

NYSE ARCA, INC.

NYSE REGULATION,

Complainant,

v.

IMC FINANCIAL MARKETS,

Respondent.

Proceeding No. 2016-07-01311

May 4, 2017

Respondent violated: (i) NYSE Arca Equities Rule 7.23 by failing to maintain continuous, two-sided trading interest in approximately 79,382 instances and (ii) NYSE Arca Equities Rule 6.18(b) by failing to establish and maintain adequate supervisory procedures reasonably designed to ensure compliance with NYSE Arca Equities Rule 7.23. Consent to a censure and a \$85,000 fine.

Appearances

For the Complainant: Mark S. Silver, Esq. and Adam J. Wasserman, Esq., NYSE Regulation.

For the Respondent: Daniel Overmyer, Esq., IMC Financial Markets.

DECISION

IMC Financial Markets (“IMC” or “Firm”) and NYSE Arca, Inc. entered into an Offer of Settlement and Consent for the sole purpose of settling this disciplinary proceeding, without adjudication of any issues of law or fact, and without admitting or denying any allegations or findings referred to in the offer of settlement.¹ The Hearing Officer accepts the Offer of Settlement and Consent and issues this Decision in accordance with NYSE Arca Equities Rules.²

¹ FINRA’s Office of Hearing Officers reviewed the Offer of Settlement and Consent under the terms of a Regulatory Services Agreement (as amended) among NYSE Group, Inc., New York Stock Exchange LLC, NYSE Arca, Inc., NYSE MKT LLC, and FINRA.

² The facts, allegations, and conclusions contained in this Decision were taken from the executed Offer of Settlement and Consent.

FINDINGS OF FACTS AND VIOLATIONS

Overview

1. From January 1, 2015, through March 31, 2015 (“Review Period”), IMC violated: (i) NYSE Arca Equities Rule 7.23 by failing to maintain continuous, two-sided trading interest in approximately 79,382 instances and (ii) NYSE Arca Equities Rule 6.18(b) by failing to establish and maintain adequate supervisory procedures reasonably designed to ensure compliance with NYSE Arca Equities Rule 7.23.

Background and Jurisdiction

2. The Firm is an Equities Trading Permit (“ETP”) Holder with NYSE Arca Equities Inc. (the “Exchange”).

Violations

NYSE Arca Equities Rule 7.23 (Market Maker Quoting Requirements)

3. NYSE Arca Equities Rule 7.23 (a)(1)(B) sets forth specific quotation requirements for ETP Holders that are registered as Market Makers in one or more securities that trade on the NYSE Arca Equities market. Under the Rule, a Market Maker has pricing obligations for National Market System (“NMS”) stocks in which the Market Maker must, during the core trading session, enter bid (offer) interest, “not more than the Designated Percentage³ away from the then current National Best Bid (Offer) [NBBO], or if no [NBBO], not more than the Designated Percentage away from the last reported sale from the responsible single plan processor.” The Market Maker is required to remain within the Designated Percentage as the NBBO increases, decreases, or if a bid (offer) is executed or cancelled.
4. Because Market Makers receive benefits for their registration in particular symbols, it is essential that they uphold the quoting obligations associated with their registered symbols, and provide market liquidity in the form of continuous quoting, as required by NYSE Arca Equities Rule 7.23.
5. In approximately 79,382 instances during the Review Period, IMC violated NYSE Arca Equities Rule 7.23(a)(1)(B), by failing to enter and maintain continuous, two-sided trading interest within the Designated Percentage above and below the NBBO as required by the Rule.

³ NYSE Arca Rule 7.23(a)(1)(B)(iii) defines the required “Designated Percentage” for securities.

NYSE Arca Equities Rule 6.18 (Supervision)

6. NYSE Arca Equities Rule 6.18(b) requires each ETP Holder to “establish and maintain a system to supervise the activities of its associated persons and the operation of its business.” Pursuant to NYSE Arca Equities Rule 6.18(b), “[s]uch system must be reasonably designed to ensure compliance with applicable federal securities laws and regulations and NYSE Arca Equities Rules.”
7. IMC’s real-time alerts and T+1 market-maker quoting surveillances did not function during the Review Period due to trading platform software misconfigurations and other technical issues, and IMC failed to notify the Exchange of its quoting and surveillance issues during the Review Period.
8. Accordingly, IMC violated NYSE Arca Equities Rule 6.18(b) because it did not have a system reasonably designed to ensure compliance with NYSE Arca Equities Rule 7.23.

Relevant Disciplinary History

9. On December 7, 2012, IMC received a Cautionary Action Letter (“CAL”) for failing to meet its quoting obligations under NYSE Arca Equities Rule 7.23 for the time period of December 6, 2010, through July 31, 2012.
10. IMC received another CAL for failing to meet its quoting obligations under NYSE Arca Equities Rule 7.23 on December 8, 2014, for the period October 18, 2013, through December 31, 2013.
11. These prior informal actions were taken into consideration in determining the appropriate sanctions in this matter.

Other Factors Considered

12. IMC has updated its policies and procedures to ensure that it will make timely notifications of quoting outages to the Exchange in the future.

ORDER

IMC Financial Markets violated: (i) NYSE Arca Equities Rule 7.23 by failing to maintain continuous, two-sided trading interest in approximately 79,382 instances and (ii) NYSE Arca Equities Rule 6.18(b) by failing to establish and maintain adequate supervisory procedures reasonably designed to ensure compliance with NYSE Arca Equities Rule 7.23.

SANCTIONS

IMC Financial Markets is censured and fined \$85,000. These sanctions are effective immediately.



Maureen A. Delaney
Hearing Officer