considering that complying with Reg SCI would likely cost millions of dollars, we understand why some market makers would rather not be included in this rule. However, we're a bit confused by their arguments which seem to suggest that large broker dealers are not as critical as exchanges and therefore should not be subject to extra rules. This may be true for smaller brokers, but the argument seems to contrast with the current equity market structure where just a handful of market makers represent a significant percentage of volume. In his testimony before the House Financial Services Committee during the GameStop hearings, Ken Griffin stressed how important Citadel was to the market:

> "During the period of frenzied retail equities trading, Citadel Securities was the only major market maker to provide continuous liquidity every minute of every trading day. When others were unable or unwilling to handle the heavy volumes, Citadel Securities stepped up. On Wednesday, January 27, we executed 7.4 billion shares on behalf of retail investors. To put this into perspective, on that day Citadel Securities executed more shares for retail investors than the average daily volume of the entire U.S. equities market in 2019."

We think Mr. Griffin is correct. Citadel and the large market makers are extremely important to the equity market, especially to the retail brokerage community who still rely on them to execute a significant portion of their orders. According to their website, Citadel Securities executes **22% of U.S. equity market volume** through their platform.

In June 2022, the House Financial Services Committee published a report on the findings from their three GameStop hearings. They found that market makers are not 100% reliable and that they are not regulated commensurate to the amount of market share they control. They believe that market makers should be subject to Reg SCI:

> "During the acute volatility in late January 2021, certain market makers such as Virtu and Wolverine experienced severe operational strain and were unable to execute trades for wide swaths of securities. During this period, Wolverine had no written policies or procedures in place for determining when to restrict trading for volatile stocks. On the other hand, Citadel Securities became a vital location for broker-dealers to source liquidity in certain meme stocks as its competitors faced system outages and other operational concerns. **Had Citadel Securities also faced a system outage during the height of the trading volatility, the impact on retail trading and the stock market would have been severe. Such a vital role in the market demands greater oversight, as would be provided by subjecting Citadel Securities and other market makers above a certain size to Regulation SCI.** Additionally, market makers should be required to maintain thorough written policies and procedures to provide guidance on how to maneuver operational strain whether they qualify to be subject to Regulation SCI or not."

Here is some more data which demonstrates how significant these market makers are to the equity market:

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Below are the April '23 volumes for the top 5 non-ATSs:

Name	Total Shares	Total Trades
CITADEL SECURITIES LLC	19,821,969,330	51,951,160
VIRTU AMERICAS LLC	14,570,228,951	41,711,925
JANE STREET CAPITAL, LLC	8,234,972,398	19,476,072
G1 EXECUTION SERVICES, LLC	8,180,558,526	18,602,353
TWO SIGMA SECURITIES, LLC	2,301,390,274	6,207,246

Compare the above numbers to the top 5 ATS's for April'23:

ATS MPID	Firm Name	ATS Activity Total Trades	ATS Activity Total Shares
UBSA	UBS ATS	45,507,956	3,399,494,960
SGMT	SIGMA X2	33,807,875	2,755,643,651
INCR	INTELLIGENT CROSS LLC	30,673,247	2,534,866,576
JPMX	JPM-X	15,117,452	1,575,337,177
EBXL	LEVEL ATS	12,618,715	1,452,705,914

The above numbers are staggering. Citadel's non-ATS volume is almost 2x greater than the top 5 ATSs combined. Looking at the numbers in a different way, the top 5 non-ATSs execute almost 5x as much volume as the top 5 ATSs.

Conclusion

It's clear to us that the large market makers have become critical to the smooth functioning of the current US equity market. However, this critical market role should also come with more

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responsibilities and oversight. After Reg SCI was approved in 2014, former SEC Commissioner Kara Stein warned that while the rule was a good start, more still needed to be done to protect the resiliency of our markets:

> "The rule before us today is an important first step. However, it is only an initial step toward recognizing the challenges of our computerized marketplace and beginning to reorient our regulatory paradigm away from its traditional focus on human interaction…Regulation SCI is an important first step at tackling the inherent vulnerabilities in a marketplace dominated by computers. All plugged-in market participants need to do more to protect both the soft and hard components of our market infrastructure. Scalable, flexible, principle-based standards are an important step, but much more can and needs to be done to enhance the marketplace going forward."

Nine years after its initial approval, we're glad to see the SEC extending Regulation SCI to include more critical market participants which will ensure the safety and resiliency of our markets.

Respectfully,

Joseph Saluzzi

Partner, Themis Trading LLC