

NYSE ARCA, INC.
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2020-11-10-00002

TO: NYSE Arca, Inc.

RE: IMC-Chicago, LLC d/b/a IMC Financial Markets, Respondent
CRD No. 8-52600

During the period between September 4, 2020 through the present (the “Relevant Period”), IMC-Chicago, LLC d/b/a IMC Financial Markets violated: (1) Rules 15c3-5(b) and 15c3-5(c)(1)(ii) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), by failing to establish, document, and maintain a system of risk management controls and supervisory procedures, including written supervisory procedures and an adequate system of follow-up and review, reasonably designed to manage the financial, regulatory, and other risks of its market access business, including pre-trade controls to prevent the entry of erroneous orders; (2) Rules 15c3-5(b) and 15c3-5(e) of the Exchange Act, by failing to adequately review the effectiveness of its Market Access Rule controls and by failing to maintain written supervisory procedures regarding the review of its controls; and (3) NYSE Arca Rule 11.18 by failing to establish and maintain supervisory systems and written supervisory procedures reasonably designed to assure compliance with Rule 15c3-5. Consent to a censure and a fine of \$15,000 payable to NYSE Arca.

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Pursuant to Rule 10.9216 of the NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) Code of Procedure, IMC-Chicago, LLC d/b/a IMC Financial Markets (“IMC” 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. IMC 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. IMC registered with NYSE Arca on May 5, 2006.
2. IMC is a proprietary trading firm that neither maintains customer accounts nor handles customer funds or securities. Among other things, the Firm acts as Lead Market Maker (“LMM”) for securities listed on NYSE Arca.
3. On September 4, 2020, the Firm submitted a clearly erroneous execution (“CEE”) petition with the Exchange, regarding the erroneous execution of 64 orders of 38,000 shares in Symbol 1 (the “Erroneous Orders”). After review, all executions were busted as erroneous.
4. The Firm attributed the Erroneous Orders to a technical error related to data collection from a third-party data provider (the “Pricing Issue”). The Firm received incorrect start of day valuation information from a third-party vendor. As a result, the Firm used a stale reference price, which affected the basis for certain of its Market Access Rule controls, including the Firm’s price deviation control.
5. Additionally, one of the Firm’s pre-trade controls, which would have prevented the Erroneous Orders from reaching NYSE Arca, was not functional at the time the Erroneous Orders were submitted.

VIOLATIONS

Rules at Issue

6. Rule 15c3-5 requires, among other things, that a broker-dealer with market access document its system of risk management controls and supervisory procedures designed to manage the financial, regulatory, and other risks of market access.
7. Rule 15c3-5(b) specifically requires broker-dealers with market access, or that provide a customer with market access, to “establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of this business activity.” The broker-dealer must preserve a copy of its supervisory procedures and “a written description of its risk management controls” as part of its books and records for the time period required by SEA Rule 17a-4(e)(7).¹
8. Rule 15c3-5(c)(1) requires firms that provide market access to establish risk management controls and supervisory procedures that are “reasonably designed to systematically limit the financial exposure of the broker or dealer that could arise as a result of market access.” An important purpose of Rule 15c3-5 is to ensure that

¹ See 17 C.F.R. § 240.15c3-5(b), which by reference to Rule 17a-4(e)(7), requires a broker-dealer to maintain and preserve such description “until three years after the termination of the use of” the document. See 17 C.F.R. § 240.17a-4(e)(7).

market access providers “appropriately control the risks associated with market access so as not to jeopardize their own financial condition, that of other market participants, the integrity of trading on the securities markets, and the stability of the financial system.” 75 Fed. Reg. 69792, 69792 (Nov. 15, 2010); *see* 17 C.F.R. § 240.15c3-5.

9. Pursuant to Rule 15c3-5(b) and 15c3-5(c)(1)(ii), broker-dealers are required to establish, document, and maintain “risk management controls and supervisory procedures . . . reasonably designed to . . . [p]revent the entry of erroneous orders, by rejecting orders that exceed appropriate price or size parameters, on an order-by-order basis or over a short period of time, or that indicate duplicative orders.” Rule 15c3-5 requires such controls and procedures in order to reduce risks to broker-dealers, their clients, and the securities markets.
10. Rule 15c3-5(e) requires a broker or dealer with market access to establish, document, and maintain a system for regularly reviewing the effectiveness of its risk management controls and for promptly addressing any issues. Rule 15c3-5(e)(1) requires the broker or dealer to review, no less frequently than annually, the business activity of the broker or dealer in connection with market access to assure the overall effectiveness of its risk management controls and supervisory procedures. Moreover, this rule requires, among other things, that the review be conducted in accordance with written procedures and be documented. These provisions were intended to ensure that a broker or dealer “implements supervisory review mechanisms to support the effectiveness of its risk management controls and supervisory procedures on an ongoing basis.”
11. NYSE Arca Rule 11.18(b) requires member firms to “establish and maintain a system to supervise the activities of its associated persons and the operations of its business. Such system must be reasonably designed to ensure compliance with applicable federal securities laws and regulations and NYSE Arca Rules.” NYSE Arca 11.18(c) requires each member firm to “establish, maintain, and enforce written procedures to supervise the business in which it engages and to supervise the activities of its associated persons that are reasonably designed to ensure compliance with applicable federal securities laws and regulations, and with the NYSE Arca Rules.”

IMC Failed to Establish Reasonably Designed Pre-Trade Erroneous Order Controls

12. During the Relevant Period, the Firm failed to establish, document, and maintain reasonable erroneous order controls, including written supervisory procedures (“WSPs”) in connection with the Firm’s LMM business activity.
13. Specifically, the Firm failed to set forth any basis or rationale for establishing, changing, or reviewing its erroneous order controls (including the basis for an average daily volume (“ADV”) control). The Firm also utilized an erroneous order control (the “Max Units/Max Deltas” control), which was non-functional at the time the Erroneous Order was submitted to NYSE Arca.

14. The Firm failed to provide any basis or rationale, including documentation, as to why the Firm established erroneous order controls at their initial levels; why erroneous order control levels were subsequently changed; or why any of the Firm's erroneous order controls were reasonable in light of the of the Firm's business activity.
15. The Firm failed to provide evidence to demonstrate that it undertook analysis, pursuant to written guidance or otherwise, when changing erroneous order controls. Moreover, while individual risk managers were responsible for determining and implementing changes, the Firm was unable to identify guidance upon which risk managers relied to identify when changes were appropriate and warranted, the factors considered in making such changes, or the documentation risk managers should have provided when making such changes.
16. The Firm also was unable to provide a description, in its WSPs or otherwise, regarding how:
 - a. the Firm established erroneous order controls, determined how to change control settings, or information regarding how to implement and document changes;
 - b. the Firm evaluated and reviewed erroneous order control limits and procedures;
 - c. the Firm assessed its erroneous order controls for appropriateness, whether by monitoring or review, in a manner and frequency reasonably tailored to the Firm's business;
 - d. traders or risk managers should respond when erroneous order controls were triggered; or
 - e. the Firm utilized ADV in determining or changing erroneous order controls, including providing any justification or guidance for using ADV to set control levels.
17. At the time the Erroneous Orders were submitted to NYSE Arca, the Firm's Max Units and Max Delta controls² were not configured. Though the Firm intended to configure each of these controls at a quantity of 2,000 shares per symbol, neither was triggered by the 38,000 shares submitted. Had these controls been configured, they would have prevented the Erroneous Orders from reaching the market.

²² The Firm's "Max Units" control limits the maximum allowable units or shares that an individual auto-trader can trade in a given session. The "Max Deltas" control represents the maximum allowable deltas an individual auto-trader can trade in a given session. If these controls are breached, the auto-trader will not send additional orders until a trader manually intervenes to reset the session.

18. Accordingly, for the reasons discussed above, the Firm violated Exchange Act Rules 15c3-5(b) and 15c3-5(c)(1)(ii), and NYSE Arca Rule 11.18.

IMC Failed to Establish a System for Regularly Reviewing Risk Management Controls and for Annual Review and Certification

19. During the Relevant Period, the Firm's WSPs failed to reasonably describe the manner in which the Firm's annual review process should be conducted, including details as to how the Firm should perform reviews to assess whether its controls reasonably limited the risks presented by its business activity.
20. Additionally, the Firm failed to configure certain Market Access Rule controls for a subset of its trading systems, namely the "Max Units/Max Deltas" controls. This failure was not identified by the Firm and contributed to the execution of the Erroneous Orders.
21. Accordingly, the Firm violated Exchange Act Rules 15c3-5(b) and 15c3-5(e), and NYSE Arca Rule 11.18.

DISCIPLINARY HISTORY

22. On January 4, 2018, a CAL was issued to the Firm for violations of 15c3-5(c)(1)(ii) and 15c3-5(b), where certain orders submitted by the Firm breached the applicable CEE percentage thresholds. The Firm failed to implement reasonable erroneous order controls; specifically, the Firm's price band control for the relevant securities at issue was unreasonably high. *See* NYSER Matter No. 2018-08-00068.

OTHER FACTORS

23. In determining to resolve this matter on the basis set forth herein, Enforcement took into consideration the fact that the Firm has engaged in substantial efforts at remediating deficiencies related to its Market Access Rule controls.

SANCTIONS

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

1. **Censure and fine in the amount of \$15,000 payable to NYSE Arca.**

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 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, 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 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 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 or identified in a privilege log. 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.

4/21/2022
Date

IMC-Chicago, LLC
d/b/a IMC Financial Markets,
Respondent

By: 
Jason Downey
Chief Compliance Officer

Accepted by NYSE Regulation
4/21/2022

Date



Danielle A. Kantor
Director, Enforcement
NYSE Regulation

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