

**CBOE BZX EXCHANGE, INC.**  
**LETTER OF ACCEPTANCE, WAIVER AND CONSENT**  
**NO. 20160518089-02**

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

RE: OTA, LLC, Respondent  
Broker-Dealer  
CRD No. 25816

Pursuant to Rule 8.3 of the Rules of Cboe BZX Exchange, Inc. ("BZX"), OTA, 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 has been a member of BZX since August 18, 2008, and FINRA since January 18, 1990, and the firm's registrations remain in effect. The firm does not have any relevant disciplinary history.

**SUMMARY**

1. In connection with Matter No. 20160518089, the staff of the Department of Risk Oversight and Operation Regulation ("ROOR") and Sales Practice ("Sales Practice") of FINRA Member Regulation, on behalf of FINRA as well as the Cboe BYX Exchange and Cboe BZX Exchange, reviewed the supervisory procedures of the firm. As a result of this review and further investigation by the Department of Enforcement, violations related to the firm's enforcement of its written supervisory procedures were identified, as described below, for the period 2014-2017 (the "relevant period").

**FACTS AND VIOLATIVE CONDUCT**

2. BZX Rule 5.1 requires, among other things, that each member firm establish, maintain and enforce written procedures to enable it to properly supervise the

activities of associated persons to ensure compliance with applicable securities laws and regulations and BZX Rules.

3. BZX Rule 5.5 (Prevention of the Misuse of Material, Non-Public Information) requires that each member firm establish, maintain and enforce written policies and procedures reasonably designed, taking into consideration the nature of such member's business, to prevent the misuse of material, non-public information by such member or persons associated with such member. The rule also requires that the activity in such brokerage accounts be reviewed at least quarterly by the member for the purpose of detecting the possible misuse of material, non-public information.
4. BZX Rule 5.5 Interpretations and Policies .02(b) require that all associated persons of a member sign attestations affirming their awareness of, and agreement to abide by, the prohibitions in BZX Rule 5.5, and require the member to retain such signed attestations for at least three years, the first two years in an easily accessible place.
5. BZX Rule 3.1 provides that member firms, in the conduct of their business, shall observe high standards of commercial honor and just and equitable principles of trade.
6. Securities Exchange Act ("Exchange Act") section 15(g) also requires broker-dealers to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material non-public information.
7. Exchange Act section 17(a) and Rules 17a-3 and 17a-4 thereunder require broker-dealers to make and preserve certain records related to their business.
8. During the relevant period, the firm's written supervisory procedures ("WSPs") required that all employee personal securities accounts be disclosed to and approved by the firm's compliance department. The WSPs further required employees to identify such accounts on the firm's annual certification forms, in addition to other compliance disclosures, and for the chief compliance officer to review the annual certifications and follow up on responses requiring further information.
9. The firm failed to provide evidence that during the relevant period it obtained all the annual compliance certifications and brokerage account attestations for each of its associated persons, as required by its WSPs. Specifically, the firm failed to provide evidence that it obtained (i) 19 annual compliance certifications and seven annual brokerage attestations of a required total of 37 associated persons in 2014; (ii) 24 annual compliance certifications and 9 annual brokerage account attestations of a required total of 36 associated persons in 2015; (iii) one annual compliance certification and brokerage account attestation of a required total of 34 associated persons in 2016; and (iv) one annual compliance certification and three annual brokerage account attestations of a required total of 36 associated persons in 2017.

10. During the relevant period, the firm's WSPs contained provisions requiring the chief compliance officer to, at least on a monthly basis, review trading activity reports of all associated persons, review the trading activity of accounts managed by the firm and employees' outside brokerage accounts, and retain documentation reflecting such review. Furthermore, the WSPs required the CCO or a designee to review trading activity on a daily basis to ensure compliance with applicable trading policies, and for employee trading activity to be reviewed against the firm's trading activity and market-making activity.
11. The firm failed to provide evidence that it performed the required supervisory reviews for employee trading activity during the relevant period. Specifically, it failed to provide evidence that it reviewed (i) daily employee trading activity in 2014 and 2015 on a contemporaneous basis; or (ii) employee trading activity against the firm's trading activity or market making activity from 2014 to 2017.
12. Based on the foregoing, the firm violated BZX Rules 3.1, 5.1 and 5.5, Exchange Act sections 15(g) and 17(a), and Exchange Act Rules 17a-3 and 17a-4.

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

1. A censure; and
2. A fine in the amount of \$15,000 of which \$7,500 is payable to BZX.
3. Acceptance of this AWC is conditioned upon acceptance of a similar agreement in a related matter between OTA and Cboe BYX Exchange, Inc.

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

2/4/2019

Date

OTA, LLC  
Respondent

By: James W. Santori

Name: James W. Santori

Title: Chief Financial Officer

Reviewed by:

Paul J. Bazil  
Counsel for Respondent  
Pickard Djinis and Pisarri LLP  
1990 M Street, N.W. Suite 660  
Washington, DC 20036  
202-223-4418

2/14/2019  
Date

Greg Hoogasian  
Senior Vice President & Chief Regulatory Officer  
Cboe 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,

2/4/2019

Date

Respondent

OTA, LLC

By: *James W. Santori*

Name: James W. Santori

Title: Chief Financial Officer