

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2017054588101**

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

RE: Jefferies LLC (Respondent), as successor to Jefferies Execution Services, Inc.
Member Firm
CRD No. 2347

Pursuant to FINRA Rule 9216, Respondent Jefferies LLC, as successor to Jefferies Execution Services, Inc., 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

Jefferies Execution Services, Inc. (CRD No. 867) became a FINRA member in February 1948. In November 2017, it requested the termination of its FINRA membership. On January 19, 2018, the date its FINRA membership was terminated, Jefferies Execution Services, Inc. merged with and into Jefferies LLC (CRD No. 2347), an affiliated broker-dealer that has been a FINRA member since March 1963.¹ Jefferies Execution Services, Inc.'s principal place of business was in New York, New York. Its business primarily consisted of electronic and manual execution services on exchanges and electronic marketplaces for financial institutions, including Jefferies LLC.²

OVERVIEW

Between February 22 and 23, 2016, and between October 2016 and October 2017, Jefferies Execution Services, Inc. (Jefferies) failed to take reasonable steps to establish

¹ Jefferies LLC assumed all liabilities and obligations of Jefferies Execution Services, Inc. at the time of the merger.

² For more information about the firm, including prior regulatory events, visit BrokerCheck® at www.finra.org/brokercheck.

that the intermarket sweep orders (ISOs) it routed met the requirements set forth in Rule 600(b)(30) of Regulation National Market System (NMS) of the Securities Exchange Act of 1934 (Exchange Act), in violation of Exchange Act Rule 611(c) and FINRA Rule 2010.³

In addition, between February 2016 and October 2017, Jefferies failed to establish and maintain a supervisory system, and failed to establish, maintain, and enforce written supervisory procedures (WSPs), reasonably designed to achieve compliance with Exchange Act Rule 611(c), in violation of FINRA Rules 3110 and 2010.

FACTS AND VIOLATIVE CONDUCT

1. Rule 600(b)(30) of Regulation NMS defined an ISO as a limit order for an NMS stock that: (i) is identified as an ISO when routed to a trading center; and (ii) simultaneously with the routing of the limit order identified as an ISO, one or more additional limit orders, as necessary, are routed to execute against the full displayed size of any protected bid, in the case of a limit order to sell, or the full displayed size of any protected offer, in the case of a limit order to buy, for the NMS stock with a price that is superior to the limit price of the limit order identified as an ISO. These additional routed orders also must be marked as ISOs.⁴
2. Rule 611(c) of Regulation NMS required a trading center, broker, or dealer responsible for the routing of an ISO to take reasonable steps to establish that such order meets the requirements set forth in Rule 600(b)(30).
3. A violation of Exchange Act Rule 611 constitutes a violation of FINRA Rule 2010, which requires “[a] member, in the conduct of its business, [to] observe high standards of commercial honor and just and equitable principles of trade.”

Jefferies violated Exchange Act Rule 611.

4. Between February 22 and 23, 2016, and between October 2016 and October 2017, Jefferies failed to take reasonable steps to establish that the ISOs it routed met the requirements of Exchange Act Rule 600(b)(30).

³ Subsequent to the review period, Exchange Act Rule 600(b) was renumbered. Exchange Act Rule 600(b)(30) is now Exchange Act Rule 600(b)(38). Because the conduct at issue occurred while Exchange Act Rule 600(b)(30) was still in effect, all references herein are to Exchange Act Rule 600(b)(30).

⁴ The Securities and Exchange Commission staff (Division of Trading and Markets) issued guidance stating that firms are not required to maintain a comprehensive database of quotation data if the firm (1) has implemented reasonable policies and procedures that include periodic review of its compliance with Rule 611, and (2) retains sufficient firm-specific quotation data to demonstrate the reasonableness of its Rule 611 compliance reviews. With regard to the second item, firms are required to maintain for a reasonable amount of time certain market data showing the protected quotations of all relevant market centers at the time they route ISOs so they can demonstrate the reasonableness of their policies and procedures. See *Responses to Frequently Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS*, Question 6.03.

5. On February 22 and 23, 2016, Jefferies' Electronic Trading Desk (the Desk) routed a number of orders to trading centers that it marked as ISOs, but that did not meet the requirements of Rule 600(b)(30) because the Desk failed to route additional limit orders to execute against other exchanges' protected quotes. On February 23, 2016, the firm was notified of potential ISO routing issues through exchange surveillance, at which time the Desk stopped routing ISOs.
6. At the time, Jefferies did not take "reasonable steps" to establish that these ISOs met the requirements of Rule 600(b)(30). The Desk failed to inform the firm's compliance department that it intended to begin sending ISOs. Moreover, the Desk did not have any procedures regarding compliance with Rules 611 or 600(b)(30) and did not maintain firm-specific quotation data or conduct periodic reviews to test the effectiveness of its policies and procedures for preventing trade-throughs. In addition, Jefferies failed to identify all protected quotations when determining to which venues ISOs should be routed due to a coding issue.
7. Additionally, between October 2016 and August 2017, Jefferies mistakenly routed orders to trading centers that it marked as ISOs but, in fact, were immediate-or-cancel (IOC) orders that did not qualify as ISOs. Upon fixing the underlying programming issue that led to the mismarking, the firm created another coding problem. Specifically, during the period of August 2017 through October 2017, with respect to child orders routed to four exchanges, the firm mistakenly routed IOC orders instead of ISO orders. As a result, the ISO orders routed to the other exchanges traded-through better prices on the four exchanges to which Jefferies mistakenly routed the IOC orders.
8. At the time, Jefferies did not take "reasonable steps" to establish that the orders it had marked as ISOs qualified as ISOs under Rule 600(b)(30). During this period, the firm failed to conduct reasonable periodic reviews to determine whether it was complying with Rule 611. Although Jefferies implemented a daily review of ISOs in May 2016, this review was not reasonably designed, as discussed further below, and it was the only review being conducted by the firm with regard to Rule 611. Further, the firm failed to identify that a programming error within its order-execution system was causing the firm to mismark orders and causing the firm to fail to retain firm-specific quotation data, which contributed to the firm's inability to perform reasonable periodic reviews to test the effectiveness of its policies and procedures for preventing trade-throughs. For these reasons, the firm failed to take reasonable steps to ensure the ISOs it routed met the requirements of Exchange Act Rule 600(b)(30).
9. As a result, Jefferies violated Exchange Act Rule 611(c) and FINRA Rule 2010.

Jefferies' supervisory system was not reasonably designed to comply with Exchange Act Rule 611.

10. FINRA Rule 3110(a) requires firms to “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.”
11. FINRA Rule 3110(b) requires firms to “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.”
12. A violation of FINRA Rule 3110 constitutes a violation of FINRA Rule 2010.
13. Between February 2016 and October 2017, Jefferies' supervisory system, including its WSPs, was not reasonably designed to achieve compliance with Exchange Act Rule 611(c).
14. With respect to the conduct on February 22 and 23, 2016, Jefferies did not establish a supervisory system or WSPs that were reasonably designed to ensure that the Desk did not route ISOs or, if it were to route ISOs, that such routing complied with Exchange Act Rule 611(c). Jefferies did not implement any supervisory review of ISOs until May 2016, and this review was not documented in the firm's procedures until April 2017. Even after May 2016, the firm's review was unreasonable given that the ISOs reviewed by the firm represented a small fraction of the ISOs the firm handled each day.
15. In addition, Jefferies' programming errors and failure to maintain snapshot records of the market data supporting its routing of certain ISOs prevented it from performing a reasonable review of those ISOs for compliance with Exchange Act Rule 611(c).
16. Thus, during the period between February 2016 to October 2017, Jefferies' supervisory system, including its WSPs, was not reasonably designed to achieve compliance with Exchange Act Rule 611(c). Therefore, Jefferies violated FINRA Rules 3110 and 2010.

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

- a censure, and
- a total fine of \$200,000, of which \$42,765 shall be paid to FINRA.⁵

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

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.

⁵ The balance of the sanction will be paid to Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe EDGA Exchange, Inc., the New York Stock Exchange, LLC, NYSE American LLC, NYSE Arca, Inc., and Investors Exchange LLC.

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 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 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 Respondent, certifies that a person duly authorized to act on Respondent's behalf has read and understands all the provisions of this AWC and has been given a full opportunity to ask questions about it; that Respondent 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 in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce Respondent to submit this AWC.

December 23, 2021

Date

Jefferies LLC, as successor to Jefferies Execution
Services, Inc.

Respondent

By: Cynthia Adams

Print Name: Cynthia Adams

Title: Managing Director, Legal

Accepted by FINRA:

January 11, 2022

Date

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

Kerry Ann P. Adler
Kerry Ann P. Adler
Senior Counsel
FINRA Department of Enforcement
55 West Monroe Street, 26th Floor
Chicago, IL 60603