

**NYSE ARCA, INC.**  
**LETTER OF ACCEPTANCE, WAIVER, AND CONSENT**  
**NO. 2021-08-16-00027**

TO: NYSE Arca, Inc.

RE: Maxim Group LLC, Respondent  
CRD No. 120708

**During the period between May 1, 2019 and the present (the “Relevant Period”), Maxim Group LLC (“Maxim or the “Firm”) violated Securities Exchange Act Rule 15c3-5(b), (c)(1)(i), and (c)(1)(ii) (Risk management controls for brokers or dealers with market access) (“Rule 15c3-5” or the “Market Access Rule”) by failing to establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial and regulatory risk of its business activity. Specifically, the Firm had unreasonable credit limits and erroneous order controls. In addition, the Firm violated NYSE Arca Rule 11.18(b) and (c) (Supervision) by failing to establish and maintain a supervisory system and written supervisory procedures reasonably designed to achieve compliance with the Market Access Rule. Consent to a censure and a \$40,000 fine.**

\* \* \*

Pursuant to Rule 10.9216 of the NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) Code of Procedure, Maxim 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, NYSE Arca will not bring any future actions against the Firm alleging violations based on the same factual findings described herein.

**I. ACCEPTANCE AND CONSENT**

- A. Maxim 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 NYSE Arca, or to which NYSE Arca 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 NYSE Arca:

**BACKGROUND AND JURISDICTION**

1. Maxim became registered as an Equities Trading Permit (“ETP”) holder with NYSE Arca on March 19, 2003 and its registrations remain in effect. Among other services, Maxim provides market access on an agency basis to institutional customers.

## **VIOLATIONS**

### **Applicable Rules**

2. Rule 15c3-5 requires, among other things, that a broker-dealer with market access establish risk management controls and supervisory procedures that are reasonably designed to limit the financial exposure of the broker-dealer and ensure compliance with all regulatory requirements applicable to market access.
3. Rule 15c3-5(b) requires that a broker or dealer with market access, or that provides a customer with market access, “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.”
4. Rule 15c3-5(c), requires a broker or dealer with market access, or that provides a customer with market access, to design reasonable controls and supervisory procedures to “[p]revent the entry of orders that exceed pre-set aggregate credit thresholds for each customer” and to “[p]revent the entry of erroneous orders by rejecting orders that exceed appropriate price or size parameters.”
5. NYSE Arca Rule 11.18(b) requires member firms to “establish and maintain a system to supervise the activities of its associated persons and the operations of its business. Such system must be reasonably designed to ensure compliance with applicable federal securities laws and regulations and NYSE Arca Rules.” NYSE Arca Rule 11.18(c) requires each member firm to “establish, maintain, and enforce written procedures to supervise the business in which it engages and to supervise the activities of its associated persons that are reasonably designed to ensure compliance with applicable federal securities laws and regulations, and with the NYSE Arca Rules.”

### **Maxim’s Customer Credit Limits**

6. Rule 15c3-5(c)(1)(i) requires that a broker-dealer’s risk management controls and supervisory procedures be reasonably designed to “prevent the entry of orders that exceed appropriate pre-set credit or capital thresholds in the aggregate for each customer.” The Market Access Rule’s Adopting Release explains that these thresholds should be determined “based on appropriate due diligence as to the customer’s business, financial condition, trading patterns, and other matters,” and that a broker-dealer must “document that decision.” Adopting Release at 39.
7. During the Relevant Period, Maxim failed to apply reasonable credit thresholds to certain of its institutional customers and failed to maintain sufficient documentation to support that such credit thresholds were reasonable. For example, Maxim set an unreasonably high credit threshold for an institutional customer with a daily notional amount of \$800 million, despite the fact that the highest total daily notional value of orders executed on a per customer basis during the Relevant Period was \$50 million.
8. Maxim also failed to reasonably enforce its supervisory processes and written

supervisory procedures (“WSPs”) concerning the Market Access Rule’s credit threshold requirements. For example, the Firm failed in certain instances to (i) follow the methodology set forth in its procedures concerning credit thresholds and (ii) create and retain documents to sufficiently memorialize its basis or rationale when setting credit thresholds for certain institutional clients.

9. Based on the foregoing, the Firm violated Rule 15c3-5(b) and 15c3-5(c)(1)(i), as well as NYSE Arca Rule 11.18(c).

#### Maxim’s Erroneous Order Controls

10. Rule 15c3-5(c)(1)(ii) requires that a broker-dealer’s risk management controls and supervisory procedures be 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.”
11. During the Relevant Period, certain of the Firm’s erroneous order controls were not reasonably designed to prevent the entry of erroneous orders by rejecting orders that exceeded appropriate price or size parameters. In addition, the Firm failed to document why the controls related to order size and price were reasonable.
12. For example, the Firm set its Average Daily Volume (“ADV”) control at 50% for all securities routed to NYSE Arca and price deviation control at 25% for all securities routed to NYSE Arca. While the Firm’s Market Access Committee reviewed these controls on a quarter-over-quarter basis, they remained unreasonably high and the Firm failed to provide a basis or justification, including documentation, demonstrating that these controls were reasonable.
13. Moreover, the Firm’s erroneous order controls were soft blocks that traders could override. However, while the Firm’s policies and training materials mandated that a trader confirm the accuracy of an order prior to releasing that order to market, they did not include reasonable detail on how that review should take place. In addition, the Firm’s supervisory review of soft block overrides took place on an aggregate, exchange basis which is not reasonable to meet the requirements of the rule.
14. Based on the foregoing, the Firm violated Rule 15c3-5(b) and 15c3-5(c)(1)(ii), as well as NYSE Arca Rule 11.18(b) and (c).

#### **RELEVANT PRIOR DISCIPLINARY HISTORY**

15. On April 22, 2019, Maxim consented to censure, a \$450,000 fine, and an undertaking for violations of Rule 15c3-5 and NYSE Arca Rule 11.18 (the “2019 Settlement”). See NYSE Arca Matter No. 2016-12-00089.

#### **OTHER FACTORS CONSIDERED**

16. In determining to resolve this matter on the basis set forth herein, NYSE Regulation

Enforcement took into consideration that the Firm took significant remedial action after the 2019 Settlement.

### **SANCTIONS**

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

**1. Censure and fine in the amount of \$40,000.**

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. The Firm has submitted a Method of Payment Confirmation form showing the method by which it will 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 NYSE Regulation staff.

## **II. WAIVER OF PROCEDURAL RIGHTS**

The Firm specifically and voluntarily waives the following rights granted under the NYSE Arca 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's Board of Directors 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 of NYSE Arca; the Exchange's Board of Directors, Disciplinary Action Committee ("DAC"), and Committee for Review ("CFR"); any Director, DAC member, or CFR member; Counsel to the Exchange Board of Directors or CFR; any other NYSE Arca employee; or any Regulatory Staff as defined in Rule 10.9120 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 communication prohibitions of Rule 10.9143 or the separation of functions prohibitions of Rule 10.9144, 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 by NYSE Regulation, and accepted by the Chief Regulatory Officer of NYSE Arca pursuant to NYSE Arca Rule 10.9216;
- 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. The AWC shall be sent to each Director and each member of the Committee for Review via courier, express delivery or electronic means, and shall be deemed final and shall constitute the complaint, answer, and decision in the matter, 10 days after it is sent to each Director and each member of the Committee for Review, unless review by the Exchange Board of Directors is requested pursuant to NYSE Arca Rule 10.9310(a)(1)(B);
  - 2. This AWC will become part of the Firm's permanent disciplinary record and may be considered in any future actions brought by the Exchange, or any other regulator against the Firm;
  - 3. NYSE Arca shall publish a copy of the AWC on its website in accordance with NYSE Arca Rule 10.8313;
  - 4. NYSE Arca may make a public announcement concerning this agreement and the subject matter thereof in accordance with NYSE Arca Rule 10.8313; and
  - 5. 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 the Exchange, or to which the Exchange is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the Firm's (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Exchange is not a party.
- D. A signed copy of this AWC and the accompanying Method of Payment Confirmation form delivered by email, facsimile or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy.
- E. 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. Any such statement does not constitute factual or legal findings by the Exchange, nor does it reflect the views of NYSE Regulation or its staff.

The Firm certifies that, in connection with each of the Exchange's requests for information in connection with this matter, the Firm made a diligent inquiry of all persons and systems that reasonably had possession of responsive documents and that all responsive documents have been produced. In agreeing to the AWC, the Exchange has relied upon, among other things, the completeness of the document productions.

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.

2/27/2023

Date


Maxim Group LLC,  
Respondent

By:   
Name: \_\_\_\_\_  
Title: Tipton Evans  
CCO

Accepted by NYSE Regulation

2/27/2023

Date

  
\_\_\_\_\_  
Danielle A. Kantor  
Director, Enforcement  
NYSE Regulation

April Collaku  
Regulatory Attorney  
NYSE Regulation

Signed on behalf of NYSE Arca, Inc., by  
delegated authority from its Chief  
Regulatory Officer