

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2016048614701**

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

RE: Dealerweb Inc., Respondent
Member Firm
CRD No. 19662

Pursuant to FINRA Rule 9216, Respondent Dealerweb Inc. (Dealerweb) 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 in this AWC.

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

Dealerweb is an inter-dealer broker that facilitates institutional customer order flow, and also operates an alternative trading system (ATS). Dealerweb's ATS allows clients to transact electronically between Exchange Traded Funds and futures. The ATS is a closed system that does not route to exchanges or other ATSs. The firm is headquartered in New Jersey and has three branch offices with 127 registered individuals. It became a FINRA member in July 1987, and its registration remains in effect.

OVERVIEW

This matter arises out Dealerweb's failure to comply with Regulation Systems Compliance and Integrity (Reg SCI) under the Securities Exchange Act of 1934 (Exchange Act) with respect to its ATS. Under Reg SCI, an ATS that exceeds certain trading volume thresholds is defined as an SCI ATS and, thus, is required to comply with the substantive provisions of Reg SCI. Reg SCI rules are designed to reduce the occurrence of systems issues and improve resiliency when systems problems do occur by, among other things, requiring Reg SCI entities to perform capacity stress tests and establish capacity planning estimates of its Reg SCI systems.

Dealerweb did not correctly calculate its volume thresholds as a percentage of the overall NMS market average daily dollar volume and, as a result, did not recognize that it was

required to be in compliance with Reg SCI starting on November 3, 2015, the compliance date for Reg SCI. Although Dealerweb's ATS was subject to the requirements of Reg SCI, Dealerweb did not comply with certain provisions of Reg SCI from November 3, 2015 through October 2018.

FACTS AND VIOLATIVE CONDUCT

The Securities and Exchange Commission (the Commission) enacted Regulation SCI to establish a formal regulatory structure to govern the automated systems of SCI entities and to mitigate certain concerns presented by technological developments in the securities markets. Specifically, Regulation SCI was intended to address the concern that “[g]iven the speed and interconnected nature of the U.S. securities markets, a seemingly minor systems problem at a single entity can quickly create losses and liability for market participants, and spread rapidly across the national market system, potentially creating widespread damage and harm to market participants, including investors.”¹

Reg SCI applies primarily to the systems of SCI entities that directly support any one of six key securities market functions - trading, clearance and settlement, order routing, market data, market regulation, and market surveillance. Subject to certain exceptions, the compliance date of Reg SCI was November 3, 2015.

In addition, as a FINRA member firm, Dealerweb must comply with FINRA Rule 3110, which requires each member firm to establish, maintain, and enforce a supervisory system, including written supervisory procedures, that is reasonably designed to achieve compliance with applicable securities laws, regulations, and FINRA rules.

1. The Dealerweb ATS qualified as an SCI ATS.

Reg SCI Rule 1000 defines an SCI ATS as an ATS, which during at least four of the preceding six calendar months, had with respect to NMS stocks: (i) five percent (5%) or more of the average daily dollar volume (ADDV) in any single NMS stock, and (ii) one-quarter percent (0.25%) or more of the ADDV in all NMS stocks (the threshold test). If an ATS meets the definition of an SCI ATS in Rule 1000, it must comply with the requirements of Reg SCI by the later of (i) November 3, 2015; or (ii) six months after first meeting the threshold test.

Although it correctly applied the first prong of the threshold test, Dealerweb incorrectly applied the second prong, basing its calculations on the average daily share volume (ADV) in all NMS stocks instead of the ADDV. Dealerweb's ATS exceeded 0.25% of the ADDV in all NMS stocks for six consecutive months between May 2015 and October 2015. Therefore, Dealerweb was required to come into compliance with Reg SCI on November 3, 2015. However, Dealerweb did not understand that its ATS was an SCI entity until March 2017, at which time it initiated a review of its SCI compliance, and

¹ *Regulation Systems Compliance and Integrity*, Final Rule, Exchange Act Release No. 73639, at p. 587 (Nov. 19, 2014).

then fully implemented Reg SCI policies and procedures by October 2018.

2. Dealerweb did not establish Reg SCI policies and procedures.

Rule 1001(a)(1) requires each SCI entity to establish, maintain, and enforce written policies and procedures reasonably designed to ensure that its SCI systems and, for purposes of security standards, indirect SCI systems, have levels of capacity, integrity, resiliency, availability, and security, adequate to maintain the SCI entity's operational capability and promote the maintenance of fair and orderly markets. Rule 1001(a)(2) requires that the policies and procedures include, among other things, the establishment of reasonable current and future technological infrastructure capacity planning estimates, and periodic capacity stress tests of SCI systems. Due to its misinterpretation of the threshold test, Dealerweb failed to identify its SCI systems until August 2017, and failed to establish the above policies and procedures until November 2017.

Rule 1001(b) requires each SCI entity to establish, maintain, and enforce written policies and procedures reasonably designed to ensure that its SCI systems operate in a manner that complies with the Exchange Act and the rules and regulations thereunder and the entity's rules and governing documents. Dealerweb failed to establish these policies and procedures until August 2017.

Rule 1001(c) requires each SCI entity to establish, maintain, and enforce reasonably designed written policies and procedures that include the criteria for identifying responsible SCI personnel and the designation and documentation of responsible SCI personnel. Dealerweb failed to establish these policies and procedures until October 2017. Rule 1001(c) also requires each SCI entity to establish, maintain, and enforce reasonably designed escalation procedures to quickly inform responsible SCI personnel of potential SCI events. Dealerweb failed to establish these policies and procedures until June 2017.

As a result of the conduct described above, Dealerweb violated Reg SCI Rules 1001(a), (b), and (c) and FINRA Rules 3110 and 2010.

3. Dealerweb did not file quarterly or annual reports with the Commission.

Reg SCI Rule 1003(a) requires SCI entities to submit quarterly reports to the Commission describing completed, ongoing, and planned material changes to its SCI systems and the security of indirect SCI systems. Reg SCI Rule 1003(a) also requires an SCI entity to establish reasonable written criteria for identifying and reporting material changes to its SCI systems and the security of indirect SCI systems. Reg SCI Rule 1003(b) requires SCI entities to conduct an annual SCI review of the SCI entity's compliance with Regulation SCI, submit a report of the SCI review to senior management of the SCI entity, and thereafter submit the report to the Commission and to the board of directors of the SCI entity.

Dealerweb did not implement policies and procedures to identify material changes that would have allowed it to comprehensively report those material changes to the Commission until March 2017. Dealerweb also did not begin to file quarterly reports of

material changes to its systems with the Commission until May 2017. Finally, Dealerweb did not implement an annual review process until December 2017 and did not conduct an annual SCI review, or submit a report of an annual SCI review to its senior management, its board of directors, and to the Commission until January 2018.

As a result of the conduct described above, Dealerweb violated Reg SCI Rules 1003(a) and (b) and FINRA Rules 3110 and 2010.

4. Dealerweb did not develop standards to designate members or participants to participate in business continuity and disaster recovery plan testing or coordinate testing on an industry-wide basis.

Reg SCI Rule 1004(a) requires an SCI entity to establish standards for the designation of those members or participants that the SCI entity reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of the SCI Entity's business continuity and disaster recovery plans. Reg SCI Rule 1004(b) requires the designated members or participants to participate in scheduled functional and performance testing of the operation of the business continuity and disaster recovery plans at least annually. Reg SCI Rule 1004(c) requires an SCI entity to coordinate the testing of the business continuity and disaster recovery plans on an industry- or sector-wide basis with other SCI entities.

Dealerweb did not establish standards for the designation of its SCI ATS's members necessary to maintain fair and orderly markets in the event of the activation of business continuity and disaster recovery plans related to its ATS until October 2017, and it did not coordinate testing with other SCI entities until October 2018.

As a result of the conduct described above, Dealerweb violated Reg SCI Rules 1004(a), (b), and (c) and FINRA Rules 3110 and 2010.

5. Dealerweb did not make, keep, and preserve books and records relating to its compliance with Reg SCI.

Reg SCI Rule 1005(b) requires an SCI ATS to make, keep, and preserve at least one copy of all documents relating to its compliance with Reg SCI, including, but not limited to, records relating to any changes to its SCI systems and indirect systems, and keep all such documents for a period of not less than five years, the first two years in a place that is readily accessible.

Dealerweb did not begin to maintain the books and records required by Regulation SCI until August 2017 and did not maintain, keep and preserve all books and records relating to its compliance with Reg SCI until October 2018.

As a result of the conduct described above, Dealerweb violated Reg SCI Rule 1005(b) and 2010.

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

- a censure; and
- a fine of \$250,000.

Respondent agrees to pay the monetary sanction 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 after the execution of this AWC, the monetary sanction imposed in this matter.

The sanctions imposed in this AWC 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 its acceptance or rejection.

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

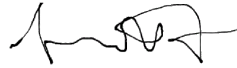
Respondent understands that:

- 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 its subject matter 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 testimonial obligations or 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.

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.

July 23, 2021

Date



Dealerweb Inc.
Respondent

Print Name: Scott Zucker

Title: CAO and CRO

Reviewed by:

Jonathan Pressman

Jonathan S. Pressman
Counsel for Respondent
WilmerHale
7 World Trade Center
250 Greenwich Street
New York, NY 10007
(212) 230-8846

Accepted by FINRA:

August 6, 2021

Date

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



John P. Hewson
Senior Counsel
FINRA Department of Enforcement