

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2020068719701**

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

RE: IMC Financial Markets (Respondent)
Member Firm
CRD No. 104143

Pursuant to FINRA Rule 9216, Respondent IMC Financial Markets (IMC) 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 accepts and consents to the following findings by FINRA without admitting or denying them:

BACKGROUND

IMC has been a FINRA member since August 2014. IMC is a proprietary trading firm that acts as a market maker in equities and options. The firm is headquartered in Chicago, Illinois, has one branch office, and has over 470 registered representatives.¹

OVERVIEW

From the start of its Consolidated Audit Trail (CAT) reporting obligation on June 22, 2020, through June 30, 2023, IMC failed to timely and accurately report data for tens of billions of equity and options order events to the CAT Central Repository in violation of FINRA Rules 6830, 6893, and 2010. During the relevant period, IMC also failed to establish and maintain a supervisory system, including written supervisory procedures, reasonably designed to achieve compliance with CAT reporting rules in violation of FINRA Rules 3110 and 2010.

FACTS AND VIOLATIVE CONDUCT

This matter originated from FINRA's review of the firm's CAT reporting compliance.

¹ For more information about the firm, including prior regulatory events, visit BrokerCheck® at www.finra.org/brokercheck.

CAT reporting requirements

The SEC adopted Rule 613 under the Securities Exchange Act of 1934 to create a comprehensive audit trail that would allow regulators to more efficiently and accurately track all activity throughout the U.S. markets in national market system (NMS) securities. In November 2016, the SEC approved a CAT NMS Plan. In March 2017, the SEC approved FINRA's proposal to adopt the FINRA Rule 6800 Series (CAT Compliance Rule) to implement the CAT NMS Plan.

Beginning on June 22, 2020, large industry members² that originated or received an order involving NMS or over-the-counter equity securities were required to report data to the CAT Central Repository and comply with Rule 613 of Regulation NMS and the FINRA Rule 6800 Series. In July 2020, large industry members were required to report data for options orders to the CAT Central Repository. As of December 2021, all FINRA members, regardless of size, were required to comply with these requirements. All proprietary trading activity, including market-making activity, is subject to CAT reporting.

CAT data is as an integral part of FINRA's automated market surveillance program. FINRA uses CAT data to detect manipulative activity and other potential violations of federal securities laws and FINRA rules. Inaccurate, incomplete, or untimely transaction and order reporting can negatively affect the regulatory audit trail and the quality of FINRA's surveillance patterns, as well as FINRA's ability to accurately reconstruct market events.

FINRA Rule 6830(a) requires each member to record and electronically report to the CAT Central Repository specific details for each order and each "Reportable Event," as applicable. Reportable Event is defined to include, but is not limited to, the original receipt or origination, modification, cancellation, routing, execution (in whole or in part) and allocation of an order, and receipt of a routed order. FINRA Rule 6893(a) requires members to "record and report data to the Central Repository as required by this Rule Series in a manner that ensures the timeliness, accuracy, integrity and completeness of such data."

A violation of FINRA Rules 6830 and 6893 also is a violation of FINRA Rule 2010, which requires members, in the conduct of their business, to observe high standards of commercial honor and just and equitable principles of trade.

² A large industry member is a member that does not qualify as a small broker-dealer as defined under 17 CFR 240.0-10(c).

IMC failed to timely and accurately report to the CAT Central Repository 28.7 billion order events.

As a large industry member, IMC was required to begin reporting its order event data to the CAT Central Repository on June 22, 2020. IMC developed software to report its data to CAT. However, from the start of its CAT reporting obligation through June 30, 2023, IMC reported approximately 21.8 billion inaccurate equity and options orders events to CAT, spanning 35 unique error types. The firm's inaccurate reports were caused by software coding and system issues, which persisted for a period spanning a few weeks to nearly two years. For example, IMC:

- Reported 7.5 billion events with an inaccurate time in force code of "GTx" to indicate "Good till Crossing" instead of "IOC" for an Immediate or Cancel order between June 22, 2020, and April 23, 2021.
- Reported over 680 million equity order events without the required millisecond between October 22, 2020, and June 13, 2023.
- Reported 1.9 billion events that had linkage errors³ between July 1, 2022, and August 31, 2022.

Further, from June 22, 2020, through January 21, 2023, IMC failed to timely report 6.9 billion equity and options orders events to the CAT Central Repository. These late reports were caused by technology issues involving the firm's connectivity to various exchanges and other broker-dealers.

By June 2023, after updating its reporting system, IMC remediated the issues that caused the above-described CAT reporting violations. IMC has also submitted reports to the CAT Central Repository to correct over 99.9% of the 28.7 billion late and inaccurate reports.

By failing to timely and accurately report order events to the CAT Central Repository, IMC violated FINRA Rules 6830, 6893, and 2010.

IMC failed to reasonably supervise its compliance with its CAT reporting obligations.

FINRA Rule 3110 requires member firms to establish and maintain a supervisory system, including written procedures, to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws, regulations, and FINRA rules. A violation of FINRA Rule 3110 also is a violation of FINRA Rule 2010.

In Regulatory Notice 20-31, FINRA explained that, among other things, "[r]easonably designed written supervisory procedures should address the CAT

³ The linkage errors, known as Named Errors, represent feedback from the CAT Helpdesk provided to member firms named on an unlinked events among the Routing/Receiving/Reporting parties.

Rules and...should incorporate frequent reviews by the firm of the data posted on the CAT Reporter Portal.”

From June 2020 to September 2020, IMC had no supervisory system in place to review the accuracy of the data it reported to CAT. Further, IMC did not maintain written supervisory procedures concerning the firm’s CAT reporting obligation during this period. Beginning in September 2020, IMC implemented a supervisory system, including written supervisory procedures, concerning CAT reporting requirements but the scope of IMC’s supervisory review was unreasonably narrow. From September 2020 through March 25, 2021, the firm conducted a quarterly accuracy review of only three complete order cycles. In 2021, the firm increased the quarterly accuracy review to one complete order cycle for equities and options for each of the over 10 market centers to which the firm sent orders. In late 2021, IMC reduced the number of order events that it reviewed per quarter to two order cycles from each of the trading platforms that generated order and trade data that IMC reported to CAT. The scope and frequency of IMC’s supervisory review for CAT reporting compliance was not reasonable given the volume of data that IMC reported to the CAT Central Repository (each quarter averaged billions of CAT events).

By failing to establish and maintain a supervisory system, including written supervisory procedures, reasonably designed to achieve compliance with CAT reporting rules, IMC violated FINRA Rules 3110 and 2010.

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

- a censure,
- a \$1.2 million fine, and
- an undertaking that, within 90 days of the date of the notice of acceptance of this AWC, a member of Respondent’s senior management who is a registered principal of the firm shall certify in writing that, as of the date of the certification, the firm has remediated the issues identified in this AWC and implemented a supervisory system, including written supervisory procedures, reasonably designed to achieve compliance with FINRA Rules 6830, 6893, and 2010 regarding the issues identified in this AWC. The certification shall include a narrative description and supporting exhibits sufficient to demonstrate Respondent’s remediation and implementation. FINRA staff may request further evidence of Respondent’s remediation and implementation, and Respondent agrees to provide such evidence. Respondent shall submit the certification to Luis A. Prieto, Senior Counsel, 9509 Key West Avenue, Gira Building, Rockville, MD 20850, Luis.Prieto@finra.org, with a copy to EnforcementNotice@finra.org. Upon written request showing good cause, FINRA staff may extend this deadline.

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.

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:

- [REDACTED]
- 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 right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party. Nothing in this provision affects Respondent's testimonial obligations in any litigation or other legal proceedings.
 - 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.

September 26, 2024

Date

Jason Downey

IMC Financial Markets

Respondent

Print Name: Jason Downey

Title: Chief Compliance Officer

Accepted by FINRA:

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

October 9, 2024

Date

Luis A. Prieto

Luis A. Prieto

Senior Counsel

FINRA

Barred in DC and MD

Department of Enforcement

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