

**UNITED STATES OF AMERICA**  
**Before the**  
**COMMODITY FUTURES TRADING COMMISSION**

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**In the Matter of:**

**Deutsche Bank Securities Inc.**

**Respondent.**

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**CFTC Docket No. 20-17**

**RECEIVED CFTC**



Office of Proceedings  
Proceedings Clerk

**8:04 am, Jun 18, 2020**

**ORDER INSTITUTING PROCEEDINGS PURSUANT TO  
SECTION 6(c) AND (d) OF THE COMMODITY EXCHANGE ACT, MAKING  
FINDINGS, AND IMPOSING REMEDIAL SANCTIONS**

**I. INTRODUCTION**

The Commodity Futures Trading Commission (“Commission”) has reason to believe that at least as early as January 2013 through at least December 2013 (“Relevant Period”), Deutsche Bank Securities Inc. (“Deutsche Bank” or “Respondent”) violated Section 4c(a)(5)(C) of the Commodity Exchange Act (“Act”), 7 U.S.C. § 4c(a)(5)(C) (2018). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether Respondent engaged in the violations set forth herein and to determine whether any order should be issued imposing remedial sanctions.

In anticipation of the institution of an administrative proceeding, Respondent has submitted an Offer of Settlement (“Offer”), which the Commission has determined to accept. Without admitting or denying any of the findings or conclusions herein, Respondent consents to the entry of this Order Instituting Proceedings Pursuant to Section 6(c) and (d) of the Commodity Exchange Act, Making Findings, and Imposing Remedial Sanctions (“Order”) and acknowledges service of this Order.<sup>1</sup>

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<sup>1</sup> Respondent consents to the use of the findings of fact and conclusions of law in this Order in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party or claimant, and agrees that they shall be taken as true and correct and be given preclusive effect therein, without further proof. Respondent does not consent, however, to the use of this Order, or the findings or conclusions herein, as the sole basis for any other proceeding brought by the Commission or to which the Commission is a party or claimant, other than: a proceeding in bankruptcy or receivership; or a proceeding to enforce the terms of this Order. Respondent does not consent to the use of the Offer or this Order, or the findings or conclusions in this Order, by any other party in any other proceeding.

## II. FINDINGS

The Commission finds the following:

### A. Summary

At various times throughout the Relevant Period, two Deutsche Bank traders (Trader A and Trader B, collectively the “Traders”) engaged in the disruptive practice of “spoofing” (bidding or offering with the intent to cancel the bid or offer before execution) with respect to Treasury and/or Eurodollar futures contracts traded on the Chicago Mercantile Exchange (“CME”).

### B. Respondent

**Deutsche Bank Securities Inc.** is a Delaware corporation and registered futures commission merchant, with its main office and trading desk in New York, New York, and additional trading desks located in Tokyo, Japan, among other locations. During the Relevant Period, the Traders engaged in the proprietary trading of futures contracts on the Chicago Mercantile Exchange (“CME”), a designated contract market located in the United States. Trader A and Trader B have never been registered with the Commission in any capacity.

### C. Facts

#### 1. Trading

During the Relevant Period, Deutsche Bank, by and through the acts of the Traders, manually placed bids or offers on CME with the intent to cancel those bids or offers before execution. Generally, the Traders manually placed a smaller bid or offer at or near the best price (the “Genuine Order”) and a larger bid or offer on the opposite side of the same or a correlated market, which the Traders intended to cancel before execution (the “Spoof Orders”), such that the Spoof Orders would be active at the same time as the Genuine Orders. The size of the Spoof Order typically increased the volume of contracts at that price by a substantial amount. The Traders placed the Spoof Orders to induce other market participants to fill the Traders’ Genuine Orders on the opposite side of the market. Typically, once the Genuine Orders were filled, the Traders would cancel the Spoof Orders. The Traders utilized this general pattern of spoofing on multiple occasions during the Relevant Period.

Specifically, on multiple occasions during the Relevant Period, while trading in Tokyo, Trader A spoofed in the Treasury futures market. For example, Trader A placed a Genuine Order for Treasury futures contracts at the best price. At or near the same time, Trader A also placed and canceled a much larger Spoof Order on the opposite side of the same market or in a correlated market for a different tenor of Treasury futures contracts.<sup>2</sup> Trader A spoofed primarily during New York overnight hours, when trading volume and volatility were

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<sup>2</sup> Because of the term structure of interest rates, a price movement in one tenor of the Treasury futures market can cause a corresponding price movement in another tenor of the Treasury futures market.

substantially decreased. Thus, Trader A's Spoof Orders would have a larger impact on the balance of bids and offers visible in the electronic order book, and Trader A could expose the Spoof Orders for a longer period of time without execution than would be possible during the more active daytime sessions.

On multiple occasions during the Relevant Period, while also trading in Tokyo, Trader B spoofed in both the Treasury and Eurodollar futures markets. For example, at or near the time Trader B placed a Genuine Order, Trader B placed and canceled a much larger Spoof Order—often twenty times larger than the Genuine Order—on the opposite side of the Genuine Order in either the same futures contract, or in a correlated market for a different tenor of a Eurodollar futures contract, or in one tenor of the Eurodollar pack or bundle<sup>3</sup> constituting the Genuine Order. Trader B also spoofed primarily during New York overnight hours, when trading volume and volatility were substantially decreased. Thus, Trader B's Spoof Orders would have a larger impact on the balance of bids and offers visible in the electronic order book, and Trader B could expose the Spoof Orders for a longer period of time without execution than would be possible during the more active daytime sessions.

## **2. Deutsche Bank's Surveillance and Remediation**

During the Relevant Period, Deutsche Bank had an internal surveillance system and a process for addressing alerts generated by that system. The system and process were further enhanced in mid-2013, following CFTC public guidance on prohibited conduct. Deutsche Bank deployed surveillance scenarios specifically targeted to detect potential spoofing, and enhanced surveillance resources and staffing, and training of traders. Deutsche Bank represents that it has taken steps to further enhance this system and related procedures reasonably designed to detect and remediate potential spoofing activity by its traders as part of broader efforts across multiple products.<sup>4</sup>

## **3. Deutsche Bank's Cooperation**

The civil monetary penalty in this matter reflects a reduction in light of Deutsche Bank's cooperation in the Division's investigation. Among other things, Deutsche Bank undertook its own internal review (including hiring an outside expert to analyze the relevant trading), provided the Division with updates on the status and results of its internal review, and engaged in open and regular communication with the Division regarding Deutsche Bank's internal review and the Division's own findings.

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<sup>3</sup> A Eurodollar pack or bundle is an aggregation of multiple tenors of Eurodollar futures contracts in equal proportions traded simultaneously. They create or liquidate positions along a particular segment of the yield curve in a single transaction.

<sup>4</sup> The Commission previously sanctioned Deutsche Bank for failure to supervise its traders in connection with spoofing on Deutsche Bank AG's metals desk from 2008 to 2014. See *In re Deutsche Bank AG, et al.*, CFTC No. 18-06, 2018 WL 684634 (Jan. 29, 2018). Because the underlying conduct in that case occurred contemporaneously with the underlying conduct in this case, the Commission did not pursue a failure to supervise charge in this case.

### **III. LEGAL DISCUSSION**

#### **A. Violations of Section 4c(a)(5)(C) of the Act**

Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C) (2018), makes it unlawful for “[a]ny person to engage in any trading, practice, or conduct on or subject to the rules of a registered entity that . . . is, is of the character of, or is commonly known to the trade as, ‘spoofing’ (bidding or offering with the intent to cancel the bid or offer before execution).” As described above, the Traders entered into multiple bids or offers on a registered entity with the intent to cancel the bids or offers before execution in violation of Section 4c(a)(5)(C) of the Act. *See, e.g., United States v. Coscia*, 866 F.3d 782, 791 (7th Cir. 2017), *cert. denied*, 138 S. Ct 1989 (2018).

#### **B. Respondent Is Liable for the Acts of Its Respective Agents**

Section 2(a)(1)(B), 7 U.S.C. § 2(a)(1)(B) (2018), of the Act and Commission Regulation (“Regulation”) 1.2, 17 C.F.R. § 1.2 (2019), provide in relevant part that the act, omission, or failure of any official, agent, or other person acting for any individual, association, partnership, corporation, or trust within the scope of his or her employment or office shall be deemed the act, omission, or failure of such individual, association, partnership, corporation, or trust. Under Section 2(a)(1)(B) and Regulation 1.2, principals are strictly liable for the actions of their agents. *See Rosenthal & Co. v. CFTC*, 802 F.2d 963, 966 (7th Cir. 1986) (principals are strictly liable for the acts of their agents); *see also Dahmen-Ramirez v. CFTC*, 837 F.2d 847, 857-58 (9th Cir. 1988) (same); *CFTC v. Byrnes*, 58 F. Supp. 3d 319, 324 (S.D.N.Y. 2014) (same). The Traders’ spoofing was committed within the scope of their agency relationship with Deutsche Bank. *See, e.g., CFTC v. Int’l Fin. Servs. (New York) Inc.*, 323 F. Supp. 2d 482, 499 n.12 (S.D.N.Y. 2004) (analyzing scope of employment based on the totality of the circumstances).

The Traders engaged in the conduct described herein within the course and scope of their agency relationship with Deutsche Bank. Therefore, Deutsche Bank is liable for the acts, omissions and failures of the Traders, as described above, that constituted violations of Section 4c(a)(5)(C) of the Act.

### **IV. FINDINGS OF VIOLATIONS**

Based on the foregoing, the Commission finds that, during the Relevant Period, Respondent violated Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 4c(a)(5)(C) (2018).

### **V. OFFER OF SETTLEMENT**

Respondent has submitted the Offer in which it, without admitting or denying the findings and conclusions herein:

A. Acknowledges service of this Order;

- B. Admits the jurisdiction of the Commission with respect to all matters set forth in this Order and for any action or proceeding brought or authorized by the Commission based on violation of or enforcement of this Order;
- C. Waives:
1. The filing and service of a complaint and notice of hearing;
  2. A hearing;
  3. All post-hearing procedures;
  4. Judicial review by any court;
  5. Any and all objections to the participation by any member of the Commission's staff in the Commission's consideration of the Offer;
  6. Any and all claims that it may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2018), and 28 U.S.C. § 2412 (2012), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. pt. 148 (2019), relating to, or arising from, this proceeding;
  7. Any and all claims that it may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, tit. II, §§ 201–253, 110 Stat. 847, 857–74 (codified as amended at 28 U.S.C. § 2412 and in scattered sections of 5 U.S.C. and 15 U.S.C.), relating to, or arising from, this proceeding; and
  8. Any claims of double jeopardy based on the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief, including this Order;
- D. Stipulates that the record basis on which this Order is entered shall consist solely of the findings contained in this Order to which Respondent has consented in the Offer;
- E. Consents, solely on the basis of the Offer, to the Commission's entry of this Order that:
1. Makes findings by the Commission that Respondent violated Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 4c(a)(5)(C) (2018).
  2. Orders Respondent to cease and desist from violating Section 4c(a)(5)(C) of the Act.
  3. Orders Respondent to pay a civil monetary penalty in the amount of one million, two hundred fifty thousand dollars (\$1,250,000), plus post-judgment interest; and

4. Orders Respondent and its successors and assigns to comply with the conditions and undertakings consented to in the Offer and as set forth in Part VI of this Order.

Upon consideration, the Commission has determined to accept the Offer.

## **VI. ORDER**

### **Accordingly, IT IS HEREBY ORDERED THAT:**

- A. Respondent shall cease and desist from violating Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 4c(a)(5)(C) (2018).
- B. Respondent shall pay a civil monetary penalty in the amount of one million, two hundred fifty thousand dollars (\$1,250,000) (“CMP Obligation”) within ten days of the date of entry of this Order. If the CMP Obligation is not paid in full within ten days of the date of entry of this Order, then post-judgment interest shall accrue on the CMP Obligation beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2012).

Respondent shall pay the CMP Obligation and any post-judgment interest by electronic funds transfer, U.S. postal money order, certified check, bank cashier’s check, or bank money order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

MMAC/ESC/AMK326  
Commodity Futures Trading Commission  
Division of Enforcement  
6500 S. MacArthur Blvd.  
HQ Room 181  
Oklahoma City, OK 73169  
(405) 954-6569 office  
(405) 954-1620 fax  
9-AMC-AR-CFTC@faa.gov

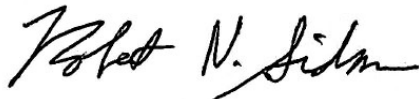
If payment is to be made by electronic funds transfer, Respondent shall contact Marie Thorne or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Respondent shall accompany payment of the CMP Obligation with a cover letter that identifies the paying Respondent and the name and docket number of this proceeding. The paying Respondent shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

- C. Respondent and its successors and assigns shall comply with the following conditions and undertakings set forth in the Offer:

1. Public Statements: Respondent agrees that neither it nor any of its successors and assigns, agents, or employees under its authority or control shall take any action or make any public statement denying, directly or indirectly, any findings or conclusions in this Order or creating, or tending to create, the impression that this Order is without a factual basis; provided, however, that nothing in this provision shall affect Respondent's: (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. Respondent and its successors and assigns shall comply with this agreement, and shall undertake all steps necessary to ensure that all of its agents and/or employees under its authority or control understand and comply with this agreement.
2. Cooperation, in General: Respondent shall cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement, in this action, and in any current or future Commission investigation or action related thereto. Respondent shall also cooperate in any investigation, civil litigation, or administrative matter related to, or arising from, the subject matter of this action.
3. Partial Satisfaction: Respondent understands and agrees that any acceptance by the Commission of any partial payment of Respondent's CMP Obligation shall not be deemed a waiver of its obligation to make further payments pursuant to this Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.
4. Change of Address/Phone: Until such time as Respondent satisfies in full its CMP Obligation as set forth in this Order, Respondent shall provide written notice to the Commission by certified mail of any change to its telephone number and mailing address within ten calendar days of the change.

**The provisions of this Order shall be effective as of this date.**

By the Commission.



Robert N. Sidman  
Deputy Secretary of the Commission  
Commodity Futures Trading Commission

Dated: June 18, 2020