

**FINANCIAL INDUSTRY REGULATORY
AUTHORITY LETTER OF ACCEPTANCE, WAIVER,
AND CONSENT NO. 2017054643601**

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

RE: ITG, Inc. (Respondent) Member Firm
CRD No. 29299

Pursuant to FINRA Rule 9216, Respondent ITG, Inc. (ITG), now known as Virtu Americas LLC, 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

ITG first registered with FINRA in 1992. It was acquired by Virtu Financial, Inc. in March 2019 and changed its name to Virtu ITG LLC. Virtu ITG LLC subsequently was consolidated with another of Virtu's subsidiaries, Virtu Americas LLC, which has been a FINRA member since 2009. As part of its consolidation with Virtu Americas LLC, ITG filed a Uniform Request for Broker-Dealer Withdrawal (Form BDW) terminating its registration and moved its Market Participant Identifiers, staff, and business to Virtu Americas LLC in June 2020. ITG's registration was terminated as of August 2020.

Virtu Americas LLC is headquartered in New York and employs over 300 registered representatives in seven branch offices. Virtu Americas LLC also has several foreign affiliates.

ITG does not have any relevant disciplinary history.

OVERVIEW

From January 2014 through April 2018, ITG failed to establish and implement AML policies and procedures reasonably designed to detect and cause the reporting of

suspicious low-priced securities trading, in violation of FINRA Rules 3310(a) and 2010.¹

During the same period, ITG failed to establish and implement a system reasonably designed to comply with Bank Secrecy Act regulations requiring firms to have due diligence procedures for correspondent accounts of foreign financial institutions (FFIs). ITG failed to conduct due diligence on numerous FFI accounts, including the correspondent account of one of its foreign affiliates. ITG therefore violated FINRA Rules 3310(b) and 2010.

In addition, from 2014 through 2016, ITG failed to ensure reasonable or timely annual independent testing of its AML program, in violation of FINRA Rules 3310(c) and 2010.

FACTS AND VIOLATIVE CONDUCT

A. Broker-dealers are required to establish and implement a reasonable AML program.

FINRA Rule 3310 requires all member firms to “develop and implement a written anti- money laundering program reasonably designed to achieve and monitor the firm’s compliance with the requirements of the Bank Secrecy Act (31 U.S.C. § 5311, et seq.), and the implementing regulations promulgated thereunder by the Department of the Treasury.” Pursuant to FINRA Rule 3310(a), each member’s AML program must, at minimum, “[e]stablish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and the implementing regulations thereunder....”

Title 31 U.S.C. § 5318(g) authorizes the Department of the Treasury to issue suspicious activity reporting requirements for broker-dealers. The Department of the Treasury issued the implementing regulation, 31 C.F.R., § 103.19(a)(1), on July 1, 2002, providing that, with respect to any transaction after December 30, 2002, “[e]very broker or dealer in securities within the United States . . . shall file with FinCEN . . . a report of any suspicious transaction relevant to a possible violation of law or regulation.”

NASD Notice to Members (NTM) 02-21, issued in April 2002, provided detailed guidance to the industry regarding the obligation of a broker-dealer to monitor for and report suspicious transactions. In NTM 02-21, the NASD advised each broker-dealer that when developing an AML program, it should tailor the program to fit its business, taking into consideration, among other factors, “the types of transactions in which its customers engage.” NTM 02-21 further reminded broker-dealers of their duty to look for “red flags” of suspicious activity that suggest money laundering or other violative activity and provided broker-dealers with a non-exhaustive list of such red flags.

In August 2002, FINRA issued NTM 02-47, which described the suspicious activity

¹ The firm has represented that it implemented revised AML procedures beginning in April 2018.

reporting rule promulgated by the Department of the Treasury for the securities industry. NTM 02-47 further advised broker-dealers of their duty to file a suspicious activity report (SAR) for any transaction raising suspicions of illegal activity occurring after December 30, 2002.

Failure to tailor a firm's AML procedures to its business and customer base and failure to monitor, analyze, and investigate red flags of suspicious activity to determine whether it is appropriate to file a SAR violates FINRA Rule 3310(a). A violation of FINRA Rule 3310 also constitutes a violation of FINRA Rule 2010, which requires FINRA members, in the conduct of their business, to observe "high standards of commercial honor and just principles of trade."

B. ITG failed to establish and implement an AML program that could reasonably be expected to detect and cause the reporting of suspicious transactions.

From January 2014 through April 2018, ITG executed and cleared almost 24 billion shares of low-priced securities with a principal value of approximately \$58 million, averaging more than 40,000 trades per day. Nonetheless, during that period, ITG's AML program were not reasonably tailored to the regulatory risks of its low-priced securities liquidation business.

For example, the firm's AML procedures did not identify reasonable steps to monitor for, detect, and investigate suspicious activity involving the liquidation of low-priced securities or how to identify red flags of potentially suspicious activity in connection with low-priced securities trading, such as identifying and investigating promotional activity potentially related to suspicious transactions. In addition, the firm's procedures did not reasonably set forth how, when and to whom to report red flags or other suspicious activity if detected, and did not identify the personnel with decision-making authority with respect to SAR filing or circumstances under which a SAR should be filed.

Additionally, from January 2014 until February 2018, ITG relied almost exclusively on a manual review of daily trade blotters to identify suspicious activity, which failed to detect patterns of activity over multi-day periods. During this period, the firm did not regularly use any exception reports or other automated tools to monitor customer transactions for suspicious activity, such as cancelled orders, patterns of trading across accounts or multiple days, foreign account activity, coordinated trading, trading resulting in losses that might indicate a lack of rational economic motive, and other indicia of common forms of market manipulation, such as pump and dump schemes, layering, spoofing, and front running. The firm's manual review was unreasonable given the volume and complexity of the trading by the firms' customers.²

² After FINRA made inquiries about the firm's AML program, the firm represented to FINRA that it has since enhanced its AML systems and procedures, including by enhancing trade surveillance to identify potentially suspicious trading beginning in February 2018.

C. ITG failed to detect and review red flags due to its failure to implement reasonable AML procedures regarding low-priced securities.

As a result of ITG's failure to implement a reasonably designed AML program, the firm failed to detect, investigate, and respond to potentially suspicious activities. During the relevant period, trading in at least 30 different low-priced securities presented red flags for potential market manipulation, including potential pump and dump schemes, bid support, and matched trading. For example, during 2016 and 2017, ITG did not detect numerous red flags of suspicious activity presented by Customer A, a customer of an ITG affiliate trading through an omnibus account at ITG. Specifically, Customer A liquidated millions of shares of multiple low-priced securities during and shortly after promotional campaigns touting the merits of the security, creating greatly increased daily volume, and engaged in matched trading with another customer at successively higher intra-day prices, comprising a high percentage of daily volume.

Further, the firm became aware of red flags that Customer A was engaging in bid support through active and matched trading of at least four different low-priced securities as part of potential pump and dump schemes. Despite awareness of these red flags, the firm did not reasonably investigate Customer A's activity. Customer A liquidated millions of shares of low-priced securities in connection with the transactions.

As a result of the above conduct, ITG violated FINRA Rules 3310(a) and 2010.

D. ITG failed to conduct reasonable due diligence on correspondent accounts of FFIs.

FINRA Rule 3310(b) requires firms to establish and implement an AML program, including written procedures, reasonably designed to achieve compliance with the Bank Secrecy Act, and its implementing regulations, which require, among other things, all financial institutions to establish due diligence procedures and controls designed to detect money laundering in the correspondent accounts of any FFI.

As described in Treasury Regulation 31 C.F.R. 1010.610, broker-dealers must assess the money laundering risk present in each correspondent account, taking into account "all relevant factors," including: (i) the nature of the FFI's business and the markets it serves; (ii) the type, purpose, and anticipated activity of such correspondent account; (iii) the nature and duration of the broker-dealer's relationship with the FFI; (iv) the AML and supervisory regime of the jurisdiction that issued the charter or license to the FFI; and (v) information known or reasonably available to the broker-dealer about the FFI's AML record.

During the relevant period, ITG's customer base included 120 FFIs. However, the firm failed to establish or implement reasonable policies and procedures related to the due diligence or review of correspondent accounts for FFIs. For example, the firm's AML procedures stated that specific enhanced due diligence and scrutiny must be applied to

correspondent accounts for certain foreign financial institutions but failed to reasonably describe the due diligence or scrutiny required. Indeed, for at least five FFI accounts, ITG did not obtain any information about the FFI's AML record, such as AML procedures, AML attestations, or AML reviews, and for two of those accounts, ITG did not perform any AML risk assessment at all.³

Therefore, ITG violated FINRA Rules 3310(b) and 2010.

E. ITG failed to conduct reasonable independent annual testing of its AML program.

FINRA Rule 3310(c) requires members to provide for annual independent testing for compliance with the AML procedures. Compliance with the rule requires that the annual testing be timely, independent, and substantive.

ITG did not conduct reasonable independent testing of its AML program from 2014 through 2016. Although ITG engaged an outside law firm to perform its annual AML tests during this period, the testing was not timely. The 2014 AML test, for example, was not completed until February 2016. In addition, the testing was not reasonable because it did not include critical areas such as ITG's trade surveillance tools, monitoring practices, or procedures for escalating concerns about red flags of suspicious activity. The annual tests also failed to address the firm's AML procedures related to the correspondent accounts of ITG's FFI customers.

Therefore, ITG violated FINRA Rules 3310(c) and 2010.

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

- a censure;
- a \$450,000 fine; and
- the following undertaking: within 60 days of Notice of Acceptance of this AWC, ITG, now operating as Virtu Americas LLC, shall certify to FINRA in a submission signed by an officer and registered principal of Virtu Americas LLC that, as of the date of the certification, Virtu Americas LLC has established and implemented policies, procedures, and internal controls reasonably designed to address and remediate the issues identified in this AWC. This certification shall be addressed to Frank Mazzarelli, Director, 15200 Omega Drive, Suite 300, Rockville, Maryland 20850.

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.

³ Virtu has represented to FINRA that it has implemented its own due diligence systems and procedures since it acquired ITG in 2019, including for correspondent accounts of FFIs.

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.

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 Respondent, certifies that a person duly authorized to act on Respondent's 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 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.

January 13, 2021

Date



Virtu Americas, as successor to ITG, Inc.
Respondent

Print Name: Matthew Levine

Title: Chief Compliance Officer

Reviewed by:



Robin M. Bergen
Counsel for Respondent
Cleary Gottlieb Steen & Hamilton LLP
2112 Pennsylvania Avenue, NW
Washington, DC 20037

Accepted by FINRA:

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



03/03/2021

Date

Brad H. Samuels
Principal Counsel
FINRA
Department of Enforcement
15200 Omega Drive
Rockville, MD 20850