

Disciplinary Notice

Case No. 2018-037: Settlement of Charges Against OTCex LLC

Exchange Rule

Rule 4.02(c) - Trade Practice Violations

In connection with the placement of any order or execution of any Transaction, it shall be a violation of the Rules for any Person to execute a wash sale, accommodation Trade, fictitious sale or prearranged Trade.

ICE Futures U.S. Wash Trade – FAQ #3 – Upon the receipt of simultaneous buy and sell orders, a market participant should determine if such orders are for the same Principal. If the market participant learns that the orders are for an omnibus account, the market participant, then, should determine if the orders are for different Principals whose accounts are within the omnibus account. If the orders are not for different Principals, they may not be accepted.

If such orders trade opposite one another and are ultimately for the same Principal, any of the market participants involved that knew or should have known that the activity would result in a wash trade(s) may be in violation of Exchange Rule 4.02(c).

ICE Futures U.S. Wash Trade – FAQ #4 – The CFTC has held that a market participant (including account executives and 3rd party brokers) may not knowingly participate in the execution of wash trades and, therefore, has an independent duty to inquire about the propriety of buy and sell orders placed for simultaneous execution. *See In the Matter of Three Eight Corporation*. There may be circumstances which would require a market participant to go beyond mere acceptance of the assertion made by the party placing the orders and take additional steps to ensure that the orders in question do not violate the prohibition on wash trades.

Summary

A subcommittee of the Exchange's Business Conduct Committee ("BCC Subcommittee") determined that OTCex LLC ("OTCex"), through the actions of one of its brokers, may have violated Exchange Rule 4.02(c) by facilitating a wash trade between the same Principal. Specifically, the BCC Subcommittee found that the OTCex broker failed to inquire about the propriety of buy and sell orders for simultaneous execution and should have known that matching the two orders would result in a wash trade.

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Penalty

In accordance with the terms of settlement, in which OTCex neither admitted nor denied the alleged rule violation, OTCex agreed to pay a monetary penalty of \$10,000.

Effective Date

February 27, 2020

For More Information

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