

BATS BYX EXCHANGE, INC.
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20140437874-03

TO: Bats BYX Exchange, Inc.
c/o Department of Market Regulation
Financial Industry Regulatory Authority ("FINRA")

RE: Barclays Capital Inc., Respondent
Broker-Dealer
CRD No. 19714

Pursuant to Rule 8.3 of the Rules of Bats BYX Exchange, Inc. ("BYX"), Barclays Capital Inc. ("BCAP" 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, BYX will not bring any future actions against the firm alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. The firm 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 BYX, or to which BYX 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 BYX:

BACKGROUND

The firm became a member of BYX on October 1, 2010, and its registration remains in effect. The firm does not have a relevant disciplinary history.

SUMMARY

In connection with Matter No. 20150468008, the Market Analysis Section of the Department of Market Regulation at FINRA (the "staff") reviewed the firm's compliance with Rule 611(c) of Regulation NMS ("SEC Rule 611(c)") and the rules related to the routing of intermarket sweep orders during the period between January 1, 2015 and September 30, 2015 (the "review period").

OVERVIEW

During the review period, due to various technology system issues, the firm in numerous instances on one day routed and executed intermarket sweep orders through protected quotations, and failed to route additional intermarket sweep orders to execute against protected quotations in violation of SEC Rule 611(c), and BYX Rules 11.9(d), 3.1, and 5.1.

FACTS AND VIOLATIVE CONDUCT

1. SEC Rule 611(c) provides that the trading center, broker, or dealer responsible for the routing of an intermarket sweep order shall take reasonable steps to establish that such order meets the requirements set forth in Rule 600(b)(30) of Regulation NMS ("SEC Rule 600(b)(30)").
2. SEC Rule 600(b)(30) defines an intermarket sweep order as a limit order for an NMS stock that meets the following requirements: (i) when routed to a trading center, the limit order is identified as an intermarket sweep order; and (ii) simultaneously with the routing of the limit order identified as an intermarket sweep order, one or more additional limit orders, as necessary, are routed to execute against the full displayed size of any protected bid, in the case of a limit order to sell, or the full displayed size of any protected offer, in the case of a limit order to buy, for the NMS stock with a price that is superior to the limit price of the limit order identified as an intermarket sweep order. These additional routed orders also must be marked as intermarket sweep orders.
3. On May 4, 2015, when executing Outbound intermarket sweep orders on BYX, the firm failed to send additional intermarket sweep orders to protected quotes on two separate exchanges. These instances occurred when the firm did not receive direct feed quotes from the two exchanges due to system issues.
4. During the review period the firm failed to take reasonable steps to establish that intermarket sweep orders it routed met the definitional requirements set forth in SEC Rule 600(b)(30). The conduct described in this paragraph constitutes violations of SEC Rule 611(c) and BYX Rule 11.9(d).
5. During the review period, the firm failed to establish and maintain a supervisory system that was reasonably designed to achieve compliance with the applicable securities laws and regulations, and BYX Rules, concerning compliance with SEC Rule 611(c) and BYX Rule 11.9(d). Specifically, the firm failed to adequately monitor whether the direct feeds it used to compile the National Best Bid or Offer were operational. The conduct described in this paragraph constitutes a violation of BYX Rules 3.1 and 5.1.

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

1. A censure;
2. A total fine in the amount of \$50,000, of which \$12,500 is payable to BYX;¹ and
3. Acceptance of this AWC is conditioned upon acceptance of similar settlement agreements in related matters between the firm and each of the following self-regulatory organizations: NYSE Arca Equities, Inc. and FINRA.

¹ The balance of the sanction will be paid to the self-regulatory organizations listed in Paragraph B.3.

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. It has submitted an Election of Payment form showing the method by which it proposes to 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 BYX.

II.

WAIVER OF PROCEDURAL RIGHTS

The firm specifically and voluntarily waives the following rights granted under BYX Rules:

- A. To have a Statement of Charges issued specifying the allegations against the firm;
- B. To be notified of the Statement of Charges 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 Appeals Committee of the BYX'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 ("CRO"), in connection with the CRO'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 prohibitions of BYX Rule 8.16, 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 and accepted by the CRO, pursuant to BYX Rule 8.3;
- 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. this AWC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by BYX or any other regulator against the firm;
2. this AWC will be published on a website maintained by BYX in accordance with BYX Rule 8.18; and
3. 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 BYX, or to which BYX 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 BYX is not a party.

D. 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. This Statement does not constitute factual or legal findings by BYX, nor does it reflect the views of BYX or its staff.

7/22/17

Date

By: Penny Rosenberg
Name: Penny Rosenberg
Title: Director

Counsel for Respondent
Firm Name
Address
City/State/Zip
Phone Number

9/28/2017
Date

5

ELECTION OF PAYMENT FORM

The firm intends to pay the fine proposed in the attached Letter of Acceptance, Waiver and Consent by the following method (check one):

- ☐ A firm check or bank check for the full amount; or
- ☒ Wire transfer.

Respectfully submitted,

7/22/17

Date

Respondent

Barclays Capital Inc.

By: Penny Rosenberg
Name: Penny Rosenberg
Title: Director