

**THE NASDAQ STOCK MARKET LLC
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2015045823202**

TO: The Nasdaq Stock Market LLC
c/o Department of Enforcement
Financial Industry Regulatory Authority (“FINRA”)

RE: Stifel, Nicolaus & Company, Inc., Respondent
Broker-Dealer
CRD No. 793

Pursuant to Rule 9216 of The Nasdaq Stock Market LLC (“Nasdaq”) Code of Procedure, Stifel, Nicolaus & Company, Inc. (the “Firm”) 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, Nasdaq will not bring any future actions against the Firm alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. The Firm hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of Nasdaq, or to which Nasdaq is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by Nasdaq:

BACKGROUND

1. Stifel has been registered with FINRA since 1936 and Nasdaq since July 2006. The Firm is headquartered in St. Louis, Missouri. Stifel is a diversified global wealth management and investment banking company with over 5,000 registered representatives and over 400 branch offices. Of relevance here, Stifel provides direct market access and execution services on an agency basis to institutions. The Firm does not have any relevant prior disciplinary history.
2. The Firm routed most of its customer order flow through a vendor-supplied OMS (the “Primary” OMS), but routed additional order flow through five other OMSs, two of which it subsequently decommissioned. For each of the OMSs, the Firm did not maintain reasonably designed market access controls from June 12, 2015 through the present (the “Relevant Period”).

SUMMARY

3. During the Relevant Period, Stifel, Nicolaus & Company, Inc. failed to establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial risks of its market access

business activity. Some of the Firm's financial risk management controls and supervisory procedures within its OMSs were not reasonably designed to prevent the entry of erroneous orders. In addition, the Firm failed to account for customers trading on multiple OMSs, thereby potentially allowing customers to exceed appropriate credit limits. Finally, the Firm failed to ensure that orders it entered into the market complied with all regulatory requirements on a pre-order basis. As a result, the Firm violated § 15(c)(3) of the Securities Exchange Act of 1934, as amended, Rule 15c3-5 promulgated thereunder, and Nasdaq Rules 2010A and 3010.

FACTS AND VIOLATIVE CONDUCT

Applicable Rules

4. Exchange Act § 15(c)(3) prohibits broker-dealers from contravening the rules and regulations prescribed by the Securities and Exchange Commission (SEC) to “provide safeguards with respect to the financial responsibility and related practices of brokers and dealers.”
5. Rule 15c3-5(b) requires that a “broker or dealer with market access, or that provides a customer or any other person with access to an exchange or alternative trading system through use of its market participant identifier or otherwise, shall establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of this business activity.”
6. Rule 15c3-5(c)(1) requires broker-dealers to establish financial risk management controls and supervisory procedures “reasonably designed to systematically limit the financial exposure of the broker or dealer that could arise as a result of market access....”
7. Rule 15c3-5(c)(1)(i) requires broker-dealers with market access to establish financial risk management controls and supervisory procedures that are reasonably designed to “[p]revent the entry of orders that exceed appropriate pre-set credit or capital thresholds in the aggregate for each customer and the broker or dealer and, where appropriate, more finely-tuned by sector, security, or otherwise by rejecting orders if such orders would exceed the applicable credit or capital thresholds.”
8. Rule 15c3-5(c)(1)(ii) requires broker-dealers to establish financial risk management controls and supervisory procedures reasonably designed to “[p]revent the entry of erroneous orders, by rejecting orders that exceed appropriate price or size parameters, on an order-by-order basis or over a short period of time, or that indicate duplicative orders.”
9. Rule 15c3-5(c)(2) requires broker-dealers with market access to establish regulatory risk management controls and supervisory procedures and that are reasonably designed to, *inter alia*:
 - prevent the entry of orders unless there has been compliance with all

regulatory requirements that must be satisfied on a pre-order entry basis; and

- prevent the entry of orders for securities for a broker or dealer, customer or other person if such person is restricted from trading those securities.

10. Nasdaq General Rule 9, Section 20(a), like its predecessor Nasdaq Rule 3010(a), requires each member to “establish and maintain a system to supervise the activities of each registered representative and associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations and with applicable Nasdaq rules.”¹

11. Nasdaq General Rule 9, Section 1(a), like its predecessor Nasdaq Rule 2010A, provides, “A member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.”² A violation of the Exchange Act, an SEC rule, or another Nasdaq rule also constitutes a violation of Nasdaq General Rule 9, Section 1(a) or its predecessor.

Unreasonably Designed Erroneous Order Controls

12. On June 12, 2015, Stifel routed an erroneous customer market order to sell 125,300 shares of Security 1³ using its Primary OMS. Prior to routing the erroneous order in Security 1, a Stifel trader was simultaneously handling a 150,000-share not-held order in Security 1 on behalf of an institutional customer and a 2,000-share limit order in Security 2 on behalf of a retail customer. The trader highlighted the wrong order in the Primary OMS and routed a 125,300-share Security 1 market order instead of the 2,000-share limit order in Security 2. As a result of the order, the price of Security 1 decreased 10.5% from \$18.76 to \$16.79.

13. As detailed below, Stifel failed to prevent this erroneous order because its financial risk management controls and supervisory procedures were not reasonably designed to prevent the entry of erroneous orders.

OMS Controls

14. During the Relevant Period, Stifel implemented within one of its OMSs a hard block control⁴ to prevent the entry of orders exceeding 200% of the 20-day average daily volume (“ADV”) in a security. The Firm was unable to provide a reasonable basis for the 200% threshold or provide documentation to demonstrate that the ADV control was set at a reasonable level to prevent the entry of erroneous orders. In this case, the 200% ADV control did not prevent the 125,300-share Security 1 market order because it represented 109% of the 20-day ADV for that security. Stifel lowered the OMS’s ADV control to 75% on November 28, 2017. The Firm employed three other

¹ Nasdaq General Rule 9, Section 20(a) replaced Nasdaq Rule 3010(a), effective December 6, 2019.

² Nasdaq General Rule 9, Section 1(a) replaced Nasdaq Rule 2010A, effective December 6, 2019.

³ A generic number has been used in place of the name of the referenced securities.

⁴ A hard block control automatically rejects orders that exceed the control threshold, whereas a soft block control can be overridden.

OMSs that included a 200% ADV control that it set without a reasonable basis and two OMSs that did not include an ADV control at all. The Firm decommissioned two OMSs in 2017 and reset the ADV controls to 75% in August 2019 for the other three OMSs. The Firm lowered its ADV control on November 13, 2020, but did not provide documentation demonstrating that the control was set at a reasonable level to prevent the entry of erroneous orders.

15. Additionally, within its OMSs, the Firm employed single order volume (“SOV”) controls and single order maximum notional value (“Max Notional”) controls but did not sufficiently document that they accounted for the trading characteristics of individual securities or the trading history of its customers. Notwithstanding the foregoing, absent a reasonably designed ADV control or other reasonable control that addressed the potential price impact of an erroneous market order, the SOV and Max Notional controls were unlikely to prevent the entry of erroneous orders. As such, the Primary OMS’s controls did not prevent the erroneous market order in Security 1.
16. The Firm also had an order rate limit control in its OMSs that blocked orders that breached the Firm’s ADV, SOV or Max Notional controls noted above, but over a 30-second window. Because of the deficiencies with the Firm’s ADV, SOV and Max Notional controls, the order rate limit control was similarly not reasonably designed.
17. As a result of the foregoing, the Firm failed to establish, document, and maintain financial risk management controls and supervisory procedures reasonably designed to prevent the entry of erroneous orders.

Unreasonably Designed Credit Limit Controls and Procedures

18. With respect to pre-set credit limits, between June 12, 2015 and June 2020, the Firm initially placed its customers into five tiers based on their total assets under management (“AUM”), historical notional trading values, and business. The credit limit tiers ranged from \$25 million for a customer with less than \$1 billion in AUM to \$150 million for a customer with over \$25 billion in AUM. If a customer requested it, Stifel also adjusted credit limits based upon a customer’s historical trading activity and business factors. The OMSs included a soft block when customers reached 70% of their credit limit and a hard block at 100%.
19. The Firm’s written supervisory procedures regarding credit control blocks were not reasonably designed because they did not account for trading on more than one OMS. At least 55 of Stifel’s institutional customers had access to more than one OMS, but the Firm did not decrement the credit limits by OMS. For example, Stifel assigned a \$150 million credit limit to one customer for trading on each of two OMSs, effectively allowing the customer potentially to trade up to a \$300 million limit. Similarly, Stifel assigned another customer a \$100 million credit limit, but set it on each of two OMSs, effectively allowing the customer potentially to trade up to a \$200 million limit.

20. The Firm amended its procedures in June 2020 to specifically address setting customer credit limits across multiple OMSs. When setting credit limits across multiple OMSs, the Firm's procedures now require the Firm to consider AUM, historical order values and overall business levels. The Firm sets individual limits for each OMS, the total of which will prohibit the customer from exceeding its aggregate limit as determined by the Firm.
21. As a result of the foregoing, Stifel failed to establish and maintain financial risk management controls and supervisory procedures that were reasonably designed to prevent the entry of orders that exceed appropriate pre-set credit or capital thresholds in the aggregate for each customer and the broker or dealer.

Unreasonably Designed Regulatory Risk Management Controls

22. Pursuant to Regulation SHO ("Reg SHO") Rule 203(b), promulgated under the Exchange Act, firms may not effectuate short sales in securities unless they have borrowed the security (or entered into a bona-fide agreement to do so) or have reasonable grounds to believe that the security can be borrowed. Beginning in June 2015, one of Stifel's secondary OMSs did not require short sale orders to comply with this requirement. The OMS was decommissioned in 2017.
23. In addition, throughout the Relevant Period, Stifel maintained a list of securities that the Firm or its customers were restricted from trading. The Firm, however, did not have controls to prevent the entry of orders solicited from institutional customers⁵ in restricted securities.⁶
24. As a result of the foregoing, Stifel failed to establish and maintain a system of risk management controls and supervisory procedures that were reasonably designed to prevent the entry of orders that did not comply with regulatory requirements.
25. Therefore, Stifel violated Exchange Act § 15(c)(3), Rules 15c3-5(b), 15c3-5(c)(1)(i), 15c3-5(c)(1)(ii), 15c3-5(c)(2) thereunder, and Nasdaq Rules 3010(a), 2010A, and Nasdaq General Rule 9, Sections 1(a) and 20(a) from June 12, 2015 through the present.

B. The Firm also consents to the imposition of the following sanctions:

1. Censure;
2. A total fine of \$125,000, of which \$62,500 shall be paid to Nasdaq;⁷ and
3. Within 100 days of the execution of this AWC, the Firm agrees to provide: (1) a certification by an officer of the Firm that the Firm has revised its written supervisory procedures and remediated its pre-order erroneous order and

⁵ During the Relevant Period, less than one percent of the Firm's institutional customer order flow was solicited.

⁶ The Firm did, however, implement a pre-order control that prevented the entry of retail orders and employee orders from their personal accounts involving restricted securities.

⁷ The remainder of the fine shall be paid to New York Stock Exchange LLC.

regulatory risk management controls to address the deficiencies described in paragraphs 12 through 24 above; and (2) the date the revised procedures and controls were implemented.

The Firm agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. It has submitted a Payment Information form showing the method by which it proposes to pay the fine imposed.

The Firm specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

II.

WAIVER OF PROCEDURAL RIGHTS

The Firm specifically and voluntarily waives the following rights granted under Nasdaq's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against the Firm;
- B. To be notified of the Formal 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 Nasdaq Review Council and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, the Firm specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Regulatory Officer, the Nasdaq Review Council, or any member of the Nasdaq Review Council, 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 acceptance or rejection of this AWC.

The Firm further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of Rule 9143 or the separation of functions prohibitions of 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

The Firm 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 FINRA's Department of Enforcement and the Nasdaq Review Council, the Review Subcommittee, or the Office of Disciplinary Affairs ("ODA"), pursuant to Nasdaq Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the Firm; and
- C. If accepted:
 - 1. This AWC will become part of the Firm's permanent disciplinary record and may be considered in any future actions brought by Nasdaq or any other regulator against the Firm;
 - 2. Nasdaq may release this AWC or make a public announcement concerning this agreement and the subject matter thereof in accordance with Nasdaq Rule 8310 and IM-8310-3; and
 - 3. The Firm 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. The Firm may not take any position in any proceeding brought by or on behalf of Nasdaq, or to which Nasdaq is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the Firm's right to take legal or factual positions in litigation or other legal proceedings in which Nasdaq is not a party.
- D. The Firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The Firm 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 Nasdaq, nor does it reflect the views of Nasdaq or its staff.

The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its 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 it 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 herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the Firm to submit it.

May 31, 2022

Date

Stifel, Nicolaus & Company, Inc.
Respondent

By: *Joseph Rosa*

Name: Joseph Rosa

Title: Deputy General Counsel

Reviewed by:

Timothy B. Nagy

Timothy B. Nagy
Counsel for Respondent
Sidley Austin LLP
1501 K Street, N.W.
Washington, D.C. 20005

Accepted by Nasdaq:

June 14, 2022

Date

James J. Nixon

James J. Nixon
Senior Director
Department of Enforcement

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