



**DISCIPLINARY DECISION**

**Cboe Exchange, Inc.**

**Star Nos. 20180602423 and 20190643121 / File No. USRI-8957-01**

**National Financial Services LLC**

Pursuant to Exchange Rule 13.3, attached to and incorporated as part of this Decision is a Letter of Consent.

**Applicable Rules**

- Cboe Rules 4.13 and 8.43 – Reports Related to Position Limits and 4.24 – Supervision.

**Sanction**

A censure and a monetary fine in the amount of \$60,000.

**Effective Date**

July 7, 2021

/s/ Greg Hoogasian

Greg Hoogasian, CRO, SVP

**Cboe Exchange, Inc.**  
**LETTER OF CONSENT**  
**STAR Nos. 20180602423 and 20190643121**  
**File No. USRI-8957-01**

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In the Matter of:

National Financial Services LLC  
Two Destiny Way  
Mail Zone: WG3D  
Westlake, Texas 76262,

Subject

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Pursuant to the provisions of Cboe Exchange, Inc. (“Cboe” or the “Exchange”) Rule 13.3 – Expedited Proceeding, National Financial Services LLC (the “Firm”) submits this Letter of Consent for the purposes of proposing a settlement of the alleged rule violations described below.

The Firm neither admits nor denies that violations of Exchange Rules have been committed, and the stipulation of facts and findings described herein do not constitute such an admission.

**BACKGROUND**

1. During all relevant periods herein, the Firm was acting as a registered Broker-Dealer and was an Exchange Trading Permit Holder registered to conduct clearing and floor brokerage businesses on the Exchange. The Firm’s registration remains in effect.
2. This matter originated from a review conducted by FINRA’s Department of Market Regulation regarding the Firm’s compliance with its obligations under Exchange Rule 4.13 to report certain options positions and related information to the Large Options Position Report (“LOPR”). This review also examined the Firm’s supervisory systems, including the Firm’s written supervisory procedures (“WSPs”), relating to its LOPR reporting.

## **VIOLATIVE CONDUCT**

### **Applicable Rules**

3. During all relevant periods herein, the following rules were in full force and effect: Exchange Rule 4.13 – Reports Related to Position Limits, and Exchange Rule 4.24 – Supervision.<sup>1</sup>
4. During all relevant periods herein, Exchange Rule 4.13(a) provided, in relevant part: “In a manner and form prescribed by the Exchange, each Trading Permit Holder shall report to the Exchange, the name, address, and social security or tax identification number of any customer who, acting alone, or in concert with others, on the previous business day maintained aggregate long or short positions on the same side of the market of 200 or more contracts of any single class of option contracts dealt in on the Exchange. The report shall indicate for each such class of options, the number of option contracts comprising each such position and, in the case of short positions, whether covered or uncovered.”
5. During all relevant periods herein, Exchange Rule 4.24(e) provided, in relevant part: “Each Trading Permit Holder shall establish, maintain, and enforce written supervisory procedures, and a system for applying such procedures, to supervise the types of business in which the Trading Permit Holder engages and to supervise the activities of all associated persons. The written supervisory procedures and the system for applying such procedures shall reasonably be designed to prevent and detect violations of applicable securities laws and regulations, and applicable Exchange rules.”

### **Inaccurate LOPR Reporting**

6. LOPR data is used extensively by self-regulatory organizations to identify holders of large option positions who may be, among other things, attempting to manipulate the market or otherwise violate securities rules and regulations. The accuracy of LOPR data is therefore essential for the analysis of potential violations related to, among other things, insider trading, position limits, exercise limits, front-running, capping and pegging, mini-manipulation, and marking the close.
7. From on or about May 8, 2013 through on or about January 25, 2019, if the Firm cancelled and corrected a reportable options position after the effective date of the trade, the Firm’s LOPR reporting logic erroneously designated the position as having been effective as of the date of the correction rather than the date of the

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<sup>1</sup> Cboe Rules 4.13 and 4.24 were renumbered to Cboe Rules 8.43 and 8.16, respectively, as of October 7, 2019. These rules’ text remains unchanged.

trade. As a result, the Firm reported positions to the LOPR with incorrect effective dates in approximately 2,332 instances.<sup>2</sup>

8. From in or about April 2018 through in or about October 2018, an email configuration error at the Firm resulted in the display of only the first rejected record on any given date on the Firm's rejected LOPR records report email, even if more than one record had been rejected on that date. As a result, in certain instances, the Firm failed to properly resubmit rejected records to the LOPR during this time period.
9. From in or about July 2017 through on or about December 13, 2019, when a reportable options position included "as-of" activity post-expiration, such as assignments or exercises, a logic error in the Firm's LOPR reporting system led the Firm to erroneously submit a delete record with the expiration date as the effective date. As a result, the Firm deleted positions as of their expiration dates that underwent exercise or assignment in approximately 94,768 instances.
10. The acts, practices, and conduct described in Paragraph 7 constitute violations of Exchange Rule 4.13 by the Firm, in that the Firm reported positions to the LOPR with incorrect effective dates in approximately 2,332 instances.
11. The acts, practices, and conduct described in Paragraph 8 constitute violations of Exchange Rule 4.13 by the Firm, in that the Firm did not resubmit rejected records to the LOPR in certain instances, and therefore failed to report reportable options positions to the LOPR.
12. The acts, practices, and conduct described in Paragraph 9 constitute violations of Exchange Rules 4.13 and 8.43 by the Firm, during their respective dates of applicability, in that the Firm deleted positions as of their expiration dates that underwent exercise or assignment, and therefore failed to report reportable options positions to the LOPR in approximately 94,768 instances.

### **Supervisory Violations**

13. Between in or about July 2017 and in or about September 2019, the Firm had established, maintained, and enforced a supervisory system, including WSPs, that addressed the Firm's LOPR reporting obligations. This supervisory system included several daily and monthly reviews of the Firm's LOPR submissions. The reports used by the Firm were not, however, designed to detect instances where the firm had improperly deleted a position as of the expiration date.
14. The acts, practices, and conduct described in Paragraph 13 constitute a violation of Exchange Rule 4.24 by the Firm, in that the Firm failed to establish, maintain, and

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<sup>2</sup> An "instance" represents a single failure to report a given options position or a single inaccurate report of an options position. The number of instances is determined by multiplying a given reportable position by the number of trade dates the position was not reported or was reported inaccurately.

enforce a supervisory system reasonably designed to prevent and detect violations of Exchange Rule 4.13.

**SANCTIONS**

15. The Firm does not have any prior relevant disciplinary history specifically related to LOPR reporting.
16. In light of the alleged rule violations described above, the Firm consents to the imposition of the following sanctions:
  - a. A censure; and
  - b. A monetary fine in the amount of \$60,000.

If this Letter of Consent is accepted, the Firm acknowledges that it shall be bound by all terms, conditions, representations, and acknowledgements of this Letter of Consent, and, in accordance with the provisions of Exchange Rule 13.3, waives the right to review or to defend against any of these allegations in a disciplinary hearing before a Hearing Panel. The Firm further waives the right to appeal any such decision to the Board of Directors, the U.S. Securities and Exchange Commission, a U.S. Federal District Court, or a U.S. Court of Appeals.

The Firm 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 Letter of Consent, or other consideration of this Letter of Consent, including acceptance or rejection of this Letter of Consent.

The Firm agrees to pay the monetary sanction upon notice that this Letter of Consent has been accepted and that such payment is due and payable. 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 Firm understands that submission of this Letter of Consent is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the CRO, pursuant to Exchange Rule 13.3. If the Letter of Consent is not accepted, it will not be used as evidence to prove any of the allegations against the Firm.

The Firm understands and acknowledges that acceptance of this Letter of Consent will become part of its disciplinary record and may be considered in any future actions brought by Cboe or any other regulator against the Firm.

The Firm understands that it may not deny the charges or make any statement that is inconsistent with the Letter of Consent. The Firm may attach a Corrective Action Statement to this Letter of Consent that is a statement of demonstrable corrective steps taken to prevent future misconduct. Any such statement does not constitute factual or legal findings by the Exchange, nor does it reflect the views of the Exchange 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 Letter of Consent and has been given a full opportunity to ask questions about it; that it has agreed to the Letter of Consent's provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein, has been made to induce the Firm to submit it.**

**Date:** July 6, 2021 \_\_\_\_\_

**National Financial Services LLC**

**By:**  \_\_\_\_\_

**Name:** Janet Dyer \_\_\_\_\_

**Title:** Chief Compliance Officer \_\_\_\_\_