

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20140425127-01**

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

RE: Stifel, Nicolaus & Company, Inc., Respondent
Broker-Dealer
CRD No. 793

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Stifel, Nicolaus & Company, Inc. (the "firm" or "Respondent") 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. Respondent 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

The firm has been a member of FINRA since October 13, 1936, and its registration remains in effect.

RELEVANT DISCIPLINARY HISTORY

On December 20, 2013, FINRA accepted an AWC to resolve four consolidated market order protection sweeps that covered different review periods, in which the firm was censured and fined a total of \$80,000 for violations of National Association of Securities Dealers ("NASD") Rules 2111 (currently FINRA Rule 5320) and 2320, and FINRA Rule 2010. The AWC identified, *inter alia*, 27,641 trading ahead violations and restitution in the amount of \$4,416.74.

SUMMARY

The Department of Market Regulation staff (the "Staff") conducted a trading ahead review in over-the-counter ("OTC") securities during the second quarter of 2014. Based on its review, the Staff determined that the firm violated FINRA Rules 2010, 3110, 5320 and 7440(b)(19), as well as NASD Rule 3010, as set forth below.

FACTS AND VIOLATIVE CONDUCT

FINRA Rules 5320 and 2010—Trading Ahead Violations

1. In 18 instances between April 2014 to June 2014, the firm accepted and held 12 customer orders in OTC securities, traded for its own account at prices that would have satisfied the customer orders, and failed to execute or immediately execute the customer orders up to the size and at the same price at which it traded for its own account or at a better price. These 18 instances are reflected on Exhibit A. With respect to 16 of the 18 instances, the firm asserted the “No-Knowledge Exception,” which is codified in Supplementary Material .02 of FINRA Rule 5320. Supplementary Material .02(b) provides that, “if a member implements and utilizes an effective system of internal controls, such as appropriate information barriers, that operate to prevent a non-market-making trading unit from obtaining knowledge of customer orders held by a separate trading unit, the non-market-making trading unit trading in a proprietary capacity may continue to trade at prices that would satisfy the customer orders held by the separate trading unit.” The Staff determined that the firm’s system of internal controls (information barriers) did not meet the requirements set forth in Supplementary Material .02(b), because traders at one desk had the ability to view the outstanding customer orders that were accepted and held by another desk. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rules 5320 and 2010.

NASD Rule 3010 and FINRA Rules 3110 and 2010—Supervision Violations

2. During the (a) second quarter of 2014 and (b) fourth quarter of 2014 through the first quarter of 2015, the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and the Rules of NASD, concerning compliance with FINRA Rule 5320 and Supplementary Material .02 of FINRA Rule 5320. Specifically, the firm did not have policies or procedures that prevented its trading desks that were separated by information barriers from obtaining knowledge regarding orders or trading activity of the other desks. The firm’s written supervisory procedures failed to include a supervisory review that ensured that (a) the firm’s information barriers, for which the firm relied on the “No-Knowledge Exception,” which is codified in Supplementary Material .02 of FINRA Rule 5320, were operating appropriately and (b) permissions that the firm’s employees had to the firm’s systems were granted appropriately. In addition, although the firm had a trading ahead exception report, it failed to capture any of the trading ahead instances identified by the Staff. The exception report was also flawed and unreliable during the two review periods referenced above. The conduct described in this paragraph constitutes a violation of NASD Rule 3010 and FINRA Rules 3110 and 2010.¹

¹ Effective December 1, 2014, NASD Conduct Rule 3010 was replaced by FINRA Rule 3110.

FINRA Rule 7440(b)(19)—Information Barrier Identifier Violations

3. During the (a) second quarter of 2014, (b) fourth quarter of 2014 through the first quarter of 2015 and (c) fourth quarter of 2015, the firm failed to report an information barrier identifier with its Order Audit Trail System (“OATS”) submissions for 76 orders. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 7440(b)(19).^{2,3}

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

1. Censure;
2. A fine of \$37,500 (\$20,000 for the trading ahead violations; \$12,500 for the supervision violations; and \$5,000 for the information barrier identifier violations);
3. Restitution by Respondent to the investors listed on Exhibit A, which is attached, in the total amount of \$318.25, plus interest at the rate set forth in Section 6621(a) of the Internal Revenue Code, 26 U.S.C. § 6621(a)(2), from the date of the violative conduct until the date this AWC is accepted by the National Adjudicatory Council (“NAC”). A registered principal of the firm shall submit satisfactory proof of payment of the restitution, or of reasonable and documented efforts undertaken to effect restitution, to the COMPLIANCE ASSISTANT, LEGAL SECTION, MARKET REGULATION DEPARTMENT, 9509 KEY WEST AVENUE, ROCKVILLE, MD 20850 or in an e-mail from a work-related account of the registered principal to **MarketRegulationComp@finra.org**, no later than 120 days after acceptance of this AWC. If for any reason, Respondent cannot locate any customer after reasonable and documented efforts within such period, or such additional period agreed to by the staff, Respondent shall forward any undistributed restitution and interest to the appropriate escheat, unclaimed-property or abandoned-property fund for the state in which the customer is known to have last resided; and
4. An undertaking to revise the firm’s written supervisory procedures with respect to the areas described in paragraph I.A.2 above. Within 30 business days of acceptance of this AWC by the NAC, a registered principal of the Respondent shall submit to the COMPLIANCE ASSISTANT, LEGAL SECTION, MARKET REGULATION DEPARTMENT, 9509 KEY WEST AVENUE, ROCKVILLE, MD 20850, a signed, dated letter, or an e-mail 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 revised its written

² Effective August 1, 2016, FINRA Rule 7440(b)(19) became FINRA Rule 7440(b)(20). Because the conduct described in this paragraph occurred prior to August 1, 2016, FINRA Rule 7440(b)(19) is the applicable rule.

³ Review of the firm’s supervisory procedures regarding reporting information barrier identifiers to OATS is being deferred to FINRA Matter No. 20160505068.

supervisory procedures to address the deficiencies described in paragraph I.A.2; and
(c) the date the revised procedures were implemented.

Respondent agrees to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are due and payable. It has 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 that it is unable to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

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

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 the firm;
- 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 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 prejudgment 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 the firm's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against the firm;
 - 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 the firm's: (a) testimonial obligations; or (b) 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. 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 FINRA, nor does it reflect the views of FINRA or its staff.

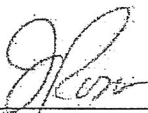
The undersigned, on behalf of the firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that it has agreed to the AWC's provisions voluntarily; and that no offer, threat,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

1/19/18

Date

Respondent

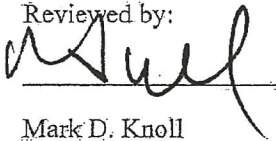
Stifel, Nicolaus & Company, Inc.

By: 

Name: Joseph Rosa

Title: Deputy General Counsel
SR. Vice President

Reviewed by:



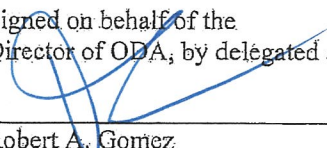
Mark D. Knoll
Counsel for Respondent
Bressler, Amery & Ross, P.C.
17 State Street
New York, New York 10004
(212) 510-6901

Accepted by FINRA:

1/26/2018

Date

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


Robert A. Gomez
Principal Counsel
Department of Enforcement

Stifel, Nicolaus and Company, Incorporated ("STFL")
2nd Quarter 2014 Trading Ahead Review (OTC Securities)

Part I: Triggering Transactions														Part II: OATS Order Details																	Part III: Staff's Findings		
Item No.	Exception #	Trade Report Date	Trade Report Time	Execution Time	Firm	Capacity	Side	Trade Vol	Issue Symbol	Trade Price	Counter Party ID	Counter Party Capacity	Branch Sequence ID / Exchange Order ID	Trade Information Barrier ID	Order Letter	Event Type	Order Received Date	Order Received Time	Desk Received Time	MPID	Order to Buy/Sell	Quantity	Issue Symbol	Order Type	Limit Price	Firm Order ID	Account Type Code	TIF	Canceled Time	Order Information Barrier ID	Trading Ahead Violation	Restitution	
1	2	4/29/14	10:58:26	10:58:26	NITE	R	S	400	GSSCL	25.15	STFL	P			B	OR	4/29/14	10:38:23	10:38:23	STFL	B	14,304	GSSCL	L	25.15	00005014263ORSLL-001	I	DAY			Yes	N/A	
2	3	5/19/14	12:48:53	12:48:52	STFL	P	B	1,000	FETM	9.75	NITE	P	10022845		C	NW	5/19/14	12:35:48	12:36:00	STFL	B	1,000	FETM	L	9.75	00005145245ORSLL-001	I	GTC	12:50:21		Yes	N/A	
3	4	6/3/14	15:39:18	15:39:18	ATDF	P	S	4,000	FNMM	1.04	STFL	P	10035598	700001	D	CR	6/3/14	15:38:52		STFL	B	7,000	FNMM	L	1.04	00005240281ORSLL-002	I	DAY			Yes	N/A	
4	7	6/12/14	15:29:29	14:25:00	STFL	P	B	10,000	LGPRU	52.83	FSWC	A			I	OR	6/12/14	14:24:27	14:24:27	STFL	B	100	LGPRU	M		00005303596ORSLL-001	I			Yes	\$167.00		
5	12	6/18/14	09:51:31	9:51:31	STFL	P	S	1,300	LRPSP	24.8			SL0007303509001		P	OR	6/18/14	09:51:25	09:51:58	STFL	SL	400	LRPSP	M		00005332717ORSLL-001	I			Yes	\$20.00		
6	14	6/23/14	14:29:15	14:27:12	SEID	P	S	3,000	LGPRU	53.05	STFL	P	SL0007342176001		S	CR	6/23/14	13:44:04		STFL	B	400	LGPRU	L	53.25	00005364599ORSLL-002	I	DAY			Yes	N/A	
7	23	6/30/14	15:15:36	15:15:34	STFL	P	B	780	PTQEP	45.625			SL0007396043201		T	CR	6/23/14	13:44:18		STFL	B	400	LGPRU	L	53.25	00005364560ORSLL-002	I	DAY			Yes	N/A	
8	24	6/30/14	15:21:19	15:21:17	STFL	P	B	300	PTQEP	45.625			SL0007396328901		AC	OE	6/30/14	09:31:33	09:31:42	STFL	B	350	PTQEP	L	46.00	00005407275ORSLL-001	I	DAY			Yes	\$131.25	
9	25	6/30/14	15:21:46	15:21:45	STFL	P	B	1,000	PTQEP	45.625			SL0007396347401		AD	NW	6/30/14	15:22:08	15:22:43	STFL	SL	400	PTQEP	M		00005415177ORSLL-001	I					Yes	N/A
10	26	6/30/14	15:23:57	15:23:56	STFL	P	S	430	PTQEP	45.63			SL0007396420701		AE	OR	6/30/14	15:22:36	15:22:45	STFL	SL	600	PTQEP	M		00005415190ORSLL-001	I					Yes	N/A
															AF	OR	6/30/14	15:23:07	15:23:44	STFL	SL	600	PTQEP	M		00005415206ORSLL-001	I					Yes	
11	27	6/30/14	15:24:40	15:24:38	STFL	P	B	1,000	PTQEP	45.50			SL0007396458301		AC	OE	6/30/14	09:31:33	09:31:42	STFL	B	350	PTQEP	L	46.00	00005407275ORSLL-001	I	DAY			Yes	N/A	
12	28	6/30/14	15:26:02	15:26:01	STFL	P	B	1,000	PTQEP	45.50			SL0007396495701																			Yes	
13	29	6/30/14	15:31:07	15:31:06	STFL	P	B	700	PTQEP	45.625			SL0007396705801		AD	NW	6/30/14	15:22:08	15:22:43	STFL	SL	400	PTQEP	M		00005415177ORSLL-001	I					Yes	N/A
14	30	6/30/14	15:46:38	15:46:37	STFL	P	S	100	PTQEP	45.65			SL0007397355201		AE	OR	6/30/14	15:22:36	15:22:45	STFL	SL	600	PTQEP	M		00005415190ORSLL-001	I					Yes	N/A
															AF	OR	6/30/14	15:23:07	15:23:44	STFL	SL	600	PTQEP	M		00005415206ORSLL-001	I					Yes	
15	31	6/30/14	09:48:02	9:48:01	STFL	P	B	250	SDRXP	112.25			SL0007389432201		AG	OR	6/30/14	09:32:10	09:32:20	STFL	B	140	SDRXP	L	113.00	00005407290ORSLL-001	I	DAY			Yes	N/A	
16	32	6/30/14	09:48:54	9:48:53	STFL	P	B	150	SDRXP	112.25			SL0007389451401																			Yes	
17	33	6/30/14	09:49:52	9:49:51	STFL	P	B	250	SDRXP	112.25			SL0007389465901																			Yes	
18	34	6/30/14	09:50:43	9:50:42	STFL	P	B	300	SDRXP	112.25			SL0007389481401																			Yes	
																															Total Trading Ahead Violations:		18
																															Total Restitution:		\$318.25