

**NYSE AMERICAN LLC
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2019063432009**

TO: NYSE American LLC

RE: HSBC Securities (USA) Inc., Respondent
CRD No. 19585

During the period from July 2017 through September 2020 (the “Relevant Period”), HSBC Securities (USA) Inc. failed to take reasonable steps to ensure that intermarket sweep orders (“ISOs”) it routed to certain market centers met the requirements set forth in Rules 600(b)(30) and 600(b)(31)¹ of Regulation National Market System (NMS) of the Securities Exchange Act of 1934, and failed to establish and maintain a supervisory system, including written supervisory procedures (“WSPs”), reasonably designed to achieve compliance with Rule 611(c) of Regulation NMS and NYSE American Rule 7.31E(e)(3), in violation of: (1) Rule 611(c); (2) NYSE American Rule 7.31E(e)(3); and (3) NYSE MKT Rule 3110 (prior to July 24, 2017) and NYSE American Rules 3110(a) and (b) (on and after July 24, 2017). Consent to a censure and a \$10,064 fine (resolved simultaneously with similar matters for a total fine of \$125,000).²

* * *

Pursuant to Rule 9216 of the NYSE American LLC (“NYSE American” or the “Exchange”)³ Code of Procedure, HSBC Securities (USA) Inc. (“HSBC” or the “Firm”) submits this Letter of Acceptance, Waiver, and Consent (“AWC”) for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, NYSE American will not bring any future actions against the Firm alleging violations based on the same factual findings described herein.

I. ACCEPTANCE AND CONSENT

- A. HSBC hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of NYSE American, or to which NYSE American is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by

¹ Effective January 18, 2019, Rule 600(b)(30) was renumbered Rule 600(b)(31). After the conduct at issue, in June 2021, the rule was again renumbered to Rule 600(b)(38). Because Rules 600(b)(30) and 600(b)(31) were the rules in effect during the relevant period, those rules apply to the subject conduct.

² Those matters were brought by Cboe BYX Exchange, Inc. (BYX); Cboe BZX Exchange, Inc. (BZX); Cboe EDGA Exchange, Inc. (EDGA); Cboe EDGX Exchange, Inc. (EDGX); Investors Exchange, LLC (IEX); New York Stock Exchange LLC (NYSE); NYSE Arca, Inc. (Arca); NYSE Chicago, Inc. (CHX) (collectively, the Exchanges), and FINRA.

³ Prior to July 24, 2017, the Exchange was known as “NYSE MKT LLC,” and the NYSE American rules referenced herein were denominated NYSE MKT rules.

NYSE American:

BACKGROUND AND JURISDICTION

1. The Firm has been a member of NYSE American (including its predecessor NYSE MKT LLC) since December 1996 and its registrations remain in effect. HSBC has no relevant disciplinary history.

VIOLATIONS

HSBC violated Rule 611 of Regulation NMS and NYSE American Rule 7.31E(e)(3)

2. Rule 600(b)(31) of Regulation NMS, like its predecessor Rule 600(b)(30), defined an ISO as a limit order for an NMS stock that is identified as an ISO when routed to a trading center and simultaneously with the routing of the limit order identified as an ISO, one or more additional limit orders, as necessary, are routed to execute against the full displayed size of any protected bid, in the case of a limit order to sell, or the full displayed size of any protected offer, in the case of a limit order to buy, for the NMS stock with a price that is superior to the limit price of the limit order identified as an ISO. These additional routed orders must be marked as ISOs.
3. Rule 611(c) provides that the trading center, broker, or dealer responsible for routing an ISO shall take “reasonable steps” to establish that the ISO meets the requirements set forth in Rules 600(b)(30) and 600(b)(31).
4. Similarly, NYSE American Rule 7.31E(e)(3) defines an ISO as, “[a] Limit Order that does not route and meets the requirements of Rule 600(b)(30) of Regulation NMS,” and provided, in relevant part, “[a]n ISO may trade through a protected bid or offer . . . provided that it meets the following requirements: (i) it is identified as an ISO in the manner prescribed by the Exchange; and (ii) simultaneously with the routing of an ISO to the Exchange, the ETP Holder routes one or more additional Limit Orders, as necessary, to trade against the full displayed size of any protected bids (for sell orders) or protected offers (for buy orders) on Away Markets. These additional routed orders must be identified as ISO.”
5. Between July 2017 and September 2020, HSBC failed to take reasonable steps to establish that the ISOs it routed met the requirements set forth in Rules 600(b)(30) and 600(b)(31). Specifically, when HSBC routed orders to various exchanges that it marked as ISOs during this period, three technical issues with its vendor’s smart order router resulted in the firm not recognizing, and then routing additional ISOs necessary to execute against, protected quotes displayed by certain market centers. As a result, HSBC sent a total of 10,265 ISO orders, including 47 orders to NYSE American, that were priced through other market centers’ protected liquidity because the firm did not route the additional ISOs necessary to execute against those protected quotes.
6. HSBC did not identify these issues and did not conduct a review designed to verify that it routed all necessary ISOs to execute against protected quotations. Accordingly, HSBC failed to take reasonable steps to establish that the ISOs it routed met the

requirements set forth in Rules 600(b)(30) and 600(b)(31). The firm's vendor resolved the technical issues in its smart order router system in September 2020.

7. The conduct described in Paragraphs 5 and 6 above constitute violations of Rule 611(c) and NYSE American Rule 7.31E(e)(3).

HSBC's supervisory system was not reasonably designed to comply with Rule 611 of Regulation NMS and NYSE American Rule 7.31E(e)(3).

8. NYSE MKT Rule 3110 (prior to July 24, 2017) and NYSE American Rules 3110(a) and (b) (on and after July 24, 2017) require, in relevant part, that each member organization shall establish and maintain a system, including WSPs, to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable Exchange rules.
9. Prior to July 2017, HSBC routed ISOs only to executing brokers. When HSBC began routing ISOs directly to exchanges, the firm did not update its supervisory systems to include a review of ISOs for compliance with Rule 611 of Regulation NMS and corresponding NYSE American Rule 7.31E(e)(3).
10. Between July 2017 and September 2020, HSBC's supervisory system, including its WSPs, was not reasonably designed to achieve compliance with Rule 611(c) of Regulation NMS and corresponding NYSE American Rule 7.31E(e)(3). Specifically, HSBC had no reviews or procedures to establish that ISOs it routed to comply with Rules 600(b)(30) and 600(b)(31) of Regulation NMS by executing against protected quotations were sent and received by all necessary venues, on a timely basis, for the correct size and price, in compliance with Rule 611(c) and NYSE American Rule 7.31E(e)(3), and, accordingly, its WSPs did not describe any such reviews or procedures. Given that HSBC continuously routed violative ISOs during the Relevant Period, this was unreasonable.
11. Because of these supervisory deficiencies, HSBC failed to detect and timely remediate the three technical issues with its vendor's smart order router that caused the firm to route ISOs that were priced through market centers' protected quotations. HSBC has since remediated these deficiencies.
12. The conduct described in Paragraph 10 above constitutes a violation of NYSE MKT Rule 3110 (prior to July 24, 2017) and NYSE American Rules 3110(a) and (b) (on and after July 24, 2017).

SANCTIONS

- B. The Firm also consents to the imposition of the following sanctions:

1. **Censure and fine in the amount of \$10,064 fine (resolved simultaneously with**

similar matters for a total fine of \$125,000).⁴

The Firm agrees to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. The Firm has submitted a Method of Payment Confirmation form showing the method by which it will pay the fine imposed.

The Firm specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

The Firm agrees that it shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any fine amounts that the Firm pays pursuant to this AWC, regardless of the use of the fine amounts. The Firm further agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any fine amounts that the Firm pays pursuant to this AWC, regardless of the use of the fine amounts.

II. WAIVER OF PROCEDURAL RIGHTS

The Firm specifically and voluntarily waives the following rights granted under the NYSE American Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against the Firm;
- B. To be notified of the Formal Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the Exchange's Board of Directors and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, the Firm specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Regulatory Officer of NYSE American; the Exchange's Board of Directors, Disciplinary Action Committee ("DAC"), and Committee for Review ("CFR"); any Director, DAC member, or CFR member; Counsel to the Exchange Board of Directors or CFR; any other NYSE American employee; or any Regulatory Staff as defined in Rule 9120 in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

⁴ Those matters were brought by Cboe BYX Exchange, Inc. (BYX); Cboe BZX Exchange, Inc. (BZX); Cboe EDGA Exchange, Inc. (EDGA); Cboe EDGX Exchange, Inc. (EDGX); Investors Exchange, LLC (IEX); New York Stock Exchange LLC (NYSE); NYSE Arca, Inc. (Arca); NYSE Chicago, Inc. (CHX) (collectively, the Exchanges), and FINRA.

The Firm further specifically and voluntarily waives any right to claim that a person violated the ex parte communication prohibitions of Rule 9143 or the separation of functions prohibitions of Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III. OTHER MATTERS

The Firm understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed by NYSE Regulation, and accepted by the Chief Regulatory Officer of NYSE American pursuant to NYSE American Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the Firm; and
- C. If accepted:
 - 1. The AWC shall be sent to each Director and each member of the Committee for Review via courier, express delivery or electronic means, and shall be deemed final and shall constitute the complaint, answer, and decision in the matter, 10 days after it is sent to each Director and each member of the Committee for Review, unless review by the Exchange Board of Directors is requested pursuant to NYSE American Rule 9310(a)(1)(B);
 - 2. This AWC will become part of the Firm's permanent disciplinary record and may be considered in any future actions brought by the Exchange, or any other regulator against the Firm;
 - 3. NYSE American shall publish a copy of the AWC on its website in accordance with NYSE American Rule 8313;
 - 4. NYSE American may make a public announcement concerning this agreement and the subject matter thereof in accordance with NYSE American Rule 8313; and
 - 5. The Firm may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. The Firm may not take any position in any proceeding brought by or on behalf of the Exchange, or to which the Exchange is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the Firm's (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Exchange is not a party.

- D. A signed copy of this AWC and the accompanying Method of Payment Confirmation form delivered by email, facsimile or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy.
- E. The Firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The Firm understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. Any such statement does not constitute factual or legal findings by the Exchange, nor does it reflect the views of NYSE Regulation or its staff.

The Firm certifies that, in connection with each of the Exchange's requests for information in connection with this matter, the Firm made a diligent inquiry of all persons and systems that reasonably had possession of responsive documents and that all responsive documents have been produced. In agreeing to the AWC, the Exchange has relied upon, among other things, the completeness of the document productions.

The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that it has agreed to the AWC's provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the firm to submit it.

June 2, 2022

Date

HSBC Securities (USA) Inc.,
Respondent

By: Leon McIntyre

Leon F. McIntyre
Managing Director

Reviewed by:

Meredith Friedman

Meredith Friedman
Counsel for Respondent
Managing Associate General Counsel
U.S. Litigation and Regulatory Enforcement | HSBC North America Holdings Inc.
452 Fifth Avenue, 7th Floor
New York, NY 10018

Accepted by FINRA

June 2, 2022

Date

Nicole Waksmundzki

Nicole Waksmundzki
Senior Attorney
FINRA, Department of Enforcement

Signed on behalf of NYSE American LLC,
by delegated authority from its Chief
Regulatory Officer