

**NEW YORK STOCK EXCHANGE LLC  
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT  
NO. 2017-11-00120**

TO: New York Stock Exchange LLC

RE: Clearpool Execution Services, LLC, Respondent  
CRD No. 168490

**During the period from November 22, 2017, through December 14, 2017, (the “Relevant Period”) Clearpool Execution Services, LLC violated: (1) NYSE Rule 123C (Cancellation of MOC, LOC, and CO Orders), and (2) NYSE Rule 3110 (Supervision). Consent to a censure and \$35,000 fine.**

\* \* \*

Pursuant to Rule 9216 of the New York Stock Exchange LLC (the “NYSE” or the “Exchange”) Code of Procedure, Clearpool Execution Services, LLC (“Clearpool” 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, the NYSE will not bring any future actions against the Firm alleging violations based on the same factual findings described herein.

**I. ACCEPTANCE AND CONSENT**

- A. Clearpool 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 the NYSE, or to which the NYSE 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 the NYSE:

**BACKGROUND AND JURISDICTION**

1. Clearpool is a registered broker dealer that was formed on May 7, 2013, in the State of New York. The Firm has been a member of the NYSE since June 9, 2015, and its membership remains in effect.

**VIOLATIONS**

2. During the Relevant Period, Clearpool violated NYSE Rule 123C by improperly cancelling 198 Closing Offset (“CO”) orders after the prescribed cut-off time of 3:45 p.m., and violated NYSE Rule 3110 by failing to implement a supervisory system and controls reasonably designed to achieve compliance with NYSE Rule 123C.
3. Throughout the Relevant Period, NYSE Rule 123C(3) provided, among other things, that: (i) up to 3:45 p.m., CO orders may be cancelled or reduced in size for any reason; (ii) between 3:45 p.m. and 3:58 p.m., CO orders may only be cancelled

or reduced in size to correct a “legitimate error,” as defined in NYSE Rule 123C(1)(c); and (iii) after 3:58 p.m., CO orders may not be cancelled or adjusted for any reason except as provided for in Rule 123C(9) (Extreme Order Imbalances at or Near the Close).

4. Throughout the Relevant period, NYSE Rule 3110(a) required, in pertinent part, that member organizations shall establish and maintain a supervisory system “that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable Exchange rules.” NYSE Rule 3110(b)(1) further required each member organization to “establish, maintain, and enforce written procedures to supervise the types of business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable Exchange rules.”
5. On two trade dates during the Relevant Period, Clearpool improperly cancelled 198 CO orders after the proscribed cut-off time of 3:45 p.m. These orders were not cancelled to correct a “legitimate error” or in connection with extreme order imbalances at or near the close. Accordingly, each of these cancellations violated NYSE Rule 123C(3).
6. In addition, during the Relevant Period, Clearpool failed to establish and maintain a supervisory system, including written supervisory procedures, reasonably designed to achieve compliance with Rule 123C as it pertains to CO orders.
7. Specifically, Clearpool failed to implement any surveillance to detect the potentially improper cancellation of CO orders, and failed to implement any block to prevent such potentially improper cancellations. Clearpool failed to implement a surveillance notwithstanding that in a prior Letter of Acceptance, Waiver and Consent to the New York Stock Exchange, the Firm stated that it had “implemented a MOC/LOC/CO surveillance review protocol that includes daily review of any exceptions.” This statement was incorrect with respect to CO orders.
8. Accordingly, Clearpool also violated NYSE Rule 3110.

#### **RELEVANT PRIOR DISCIPLINARY HISTORY**

9. On August 11, 2016, the Firm entered into AWCs with the New York Stock Exchange LLC and NYSE MKT LLC in which the Firm agreed to a censure and total fine of \$30,000 for violations of Rules 123C and 3110. Clearpool Execution Services, LLC, NYSE Matter No. 2016-01-20-00002 (Aug. 11, 2016); Clearpool Execution Services, LLC, NYSE MKT Matter No. 2016-01-20-00002 (Aug. 11, 2016). In those matters, the Firm improperly cancelled 442 closing auction orders, including 139 CO orders. In addition, the Firm failed to have in place any surveillance or block with respect to the potentially improper cancellation of closing

auction orders governed by Rule 123C(3).

### SANCTIONS

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

1. **Censure and fine in the amount of \$35,000**

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 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 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 the NYSE; 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 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.

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 the NYSE pursuant to NYSE 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, 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 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. The NYSE shall publish a copy of the AWC on its website in accordance with NYSE Rule 8313;
  - 4. The NYSE may make a public announcement concerning this agreement and the subject matter thereof in accordance with NYSE 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.

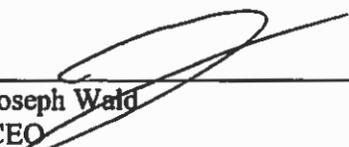
- E. The Firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The Firm understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. Any such statement 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 documents in connection with this matter, the Firm made a diligent inquiry of all persons who reasonably had possession of responsive documents, and that those documents have been produced or identified in a privilege log. The Firm acknowledges that, in agreeing to the AWC, the Exchange has relied upon, among other things, the completeness of such document production.

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.

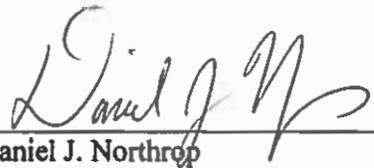
11/7/18  
Date

Clearpool Execution Services, LLC,  
Respondent

By:   
Joseph Wald  
CEO

Accepted by NYSE Regulation

11/9/18  
Date

  
Daniel J. Northrop  
Enforcement Counsel  
NYSE Regulation

Signed on behalf of New York Stock  
Exchange LLC, by delegated authority from  
its Chief Regulatory Officer