

CBOE BZX EXCHANGE, INC.
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2015043490103

TO: Cboe BZX Exchange, Inc.
c/o Department of Enforcement
Financial Industry Regulatory Authority ("FINRA")

RE: Seven Points Capital, LLC, Respondent
Broker-Dealer
CRD No. 144211

Pursuant to Rule 8.3 of the Rules of Cboe BZX Exchange, Inc. ("BZX"), Seven Points Capital, LLC (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, BZX 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 BZX, or to which BZX 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 BZX:

BACKGROUND

The firm became a member of BZX on August 18, 2008. The firm terminated its membership with BZX on December 18, 2015. As of February 15, 2019, the firm employed 39 registered individuals and had four branch offices. The firm's main office is located in New York, New York.

RELEVANT PRIOR DISCIPLINARY HISTORY

The firm has no relevant prior disciplinary history.

SUMMARY

Between April 22, 2014 and December 18, 2015 (the "Relevant Period"), the firm failed to qualify with BZX five associated persons. These associated persons engaged in proprietary trading on behalf of the firm, even though they were not qualified to act in that capacity; they had not passed the requisite exam. In addition, there were 11 proprietary traders who were qualified to act in that capacity but whom the firm failed to register with BZX. The firm also failed to register with BZX or seek a waiver from the requirement to register, at least two principals. This conduct violated BZX Rule 2.5, Interpretations and Policies .01(c) and (d). The firm also failed to establish and enforce

written supervisory procedures requiring associated persons to be properly qualified and registered in violation of BZX Rule 5.1.

FACTS AND VIOLATIVE CONDUCT

1. Throughout the Relevant Period, the firm's primary business was trading and execution of securities for its own account. It had more than 25 proprietary traders throughout that time.
2. During the Relevant Period, BZX Rule 2.5, Interpretations and Policies .01(c) stated, in relevant part, that the Exchange required a Member to register its Authorized Traders with the Exchange. The same Rule required the General Securities Representative Examination ("Series 7") "in qualifying persons seeking registration as general securities representatives, including as Authorized Traders on behalf of Members." BZX also allowed Authorized Traders to qualify and register after passing the Proprietary Trader Examination ("Series 56"). BZX Rule 1.5(d) defined an Authorized Trader as "a person who may submit orders (or who supervises a routing engine that may automatically submit orders) to the Exchange's trading facilities on behalf of his or her Member or Sponsored Participant."
3. On various dates from during the Relevant Period, the firm allowed five Authorized Traders to engage in trading on BZX on behalf of the firm when they had not passed the Series 7 or the Series 56 examination. This conduct violated BZX Rule 2.5, Interpretations and Policies .01(c).
4. On various dates during the Relevant Period, the firm failed to register 11 of its Authorized Traders with BZX as General Securities Representatives. These traders each engaged in trading on BZX on behalf of the firm prior to becoming registered with BZX as a General Securities Representative. Although each of these individuals was properly qualified, having passed Series 7 examination prior to the Relevant Period, their lack of registration was a violation of BZX Rule 2.5, Interpretations and Policies .01(c).
5. During the Relevant Period, BZX Rule 2.5, Interpretations and Policies .01(c) stated, in relevant part, that the Exchange requires each Member other than a sole proprietorship or a proprietary trading firm with 25 or fewer Authorized Traders (Limited Size Proprietary Firm) to register at least two Principals with the Exchange. The Exchange defines a Principal as "any individual responsible for supervising the activities of a Member's Authorized Traders and each person designated as a Chief Compliance Officer on Schedule A of Form BD."
6. During the Relevant Period, the firm failed to register at least two Principals with BZX. This conduct violated BZX Rule 2.5, Interpretations and Policies .01(d).
7. During the Relevant Period, BZX Rule 5.1 stated, "[e]ach member shall establish, maintain and enforce written procedures which will enable it to supervise properly the

activities of associated persons of the Member and to assure their compliance with applicable securities laws, rules, regulations . . . and with the Exchange Rules.”

8. During the Relevant Period, the firm failed to establish and enforce written supervisory procedures requiring associated persons to be properly qualified and registered with BZX. This conduct violated BZX Rule 5.1.

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

- A censure; and
- A \$10,666.67 fine.

The firm agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment 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 imposed in this matter.

The sanctions imposed herein shall be effective on a date set by BZX.

II.

WAIVER OF PROCEDURAL RIGHTS

The firm specifically and voluntarily waives the following rights granted under BZX 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 BZX'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 BZX 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 BZX 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 BZX or any other regulator against the firm;
 - 2. this AWC will be published on a website maintained by BZX in accordance with BZX Rule 8.18. In addition, this AWC will be made available through FINRA's public disclosure program in response to public inquiries about the firm's disciplinary record; 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 BZX, or to which BZX 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 BZX 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 BZX, nor does it reflect the views of BZX or its staff.

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.

5/16/19
Date

Seven Points Capital, LLC
Respondent

[Redacted]

By [Redacted]
Name: Michael Khoury
Title: Partner

Reviewed by:
[Redacted]

Tim Feil, Esq.
Counsel for Respondent
Carmel, Milazzo & DiChiara LLP
3920 Veterans Memorial Highway, Suite 8
Bohemia, New York 11716

5/17/19
Date

[Redacted]

5/31/2019

Greg Hoogasian
Senior Vice President & Chief Regulatory Officer
Choe BZX Exchange, Inc.

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.

5/11/19

Date

Respondent

Seven Points Capital LLC

By: 

Name: Al Mangione

Title: Partner