

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2017054718901**

TO: Department of Enforcement
Financial Industry Regulatory Authority (FINRA)

RE: RBC Capital Markets, LLC (Respondent)
Member Firm
CRD No. 31194

Pursuant to FINRA Rule 9216, Respondent RBC Capital Markets, LLC 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, FINRA will not bring any future actions against Respondent alleging violations based on the same factual findings described in this AWC.

I.

ACCEPTANCE AND CONSENT

- A. Respondent accepts and consents to the following findings by FINRA without admitting or denying them:

BACKGROUND

RBC has been a FINRA member since March 1993. Its principal place of business is New York, New York. The firm conducts a general securities business, self-clearing securities transactions for its own customers and clearing securities transactions for customers of its introducing broker-dealers. It has nearly 6,000 registered persons and 287 branches.¹

OVERVIEW

From January 2014 to December 2018, RBC failed to report, and inaccurately reported, over-the-counter options positions to the Large Options Positions Reporting system (LOPR) in approximately 16.4 million instances, in violation of FINRA Rules 2360(b)(5) and 2010.

These violations were caused by errors in the reporting logic of the firm's internal risk system and remained undetected for years due to the firm's failure, from January 2014 to December 2019, to establish and maintain a supervisory system, including written procedures, reasonably designed to achieve compliance with its LOPR reporting

¹ For more information about the firm, including prior regulatory events, visit BrokerCheck® at www.finra.org/brokercheck.

obligations. As a result, RBC violated NASD Rule 3010 and FINRA Rules 3110 and 2010.²

FACTS AND VIOLATIVE CONDUCT

This matter originated from RBC's self-report to FINRA.

Background—LOPR Reporting

FINRA rules require member firms to report large options positions to the LOPR.³ Specifically, FINRA Rule 2360(b)(5) requires that member firms file a report for each customer or firm account, that, acting alone or in-concert, has established an aggregate position of 200 or more option contracts on the same side of the market covering the same underlying security or index. The report must identify the account holder and the total number of option contracts for each options class comprising the reportable position and must include other information as prescribed by FINRA. A violation of FINRA Rule 2360(b)(5) also is a violation of FINRA Rule 2010, which requires "[a] member, in the conduct of its business, [to] observe high standards of commercial honor and just and equitable principles of trade."

FINRA uses LOPR information to surveil for potentially manipulative behavior, including attempts to corner the market in the underlying equity, leverage an option position to affect the price, or move the underlying equity to change the value of a large option position. The accuracy of LOPR reporting is essential to FINRA's surveillance. It is particularly important with respect to the over-the counter (OTC) options market because there is no independent source of data for regulators to review OTC options.

RBC failed to report and inaccurately reported OTC options positions to the LOPR.

From January 2014 to December 2018, RBC failed to report OTC options positions to the LOPR in approximately 8.9 million instances and inaccurately reported OTC positions to the LOPR in approximately 7.5 million instances.⁴

RBC's LOPR reporting issues were caused by errors in the logic of the firm's internal risk system that it used to compile and submit OTC LOPR reports. These errors, which were introduced as part of a program update, caused the following reporting issues:

- failing to report positions if the underlying transaction was designated as anything other than an OTC options trade (e.g., the transaction was designated as a swap, but was, in fact, an OTC option);

² FINRA Rule 3110 superseded NASD Rule 3010 on December 1, 2014.

³ The Options Clearing Corporation (OCC) hosts the LOPR system and collects and disseminates all LOPR data for the U.S. options exchanges and FINRA.

⁴ An "instance" occurs where a firm fails to report, or inaccurately reports, a position for one day. The number of instances is determined by multiplying a given reportable position by the number of trade dates that the position was not reported or was reported inaccurately.

- submitting only one side of certain two-sided OTC options transactions (such as reporting the “Customer” side of the position but not the “Firm” side);
- reporting positions and changes in quantities without regard to the 200-contract reporting threshold; and
- reporting incorrect contract quantities, strike prices, or effective dates.

As a result, RBC violated FINRA Rules 2360(b)(5) and 2010.

RBC failed to establish and maintain a supervisory system reasonably designed to comply with its LOPR reporting obligations.

FINRA Rule 3110(a), like its predecessor NASD Rule 3010(a), requires that FINRA members establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules. FINRA Rule 3110(b), like its predecessor NASD Rule 3010(b), requires FINRA members to establish, maintain, and enforce written procedures to supervise the types of business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules.

From January 2014 to December 2019, RBC used supervisory systems to detect inaccurate LOPR reports. Those systems were not designed to detect, and in fact did not detect, instances where the firm failed to report OTC options positions to the LOPR. Further, the firm had no system to review whether contract quantities were reported accurately.

In addition, from January 2014 to December 2019, the firm’s written supervisory procedures identified firm principals who were responsible for conducting supervisory reviews of the firm’s LOPR reports, but these procedures did not provide any guidance or set forth a process for how these principals should detect instances where the firm failed to report OTC options positions to the LOPR or to confirm the accuracy of reported contract quantities.⁵

As a result, RBC violated NASD Rule 3010 and FINRA Rules 3110 and 2010.

CREDIT FOR EXTRAORDINARY COOPERATION

In resolving this matter, FINRA has recognized RBC’s extraordinary cooperation. The firm: (1) self-reported its OTC LOPR reporting and related supervisory issues to FINRA prior to intervention by any regulator; (2) retained an independent consultant to conduct a comprehensive review of its supervisory systems and to identify inaccuracies in its OTC LOPR reporting between January 2014 and December 2018; (3) provided substantial assistance to FINRA in its investigation, including by sharing numerous progress updates, preliminary results, and project timelines regarding the firm’s and the

⁵ In December 2019, RBC implemented multiple new surveillance reports and procedures to determine whether its reportable OTC positions had been reported and were accurate.

independent consultant's work; (4) voluntarily reported the findings of the independent consultant's review to FINRA; and (5) corrected the issues with its OTC LOPR reporting system identified by the independent consultant and enhanced the related supervisory processes and procedures.

B. Respondent also consents to the imposition of the following sanctions:

- a censure and
- a \$2,600,000 fine.

Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Respondent has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim an inability to pay, now or at any time after the execution of this AWC, the monetary sanction imposed in this matter.

The sanctions imposed in this AWC shall be effective on a date set by FINRA.

II.

WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a complaint issued specifying the allegations against it;
- B. To be notified of the 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 National Adjudicatory Council (NAC) and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Respondent specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Legal Officer, the NAC, or any member of the NAC, 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.

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

Respondent 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 the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against Respondent; and
- C. If accepted:
 - 1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator against Respondent;
 - 2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;
 - 3. FINRA may make a public announcement concerning this agreement and its subject matter in accordance with FINRA Rule 8313; and
 - 4. Respondent 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. Respondent may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects Respondent's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party. Nothing in this provision affects Respondent's testimonial obligations in any litigation or other legal proceedings.
- D. Respondent may attach a corrective action statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent 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 FINRA, nor does it reflect the views of FINRA.

The undersigned, on behalf of Respondent, certifies that a person duly authorized to act on Respondent's 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 Respondent 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 in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce Respondent to submit this AWC.

December 22, 2021

Date

Matthew Abrusci

RBC Capital Markets, LLC
Respondent

Print Name: Matthew Abrusci

Title: Managing Director

Reviewed by:

Ariel Gursky

Ariel Gursky
Ben Indek
Counsel for Respondent
Morgan, Lewis & Bockius LLP
101 Park Avenue
New York, NY 10178-0060

Accepted by FINRA:

December 29, 2021

Date

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

Andy Hubbartt

Andy Hubbartt
Senior Counsel
FINRA
Department of Enforcement
55 W. Monroe St., Ste. 2700
Chicago, IL 60603