

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013037127501**

TO: Department of Enforcement
Financial Industry Regulatory Authority (FINRA)

RE: Virtu Americas LLC (f/k/a KCG Americas LLC), Respondent
Member Firm
CRD No. 149823

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Virtu Americas LLC (f/k/a KCG Americas LLC) ("Virtu" 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, FINRA will not bring any future actions against Respondent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Virtu 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 FINRA, or to which FINRA 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 FINRA:

BACKGROUND

Virtu has been a member of FINRA since July 22, 2009.¹ The firm is an executing broker that receives orders from a variety of introducing broker-dealers for handling and execution. During the review period, the firm was a wholesale market maker for approximately 10,000 Over-the-Counter ("OTC") securities with a market making desk that employed about 25 traders. Virtu is one of the largest OTC market makers in terms of dollar, trade, and share volume.

RELEVANT DISCIPLINARY HISTORY

Virtu does not have any relevant disciplinary history with the Securities and Exchange Commission, any state securities regulators, FINRA, or any other self-regulatory organization.

¹ On April 20, 2017, Virtu Financial Inc. announced that it would purchase KCG Americas LLC and on July 12, 2017, KCG Americas LLC filed a Form BD Amendment changing its name to Virtu Americas LLC.

OVERVIEW

From May 2013 to September 2019 (the “review period”), the firm did not maintain a reasonable written methodology governing the execution and priority of all pending orders that it received for handling and execution. In particular, the firm did not have a written execution methodology for OTC equity securities that were handled manually and executed outside of the firm’s automated Manning system² as well as for certain categories of National Market System (“NMS”) securities that were executed manually during the review period. This matter results from a review by FINRA’s Market Regulation Department.

FACTS AND VIOLATIVE CONDUCT

FINRA Rule 5320(b)

1. FINRA Rule 5320(b) requires member firms to “have a written methodology in place governing the execution and priority of all pending orders that is consistent with the requirements of this Rule and Rule 5310 [regarding best execution and interpositioning].” A member also must ensure that this methodology is consistently applied.”
2. Member firms have discretion in drafting their written methodologies, as long as they are reasonable and consistent with other regulatory obligations.³ Firms, however, must have a written methodology covering “all pending orders.”

Virtu Failed to Have a Reasonable Written Methodology Covering All Pending Orders

3. During the review period the firm maintained a written order handling methodology that described how orders that were subject to Manning would be prioritized and filled via its automated Manning System. The written methodology did not address the methodology for filling orders not subject to Manning and handled manually.
4. During the review period, the firm executed approximately 35% of its OTC orders manually outside of the firm’s automated Manning system, but it did not have a written methodology document addressing order priority for such orders. Given the firm’s size in the OTC market in terms of trade and share volume, the firm’s failure to have a reasonable written methodology document governing order priority for manually executed orders created substantial risk that the firm would not handle manual orders consistently.

² FINRA Rule 5320 (Prohibition Against Trading Ahead of Customer Orders) is commonly known as the “Manning Rule.”

³ See FINRA Special Notice to Members (NASD Clarifies the Expanded Limit-Order Protection Interpretation) 95-43 (June 5, 1995) and FINRA Notice to Members (Market Order Protection) 06-03 (Jan 2006).

5. The firm's failure to have a written methodology meant there was also no document addressing order priority for manual orders during certain foreseeable market circumstances, such as locked and crossed markets, which can be a common event in the OTC market.
6. In addition, certain order types for NMS securities, such as stop orders and certain orders in Nasdaq-listed securities accepted prior to market open for execution at the opening price between 9:28:00-9:29:59, were also handled manually during the review period. The firm's written methodology also did not address these pending orders.
7. Based on the foregoing, the firm violated FINRA Rules 5320(b) and 2010.⁴

B. Respondent also consents to the imposition of the following sanctions:

- A censure,
- \$125,000 fine, and
- an undertaking to revise the firm's written methodology with respect to the area described in paragraph I.A. 3-6, above. Within 30 business days of acceptance of this AWC by the National Adjudicatory Council ("NAC"), a registered principal of the firm shall submit to the **COMPLIANCE ASSISTANT, DEPARTMENT OF ENFORCEMENT, 15200 OMEGA DRIVE, SUITE 300, ROCKVILLE, MD 20850**, a signed, dated letter, or an email from a work-related account of the registered principal to **MarketRegulationComp@finra.org**, providing the following information: (a) a reference to this matter; (b) a representation that the firm has addressed and corrected the deficiency described in paragraph I.A. 3-6, above; and (c) the date the deficient procedures were addressed and corrected by the firm.

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

Respondent agrees to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are due and payable. Respondents have submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim an inability to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

⁴ FINRA Rule 2010 provides, "[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade." The firm violated FINRA Rule 2010 by virtue of violating FINRA Rule 5320(b).

II.

WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against it;
- B. To be notified of the Complaint 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 National Adjudicatory Council (NAC) and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Respondent specifically and voluntarily waives any right to claim bias or prejudice of the Chief Legal Officer, the NAC, or any member of the NAC, 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 acceptance or rejection of this AWC.

Respondent further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, 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

Respondent 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 NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against Respondent; and
- C. If accepted:

1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator against Respondent;
 2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;
 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
 4. Respondent 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. Respondent may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects Respondent's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent 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 FINRA, nor does it reflect the views of FINRA or its staff.

The undersigned, on behalf of the Respondent 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 it to submit it.

12/13/2019
Date

Virtu Americas LLC
Respondent

By: [Signature]

Print Name: Matthew Levine

Title: Dputy General Counsel

Accepted by FINRA:

1/6/2020
Date

Signed on behalf of the
Director of ODA, by delegated authority

[Signature]

Renee Barnett
Senior Counsel
FINRA

Department of Enforcement
15200 Omega Drive, Suite 300
Rockville, MD 20850