

**NEW YORK STOCK EXCHANGE LLC  
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT  
NO. 2020-01-00080**

TO: New York Stock Exchange LLC

RE: Virtu Americas LLC, Respondent  
CRD No. 149823

**During the period between October 1, 2019 and December 31, 2019 and between July 1, 2020 and September 30, 2020 (the “Relevant Period”), Virtu Americas LLC violated (i) NYSE Rule 107B(d)(1) by failing to maintain continuous, two-sided trading interest in approximately 38,631 instances, (ii) NYSE Rule 104(a)(1) for failing to maintain continuous, two-sided trading interest in approximately 213 instances, and (iii) NYSE Rule 104(f) for failing to maintain a fair and orderly market in one instance. Consent to a censure and an aggregate fine of \$55,000 (\$20,000 of which will be payable to New York Stock Exchange LLC).**

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Pursuant to Rule 9216 of the New York Stock Exchange LLC (the “NYSE” or the “Exchange”) Code of Procedure, Virtu Americas LLC (“Virtu” 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. Virtu 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. Virtu Americas LLC became a member of the NYSE on October 21, 2009, and its registration remains in effect. Virtu is a broker-dealer firm based in New York, New York.

**PROCEDURAL HISTORY**

2. This matter arises from a NYSE Regulation (“NYSER”) investigation. NYSER staff commenced this matter upon detection of potential failures, during the Relevant Period, to: (1) enter and maintain continuous, two-sided trading interest on NYSE as required by NYSE Rule 107B(d)(1) and NYSE Rule 104(a)(1)(B), and (2) maintain a fair and orderly market as required by NYSE Rule 104(f).

## VIOLATIONS

### **Market-Maker Quoting Violations Under NYSE Rules 107B(d)(1) and 104(a)(1)**

1. NYSE Rule 107B(d)(1) sets forth the requirement that Supplemental Liquidity Market Makers (“SLMMs”) “must maintain continuous, two-sided trading interest in those securities in which the SLMM is registered to trade as [a Supplemental Liquidity Provider].”
2. NYSE Rule 104(a)(1) sets forth the requirement that Designated Market Makers (“DMMs”) must “[a]ssist the Exchange by providing liquidity as needed to provide a reasonable quotation and by maintaining a continuous two-sided quote with a displayed size of at least one round lot.”
3. Because SLMMs and DMMs 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 Rules 107B(d)(1) and 104(a)(1).
4. Virtu was registered as an SLMM in approximately 3,150 symbols on average during the Relevant Period. Virtu was registered as a DMM in 54 symbols on average during the Relevant Period.
5. In approximately 38,631 instances, Virtu violated NYSE Rule 107B(d)(1) by failing to enter and maintain continuous, two-sided trading interest as required by the rule.
6. In approximately 213 instances, Virtu violated NYSE Rule 104(a)(1) by failing to enter and maintain continuous, two-sided trading interest as required by the rule.
7. The Firm attributed the quote gaps to several reasons, including, among others, various technological issues such as data feed issues and connectivity outages.
8. Accordingly, the aforementioned instances constitute violations of NYSE Rule 107B(d)(1) and NYSE Rule 104(a)(1).

### **Failure to Maintain a Fair and Orderly Market Under NYSE Rule 104(f)**

9. NYSE Rule 104(f) provides that the obligations of a DMM include the “maintenance, in so far as reasonably practicable, of a fair and orderly market on the Exchange in the securities in which he or she is so acting.” The rule further provides that “[t]he maintenance of a fair and orderly market implies the maintenance of price continuity with reasonable depth, to the extent possible consistent with the ability of participants to use reserve orders, and the minimizing of the effects of temporary disparity between supply and demand.”
10. On July 15, 2020, the Virtu DMM failed to maintain a fair and orderly market in Symbol 1 by failing to maintain price continuity with reasonable depth.

11. Following the reopening of the NYSE trading floor on May 26, 2020, after its pandemic-related closure, the Virtu DMM elected to operate fully electronically. Virtu, however, had failed to properly modify its trading strategies and parameters that required floor-based intervention, and therefore it was unable to manually provide liquidity when the open-on-trade quoting strategy failed to engage and in the subsequent period following the reopening.
12. Specifically, based on pre-open news, Symbol 1 opened the day at \$4.00, which was 53% higher than the previous day's close. Symbol 1 then climbed from \$4.00 to \$4.80 which triggered a limit up-limit down ("LULD") pause. Following the pause, Symbol 1 was reopened via Exchange-initiated auction at \$4.00 because the Virtu DMM's open-on-a-trade strategy was not engaged. The Virtu DMM did not provide any liquidity in the reopening auction and was unable to provide liquidity manually. Symbol 1 then immediately traded back up to \$4.80. The Virtu DMM also failed to provide any liquidity in this immediate post-auction period because Virtu had set its trading parameters to prevent automatic executions at certain price points away from the last sale absent manual intervention.
13. Accordingly, the aforementioned conduct constitutes a violation of NYSE Rule 104(f).

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

14. On May 2, 2017, KCG Americas LLC<sup>1</sup> was fined \$35,000 for violating NYSE Rule 104(a)(1) by failing to maintain continuous, two-sided trading interest in its assigned symbols at and near the open on August 24, 2015.
15. On April 17, 2017, Virtu Financial Capital Markets LLC<sup>2</sup> was issued a \$2,500 Minor Rule Violation fine for violating NYSE Rule 104(a)(1) by failing to maintain continuous, two-sided trading interest in nine assigned symbols on January 9, 2017, due to technical issues with its automated strategies, and in 10 assigned symbols on January 10, 2017, because a DMM inadvertently turned off the firm's two-sided market and depth guideline strategies.
16. On December 1, 2016, Virtu Financial Capital Markets LLC was issued a cautionary action letter ("CAL") for violations of Rule 104(a)(1) for failing to maintain continuous, two-sided trading interest on four trading days.
17. On June 30, 2016, KCG Americas LLC received a CAL for violating NYSE Rule 104(f) for failing to maintain a fair and orderly market in a single stock on the open. The stock was subject to news that led to exceptional trading volume, which blocked electronic DMM interest, and the Virtu DMM failed to manually enter interest in the stock when this occurred.

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<sup>1</sup> KCG Americas LLC was a predecessor entity to Virtu Americas LLC.

<sup>2</sup> Virtu Financial Capital Markets LLC was a predecessor entity to Virtu Americas LLC.

## OTHER FACTORS

18. In determining to resolve this matter on the basis set forth herein, Enforcement took into consideration, among other things, that a substantial number of the quoting failures were detected in real-time and quickly remediated by the Firm. Further, the Firm has represented that it has implemented additional changes to its quoting and supervisory systems to prevent similar such issues in the future.
19. Enforcement also took into consideration, in resolving the NYSE Rule 104(f) violation, the unique circumstances surrounding the NYSE trading floor closure and subsequent reopening due to the COVID-19 pandemic.

## SANCTIONS

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

1. **Censure and fine in the aggregate amount of \$55,000, \$20,000 of which shall be payable to NYSE.**<sup>3</sup>

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 Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against the Firm;

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<sup>3</sup> The balance of the fine will be paid pursuant to an AWC with NYSE Arca, Inc.

- 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, 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 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 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.

Date: August 26, 2021

Virtu Americas LLC,  
Respondent



By: \_\_\_\_\_  
Matthew Levine  
Deputy General Counsel

Accepted by NYSE Regulation

August 30, 2021

\_\_\_\_\_  
Date



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Russell A. Mawn, Jr.  
Enforcement Counsel  
NYSE Regulation

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