

NYSE ARCA, INC.
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2021-05-05-00038

TO: NYSE Arca, Inc.

RE: Interactive Brokers LLC, Respondent
CRD No. 36418

On April 27, 2021, Interactive Brokers LLC (“Interactive Brokers” or the “Firm”) violated NYSE Arca Rule 11.1(b) by failing to timely process a reverse stock split. In addition, from February 20, 2020 through June 2, 2021 (the “Relevant Period”), the Firm violated NYSE Arca Rule 11.18(b) and (c) by failing to have a supervisory system, including written supervisory procedures, reasonably designed to ensure the timely and accurate processing of corporate actions. Consent to a censure and \$295,000 fine.

* * *

Pursuant to Rule 10.9216 of the NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) Code of Procedure, Interactive Brokers 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. Interactive Brokers is an agency-only online broker that offers direct market access to customers. It has been an Options Trading Permit (“OTP”) holder with NYSE Arca since February 11, 2000 and an Equities Trading Permit (“ETP”) holder with NYSE Arca since December 13, 2000. The Firm has no relevant disciplinary history.

VIOLATIONS

Applicable Rules

2. NYSE Arca Rule 11.1(b) requires member firms (including OTP and ETP holders) and their associated persons to “at all times adhere to the principles of good business practice in the conduct of its or their business affairs.”
3. NYSE Arca Rule 11.18(b) requires each member firm 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.”
4. NYSE Arca Rule 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.”

Facts

5. During the Relevant Period, Interactive Broker’s written supervisory procedures (“WSPs”) required confirmation of a corporate action by at least two of three data sources used by the Firm. The Firm used an automated system to verify and execute corporate actions in customers’ accounts based on the data sources. If two data sources matched, the system automatically executed the corporate action and updated customers’ accounts accordingly. If the data sources provided conflicting information or only one data source confirmed the corporate action, then the matter would be escalated for manual review by the Firm’s corporate actions team. However, the Firm’s WSPs were not reasonably designed, in that they did not contain information about what the manual review should entail or what actions should be taken to verify a corporate action. In addition, the Firm did not have reasonably designed procedures in place to prevent customers from trading based on inaccurate account information if the Firm did not timely process a corporate action. The Firm failed to address these gaps in its supervisory procedures, despite having experienced instances where corporate actions could not be confirmed automatically.
6. On April 14, 2021, a publicly-traded company filed a Form 8-K and issued a public press release announcing a 1:15 reverse stock split.¹ The press release stated that the

¹ A reverse stock split consolidates the number of existing shares of a company’s stock into fewer, higher-priced shares. Thus, a customer who held 1,500 shares at a price of \$1/share prior to the 1:15 reverse stock split would have 100 shares at a price of \$15/share after the split.

split would be effective as of April 26, 2021 and that the company's stock would trade on a split-adjusted basis beginning April 27, 2021.

7. In advance of the split, the Firm received confirmations of the split from two of the three data sources used by the Firm. One data source listed an effective date of April 26, 2021 and the other listed an effective date of April 27, 2021.
8. Because the two data sources listed different effective dates, the action was escalated for manual review by the Firm's corporate actions team. However, the Firm's corporate actions team did not take additional steps to verify the effective date of the split or process the split other than waiting for confirmation from the third data source (which never came), since the Firm's policies and procedures did not contain instructions to consult other sources of information to confirm the details of the split.
9. When pre-market trading began at 4:00 am on April 27, 2021, the Firm still had not processed the reverse stock split. As a result, customers' accounts reflected pre-split positions. Despite this, the Firm permitted customers to trade in their accounts based on the pre-split information and did not alert customers that the information in their accounts may be inaccurate.
10. During the pre-market on April 27, 2021, customers of the Firm contributed sell pressure to the security, which traded significantly below the prior day's split-adjusted closing price of \$7.35 during that same time.²
11. At 4:20 am, Interactive Brokers requested to bust the trades in this symbol. Despite acknowledging that orders sent at non-split-adjusted prices were erroneous, the Firm continued to send customer orders at non-split-adjusted prices to NYSE Arca and other exchanges. At approximately 6:30 am, NYSE Arca and other exchanges issued a market-wide bust of all trades in the security from 4:00 to 4:20 am at or below \$5.88.
12. Ultimately, the Firm processed the split at 7:12 am.³ Customers who, based on the non-split-adjusted information reflected in their accounts, sold more shares than they owned were required to cover those sales, often at a loss.

² The first order sent to NYSE Arca was a buy limit order at \$0.5355 sent by a Firm customer, which set the National Best Bid at \$0.5355. The first trade of the day on NYSE Arca was \$1.14, with Interactive Brokers customers on both sides of the order.

³ NYSE Arca denied a second request from the Firm to bust trades from 4:20 to 7:12 am because the transaction prices were within the guidelines set forth in NYSE Arca Rule 7.10-E(c)(1).

Violations of NYSE Arca Rules 11.1(b) and 11.18(b) and (c)

13. By failing to timely verify and process the April 27, 2021 reverse stock split, the Firm failed to adhere to principles of good business practice, in violation of NYSE Arca Rule 11.1(b).
14. In addition, during the Relevant Period, the Firm failed to have a supervisory system and WSPs reasonably designed to ensure timely and accurate processing of corporate actions. Specifically, the Firm's WSPs did not provide guidance about what the corporate actions team should do if at least two of the data sources did not confirm the corporate action with matching information. The Firm also did not have reasonable procedures in place to prevent customers from trading based on inaccurate account information. As a result, the Firm violated NYSE Arca Rule 11.18(b) and (c).

OTHER FACTORS

15. In determining to resolve this matter on the basis set forth herein, Enforcement took into consideration that the Firm engaged in remedial measures after the April 27, 2021 incident and has offered restitution to customers who were determined to have been directly harmed by the late processing of the split.

SANCTIONS

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

Censure and fine in the amount of \$295,000

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 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, 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. 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.

March 23, 2023
Date

Interactive Brokers LLC,
Respondent

By 

Scott Litvinoff
Chief Regulatory & Product Counsel
Interactive Brokers LLC

Accepted by NYSE Regulation

March 23, 2023
Date



Kerry Tirrell
Enforcement Counsel
NYSE Regulation

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