

U.S. Futures Exchanges Disciplinary Actions Alert: February 2018

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The Bracewell U.S. Futures Exchanges Disciplinary Actions Report is a monthly report that provides summaries of certain disciplinary notices by U.S. exchanges during the prior month. The report has a particular focus on notices potentially relevant to energy commodities and is not intended to be a comprehensive review of each and every notice issued. Instead, the report is intended to provide market participants, and compliance personnel in particular, with illustrative examples of rule violations and to bring to light enforcement trends across the exchanges. The disciplinary notices cited in this report can be found at www.cmegroup.com, www.theice.com/futures-us/notices, and <https://www.nasdaqtrader.com/Trader.aspx?id=NDisciplinaryActions>.

CME

CME 16-0443-BC-1

Pre-Arranged Trades

Violation of Rule 534 – Wash Trades Prohibited; Rule 576 – Identification of Globex Terminal Operators

Pursuant to a settlement offer, a Business Conduct Committee (BCC) Panel found that between October 2015 and February 2016, a non-member executed numerous transactions in Live Cattle futures contracts for accounts in which he maintained control, where there was common beneficial ownership on both sides. The non-member placed opposing buy and sell orders knowing that the orders would trade opposite one another, in order to freshen positions. In addition, the non-member allowed another individual to utilize his Tag50 User ID to enter orders. \$25,000 fine and 15-day suspension.

CME 17-0658-BC-2

Lack of Documentation

Violation of Rule 538.C – Related Position

Pursuant to a settlement offer, a BCC panel found that on several occasions between January and June 2016, a non-member entity executed Exchange for Related Position (EFRP) transactions in E-mini NASDAQ 100 futures and E-mini S&P 500 futures that were contingent upon each other that immediately offset without the incurrence of material market risk. \$40,000 fine.

COMEX

COMEX 15-0292-1, 2, and 3

Disruptive Practices

Violation of Rule 575.A – Disruptive Practices Prohibited; Rule 432.L.1 – General Offenses (in part)

A Probable Cause Committee (PCC) Panel charged a non-member entity with a violation based on the allegations that from September 18, 2015 to March 7, 2016, the entity entered and cancelled orders in various COMEX markets without the requisite intent to trade. In addition, the PCC Panel charged Non-Member 1 and Non-Member 2 with a violation based on allegations that the non-members failed to appear at two scheduled staff interviews. A BCC Hearing Panel Chair found that the entity, Non-Member 1, and Non-Member 2 each failed to answer their respective charges, were deemed to have admitted the charges and, as such, waived their right to a hearing on the merits. A BCC Panel found in a penalty hearing that the entity, Non-Member 1, and Non-Member 2 each committed the violations charged. \$100,000 fine for the entity and permanent bans for Non-Member 1 and Non-Member 2.

NYMEX

NYMEX 16-0404-BC

Misc.

Violation of Rule 432.Q and Rule 432.W – General Offenses (in part)

Pursuant to a settlement offer, a BCC Panel found that on December 22, 2015, a member entity using an automatic routing system misrouted an unsupported type of customer order to Globex as a market order instead of rejecting the order. This action created a price spike of over 90 ticks in 22 milliseconds but did not result in a trading halt in the Heating Oil spread market. The Panel also found that the entity had insufficient internal procedures or controls in place to reject the unsupported order type, specifically a custom algorithmic spread order. This unsupported order resulted in the execution of a 937-lot order as a market order in an illiquid market which, in turn, caused the 90-tick price spike. \$80,000 fine.

NYMEX 16-0441-BC

Disruptive Trading

Violation of Rule 575.A – Disruptive Practices Prohibited

Pursuant to a settlement offer, a BCC Panel found that from January 2, 2016 through August 31, 2016, a non-member engaged in a pattern of activity in which he entered manual orders in various RBOB Gasoline Calendar Spreads without the intent to trade. The non-member would enter orders on one side of the market to encourage market participants to trade opposite his smaller orders resting on the opposite side. After receiving a fill on the smaller orders, the non-member would immediately cancel the larger orders on the opposite side. \$65,000 fine, disgorgement in the amount of \$19,003, and six-month suspension.

NYMEX 16-0503-BC

Block Trades

Violation of Rule 526 – Block Trades; NYMEX/COMEX Market Regulation Advisory Notice RA 1519-5.10 (in part)

Pursuant to a settlement offer, a BCC Panel found that between January 1, 2016 and March 31, 2016, a member pre-hedged block trades involving Henry Hub Last-Day Financial Futures by trading Henry Hub Natural Gas Futures on Globex prior to consummating the block trade with the counterparty. Specifically, after receiving a solicitation to enter a Financial Futures block trade, but prior to consummation, the member entered into a separate hedge transaction in Natural Gas futures on the opposite side of the market, resulting in a profit of \$61,519. \$35,000 fine, disgorgement of \$61,519 in profits, and 10-business-day suspension.

NYMEX 16-0504-BC

Disruptive Trading

Violation of Rule 575.A – Disruptive Practices Prohibited

Pursuant to a settlement offer, a BCC Panel found that between September 1, 2014 and October 31, 2016, a member entered manual orders in various Natural Gas contracts without the intent to trade. Specifically, the member first entered iceberg orders with show quantities typically representing 25% or less of the order's actual size before placing fully exposed orders of equal or greater size on the opposite side of the book, in an effort to encourage market participants to trade opposite the iceberg orders. When the iceberg orders were filled, the member cancelled the fully exposed orders on the opposite side. \$35,000 fine and 10-business-day suspension.

ICE

ICE-2016-076

Position Limits

Violation of Rule 6.20(b) – Position Limits, Conditional Limits and Position Accountability for Energy Contracts

Pursuant to a settlement offer, a BCC Subcommittee determined that an entity held an intra-day position in the ONEOK Gas Transportation Basis Future in excess of applicable spot month position limits during the September 2016 expiration period. \$7,500 fine and cease and desist.

ICE-2016-077

Disruptive Trading

Violation of Rule 4.02(l) – Trade Practice Violations; Rule 4.04 – Conduct Detrimental to the Exchange

Pursuant to a settlement offer, a BCC Subcommittee found that between August 2015 and November 2016, a trader engaged in a pattern of trading activity in the Cotton No. 2 futures market, where he entered an undisclosed volume order showing a small quantity relative to market conditions on one side of the market and much larger fully disclosed orders relative to market conditions on the other side of the market. This resulted in numerous order book imbalances. When part or all of the undisclosed volume order was filled, the trader would cancel the large orders. \$100,000 fine, 10-business-day suspension, and cease and desist.

ICE-2016-092

Misc.

Violation of Rule 4.01(a) – Duty to Supervise; Rule 6.13(a) – Enforcement of Position Limits and Position Accountability Levels; and Rule 6.15(a) – Reportable Positions and Daily Reports

Pursuant to a settlement offer, a BCC Subcommittee found that between January 2016 and July 2017, an entity failed to submit in numerous instances daily large trader reports with respect to reportable customer positions. The entity also failed to maintain a futures position for a customer that was in excess of position limits and failed to maintain adequate procedures to identify errors in submissions of large trader positions. \$75,000 fine.

ICE-2017-026

Disruptive Trading

Violation of Rule 4.02(c) – Trade Practice Violations

A BCC Subcommittee found that an entity executed wash sales in Cotton No. 2 futures by instructing its broker to execute trades between its account and its affiliate for the purpose of affecting position transfers. \$20,000 fine and cease and desist.

ICE-2017-058

Disruptive Trading

Violation of Rule 4.02(c) – Trade Practice Violations; Rule 4.02(d) – Trade Practice Violations; Rule 4.02(f) – Trade Practice Violations; and Rule 4.04 – Conduct Detrimental to the Exchange

Pursuant to a settlement offer, a BCC Subcommittee found that between March 2017 and May 2017, an entity's employee, who had the authority to make trading decisions for his employer, orchestrated a series of trades in Coffee "C" futures between his employer's account and his personal trading account in order to transfer funds from the employer's account to his personal account. \$40,000 fine and 3-year suspension. In determining the penalty, the BCC Subcommittee took into account that the employee repaid the improperly transferred money to his employer's account prior to settlement.

NASDAQ

Misc.

Disciplinary Proceeding No. 20100215956-02

Violation of Rule 2110 and Rule 3010 (for conduct prior to November 21, 2012); Rule 2010A (for conduct on or after November 21, 2012); Rule 200(g) of Regulation SHO of the Securities Exchange Act – Definition of "Short Sale" and Marking Requirements; Rule 203(b)(l) of Regulation SHO – Borrowing and Delivery Requirements; and Rule 4702 and Rule 4755 (Order Entry Parameters)

Pursuant to a settlement offer, the Financial Industry Regulatory Authority (FINRA) on behalf of NASDAQ found that a member entity systemic supervisory violations, maintained inadequate written supervisory procedures, and failed to demonstrate that it performed supervisory reviews. These failures stemmed from the 2010, 2013, 2014 and 2016 Cycle Examinations of the entity that were conducted pursuant to FINRA's Trading and Financial Compliance Examination Program (TFCE). The entity's conduct during this period included accepting a short-sale order without borrowing the security, as well as identifying a sell order as "long" when the customer's position was short. In addition, the entity was found to have failed to observe high standards of commercial honor and just and equitable principles of trade.

\$175,000 fine (\$37,250 of which paid to NASDAQ). The entity was also required to, *inter alia*, (1) retain an Independent Consultant (IC) to review the entity's policies, systems, procedures and

training related to the violations; (2) bear all costs associated with retaining the IC; (3) cooperate with the IC in all respects, including the IC's submission of a written report that addresses the entity's policies, systems, procedures, training, and describes conclusions reached; (4) adopt and implement the recommendations of the IC (or propose alternative procedures) within 90 days after the delivery of the written report; and, (5) within 30 days after submission of the IC's written report or a written determination regarding alternative procedures, provide FINRA with a written implementation report.

**If you have any questions about the information contained in this month's report, please contact: [David Perlman](#), [Michael Brooks](#), [Bob Pease](#), or [Ryan Eletto](#).