

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

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1:59 pm, Mar 14, 2016

In the Matter of:)

IBFX, Inc.)

Respondent.)

) CFTC Docket No. 16 -08

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

I.

The Commodity Futures Trading Commission (“Commission”) has reason to believe that IBFX, Inc. (“Respondent”) violated the Commodity Exchange Act (“Act”) and Commission Regulations. Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether Respondent has engaged in the violations as set forth herein and to determine whether any order should be issued imposing remedial sanctions.

II.

In anticipation of the institution of this 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 Sections 6(c) and 6(d) of the Commodity Exchange Act, Making Findings and Imposing Remedial Sanctions (“Order”) and acknowledge service of this Order.¹

III.

The Commission finds the following:

¹ Respondent consents to the entry of this Order and to the use of these findings in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party; provided, however, that Respondent does not consent to the use of the Offer, or the findings or conclusions in this Order consented to in the Offer, as the sole basis for any other proceeding brought by the Commission, other than in a proceeding in bankruptcy or to enforce the terms of this Order. Nor does Respondent consent to the use of the Offer or this Order, or the findings or conclusions in this Order consented to in the Offer, by any other party in any other proceeding.

A. Summary

From January 15, 2015 through February 5, 2015 (the “Relevant Period”), Respondent failed to meet the minimum net capital requirements in violation of Commission Regulation 5.7(a)(1)(i) and (3), 17 C.F.R. § 5.7(a)(1)(i) and (3) (2014). Due to customer trading losses, together with the timing and repayment of borrowings Respondent accessed under its parent company’s bank line of credit and the timing of payments made to Respondent of accounts receivable owed to Respondent by its Australian affiliate, Respondent failed to meet the minimum net capital requirements during the Relevant Period. Concurrently, Respondent failed to timely report its failure to maintain minimum net capital requirements to the Commission in violation of Commission Regulation 5.6(a)(1), 17 C.F.R. § 5.6(a)(1) (2014). While the market events which contributed to Respondent failing to maintain the minimum net capital requirements may have been unprecedented, Respondent’s failure to correctly calculate the extent of, and timely address, its net capital deficiency during the Relevant Period resulted from Respondent’s failure to maintain adequate internal regulatory financial reporting controls and to supervise its employees responsible for regulatory financial reporting in violation of Commission Regulation 5.21, 17 C.F.R. § 5.21 (2014).

After voluntarily consenting to the entry of a Commission Order on December 10, 2014, prohibiting it from violating specific Commission Regulations relating to, but not limited to, maintaining minimum net capital requirements, providing notice to the Commission if it failed to do so, and diligently supervising its employees, Respondent, violated the terms of the prior Commission Order by making the above-described errors. Consequently, the Commission has the authority under Section 6c(a) of the Commodity Exchange Act (“Act”), 7 U.S.C. § 13a-1(a) (2012) to also bring an action for violations of the Commission Order.

B. Respondent

IBFX, Inc. (“IBFX”) has been registered with the Commission as an RFED since January 25, 2011. IBFX is a wholly owned subsidiary of TradeStation Group, Inc. (“TradeStation Group”). IBFX’s headquarters are in Plantation, Florida and it is a provider of retail off-exchange foreign currency (“forex”) trading services.

C. Facts

1. Background

As a RFED offering or engaging in retail forex transactions, Respondent is subject to the minimum capital requirements as set forth in Part 5 of the Commission’s Regulations, 17 C.F.R. pt. 5 (2014). Under the Commission’s Regulations, a RFED is required to maintain an adjusted net capital of \$20,000,000 plus five percent of its total retail forex obligation in excess of \$10,000,000 at all times. Regulation 5.7(a)(1)(i) and (3). In December 2011, Respondent, up to that time conducting forex business solely as an introducing broker, acquired an RFED that was subject to enhanced supervision procedures; because that RFED was merged into and became part of Respondent,

Respondent, which then began conducting business as an RFED, was subject to enhanced supervisory procedures during the Relevant Period. *See* NFA, Compliance Rule 2-9(b) (2007) (imposing additional supervision requirements on registrants that meet certain criteria). As part of the enhanced supervisory requirements, Respondent was required to use the Commission's "early warning level" as its minimum net capital requirement. *See* NFA, Interpretive Notice 9021: NFA Compliance Rule 2-9, at II.B (2011) ("Any Forex Dealer Member ("FDM") or [Futures Commission Merchant ("FCM")] meeting the criteria is required to maintain adjusted net capital of at least the early warning requirement under CFTC rules."); see also 17 C.F.R. § 5.6(b) (2014). Respondent's minimum net capital requirements were calculated as one hundred ten percent of twenty million dollars (\$20,000,000), plus five percent of its total retail forex obligation in excess of \$10,000,000. 17 C.F.R. § 5.6(b)(2) (2014).

2. Failure to Maintain Minimum Net Capital

Due to an unexpected market event which took place on January 15, 2015 involving the Swiss Franc against the Euro ("Swiss Franc Event"), customers of both Respondent and its affiliate IBFX Australia Pty Ltd ("IBFXAU") experienced losses. Respondent failed to properly account for a portion of the losses suffered by IBFXAU customers, which totaled approximately \$4 million. This failure was due, in part, to the failure of Respondent (i) to consider the trading activities on one of the trading platforms in operation at IBFXAU, and (ii) to timely request and receive a sufficient transfer of funds from IBFXAU to pay Respondent the receivable it was owed by IBFXAU relating to IBFXAU's customers' losses using such unconsidered trading platform. The delay in the transfer of funds from IBFXAU affected Respondent's net capital. The full extent of the capital shortfall was not determined until Respondent completed its month-end reconciliation for January 2015. During the Relevant Period, Respondent failed to meet the minimum net capital requirements by as high as approximately \$9 million. Consequently, during the Relevant Period, Respondent failed to meet the minimum net capital requirements in violation of Commission Regulation 5.7(a)(1)(i) and (3) and failed to comply with the December 10, 2014 Commission Order.

3. Failure to Provide Notice

In response to the Commission's outreach to RFEDs which may have been negatively impacted by the Swiss Franc Event, on January 16, 2015, Respondent mistakenly informed the Commission that it was in compliance with its minimum net capital requirements when, in fact, it was not. During the Relevant Period, Respondent failed to give the Commission timely notice of its failure to maintain minimum net capital requirements. On January 27th, Respondent notified the Commission its adjusted net capital may have fallen below the required minimum during the period January 15th through January 22nd. This notice, however, was inaccurate. During its month-end reconciliation, Respondent determined that it had failed to account for the trading activities and associated losses sustained on one of the two separate trading platforms used by IBFXAU customers. On February 5th, Respondent notified the Commission that it had failed to maintain minimum net capital requirements during the Relevant Period in violation of Commission Regulation 5.6 (a)(1).

4. Failure to Supervise

During the Relevant Period, with respect to its compliance with minimum net capital and notification requirements, Respondent employed an inadequate supervisory system with respect to regulatory financial reporting and failed to perform its supervisory duties related thereto in violation of Commission Regulation 5.21. Although the Swiss Franc Event was unexpected, Respondent's failure to correctly calculate the extent of its net capital deficiency during the Relevant Period directly resulted from Respondent's failure to put into place procedures reasonably designed to ensure compliance with the minimum net capital requirement. The inadequacy of Respondent's procedures is evidenced by the fact that it was not until approximately twenty days after the Swiss Franc Event, while completing its month-end reconciliation, Respondent determined that it failed to account for the trading losses of IBFXAU customers on one of its two separate trading platforms, which caused Respondent's account receivable from IBFXAU to be higher than originally calculated, and that caused Respondent to fail to maintain minimum net capital requirements for the Relevant Period. Respondent further failed to adequately supervise its finance department employees with respect to the handling and monitoring of Respondent's compliance with the net capital and notice requirements under Part 5 of the Commission's Regulations. These supervisory failures prevented Respondent from detecting and deterring violations of the minimum net capital and notice requirements.

5. Failure to Comply with the December 10, 2014 Commission Order

On December 10, 2014, Respondent voluntarily consented to a Commission Order prohibiting it from violating specific Commission Regulations relating to, but not limited to, maintaining minimum net capital requirements, providing notice to the Commission if it failed to do so, and diligently supervising its employees. *See In the Matter of IBFX, Inc.*, CFTC Docket No.: 15-10, 2014 WL 7414291 (Dec. 10, 2014). A little over one month after entry of the Commission Order, Respondent violated the terms of the Order in addition to independently violating the Commission Regulations discussed above.

In settling this matter, the Commission has taken into account Respondent's substantial remedial actions after it discovered its deficiencies as well as its cooperation with the Commission.

IV. LEGAL DISCUSSION

A. Failure to Meet Minimum Net Capital

The minimum capital requirements imposed by the Commission were adopted in order to further the Commission's mission of ensuring market integrity and protecting customer funds in an ever-changing derivatives marketplace. *See* Minimum Financial Requirements, 43 Fed. Reg. 39,956, 39,957 (Sept. 8, 1978) (describing the need for enhanced minimum financial requirements); *see also In re Premex, Inc.*, CFTC Docket

No. 79-44, 1988 WL 232224, at *6 (Feb. 17, 1988) (“[T]he minimum capital requirements are of central importance because they are the primary financial protection for public customers who must entrust their funds to commodity professionals in order to participate in the markets regulated by the Commission. If customers cannot commit their funds to the market with confidence, the liquidity of the market will be irreparably harmed.”). Commission Regulation 5.7(a)(1)(i) requires each RFED offering or engaging in retail forex transactions to maintain adjusted net capital equal to the greatest of: twenty million dollars (\$20,000,000); twenty million dollars (\$20,000,000) plus five percent of the RFED’s total retail forex obligation in excess of \$10,000,000; any amount required by Commission Regulation 1.17, 17 C.F.R. § 1.17 (2014); or the amount of adjusted net capital required by a registered futures association of which the RFED is a member. 17 C.F.R. § 5.7(a)(1)(i) (2014). Commission Regulation 5.7(a)(3) requires that each RFED meet the minimum net capital requirements “at all times.” 17 C.F.R. § 5.7(a)(3) (2014).

Respondent, however, was subject to enhanced supervisory procedures and Respondent’s minimum net capital requirements were calculated as one hundred ten percent of twenty million dollars (\$20,000,000), plus five percent of its total retail forex obligation in excess of \$10,000,000. 17 C.F.R. § 5.6(b)(2) (2014). During the Relevant Period, Respondent failed to meet the minimum net capital requirements by as high as approximately \$9 million in violation of Commission Regulation 5.7, 17 C.F.R. § 5.7 (2014).

B. Failure to Timely Report the Deficiency

Commission Regulation 5.6(a)(1), 17 C.F.R. § 5.6(a)(1) (2014), requires RFEDs to give the Commission notice when their adjusted net capital is lower than that required by Commission Regulation 5.7. The regulation further requires that “[t]he notice must be given *immediately* after the applicant or registrant knows or should know that its adjusted net capital is less than that required by any of the aforesaid rules to which the applicant or registrant is subject...” 17 C.F.R. § 5.6(a)(1) (2014) (emphasis added).

Respondent failed to comply with Commission Regulation 5.6(a)(1), 17 C.F.R. § 5.6(a)(1) (2014), because it failed to give timely notice to the Commission. During the Relevant Period, IBFX mistakenly informed the Commission it was properly capitalized and it was not until January 27th that it first notified the Commission it may have been under the capital requirement. Respondent did not provide notification to the Commission of the extent of its net capital deficiency until approximately twenty days – February 5th – after the Swiss Franc Event, when it completed its month-end reconciliation for January 2015. Neither the January 27th nor the subsequent February 5th notice(s) complied with the immediacy required by Commission Regulation 5.6(a)(1), which is intended to protect customers and market participants. *See* Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries, 75 Fed. Reg. 3282, 3285 (proposed Jan. 20, 2010) (indicating that the proposed RFED rules were drafted to mimic the rules regulating on-exchange instruments and regulated entities such as FCM’s with important modifications unique to RFEDs); Maintenance of Minimum Financial

Requirements by Futures Commission Merchants and Introducing Brokers, 63 Fed. Reg. 45,711 (Aug. 27, 1988) (codified at 17 C.F.R. §1.12) (amending notice requirements for FCMs who fail to meet the minimum adjusted net capital requirements from notice within 24 hours to *immediate* notice in order to “afford the CFTC and industry self-regulatory organizations (SROs) sufficient advance notice of a firm's financial or operational problems to take any protective or remedial action that may be needed to assure the safety of customer funds and the integrity of the marketplace”) (emphasis added).

C. Failure to Supervise

Commission Regulation 5.21, 17 C.F.R. § 5.21 (2014), was modeled after Commission Regulation 166.3, 17 C.F.R. § 166.3 (2013). Commission Regulation 5.21 applies only to RFEDs, whereas Commission Regulation 166.3 applies to *all* Commission registrants. Commission Regulation 166.3, and thus Commission Regulation 5.21, require that every Commission registrant (except associated persons who have no supervisory duties) diligently supervise the handling by its partners, employees and agents of all activities relating to its business as a registrant. Registrants have an affirmative duty to supervise their employees and agents diligently by establishing, implementing, and executing an adequate supervisory structure and compliance programs. In order to prove a failure to supervise, the Commission must demonstrate that either: (1) the registrant’s supervisory system was generally inadequate; or (2) the registrant failed to perform its supervisory duties diligently. *In re Murlas Commodities*, [1994-1996 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,485 at 43,161 (CFTC Sept. 1, 1995); *In re Paragon Futures Assoc.*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,266 at 38,850 (CFTC Apr. 1, 1992); *Bunch v. First Commodity Corp. of Boston*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,352 at 39,168-69 (CFTC Aug. 5, 1992).

With respect to its compliance with minimum net capital and notification requirements, Respondent employed an inadequate supervisory system over its finance department and failed to perform its supervisory duties in violation of Commission Regulation 5.21. Respondent failed to adequately supervise employees in its finance department with respect to the handling and monitoring of Respondent’s compliance with the net capital and notice requirements under Part 5 of the Commission’s Regulations. These supervisory failures prevented Respondent from detecting and deterring repeated and extended violations of the minimum capital and notice requirements. Evidence of violations that “should be detected by a diligent system of supervision, either because of the nature of the violations or because the violations have occurred repeatedly” is probative of a failure to supervise. *Paragon Futures*, ¶ 25,266 at 38,850.

D. Failure to Comply with the December 10, 2014 Commission Order

In December 10, 2014, Respondent voluntarily consented to the Commission Order prohibiting it from violating specific Commission Regulations, relating to, but not

limited to, maintaining minimum net capital requirements, providing notice to the Commission if it failed to maintain its minimum net capital requirements, and diligently supervising its employees. *See In the Matter of IBFX, Inc.*, CFTC Docket No.: 15-10, 2014 WL 7414291 (Dec. 10, 2014). During the Relevant Period Respondent failed to comply with the Commission Order by failing to meet the minimum net capital requirements in violation of Commission Regulation 5.7(a)(1)(i) and (3), 17 C.F.R. §5.7(a)(1)(i) and (3)(2014), by failing to timely report its failure to maintain minimum net capital requirements to the Commission in violation of Commission Regulation 5.6(a)(1), 17 C.F.R. § 5.6(a)(1)(2014), and lacking an adequate supervisory system and failing to perform supervisory duties in a diligent manner, in violation of Commission Regulation 5.21, 17 C.F.R. § 5.21 (2015).

V. OFFER OF SETTLEMENT

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

- A. Acknowledges receipt of 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 (2012) and 28 U.S.C. § 2412 (2012), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Commission's Regulations, 17 C.F.R. §§ 148.1-30 (2014), 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, §§ 201-253, 110 Stat. 847, 857-868 (1996), as amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112, 204-205 (2007), 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;

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 Commission Regulation 5.7(a)(1)(i) and (3), 17 C.F.R. § 5.7(a)(1)(i) and (3) (2014), on when it failed to meet the minimum net capital requirements for the period of January 15, 2015 through February 5, 2015;

2. makes findings by the Commission that Respondent violated Commission Regulation 5.6(a)(1), 17 C.F.R. § 5.6(a)(1) (2014), when it failed to give timely notice of the net capital deficiency for the period of January 15, 2015 through February 5, 2015;

3. make findings by the Commission that Respondent violated Commission Regulation 5.21, 17 C.F.R. § 5.21 (2014), when it failed to supervise its employees and agents diligently by establishing, implementing, and executing an adequate supervisory structure and compliance programs;

4. makes findings by the Commission that Respondent failed to comply with the terms of the Commission Order issued on December 10, 2014 to which it voluntarily consented;

5. orders Respondent to cease and desist violating Commission Regulations 5.6(a)(1), 5.7(a)(1)(i) and 3, 5.21, 17 C.F.R. §§ 5.6(a)(1), 5.7(a)(1)(i) and 3, 5.21 (2014);

6. 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 VII of this Order;

7. orders Respondent to pay a civil monetary penalty in the amount one million dollars (\$1,000,000) within ten (10) days of the date of entry of this Order, plus post-judgment interest.

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

VI. FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that, during the Relevant Period, Respondent (1) failed to meet the minimum net capital requirements from January 15, 2015 to February 5, 2015 in violation of Commission Regulation 5.7(a)(1)(i) and (3), 17 C.F.R. § 5.7(a)(1)(i) and (3) (2014); (2) failed to give timely notice to the Commission of its minimum net capital deficiency in violation of Commission Regulation 5.6(a)(1), 17 C.F.R. § 5.6(a)(1) (2014); (3) failed to supervise its employees and agents diligently by establishing, implementing, and executing an adequate supervisory structure and compliance programs in violation of Commission Regulation 5.21, 17 C.F.R. § 5.21 (2014); and (4) failed to comply with the Commission Order issued on December 10, 2014.

VII. ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

- A.** Respondent shall cease and desist from violating Commission Regulations 5.6 (a)(1), 5.7(a)(1)(i) and 3, and 5.21, 17 C.F.R. §§ 5.6(a)(1), 5.7(a)(1)(i) and 3, 5.21 (2014);
- B.** Respondent shall pay a civil monetary penalty in the amount of one million dollars (\$1,000,000) within ten (10) business days of the date of the entry of this Order (the "CMP Obligation"). If the CMP Obligation is not paid in full within ten (10) business 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 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 by other than electronic funds transfer, the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

Commodity Futures Trading Commission
Division of Enforcement
Attn: Accounts Receivables – AMZ 340
E-mail Box: 9-AMC-AMZ-AR-CFTC
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone: (405) 954-7262

If payment by electronic funds transfer is chosen, Respondent shall contact Nikki Gibson 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 Respondent and the name

and docket number of this proceeding. 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. **Undertakings:** If Respondent continues to be registered as an RFED for more than forty-five (45) days following the date of the entry of this Order, Respondent and its successor and assigns shall comply with the following conditions and undertakings set forth in the Offer:

1. RFED Compliance Department and Functions – Respondent shall within sixty (60) days of entry of this Order, retain a nationally recognized independent third-party consultant (the “Compliance Consultant”) not deemed unacceptable by the Commission.

2. The Compliance Consultant shall, at a minimum, review and evaluate Respondent’s RFED compliance department, functions, personnel and environments to determine if the department is adequately staffed; its personnel have the requisite background, skills and education to conduct the work of the department; the department is independent from the business with appropriate reporting lines and access to the board of directors of the company; the department is receiving adequate resources and support from Senior Management; the department has adequate and sufficient policies and procedures to direct the duties of compliance personnel; and the compliance program is sufficient to oversee compliance with the Commission regulations.

3. The Compliance Consultant shall prepare and issue to the Commission and the Board of Directors of Respondent a written report (“Report”) which shall:

1. Describe the scope and methodologies used by the Compliance Consultant in order to complete the review;
2. Describe Respondent’s compliance with the review;
3. Describe any findings with regard to the adequacy of Respondent’s existing RFED compliance department, functions, personnel, policies and procedures, operations of those policies and procedures, and environment as well as Respondent’s responses to such findings; and
4. Make recommendations, if any, with regard to matters assessed, setting forth why such recommendations are reasonably designed to improve Respondent’s RFED compliance department, functions, personnel, policy and procedures, operations of those policies and procedures, and environment.

5. RFED Risk Management and Internal Audit Departments and Functions – Respondent shall within sixty (60) days of entry of this Order, retain a nationally recognized independent third-party consultant (the “Risk Consultant”) not deemed unacceptable by the Commission.

6. The Risk Consultant shall, at a minimum, review and evaluate Respondent’s RFED risk management and internal audit departments including associated committees, functions, personnel and environment to determine if the departments are adequately staffed; its personnel have the requisite background, skills and education to conduct the work of the departments; the department is independent from the business with appropriate reporting lines and access to the board of directors of the company; the departments are receiving adequate resources and support from Senior Management; the departments have adequate and sufficient policies and procedures to direct the duties of the personnel of the departments; and have sufficient policies and procedures to oversee company’s risk management and internal audit functions in compliance with Commission regulations.

7. The Risk Consultant shall prepare and issue to the Commission and the Board of Directors of Respondent a written report (“Report”) which shall:

- i. Describe the scope and methodologies used by the Risk Consultant in order to complete the review;
- ii. Describe Respondent’s compliance with the review;
- iii. Describe any findings with regard to the adequacy of Respondent’s existing RFED risk management and internal audit departments and/or committees, functions, personnel, policies and procedures, operations of those policies and procedures, and environment as well as Respondent’s responses to such findings; and
- iv. Make recommendations, if any, with regard to matters assessed, setting forth why such recommendations are reasonably designed to improve Respondent’s RFED risk management and internal audit departments and/or committees, functions, personnel, policies and procedures, operation of those policies and procedures and environment.

D. 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 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.

E. Partial Satisfaction: Respondent understands and agrees that any acceptance by the Commission of partial payment of Respondent's CMP Obligation shall not be deemed a waiver of its obligation to make further payments pursuant to this Order, and shall not be deemed a waiver of the Commission's right to seek to compel payment of any remaining balance.

F. 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 (10) calendar days of the change.

The provisions of this Order shall be effective on this date.

By the Commission



Christopher J. Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission

Dated: March 14, 2016