

BATS BZX EXCHANGE, INC.
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20140418707-03

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

RE: BMO Capital Markets Corp., Respondent
Broker-Dealer
CRD No. 16686

Pursuant to Rule 8.3 of the Rules of Bats BZX Exchange, Inc. ("BZX" or the "Exchange"), BMO Capital Markets Corp. ("BMOC" 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, 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

BMOC has been a member of FINRA since 1985 and a member of BZX since August 18, 2008, and both registrations remain in effect. BMOC is a subsidiary of Canadian Bank of Montreal, and handles customer (on an agency and principal basis), broker-dealer, and market maker order flow. The firm has no relevant disciplinary history.

SUMMARY

1. On behalf of the Exchange, the Financial Industry Regulatory Authority's ("FINRA") Options Regulation group ("Options Regulation") of the Department of Market Regulation (the "staff") conducted a review of BMOC's compliance with applicable federal securities laws and regulations and Exchange rules regarding: (i) options order entry during the period between October 2008 and June 2014 ("Review Period I"); and (ii) options order

exposure, options order entry, and related supervision during the period between January 2012 and May 2012 ("Review Period II"), including BZX Rules 20.7(b)(17) and 24.1(a) and Section 17(a) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Rule 17a-3 thereunder.

2. Applicable Exchange rules require that, when accepting an order, a member must obtain and record an appropriate account type or origin code in each order record and as an order detail when entering orders into the Exchange's systems to indicate the kind of account for which the order will be executed and cleared. Each options market has its own origin codes, but at a minimum, all have codes to indicate that an order is being executed for a customer, a firm, or a market maker. Origin codes are important because, among other things, they affect the accuracy of the firm's order records and the Exchange's audit trail, which may impact the Exchange's surveillance for compliance with Exchange rules and federal securities laws. In addition, origin codes must be accurate as part of ensuring that trades are reported to the Options Clearing Corporation ("OCC") with accurate trade details.
3. The staff found, based on its investigation of activity during Review Periods I and II, that BMOC had violated certain Exchange Rules and federal securities laws when entering and executing certain orders on behalf of the Firm's clients, in that the Firm had entered over 2,000 orders, representing over one million contracts, with incorrect origin codes and sent those orders to multiple U.S. options exchanges, including the Exchange, through an order entry system used by the Firm, resulting in: (i) potential adverse impact to the execution price and quantity of other market participants' orders; (ii) an inaccurate audit trail and inaccurate order records; (iii) trades being reported to OCC with inaccurate trade details; and (iv) an adverse impact to the Exchange's ability to surveil for and detect potential violations of its rules and of federal securities laws. In addition, during Review Period II, the Firm failed to properly expose the "Customer" side of a crossing order to allow for the possibility of price improvement in approximately 101 instances, representing a total of 40,056 contracts, and had related supervisory deficiencies as discussed herein.

FACTS AND VIOLATIVE CONDUCT

Inaccurate Origin Codes

4. At all relevant times, BZX required the use of origin codes. Among other things, the origin code is part of the audit trail data for every transaction.
5. During Review Period I, BMOC entered approximately 487 orders, representing approximately 183,674 contracts, with incorrect origin codes, and routed those orders through another broker-dealer's execution management system to multiple exchanges, including the Exchange. These order marking errors were due to human error by Firm

traders in manually entering incorrect origin codes in a system which did not have hard-coded settings in place at the time.

6. During Review Period II, BMOC mismarked approximately 1,578 different orders, representing approximately 921,347 contracts as "Firm" for Customer or BD Customer accounts, and routed those orders through another broker-dealer's execution management system to multiple exchanges, including the Exchange. These order mismarkings occurred while the Firm was transitioning to become self-clearing, and were limited to orders entered into one specific broker-dealer's execution management system.
7. Of the total mismarked contracts by BMOC during Review Periods I and II, approximately 11.25% were executed on the Exchange.
8. Each instance in which BMOC executed an order with an incorrect origin code could have had adverse consequences, such as creating inaccurate order records, creating an inaccurate audit trail, reporting trades to OCC with inaccurate trade details, and adversely impacting the Exchange's ability to surveil for and detect potential violations of its rules and federal securities laws.
9. By marking orders with the wrong origin code during Review Periods I and II, BMOC violated the following rules:
 - a. Section 17(a)(1) of the Securities Exchange Act of 1934 (the "Exchange Act") and Exchange Act Rule 17a-3(a)(6)(i) thereunder, requiring an Options Member to make and maintain a memorandum of each order, and any other instruction, that contains the complete terms and conditions of the order, and BZX Rules 20.7(b)(17) and 24.1(a), requiring that order records contain certain information and that an Options Member make, keep current and preserve such books and records as prescribed by BZX and by the Exchange Act and rules and regulations thereunder;
 - b. BZX Rule 3.1, which prohibits conduct inconsistent with just and equitable principles of trade;
 - c. BZX Rule 18.1 requiring that Options Members refrain from engaging in conduct in violation of the Exchange Act and rules thereunder, BZX Rules, and OCC Rules as they relate to reporting or clearing options transactions; and
 - d. BZX Rule 18.2(a)(6) requiring an Options Member to ensure that accurate information is entered into the BZX system.

Order Exposure Violations

10. Exchange Rule 22.12 requires options participants to expose customer orders for price improvement before executing as agent.
11. During Review Period II, the Firm failed to properly expose the "Customer" side of a

crossing order to allow for the possibility of price improvement in approximately 101 instances, representing a total of 40,056 contracts, on multiple exchanges, of which approximately 22,948 contracts were executed on the Exchange.

12. By failing to properly expose the Customer side for the potential of price improvement on orders executed on the Exchange, BMOC violated BZX Rule 22.12.

Supervision

13. During Review Period II, BMOC violated BZX Rules 3.1, 3.2, 5.1, and 5.2 by failing to have adequate supervisory systems and controls in place, including written supervisory procedures and separate systems of follow-up and review, which were reasonably designed to achieve compliance with the Exchange's origin code and order exposure requirements. The Firm failed to adequately train its employees on applicable rules governing origin codes, and the Firm's traders had not sought input from compliance or legal personnel regarding the proper marking of orders. Moreover, during Review Period II, the Firm had no procedures to ensure compliance with Exchange order exposure rules. It was only after notice from regulators that BMOC had been alerted to its violations, and BMOC thereafter promptly took steps to develop and implement relevant systems, trainings, and procedures.

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

- a censure; and
- a fine in the amount of \$350,000, of which \$122,588 shall be paid to BZX (\$19,688 for origin code errors and related supervisory failures, and \$102,900 for order exposure and related supervisory failures).

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: NASDAQ PHLX LLC; International Securities Exchange, LLC; NYSE MKT LLC; NASDAQ BX, Inc., on behalf of the Boston Options Exchange; The NASDAQ Options Market LLC; and NYSE Arca, Inc.

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 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;

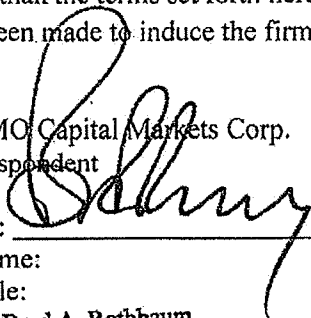
2. This AWC will be published on a website maintained by BZX in accordance with BZX Rule 8.18. In addition, this AWC will be made available through FINRA's public disclosure program in response to public inquiries about the firm's disciplinary record; and
3. The firm may not take any action or make or 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.

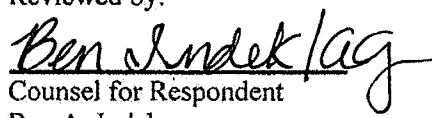
The undersigned, on behalf of the firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that it has agreed to the AWC's provisions voluntarily; and that no offer, threat, 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.

June 28/17
Date

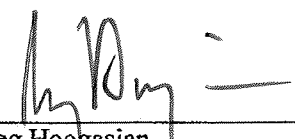
BMO Capital Markets Corp.
Respondent

By: 
Name:
Title:

Brad A. Rothbaum
Managing Director
Chief Operating Officer
BMO Capital Markets Corp.

Reviewed by:

Counsel for Respondent
Ben A. Indek
Morgan, Lewis & Bockius LLP
101 Park Avenue
New York, NY 10178-0060
212.309.6109

7/21/2017
Date


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

ELECTION OF PAYMENT FORM

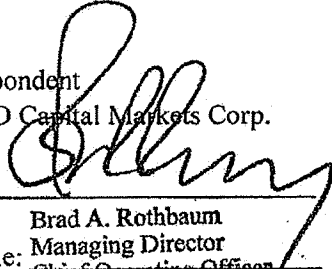
The firm intends to pay the fine proposed in the attached Letter of Acceptance, Waiver and Consent by the following method (check one):

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

Respectfully submitted,

6/28/17
Date

Respondent
BMO Capital Markets Corp.

By: 
Name: Brad A. Rothbaum
Managing Director
Chief Operating Officer
BMO Capital Markets Corp.
Title: _____