

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2015045441001**

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, Virtu Americas 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, FINRA will not bring any future actions against Respondent 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 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 became a member of FINRA in July 2009. The firm is headquartered in New York, New York, and its business includes trading in over-the-counter ("OTC") and listed securities as a market maker. The firm has six branch offices and approximately 307 registered representatives. Until July 2017, the firm was known as KCG Americas LLC, which was owned by parent company KCG Holdings, Inc. In July 2017, Virtu Financial, Inc. acquired KCG Holdings, Inc. Following the acquisition, KCG Americas LLC changed its name to Virtu Americas LLC.

RELEVANT DISCIPLINARY HISTORY

On December 23, 2014, FINRA accepted an AWC in which KCG Americas LLC was censured and fined \$25,000 for implementing policies and procedures that failed to reasonably avoid displaying, or engaging in a pattern or practice of displaying, locking or crossing quotations in any OTC Equity Security and related supervisory deficiencies that occurred during the periods of February 1, 2011 through September 30, 2011; April 1, 2012 through December 31, 2012; and July 1, 2013 through September 30, 2013, in violation of FINRA Rules 6437 and 2010, and NASD Rule 3010.

On September 29, 2014, FINRA accepted an AWC in which KCG Americas LLC was censured and fined \$25,000 for failing to immediately publish bids or offers that reflect the price and the full size of 60 customer limit order held by the OTC Market Maker that is at a price that would improve the bid or offer of such OTC Market Maker in such security and related supervisory deficiencies that occurred during the period of July 1, 2011 through September 30, 2013 in violation of FINRA Rules 6460.

OVERVIEW

During the period of January 1, 2015 through December 31, 2017, the firm implemented policies and procedures that failed to reasonably avoid displaying, or engaging in a pattern or practice of displaying, locking or crossing quotations in OTC Equity Securities in violation of FINRA Rules 6437 and 2010.

During the period of January 1, 2015 through March 31, 2018, the firm failed to immediately execute, route or display 156 customer limit orders in OTC Equity Securities, in violation of FINRA Rules 6460 and 2010.

During the period of December 31, 2009 through July 1, 2016, the firm reported 1,062,828 last sale reports of transactions in National Market System ("NMS") Equity Securities to the FINRA/Nasdaq Trade Reporting Facility ("FNTRF") with an incorrect contra capacity code in violation of FINRA Rules 7230A(d) and 2010.

During the period of January 1, 2017 through September 30, 2017, the firm failed to timely report 235 transactions in Trade Reporting and Compliance Engine ("TRACE")-Eligible Securities in violation of FINRA Rules 6730(a) and 2010. The firm also failed to accurately report the correct time of execution in 231 transactions in TRACE-Eligible Securities in violation of FINRA Rule 6730(c)(8). Further, the firm failed to supervise transactions in TRACE-Eligible Securities to achieve compliance with the firm's reporting obligations under FINRA Rule 6730.

FACTS AND VIOLATIVE CONDUCT

This matter resulted from a number of reviews of the firm conducted by FINRA's Department of Market Regulation.

Locked/Crossed Rule Violations

1. FINRA Rule 6437 (the "Locked/Crossed Rule") requires FINRA members to implement policies and procedures that reasonably avoid displaying, or engaging in a pattern or practice of displaying, locking or crossing quotations in any OTC Equity Security.
2. FINRA Rule 2010 states that, "[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade."

3. The Locked/Crossed Rule defines a “crossing quotation” as “the display of a bid for an OTC Equity Security at a price that is higher than the displayed price of an offer for such OTC Equity Security in the same inter-dealer quotation system, or the display of an offer for an OTC Equity Security at a price that is lower than the displayed price of a bid for such OTC Equity Security in the same inter-dealer quotation system.” The term “locking quotation” is defined as “the display of a bid for an OTC Equity Security at a price that equals the displayed price of an offer for such OTC Equity Security in the same inter-dealer quotation system, or the display of an offer for an OTC Equity Security at a price that equals the displayed price of a bid for such OTC Equity Security in the same inter-dealer quotation system.”
4. FINRA Regulatory Notice 10-42 provides guidance concerning policies and procedures to avoid displaying a quotation that would lock or cross the market. Frequently Asked Questions (“FAQ”) Response # 8 in Regulatory Notice 10-42 states that “FINRA expects firms’ policies and procedures to require the quoting participant to make ‘reasonable efforts’ to first contact or route an order to execute against the full displayed size of any quotation before locking and crossing that quotation.”
5. During the period of January 1, 2015 through December 31, 2017 (the “locked/crossed review period”), the firm’s policies and procedures provided that upon receipt of an order that would lock or cross the quote of another market participant, the firm execute the order internally, route the order to another market participant, or send an OTC Link message¹ to the market participant whose quote would be locked or crossed, prior to entering the order that would lock or cross the market.
6. During the locked/crossed period, firm customers submitted orders electronically in various ways. The firm’s order management systems routed certain of these customer orders to one of its trading systems, Knight Trading System (“KTS”). KTS handled quoting and trading customer orders in OTC Equity Securities and automatically displayed client limit orders that improved the price and/or size of the firm’s quotes, except in circumstances where the price of the limit order would lock or cross the market. When the firm received a customer limit order that would lock or cross the market, KTS dropped the orders into a firm trader’s pending order queue for manual handling. In accordance with the firm’s policies and procedures, the trader could then execute the order internally, route the order to another market participant, send an OTC Link message to the market participant whose quote would be locked or crossed and wait for a response, or display the order. If the trader chose to display the order, the trader received an automated notification informing the trader that the order would lock or cross the market. If the trader displayed the order after receiving that notification, KTS would send an OTC Link message to the market participant whose quote would be locked or crossed, before the locking or crossing quote was displayed.

¹ To access the quotes of other market makers, many participants in the OTC markets use a messaging, negotiation and trade acceptance system provided by OTC Markets known as OTC Link. Market makers access one another’s quotations by delivering OTC Link messages to each other.

7. FINRA reviewed a sample of 190 of the firm's quotations that locked or crossed the market in OTC Equity Securities during the locked/crossed review period. In 54 of those 190 quotations (approximately 28.4%), the firm failed to send an OTC Link message to the market participant whose quote was locked or crossed before displaying the quotation (and, in certain instances, failed to send an OTC Link message at all).²
8. The firm's policies and procedures for sending OTC Link messages after the firm received an order that would lock or cross the quote of another market participant were not reasonably implemented. The firm did not take into consideration certain technological limitations in its different systems involved in both the sending of OTC Link messages and the entering, processing, and displaying of orders. Those technological limitations, which included a variety of system coding and hardware issues and a reliance on manual processes to implement these policies and procedures, caused delays in sending OTC Link messages described above (and in certain instances caused OTC Link messages not to be sent at all). As a result of its failure to account for these technological limitations in its different systems when it implemented these policies and procedures, the firm engaged in a pattern or practice of displaying locking or crossing quotations in OTC Equity Securities during the locked/crossed review period.
9. Beginning in 2015, the firm took a series of corrective actions with respect to its systems and coding, which it completed by December 2017.
10. By virtue of the foregoing, during the locked/crossed review period, the Respondent violated FINRA Rules 6437(a) and 2010.

Limit Order Display Rule Violations

11. FINRA Rule 6460 (the "Limit Order Display Rule") requires each OTC Market Maker displaying a priced quotation in any OTC Equity Security in an inter-dealer quotation system to publish immediately a bid or offer that reflects: (1) the price and the full size of each customer limit order held by the OTC Market Maker that is at a price that would improve the bid or offer of such OTC Market Maker in such security; and (2) the full size of each customer limit order held by the OTC Market Maker that: (A) is priced equal to the bid or offer of such OTC Market Maker for such security, (B) priced equal to the best bid or best offer of the inter-dealer quotation system in which the OTC Market Maker is quoting, and (C) represents more than a *de minimis*³ change in relation to the size associated with the OTC Market Maker's bid or offer.

² In each of these 54 quotations in the sample set, the firm also did not either execute the order internally or reroute the order to another market participant.

³ FINRA's Regulatory Notice 10-42, FAQ Response # 1 provides guidance concerning *de minimis* in this context. "In connection with all of FINRA's NMS-Principled Rules, FINRA generally intends to adopt the same interpretive positions taken by the SEC in connection with the comparable provisions of Regulation NMS, unless explicitly noted otherwise. Thus, the size of a customer limit order is considered *de minimis* for purposes of Rule 6460 if it is less than or equal to 10 percent of the displayed size associated with an OTC Market Maker's bid or offer."

12. FINRA's Regulatory Notice 10-42, FAQ Response # 4 provides guidance concerning the definition of "immediately" within the Limit Order Display Rule. It states that absent an exception, firms must display customer limit orders as soon as practicable after receipt, which under normal market conditions would require display no later than 30 seconds after receipt. It further states that OTC market openings should not be viewed as "normal market conditions" for the purposes of the Limit Order Display Rule. However, limit orders held at the open should be displayed "as soon as practicable under the circumstances."
13. KTS, one of the firm's trading systems, was programmed to automatically display orders received from the firm's broker-dealer customers. As described above, however, orders that would lock or cross the market would not automatically display but would instead drop into a trader's queue pending manual action. In addition, certain orders that would not lock or cross the market were also excluded from automation based upon risk criteria specified by the firm. For example, securities that were thinly traded or that experienced high volatility were excluded from automation and instead dropped into a trader's queue for manual handling.
14. FINRA reviewed a sample of 232 customer limit orders received by the firm during the period of January 1, 2015 through March 31, 2018 (the "LOD review period"). In 156 of those 232 instances, the customer limit order received by the firm would have improved the quoted market's price or represented more than a *de minimis* size change but the firm failed to take immediate action to display the order.
15. In addition, in 87 of the 156 instances, the orders would have locked or crossed the market. The firm's failure to immediately display these limit orders resulted from delays caused by either the manual handling of orders that would lock or cross the market (described above) or system limitations that prevented the firm from immediately displaying (a) aggressively priced limit orders that pierced several price points, (b) orders with multiple components or (c) orders entered during a period of increased volume.
16. Further, in 69 of the 156 instances, the orders would not have locked or crossed the market. The firm's failure to immediately display these limit orders resulted from delays caused by either the manual handling of orders based on the firm's specific risk-based exclusion criteria (described above) or system limitations that prevented the firm from immediately displaying (a) aggressively priced limit orders that pierced several price points, (b) orders with multiple components or (c) orders entered during a period of increased volume.
17. Beginning in 2015, the firm took a series of corrective actions, including system and coding changes, as well as changes to its risk-based exclusion criteria, which it completed in 2018.

18. By virtue of the foregoing, during the LOD review period, the Respondent violated FINRA Rules 6460 and 2010.

Capacity Code Violations

19. FINRA Rule 7230A(d) requires that certain trade information “be provided for each transaction that is reported to the FNTRF. Unless the contra side will have an opportunity to provide its own trade information, the Reporting Member is responsible for the complete and accurate submission of information for both sides of the trade.” Among that required information is a “symbol indicating whether the trade is as principal, riskless principal, or agent”.
20. The information required by FINRA Rule 7230A(d) is part of the FNTRF audit trail. Further, inaccurate reporting of the required trade information has the potential to impact FINRA’s surveillance patterns.
21. During the period of December 31, 2009 through July 1, 2016, the firm reported 1,062,828 reports of transactions in OTC Equity Securities, on behalf of a single customer, to the FNTRF with an incorrect capacity code of “A”, which represents an agency transaction, when the reports should have had the capacity code of “P”, which represents a principal transaction.
22. A coding error in the firm’s systems caused principal account type indicator codes, correctly entered by a single firm customer, to result in an incorrect agency “A” capacity code to the FNTRF. The firm took corrective action on this issue on August 27, 2014.
23. As a result of a separate coding error, on behalf of the same firm customer, principal contra capacity codes resulted in incorrect agency “A” contra capacity codes, on the corresponding trade reports. The firm corrected this issue on July 1, 2016.
24. By virtue of the foregoing, the Respondent violated FINRA Rules 7230A(d) and 2010.

Late TRACE Transaction Reporting

25. FINRA Rule 6730(a) states, in relevant part, that “[e]ach member that is a Party to a Transaction in a TRACE-Eligible Security must report the transaction. A member must report a transaction in a TRACE-Eligible Security as soon as practicable, but no later than within 15 minutes of the Time of Execution, except as otherwise specifically provided [in this Rule]. Transactions not reported within the specified timeframe will be designated as late.”
26. FINRA Rule 6730(f) states that, “[a] pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with high

standards of commercial honor and just and equitable principles of trade, in violation of Rule 2010.”

27. During the period of January 1, 2017 through March 31, 2017, the firm failed to report 37 transactions in TRACE-Eligible Agency Debt Securities to TRACE within the time required by FINRA Rule 6730(a).
28. During the period of April 1, 2017 through September 30, 2017, the firm failed to report 198 transactions in TRACE-Eligible Corporate Debt Securities to TRACE within the time required by FINRA Rule 6730(a).
29. The firm’s late trade reporting violations were the result of delays in the firm’s process of manually booking the executions to the firm’s clearance and settlement systems.
30. The firm took corrective action in September 2017 by implementing a procedure for manually executed transactions, wherein the trader handling the transaction is required to provide the execution details, including time of execution, within a timely manner to the firm’s clearance and settlement systems.
31. By virtue of the foregoing, the Respondent violated FINRA Rule 6730(a), and its violations constitute a pattern or practice of late reporting without exceptional circumstances in violation of FINRA Rule 2010.

Inaccurately Reported Transaction Execution Time to TRACE

32. The TRACE violations articulated below were discovered during a review conducted by FINRA’s TRACE Agency/SP and TRACE Corporate Bond Teams of the Department of Market Regulation.
33. FINRA Rule 6730(c) requires that certain transaction information be provided in each TRACE trade report. Specifically, FINRA Rule 6730(c)(8) requires the report to include the time of execution.
34. FINRA Rule 6730(b)(5) states, in relevant part, “[m]embers have an ongoing obligation to report transaction information promptly, accurately, and completely.”
35. During the period of January 1, 2017 through March 31, 2017, the firm failed to report the correct time of execution in 33 transactions in TRACE-Eligible Agency Debt Securities to TRACE.
36. During the period of April 1, 2017 through September 30, 2017, the firm failed to report the correct time of execution in 198 transactions in TRACE-Eligible Corporate Debt Securities to TRACE.

37. The firm's failure to accurately report the correct execution times resulted from errors connected to its manual booking of the executions to the firm's clearance and settlement systems. Specifically, the firm did not input the actual execution time of the trades; it reported the times the firm input the trades to the firm's clearance and settlement systems.
38. The firm took corrective action in September 2017 by implementing a procedure for manually executed transactions, wherein the trader handling the transaction is required to provide the execution details, including time of execution, within a timely manner to the firm's clearance and settlement systems.
39. By virtue of the foregoing, the Respondent violated FINRA Rules 6730(c)(8) and 2010.

Supervision Related to TRACE Reporting

40. The supervisory violations articulated below were discovered during a review conducted by FINRA's TRACE Agency/SP and TRACE Corporate Bond Teams of the Department of Market Regulation.
41. FINRA Rule 3110(a) requires that each member shall establish and maintain a system to supervise the types of business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules. A violation of FINRA Rule 3110 also constitutes a violation of FINRA Rule 2010.
42. During the period of January 1, 2017 through September 30, 2017, the firm's supervisory system, required the assigned reviewer to conduct a monthly review of the FINRA TRACE Quality of Markets Report Card to review for the timeliness and accuracy of the firm's reporting of TRACE-Eligible Securities. The TRACE Quality of Markets Report Card includes the firm's reporting statistics, a count of the firm's unmatched trades, the firm's trade submission statistics and industry statistics. The firm's supervisory system required the assigned reviewer to compare the firm's trade data to the Report Card and take remedial steps, as needed, to achieve timely and accurate reporting of all required information to TRACE.
43. However, during the period of January 1, 2017 through September 30, 2017, the firm failed to perform any supervisory review for its compliance with TRACE reporting requirements including the timeliness and accuracy of the reporting until FINRA staff inquired about the firm's TRACE reporting. As a result, the firm failed to supervise transactions in TRACE-Eligible Securities to achieve compliance with the firm's reporting obligations under FINRA Rule 6730.
44. By virtue of the foregoing, the Respondent violated FINRA Rules 3110 and 2010.

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

A censure and fine of \$250,000 (consisting of a fine of \$100,000 for the Locked/Crossed violations; a fine of \$100,000 for the Limit Order Display violations; \$10,000 for the Capacity Code violations; \$20,000 for the TRACE violations and \$20,000 for the supervisory violations related to TRACE).

Respondent agrees to pay the monetary sanctions upon notice that this AWC has been accepted and that such payment is due and payable. Respondent 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 an inability 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 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 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 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 Respondent's permanent disciplinary record and may be considered in any future actions 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.

January 16, 2020
Date

Respondent
Virtu Americas LLC

By: Matthew Levine

Print Name: Matthew Levine

Title: Deputy General Counsel

Reviewed by:

Matthew Levine
Matthew Levine
Counsel for Respondent

Accepted by FINRA:

2.4.20
Date

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

Shawn R. Mallon
Shawn R. Mallon
Senior Counsel
FINRA Department of Enforcement