

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2021069322001¹**

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

RE: Electronic Transaction Clearing, Inc. (Respondent)
Member Firm
CRD No. 146122

Pursuant to FINRA Rule 9216, Respondent Electronic Transaction Clearing, Inc. (ETC) 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

ETC has been a member of FINRA since July 2009 and is headquartered in Dallas, Texas. The firm has fewer than 25 registered representatives across three branches. During the relevant period, the firm provided execution, clearing and stock lending services to institutional customers and broker-dealers.²

OVERVIEW

From May 2017 through December 2021, ETC permitted eight individuals to operate in capacities for which they were not qualified or not properly registered pursuant to FINRA registration requirements, in violation of NASD Rules 1021, 1022, 1031, and 1032,³ and FINRA Rules 1210, 1220 and 2010. Additionally, from December 2020 through December 2021, ETC failed to establish, maintain and enforce a supervisory system, including written supervisory procedures (“WSPs”), reasonably designed to achieve compliance with FINRA registration requirements, in violation of FINRA Rules 3110 and 2010.

¹ Includes findings from Matter No. 20210693219, which was merged into this matter.

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

³ FINRA Rules 1210 and 1220 superseded NASD Rules 1021, 1022, 1031, and 1032 on October 1, 2018.

FACTS AND VIOLATIVE CONDUCT

This matter originated from FINRA's 2021 cycle examination of the firm.

ETC Did Not Comply With FINRA Registration Requirements

FINRA Rule 1210 provides that each person engaged in the investment banking or securities business of a member shall be registered with FINRA as a representative or principal in each category of registration appropriate to his or her functions and responsibilities as specified in Rule 1220.

FINRA Rule 1220(b)(1) defines a "representative" as "any person associated with a member . . . who is engaged in the member's investment banking or securities business." Each representative is required to pass the Securities Industry Essentials (SIE) examination and the General Securities Representative qualification examination and register as a General Securities Representative, pursuant to FINRA Rule 1220(b)(2).

FINRA Rule 1220(b)(4) requires that each representative who "engage[s] in proprietary trading, the execution of transactions on an agency basis, or the direct supervision of such activities," subject to exceptions not applicable here, pass the SIE and the Securities Trader qualification examination and register as a Securities Trader.

FINRA Rule 1220(a)(1) defines a "principal" as any person associated with a member organization who is "actively engaged in the management of the member organization's securities business, including supervision, solicitation, conduct of the member organization's business" or training of associated persons for such functions. FINRA Rule 1220(a)(1) further states that the phrase "actively engaged in the management of" the member organization's securities business includes "managerial decision-making authority with respect to the member organization's securities business and management-level responsibilities for supervising any aspect of such business." Subject to exceptions not applicable here, each such principal is required to pass the General Securities Principal qualification examination and register as a General Securities Principal, pursuant to FINRA Rule 1220(a)(2).

FINRA Rule 1220(a)(7) requires that any principal who supervises the securities trading activities of a Securities Trader register pursuant to FINRA Rule 1220(b)(4) as a Securities Trader, pass the General Securities Principal qualification examination and register as a Securities Trader Principal.

FINRA Rule 1220(a)(4) requires that each member organization designate a Principal Financial Officer and a Principal Operations Officer, and that each such person pass the Financial and Operations Principal qualification examination and register as a Financial and Operations Principal.

FINRA Rule 2010 provides that "[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade." A violation of any NASD or FINRA rule also constitutes a violation of FINRA Rule 2010.

Between May 2017 and December 2021, the Firm permitted eight individuals to operate in capacities for which they were not qualified or not properly registered pursuant to NASD Rules 1021, 1022, 1031, and 1032, or to FINRA Rules 1210 and 1220. Specifically, at varying times throughout the period, ETC:

- a. failed to qualify and register one individual as a General Securities Principal, a Securities Trader Principal and a Securities Trader;
- b. failed to qualify and register one individual as a General Securities Principal, a General Securities Representative and a Securities Trader;
- c. failed to qualify and register two individuals as General Securities Principals and General Securities Representatives;
- d. failed to qualify and register one individual as a General Securities Principal;
- e. failed to qualify and register one individual as a General Securities Representative;
- f. failed to register one individual as a Financial and Operations Principal, a General Securities Representative and General Securities Principal; and
- g. failed to register one individual as a General Securities Representative.

Therefore, ETC violated NASD Rules 1021, 1022, 1031, and 1032, and FINRA Rules 1210, 1220 and 2010.

ETC Failed To Reasonably Supervise for Compliance with FINRA Registration Requirements

FINRA Rule 3110(a) requires a member firm 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.

FINRA Rule 3110(b) requires a member firm 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.

From at least December 2020 to December 2021, ETC failed to establish, maintain, and enforce a supervisory system, including WSPs, reasonably designed to achieve compliance with the registration and qualification requirements of the FINRA Rules. ETC's supervisory system was unreasonable in multiple respects. First, ETC's ongoing supervisory process relied on annual reviews that were not reasonably designed to identify changes in individuals' job functions and registration statuses that occurred throughout the year. Additionally, the firm's WSPs did not provide reasonable guidance regarding how the annual reviews should be conducted, such as what qualification and

registration information would be reviewed, how such information would be verified, or what steps would be taken if a missing qualification or registration were identified. ETC revised its supervisory system, including its WSPs, relating to the registration and qualification of its associated persons in or around January 2022.

Therefore, ETC violated FINRA Rules 3110 and 2010.

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

- a censure and
- a \$100,000 fine, of which \$5,000 shall be paid to FINRA.⁴

Acceptance of this AWC is conditioned upon acceptance of parallel settlement agreements in related matters between the firm and BYX, BZX, EDGA, EDGX, MEMX, MIAX Pearl, NYSE American, NYSE Arca, NYSE Chicago, NYSE National, NYSE, and IEX.

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;

⁴ The remainder will be paid to Cboe BYX Exchange, Inc. (BYX); Cboe BZX Exchange, Inc. (BZX); Cboe EDGA Exchange, Inc. (EDGA); Cboe EDGX Exchange, Inc. (EDGX); MEMX LLC (MEMX); MIAX PEARL, LLC (MIAX); NYSE American LLC (NYSE American); NYSE Arca, Inc. (NYSE Arca); NYSE Chicago, Inc. (NYSE Chicago); NYSE National, Inc. (NYSE National); New York Stock Exchange LLC (NYSE); and Investors Exchange LLC (IEX).

- 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 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.

October 19, 2023

Date

William Brennan

Electronic Transaction Clearing, Inc.
Respondent

Print Name: William Brennan

Title: CEO

Reviewed by:

Susan Light

Susan Light
Counsel for Respondent
Katten Muchin Rosenman LLP
50 Rockefeller Plaza
New York, NY 10020-1605
(212) 940-8599

Accepted by FINRA:

October 23, 2023

Date

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

Kimberly Koziara

Kimberly G. Koziara
Counsel
FINRA
Department of Enforcement
1601 Market Street, Suite 2700
Philadelphia, PA 19103