

NYSE ARCA, INC.
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2020-06-00085

TO: NYSE Arca, Inc.

RE: Interactive Brokers LLC Respondent
CRD No. 36418

During the period between January 8, 2015 and November 29, 2019 (the “Relevant Period”), Interactive Brokers LLC violated NYSE Arca Rule 6.69-O (Reporting Duties) by reporting more than 525,000 orders (comprised of approximately 2.1 million contracts) with inaccurate origin codes to the Exchange. Consent to a censure and \$237,500 fine.

* * *

Pursuant to Rule 10.9216 of the NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) Code of Procedure, Interactive Brokers LLC (“Interactive Brokers” 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 Arca will not bring any future actions against the Firm alleging violations based on the same factual findings described herein.

I. ACCEPTANCE AND CONSENT

- A. Interactive Brokers 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 Arca, or to which NYSE Arca 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 NYSE Arca:

BACKGROUND AND JURISDICTION

1. The Firm became registered as an Options Trading Permit (“OTP”) holder with NYSE Arca on February 11, 2000.
2. The Firm has no recent formal disciplinary history relevant to the violations described herein.

PROCEDURAL HISTORY

3. This matter arises from a referral to NYSE Regulation by the Financial Industry Regulatory Authority, Inc. (“FINRA”) following an examination by FINRA of, among other areas, the Firm’s compliance with NYSE Arca reporting obligations.

VIOLATIONS

4. Applicable Exchange rules require that a member must record an appropriate origin code in each order record to indicate the kind of account for which the order will be executed and cleared. *See* NYSE Arca Rule 6.68-O(a) (Record of Orders).
5. NYSE Arca Rule 6.69-O (Reporting Duties) requires that such records of “[a]ll option transactions must be immediately reported to the Exchange, in a form and manner prescribed by the Exchange”
6. Origin codes are important because, among other things, they may affect the accuracy of the Exchange's audit trail, which may impact the Exchange’s surveillance for compliance with Exchange rules and federal securities laws. In addition, origin codes must be accurate as part of ensuring that trades are reported to the Options Clearing Corporation with accurate trade details. Origin codes are also utilized by the Exchange as part of fee and rebate calculations.
7. Effective January 2, 2015, pursuant to a published rule change, NYSE Arca adopted a Professional Customer origin code, to be recognized in addition to pre-existing origin codes. The term “Professional Customer” means an individual or organization that (i) is not a Broker/Dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). NYSE Arca Rule 6.1A-O(a)(4A).
8. Accordingly, as of January 2, 2015, NYSE Arca recognized four distinct origin codes: (1) Professional Customer, (2) Customer, (3) Firm, and (4) Market Maker.
9. During the Relevant Period, the Firm executed approximately 525,000 options orders on the Exchange that were reported to the Exchange inadvertently designated with an incorrect origin code of Customer, rather than the required Professional Customer code. The orders were executed on behalf of 12 Firm customers and comprised nearly 2.1 million contracts.
10. Internally, the Firm created and maintained accurate records that designated the qualifying order flow with the Professional Customer origin code. However, because the Firm failed to recognize that certain Firm order routing connections with the Exchange needed to be reconfigured in order to transmit the Professional Customer order code designation for qualifying order flow (following the implementation of the above-referenced rule change), the records reported to the Exchange were mismarked.
11. As a result, the Firm’s internal records correctly reflected the Professional Customer origin code for the orders described in paragraph 9, while the records reported to NYSE Arca incorrectly designated the order flow with the Customer origin code.
12. Upon recognizing this error, the Firm promptly remediated the issue and began sending order flow with the correct origin code designations.
13. Moreover, the Firm has implemented additional, enhanced supervisory controls and

reviews to monitor origin code reporting. The Firm now utilizes a surveillance that reviews all connections to the Exchange and compares the origin codes routed externally with the origin code maintained internally to identify any inconsistencies.

14. Accordingly, the Firm violated NYSE Arca Rule 6.69-O.

SANCTIONS

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

1. **Censure and fine in the amount of \$237,500**

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.

The sanctions imposed herein shall be effective on a date set by NYSE Regulation staff.

II. WAIVER OF PROCEDURAL RIGHTS

The Firm specifically and voluntarily waives the following rights granted under the NYSE Arca 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 Arca; 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 Arca employee; or any Regulatory Staff as defined in Rule 10.9120 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.

The Firm further specifically and voluntarily waives any right to claim that a person violated the ex parte communication prohibitions of Rule 10.9143 or the separation of functions prohibitions of Rule 10.9144, 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 Arca pursuant to NYSE Arca Rule 10.9216;
- 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, 25 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 Arca Rule 10.9310(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 Arca shall publish a copy of the AWC on its website in accordance with NYSE Arca Rule 10.8313;
 - 4. NYSE Arca may make a public announcement concerning this agreement and the subject matter thereof in accordance with NYSE Arca Rule 10.8313; 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 FINRA'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 information and that all information required by FINRA's examination was produced. In agreeing to the AWC, the Exchange has relied upon, among other things, the completeness of the 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.

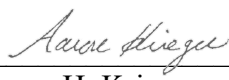
October 23, 2020
Date

Interactive Brokers LLC,
Respondent

By: 
Scott M. Litvinoff
Chief Regulatory Counsel

Accepted by NYSE Regulation

October 23, 2020
Date


Aaron H. Krieger
Senior Enforcement Counsel
NYSE Regulation

Signed on behalf of NYSE Arca, Inc., by
delegated authority from its Chief
Regulatory Officer