

NATIONAL FUTURES ASSOCIATION
BEFORE THE
BUSINESS CONDUCT COMMITTEE

JUN 28 2013

NATIONAL FUTURES ASSOCIATION
LEGAL DOCKETING

In the Matter of:)	
)	
ALPARI US LLC)	NFA Case No. 13-BCC-013
(NFA ID #379678),)	
)	
Respondent.)	

COMPLAINT

Having reviewed the investigative report submitted by the Compliance Department of National Futures Association ("NFA"), and having found reason to believe that NFA Requirements are being, have been or are about to be violated and that the matter should be adjudicated, NFA's Business Conduct Committee ("Committee") issues this Complaint against Alpari US LLC ("Alpari").

ALLEGATIONS

JURISDICTION

- At all times relevant to this Complaint, Alpari was an NFA Member and approved Forex Dealer Member ("FDM"), which was registered with the Commodity Futures Trading Commission ("CFTC") as a futures commission merchant ("FCM") and Retail Foreign Exchange Dealer ("RFED"). As such, Alpari was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof.

BACKGROUND

- Alpari's main office is located in New York, New York and the firm has been an FCM and NFA Member since November 2007. Alpari became an RFED in

September 2010 and was approved as an FDM and forex firm in October 2010. The firm's principal business is acting as the counterparty to customer accounts trading in off-exchange foreign currency transactions.

3. In June 2012, this Committee authorized the issuance of a Complaint against Alpari charging the firm with, among other violations, improperly cancelling forex trades and removing profits from customer accounts; failing to timely report trade data and other required information to NFA; and failing to keep accurate records. In addition, the Complaint charged Alpari and two associated persons ("APs") of the firm with a failure to supervise. Alpari settled the 2012 Complaint by agreeing to pay a \$200,000 fine and perform other undertakings.
4. Since February 2011, NFA has required FDMs, including Alpari, to submit a daily electronic report of trade data through NFA's Forex Transaction Reporting Execution Surveillance System ("Fortress"). By submitting such report, the FDM certifies that the report is true and complete. Furthermore, an FDM is subject to a \$200 late fee for each business day that a report is filed late or where a file is incomplete or cannot be validated and processed according to NFA standards (e.g., missing trade information).
5. In conjunction with NFA's most recent examination of Alpari, which commenced in October 2012, NFA staff reviewed Alpari's compliance with Fortress's daily reporting requirements. As alleged below, NFA found that Alpari failed to submit complete trade reports to Fortress and failed to maintain required trade records, which were similar to the violations charged in the June 2012 Complaint.

APPLICABLE RULES

6. NFA Compliance Rule 2-10 requires, in pertinent part, that Members maintain adequate books and records necessary and appropriate to conduct their business including, without limitation, the records required to be kept under CFTC Regulations 1.18 and 1.32 through 1.37.
7. NFA Compliance Rule 2-48(a) provides that an FDM must file a daily electronic report of trade data with NFA using the electronic filing method required by NFA. The report must contain the data and be in the format prescribed by NFA. Each FDM must prepare the report as of 5:00 p.m. Eastern time and file it with NFA by 11:59 p.m. Eastern time the same day.
8. NFA Compliance Rule 2-36(e) provides, in pertinent part, that each FDM shall diligently supervise its employees and agents in the conduct of their forex activities and each associate of an FDM who has supervisory duties shall diligently exercise such duties in the conduct of that Associate's forex activities for or on behalf of the FDM.

COUNT I

VIOLATIONS OF NFA COMPLIANCE RULES 2-10 AND 2-48(a): FAILING TO KEEP ACCURATE RECORDS AND FAILING TO TIMELY REPORT TRADE DATA AND OTHER REQUIRED INFORMATION TO NFA.

9. The allegations contained in paragraphs 1 through 7 are realleged as paragraph 9.
10. When NFA commenced its 2012 examination of Alpari, the firm utilized six trading platforms, one of which is known as Alpari Direct – a platform that Alpari uses through a "white labeling" arrangement with a third-party platform provider

("Alpari Direct market segment"). In connection with NFA's exam, staff in NFA's Market Regulation Department asked Alpari to produce the Alpari Direct market segment trading logs for October 16, 2012 so NFA could compare the data that Alpari had reported previously to Fortress with the data recorded in the firm's trade logs so as to confirm that such data matched. However, NFA's initial analysis of the data revealed over 3,700 trades recorded in the Alpari Direct market segment trade logs that did not have a corresponding matching trade in Fortress.

11. Based on this finding, NFA became concerned about the accuracy of other data that Alpari had reported to Fortress. Therefore, NFA requested additional Alpari Direct market segment trade logs from the firm and compared them to the Alpari Direct market segment trade data that Alpari had submitted to NFA since Fortress launched in February 2011. In reviewing this data, NFA found that Alpari had only reported about 55% of the actual trade execution data for the Alpari Direct market segment during the twenty-month period from February 2011 through October 2012.
12. Once NFA realized that a significant portion of the trade execution data for the Alpari Direct market segment had not been reported to Fortress, NFA's Market Regulation staff contacted the firm to learn the reason for the reporting gaps. Alpari attributed the reporting gaps to its third-party platform provider which, according to Alpari, had limited the number of orders it reported to a maximum of 1,000 orders per day. However, trade data that Alpari had previously submitted through Fortress refuted this explanation, as NFA noted days when Alpari had

- reported more than 1,000 orders (the third-party platform provider's supposed daily maximum of reportable orders), and some days when Alpari had failed to report any trade data whatsoever to NFA.
13. Moreover, irrespective of the actions of the third-party platform provider, Alpari was still liable for the failure to provide complete and accurate trade data to Fortress based on NFA's Interpretive Notice to Compliance Rule 2-36(e) entitled "Supervision of the Use of Electronic Trading Systems." Although the Interpretive Notice allows for a "white labeler" that is not an FDM (i.e., the third-party platform provider) and the FDM sponsoring the platform (i.e., Alpari) to agree by contract that the white labeler would comply with the Fortress reporting requirements, the Interpretive Notice further provides that the sponsoring FDM will still be liable if the Fortress reporting requirements are not met.
 14. When NFA confronted Alpari with its finding that Alpari had previously reported more than 1,000 orders per day – which exceeded the third-party platform provider's supposed daily maximum of reportable orders – Alpari personnel admitted the firm had been unable to pinpoint the exact reason for the missing trade data that should have been reported to Fortress between February 2011 and October 2012. However, Alpari indicated the firm had fixed the problem and had been submitting complete trade data for the Alpari Direct market segment since November 2012.
 15. NFA's investigation into the reporting gaps also revealed problems with Alpari's recordkeeping. After discovering the reporting gaps, NFA required Alpari to submit the missing trade data for the Alpari Direct market segment. However,

Alpari had difficulty complying with this requirement as it had failed to maintain accurate trade records for the Alpari Direct market segment. Moreover, much of the trade data that Alpari had previously submitted to NFA for the Alpari Direct market segment included data for non-retail customers (i.e., ECP data) that Alpari had inaccurately listed as retail customers. Therefore, as a result of this error, much of the trade data that Alpari provided to NFA since the launch of Fortress in February 2011 was inaccurate in addition to being incomplete.

16. Alpari also had difficulty submitting the missing trade data in the required Fortress format, so – as an alternative – NFA agreed to accept Alpari Direct market segment's execution logs instead, with the understanding that the firm would provide the data in the required Fortress format later. However, shortly after agreeing to this arrangement, NFA learned that Alpari could not retrieve any bid/ask prices for the period of February 4, 2011 through June 15, 2011, nor could the firm explain why it was unable to retrieve this information.
17. In addition, the Alpari Direct market segment trade data that Alpari provided to NFA contained conflicting data. For example, one set of trade data had over 380 additional transactions than another set of trade data that Alpari submitted, and almost 60 transactions reported as a "Buy" in one set of trade data were reported as a "Sell" on another set of trade data (or vice versa).
18. By reason of the foregoing acts and omissions, Alpari is charged with violating NFA Compliance Rules 2-10 and 2-48(a).

COUNT II

VIOLATION OF NFA COMPLIANCE RULE 2-36(e): FAILING TO SUPERVISE.

19. The allegations contained in paragraphs 1 through 5, 8, and 10 through 17 are realleged as paragraph 19.
20. As evidenced by the violations alleged above, Alpari failed to adequately carry out its supervisory duties by failing to report required trade execution data to NFA's Fortress system and by failing to maintain necessary trade records. Moreover, the similarity of these deficiencies to the violations charged in the June 2012 Complaint demonstrate the firm's continued recordkeeping and Fortress-reporting problems and further evidence the inadequacy of Alpari's supervisory efforts.
21. By reason of the foregoing acts and omissions, Alpari is charged with violating NFA Compliance Rule 2-36(e).

PROCEDURAL REQUIREMENTS

ANSWER

You must file a written Answer to the Complaint with NFA within thirty days of the date of the Complaint. The Answer shall respond to each allegation in the Complaint by admitting, denying or averring that you lack sufficient knowledge or information to admit or deny the allegation. An averment of insufficient knowledge or information may only be made after a diligent effort has been made to ascertain the relevant facts and shall be deemed to be a denial of the pertinent allegation.

The place for filing an Answer shall be:

National Futures Association
300 S. Riverside Plaza
Suite 1800
Chicago, Illinois 60606-3447
Attn: Legal Department-Docketing

E-Mail: Docketing@nfa.futures.org
Facsimile: 312-781-1672

Failure to file an Answer as provided above shall be deemed an admission of the facts and legal conclusions contained in the Complaint. Failure to respond to any allegation shall be deemed an admission of that allegation. Failure to file an Answer as provided above shall be deemed a waiver of hearing.

POTENTIAL PENALTIES, DISQUALIFICATION AND INELIGIBILITY

At the conclusion of the proceedings conducted in connection with the issuance of this Complaint, NFA may impose one or more of the following penalties:

- (a) expulsion or suspension for a specified period from NFA membership;
- (b) bar or suspension for a specified period from association with an NFA Member;
- (c) censure or reprimand;
- (d) a monetary fine not to exceed \$250,000 for each violation found; and
- (e) order to cease and desist or any other fitting penalty or remedial action not inconsistent with these penalties.

The allegations in this Complaint may constitute a statutory disqualification from registration under Section 8a(3)(M) of the Commodity Exchange Act.


Respondents in this matter who apply for registration in any new capacity, including as

an associated person with a new sponsor, may be denied registration based on the pendency of this proceeding.

Pursuant to the provisions of CFTC Regulation 1.63, penalties imposed in connection with this Complaint may temporarily or permanently render Respondents who are individuals ineligible to serve on disciplinary committees, arbitration panels and governing boards of a self-regulatory organization, as defined in CFTC Regulation 1.63.

**NATIONAL FUTURES ASSOCIATION
BUSINESS CONDUCT COMMITTEE**

Dated: 6/28/13

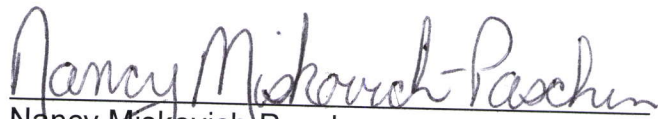
By: 
Chairperson

m/cxc/Complaints/Alpari 06-27-13

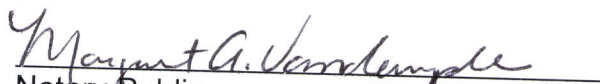
AFFIDAVIT OF SERVICE

I, Nancy Miskovich-Paschen, on oath state that on June 28, 2013, served a copy of the attached Complaint, by sending such copy by e-mail and overnight delivery, in an envelope addressed as follows to:

Alpari US LLC
14 Wall Street
Suite 8B
New York, NY 10005
Attn: Ranya Abbas
E-mail: compliance@alpari-us.com


Nancy Miskovich-Paschen

Subscribed and sworn to before me
on this 28th day of June 2013.


Notary Public

