

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2016049105201**

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, Respondent CODA Markets, Inc. (the "Firm" or "CODA") 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 CODA 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. The Firm sponsors and operates an alternative trading system. The Firm is headquartered in Illinois and has three branch offices with 18 registered individuals. It became a FINRA member on May 10, 1994, and its registration remains in effect.

RELEVANT DISCIPLINARY HISTORY

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

OVERVIEW

During the period January 1, 2015 through July 20, 2018, the Firm failed to report millions of reportable order events ("ROEs") to the Order Audit Trail System ("OATS") and reported over one billion ROEs that contained inaccurate, incomplete or improperly formatted data. Also, from January 1, 2015 through January 17, 2019, the Firm failed to maintain a supervisory system, including written supervisory procedures ("WSPs"),

reasonably designed to achieve compliance with FINRA Rules concerning OATS reporting.

FINRA uses OATS data as an integral part of its automated market surveillance program to detect manipulative activity and other potential violations of FINRA rules and the federal securities laws. As such, a failure to report to OATS or inaccurate reporting can impede FINRA's ability to detect potential violative conduct and/or create false positive alerts. Moreover, these failures cause the order audit trail to be inaccurate.

As a result of the conduct described above, the Firm violated FINRA Rules 7450 and 3110 and 2010.

FACTS AND VIOLATIVE CONDUCT

This matter arose from two examinations by FINRA of the Firm.

Relevant Rules

FINRA Rule 7450(a) provides, in relevant part, that all applicable order information required to be recorded under Rule 7440 shall be transmitted to the Order Audit Trail System by each Reporting Member or by a Reporting Agent.

FINRA Rule 3110(a) provides 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.

FINRA Rule 3110(b) provides that each member shall establish, maintain and enforce written procedures 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.

FINRA Rule 2010 provides that a member, in conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.

The Firm Failed to Transmit Certain Reports to OATS

1. During the period from January 1, 2015 through June 30, 2015, the Firm failed to transmit to OATS 4,026,370 Cancel Reports, which constituted a violation rate of 0.1%. These instances involved partial cancellations. The Firm misunderstood how to correctly report partial cancellations. The Firm submitted a Cancel Timestamp for the original OATS New Order Report indicating a full cancellation of the order instead of submitting a separate Cancel Report to show a partial cancellation. The Firm corrected the error on May 31, 2016.

2. During the period from February 2, 2015 through February 29, 2016, the Firm failed to transmit to OATS 1,093,543 Route Reports, which constituted a violation rate of 0.01%. On February 2, 2015, pursuant to a FINRA rule amendment, the Firm started using two market participant identifiers (“MPIDs”) for reporting purposes. The Firm used “PDQX” for its ATS and “PDQM” when the Firm routed orders to the market. During this period, the Firm failed to submit Route Reports for orders that were cancelled and replaced at the Firm’s ATS (PDQX) and routed to the Firm (PDQM) to be routed to the market. The Firm resolved the issue on February 12, 2016.
3. During the period from February 1, 2015 through July 2018, the Firm failed to transmit to OATS 56,979,689 Route Reports from the Firm (PDQM) to the ATS (PDQX), which constituted a violation rate of 0.2%. The issue was caused by a failure of the Firm, after it began to use two MPIDs, to code for instances where an order routed away to another market center for execution subsequently was routed back by the Firm (PDQM) to the ATS (PDQX). The Firm reverted to using a single MPID on November 1, 2018.

The Firm Submitted Inaccurate, Incomplete or Incorrectly Formatted Reports to OATS

4. During the period January 1, 2015 through June 30, 2015, the Firm submitted 166,666,709 New Order Reports to OATS that did not include the Special Handling Code of Immediate or Cancel, which constituted a violation rate of 4.9%. This issue was caused by an error in the Firm’s OATS reporting logic and was corrected as of February 12, 2016.
5. During the period January 1, 2015 through June 30, 2015, the Firm submitted 4,847,662 Execution Reports to OATS that contained an inaccurate “Leaves Quantity” of “0” after a partial fill, which constituted a violation rate of 0.1%. The issue was caused by a coding error that caused partial executions of an order to be incorrectly reported with the “Leaves Quantity” of “final execution of the order” (*i.e.*, with a “Leaves Quantity” of 0). The Firm corrected the issue as of February 12, 2016.
6. During the period January 1, 2015 through June 30, 2015, the Firm submitted 7,397,877 Execution Reports to OATS that contained an inaccurate Execution Type Indicator of “P” (partial) when it should have read “F” (full), which constituted a violation rate of 0.2%. The issue was caused by a coding error which resulted in executions being reported as partial regardless of the size of the execution relative to the original order size. The Firm corrected the error as of February 12, 2016.

The Firm Submitted Reports with Inaccurate Timestamps

7. When the Firm started using two MPIDs on February 2, 2015, the Firm was required to submit a Route Report for orders routed internally by the Firm’s ATS (PDQX) to the Firm (PDQM) for routing out to the market and submit a New Route Report by the Firm. For these orders, the time on the order ticket provided by the Firm did not match the Order Sent Timestamp on the Route Report submitted by the Firm for the route

from its ATS to the Firm. The time on the order ticket provided by the Firm did not match the Order Received Timestamp on the corresponding OATS New Order Report submitted by the Firm in connection with the ATS' route.

8. As a result of the foregoing errors, FINRA found based on a sample, for the trade date February 26, 2015, the Firm submitted 25 Route Reports and 25 corresponding New Order Reports containing an inaccurate Order Sent and an inaccurate Order Received, timestamp, respectively. This inaccurate timestamp issue affected at least 1,413,787,189 ROEs during the sample period from August 1, 2015 through June 30, 2018, which constituted a violation rate of 6.5%. The Firm corrected the error when it reverted to using a single MPID on November 1, 2018.

The Firm's Supervisory System and Written Supervisory Procedures ("WSPs") Were Not Reasonably Designed To Achieve Compliance with OATS Reporting Rules

9. From January 1, 2015 through January 17, 2019, the Firm's supervisory system, including WSPs, were not reasonably designed to achieve compliance with respect to FINRA Rules concerning OATS. Specifically, the Firm's WSPs did not include a procedure and the Firm did not have a system for reviewing the completeness and accuracy of OATS submissions until October 1, 2017. Although the Firm did put in place a procedure on October 1, 2017, providing for an annual review of ROEs, that procedure was not reasonably designed to promptly identify and correct errors. In addition, until 2016, the Firm did not have procedures or a system to achieve compliance with the requirement to synchronize its clock daily, prior to the open, and to monitor for intraday drift. Finally, from September 2016 through March 22, 2017, the Firm failed to provide evidence that the Firm conducted the supervisory reviews required by its WSPs with respect to clock synchronization, consistency of OATS information with TRF information and consistency of routed order IDs.

Rule Violations

10. As described in paragraphs 1-8, the Firm reported 1,592,790,490 ROEs that contained inaccurate, incomplete or improperly formatted data during the period from January 1, 2015 through June 30, 2018 and (ii) failed to report 62,099,602 ROEs during the period from January 1, 2015 through July 20, 2018. By virtue of the foregoing, the Firm violated FINRA Rules 7450 and 2010.
11. As described in paragraph 9, the Firm's supervisory system and WSPs from January 1, 2015 through January 17, 2019, were not reasonably designed to achieve compliance with FINRA Rules concerning OATS. By virtue of the foregoing, the Firm violated FINRA Rules 3110 and 2010.

B. The Firm also consents to the imposition of the following sanctions:

- Censure;
- A fine of \$90,000 (consisting of a fine of \$55,000 for the OATS violations and a \$35,000 fine for the supervisory violations); and
- An undertaking to review and revise the Firm's systems and written procedures regarding the supervision of its OATS reporting to ensure that the systems and procedures are reasonably designed to achieve compliance with FINRA Rule 7450 and to implement and test all coding changes necessary to remediate the violations identified herein. Within 90 days of the Notice of Acceptance of the AWC, or such additional period as agreed by a FINRA staff member in writing, the Firm's Chief Executive Officer, on behalf of the Firm, shall submit to Elisabeth Grippando, Principal Counsel, FINRA at the address set forth below, and to EnforcementNotice@FINRA.org from a work-related account of the registered principal of Respondent Firm a written certification that (1) the Firm has completed its review, (2) as of the date of the certification, the Firm's systems and written policies and procedures, are reasonably designed to achieve compliance with FINRA Rule 7450 and address the deficiencies identified in paragraph 9 above, and (3) that as of the date of the certification, the Firm has implemented and tested all coding changes necessary to remediate the violations identified herein.

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

II.

WAIVER OF PROCEDURAL RIGHTS

The Firm 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, the Firm 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.

The Firm 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

The Firm 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 the Firm; and
- C. If accepted:
 - 1. this AWC will become part of the Firm's permanent disciplinary record and may be considered in any future action 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. the Firm 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. The Firm 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 (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. The Firm 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 it to submit it.

11/8/19
Date

CODA Markets, Inc.
Respondent

By: Edward B. O'Malley

Print Name: Edward B. O'Malley

Title: President

Reviewed by:



Peter G. Wilson
Counsel for Respondent
Katten Muchin Rosenman LLP
525 W. Monroe Street
Chicago, IL 60661-3693

Accepted by FINRA:

11/21/19
Date

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



Elisabeth Grippando
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