

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2016048498401**

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

RE: CODA Markets, Inc., Respondent
Member Firm
CRD No. 36187

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, CODA Markets, Inc. (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 is a U.S. broker-dealer and has been a FINRA member since May 1994. The firm sponsors and operates an Alternative Trading System and provides execution services to other U.S. broker-dealers. It is headquartered in Illinois and has two branch locations with 18 registered individuals.

RELEVANT DISCIPLINARY HISTORY

The firm does not have any relevant disciplinary history with the Securities and Exchange Commission ("SEC"), any state securities regulators, FINRA, or any other self-regulatory organization.

OVERVIEW

During the period of June 2010 through October 2017 (the "review period"), the firm published inaccurate data in monthly reports it was required to make public pursuant to Rule 605 of Regulation NMS ("Rule 605 reports").

During the review period, the firm failed to establish and maintain a supervisory system

and written supervisory procedures (“WSPs”) reasonably designed to achieve compliance with Rule 605 of Regulation NMS, in violation of NASD Rule 3010 (prior to December 1, 2014), and FINRA Rules 3110 (on and after December 1, 2014) and 2010.

FACTS AND VIOLATIVE CONDUCT

Inaccurate Rule 605 Reports

1. On June 9, 2005, the SEC adopted Regulation NMS, which established new substantive rules designed to modernize and strengthen the regulatory structure of the U.S. equities markets. Regulation NMS Rule 605 (formerly SEC Rule 11Ac1-5)¹ requires the disclosure of certain order execution information, facilitating the uniform public disclosure of order execution information by all market centers. Specifically, Rule 605 requires a market center that trades national market system securities to make available to the public monthly electronic reports that include uniform statistical measures of execution quality, including the total number of cumulative shares, in covered orders², that were executed or cancelled.
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.” A violation of Rule 605 of Regulation NMS constitutes a violation of FINRA Rule 2010.
3. During the review period, the firm made available monthly reports as required by Rule 605. However, FINRA’s Market Quality Team within the Department of Market Regulation discovered that the firm had been inaccurately submitting its Rule 605 reports; they were inaccurate for all 89 months during the review period. Two separate system flaws at the Firm caused these inaccuracies, and these flaws affected all of the approximately 56,000,000 orders that received partial executions during the review period. Both system flaws began in June 2010, when the firm contracted with a third-party vendor to produce the firm’s Rule 605 reports.
4. One system flaw related to the firm’s statistical reporting of subscriber-initiated cancellations for the remaining unexecuted shares of an order that had been partially executed. When a subscriber’s order had only received a partial execution, and the remaining shares of the order were subsequently cancelled by the subscriber, the firm failed to include the total cancellation quantity of the respective covered order in the cancellation data the firm transmitted to the third-party vendor and published in its

¹ Regulation NMS, among other things, renumbered certain SEC rules, including former SEC Rule 11Ac1-5.

² A covered order was defined in SEC Rule 11Ac1-5(a)(8) as “any market order or any limit order (including immediate-or-cancel orders) received by a market center during regular trading hours at a time when a consolidated best bid and offer is being disseminated, and, if executed, is executed during regular trading hours, but shall exclude any order for which the customer requests special handling for execution, including, but not limited to, orders to be executed at a market opening or closing price, orders submitted with stop prices, orders to be executed only at their full size, orders to be executed on a particular type of tick or bid, orders submitted on a “not held” basis, orders for other than regular settlement, and orders to be executed at prices unrelated to the market price at the time of execution.”

Rule 605 report. Orders that were cancelled in full were not affected by this system flaw.

5. A second system flaw related to instances in which there were multiple partial executions for a single parent order. The firm's system mistakenly calculated and subsequently included each of the partial executions, which were the subsequent child executions, as completely new orders in its published Rule 605 reports. This caused the total number of covered orders published in its Rule 605 reports to be overstated.
6. By virtue of the foregoing, during the review period, the firm violated Rule 605 of Regulation NMS and FINRA Rule 2010.

Supervision Related to Compliance with Rule 605

7. FINRA Rule 3110(a) (NASD Rule 3010(a) prior to December 1, 2014) requires that each member shall establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules.
8. FINRA Rule 3110(b) (NASD Rule 3010(b) prior to December 1, 2014) requires that each member shall establish, maintain, and enforce WSPs 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.
9. A violation of FINRA Rule 3110 (NASD Rule 3010 prior to December 1, 2014) also constitutes a violation of FINRA Rule 2010.
10. During the review period, the firm failed to establish and maintain a supervisory system and WSPs that were reasonably designed to achieve compliance with the requirements of Rule 605 of Regulation NMS. While the firm conducted a supervisory review of its Rule 605 reports pursuant to its WSPs to confirm whether the information in the reports was displayed in the required format, its WSPs did not require, nor did the firm conduct, a review for the accuracy of the data contained within its Rule 605 reports, including the accuracy of the total number of cumulative shares, in covered orders that were executed or cancelled.
11. In November 2017, the firm contracted with a new third-party vendor that developed an automated supervisory review to detect inaccuracies in the firm's Rule 605 reports, and established daily compliance reviews designed to determine the accuracy of the information that it published in its Rule 605 reports.
12. By virtue of the foregoing, the firm violated NASD Rule 3010 (for conduct prior to December 1, 2014) and FINRA Rule 3110 (for conduct on and after December 1, 2014) and FINRA Rule 2010.

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

A censure and a fine of \$125,000 (\$75,000 for violations of Rule 605 and FINRA Rule 2010, and \$50,000 for violations of NASD Rule 3010, FINRA Rules 3110 and 2010).

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.

4/30/20
Date

Respondent
CODA Markets, Inc.

By: Christopher H. Meade

Print Name: Christopher H. Meade

Title: Chief Compliance Officer

Accepted by FINRA:

May 18, 2020

Date

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

Shawn R. Mallon

Shawn R. Mallon
Senior Counsel
FINRA Department of Enforcement