

**NASDAQ BX, INC.**  
**LETTER OF ACCEPTANCE, WAIVER AND CONSENT**  
**NO. 2017053210203**

TO: Nasdaq BX, Inc.  
c/o Department of Enforcement  
Financial Industry Regulatory Authority (“FINRA”)

RE: Sagetrader, LLC, Respondent  
Broker-Dealer  
CRD No. 137862

Pursuant to Rule 9216 of the Nasdaq BX, Inc. (“BX”) Code of Procedure, Sagetrader, LLC (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, BX 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 BX, or to which BX 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 BX:

**BACKGROUND**

The Firm became a FINRA member on May 19, 2006 and a BX member on July 3, 2017. The Firm is headquartered in San Francisco, CA, maintains one other branch office, and employs eight registered persons. The Firm has no relevant disciplinary history.

**SUMMARY**

Sagetrader failed to reasonably supervise for potentially manipulative trading on its platforms. Since becoming a BX member on July 3, 2017 through December 31, 2019 (the “Relevant Period”), Sagetrader provided routing and execution services to domestic and foreign entities, which were comprised of hundreds to thousands of individual day traders. The automated surveillance system that the Firm used to detect potentially manipulative trading such as layering, spoofing, wash trades and marking the close did not surveil for marking the open until October 2018. In addition, the Firm’s review of the surveillance alerts was unreasonable. Sagetrader had limited staff and other resources to sufficiently review and resolve alerts for potentially manipulative trading, which, by 2018, totaled more than 500,000 alerts per year. Further, the Firm’s guidance to and supervision of the assigned reviewers was unreasonable.

In addition, Sagetrader failed to properly register 18 individuals with BX, and failed to have reasonably designed written supervisory procedures (“WSPs”) to achieve compliance with BX registration requirements during the Relevant Period.

As a result, Sagetrader violated BX General 9, Sections 1(a) and 20(a); BX General 4, Sections 1.1210, 1.1220(a)(2) and 1.1220(b)(2); and BX Rules 3010(a), 2110, 1021(a), 1022(a)(1), 1031(a), 1032(a), 1210, 1220(a)(2) and 1220(b)(2).

### **FACTS AND VIOLATIVE CONDUCT**

1. This matter originated from surveillance conducted by FINRA.

#### ***Sagetrader’s Business Model***

2. During the Relevant Period, Sagetrader provided routing and execution services to domestic and foreign customers, which were comprised of hundreds to thousands of day traders. The Firm’s customers used Sagetrader’s market participant identifiers (MPIDs) to route orders to an alternative trading system and to exchanges.

#### ***Sagetrader Onboarded New Customers that Generated Red Flags for Potentially Manipulative Trading***

3. From 2013 through 2017, Sagetrader onboarded an increasing number of customers, which caused a corresponding increase in trading activity through the Firm. Trading on the Firm’s platform increased from more than 67 million orders per year in 2015 to more than 200 million orders per year in 2017. The number of shares traded by the Firm’s customers increased from roughly 3.7 billion shares per year in 2015 to more than 18.9 billion shares per year in 2017.
4. The trading activity conducted by some of these customers generated “red flags” for potentially manipulative trading. More specifically, the Firm’s automated surveillance of customers’ trading generated hundreds of thousands of internal surveillance alerts for potentially manipulative trading. Since becoming a BX member in July 2017, approximately 67 percent of those internal alerts were generated by three Firm customers that each included hundreds of foreign-based day traders. The Firm classified one of these customers as “high risk.” This customer generated more than 125,000 internal surveillance alerts for potentially manipulative trading from July 2017 until mid-May 2018, when it stopped using the Firm for routing and execution services.

#### ***Sagetrader Failed to Reasonably Supervise for Potentially Manipulative Trading***

5. BX General 9, Section 20(a) and its predecessor, BX Rule 3010(a), require 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 Exchange rules. The duty to supervise under the above rules includes the

responsibility to reasonably investigate red flags that suggest misconduct may be occurring and to act upon the results of such investigation. A violation of BX General 9, Section 20(a) or BX Rule 3010 is also a violation of BX General 9, Section 1(a) and its predecessor, BX Rule 2110, which require a member to “observe high standards of commercial honor and just and equitable principles of trade” in the conduct of its business.<sup>1</sup>

6. Sagetrader’s supervisory system, including WSPs, for potential manipulative trading on its platforms was not reasonable in several respects.
7. **First**, the Firm’s automated surveillance generated post-trade alerts for potential spoofing, layering, wash trades, and marking the close throughout the Relevant Period, but its automated surveillance did not surveil for marking the open until October 2018.
8. **Second**, Sagetrader’s review of the alerts was not reasonable during the Relevant Period. For example, the Firm had limited staff and other resources to conduct the initial review and analysis of the alerts, which, by 2018, totaled more than 500,000 alerts per year.
9. Further, the Firm’s first-level reviewers were permitted to close surveillance alerts for potentially manipulative trading without any oversight or supervision by a Firm principal. One of these assigned reviewers, who was responsible for reviewing approximately 73 percent of the Firm’s alerts from July 2017 through June 2018, and 100 percent of the alerts thereafter, did not have sufficient experience or training in identifying potentially manipulative trading when he was hired.
10. **Third**, Sagetrader’s WSPs failed to provide reasonable guidance on how to review for potentially manipulative trading. The Firm’s WSPs directed reviewers to seek customer explanations for alerts “of concern.” Based on their analysis, the reviewers could close the alert if it did not “appear to be egregious,” but were supposed to escalate “significant alerts” to the alert review committee. There was no guidance as to what constituted a “significant” alert that required escalation. Nor was there any guidance as to what rendered alerts “of concern” or how to determine whether an alert appeared to be egregious.
11. **Fourth**, the Firm’s supervisory system was unreasonable, because while the Firm focused on resolving individual alerts generated by each separate trader at each customer, and terminated some individual traders, the Firm did not have a system in place to consider the total alerts generated by multiple traders at the same customer in order to evaluate the aggregate regulatory risk presented by a customer’s overall trading activity.

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<sup>1</sup> BX General 9, Sections 20(a) and 1(a) respectively superseded BX Rules 3010 and 2110 on October 23, 2019.

12. *Fifth*, the Firm had identified one customer during the Relevant Period as “high risk,” which, according to the Firm, required “enhanced” surveillance. But the Firm had no system or procedures for conducting “enhanced” surveillance and, in fact, did not do so.
13. *Finally*, the Firm did not routinely document the alert reviews it conducted, and for the alert reviews that it did document, the documentation was not always sufficient.
14. Therefore, Sagetrader violated BX General 9, Sections 20(a) and 1(a) and BX Rules 3010 and 2110.

***Sagetrader Did Not Comply With BX Registration Requirements***

15. BX General 4, Section 1.1210, and its predecessors, BX Rules 1210, 1021(a) and 1031(a), provide that each person engaged in the securities business of a member shall be registered with BX as a representative or principal in each category of registration appropriate to his or her functions and responsibilities. A principal, pursuant to BX General 4, Section 1.1220(a)(1) and its predecessors, BX Rules 1220(a)(1) and 1021(b), includes those actively engaged in the management of the member’s securities business, which includes those having managerial decision-making authority with respect to the member’s securities business and management-level responsibilities for supervising any aspect of such business. Such principals shall be required to register as a general securities principal, pursuant to BX General 4, Section 1.1220(a)(2) and its predecessors, BX Rules 1220(a)(2) and 1022(a)(1), unless their functions are addressed by another principal registration category not applicable in this matter.<sup>1</sup>
16. In addition, BX General 4, Section 1.1220(b)(2) and its predecessors, BX Rules 1220(b)(2) and 1032(a), require a representative to register as a general securities representative, subject to certain exceptions not applicable here.
17. During the Relevant Period, the Firm did not register ten employees as general securities principals and general securities representatives. The Firm also did not register eight other employees as general securities representatives during the Relevant Period. Therefore, the Firm violated BX General 4, Sections 1.1210, 1.1220(a)(2) and 1.1220(b)(2), and BX Rules 1210, 1220(a)(2), 1220(b)(2), 1021(a), 1022(a)(1), 1031(a) and 1032(a).

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<sup>1</sup> The BX General 4, Section 1 series superseded the BX 1200 registration rule series on June 7, 2019. The BX Rule 1200 series superseded the BX 1020 and 1030 rules series on Oct. 1, 2018.

18. The Firm also failed 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 BX registration requirements. Specifically, the Firm had no supervisory system or WSPs in place to ensure that it achieved compliance with BX registration and qualification requirements. Therefore, the Firm violated BX General 9, Sections 20(a) and 1(a) and BX Rules 3010 and 2110.

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

1. A censure;
2. A \$775,000 fine, of which \$89,583.33 shall be paid to BX;<sup>1</sup> and
3. An undertaking to review and revise the Firm's supervisory system, including its WSPs, with respect to the findings described above concerning the Firm's supervision for potentially manipulative trading by customers and compliance with BX registration requirements. Within 90 business days of the notice of acceptance of this AWC, a registered principal of the Respondent shall submit to Compliance Assistant, FINRA Department of Enforcement, 15200 Omega Drive, Third Floor, Rockville, MD 20850, a signed, dated letter, or an e-mail from a work-related account of the registered principal to [EnforcementNotice@FINRA.org](mailto:EnforcementNotice@FINRA.org), providing the following information: (i) a reference to this Matter No; (ii) a representation that the Firm has revised its supervisory system, including WSPs, to address the above findings in this matter concerning the Firm's supervision for potentially manipulative trading by customers and compliance with BX registration requirements; and, (iii) the date(s) the updates to the Firm's supervisory system and WSPs were implemented and registration deficiencies of Firm personnel were corrected.

Acceptance of this AWC is conditioned upon acceptance of parallel settlement agreements in related matters between BYX, BZX, EDGA, EDGX, FINRA, Nasdaq, Phlx, and NYSE Arca, Inc.

The Firm agrees to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are 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.

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<sup>1</sup> The remainder will be paid to Cboe BYX Exchange, Inc (BYX); Cboe BZX Exchange, Inc. (BZX); Cboe EDGA Exchange, Inc. (EDGA); Cboe EDGX Exchange, Inc. (EDGX); FINRA; The Nasdaq Stock Market LLC (Nasdaq); Nasdaq Phlx LLC (Phlx); and NYSE Arca, Inc. (NYSE Arca).

## II.

### WAIVER OF PROCEDURAL RIGHTS

The Firm specifically and voluntarily waives the following rights granted under BX'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 Exchange 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 prejudice of the Chief Regulatory Officer, the Exchange Review Council, or any member of the Exchange 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 Exchange Review Council, the Review Subcommittee, or the Office of Disciplinary Affairs ("ODA"), pursuant to BX 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 BX or any other regulator against the Firm;
  2. BX may release this AWC or make a public announcement concerning this agreement and the subject matter thereof in accordance with BX 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 BX, or to which BX 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 BX 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 BX, nor does it reflect the views of the Exchange 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.

June 23, 2022  
\_\_\_\_\_  
Date

Sagetrader, LLC  
Respondent

By: Doug Engmann \_\_\_\_\_

Name: Doug Engmann \_\_\_\_\_

Title: Principal Executive Officer \_\_\_\_\_

\_\_\_\_\_  
Susan Light

Susan Light  
Counsel for Respondent  
Katten Muchin Rosenman LLP  
50 Rockefeller Plaza  
New York, NY 10020-1605

Accepted by BX:  
July 20, 2022  
\_\_\_\_\_  
Date

Dawn E. Faris \_\_\_\_\_  
Dawn E. Faris  
Senior Counsel  
Department of Enforcement

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