

**NATIONAL FUTURES ASSOCIATION  
BEFORE THE  
BUSINESS CONDUCT COMMITTEE**

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NATIONAL FUTURES ASSOCIATION  
LEGAL DOCKETING

In the Matter of:

STONEX MARKETS LLC  
(NFA ID #449652),

Respondent.

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NFA Case No. 23-BCC-001

**COMPLAINT**

Having reviewed the investigative report submitted by the OTC Derivatives Compliance Department of National Futures Association (NFA), and having 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 StoneX Markets LLC, formerly known as INTL FCStone Markets LLC (Stone).

**ALLEGATIONS**

**JURISDICTION**

1. At all times relevant to this Complaint, Stone was provisionally registered with the Commodity Futures Trading Commission (CFTC) as a swap dealer (SD) and approved as an NFA Member. As such, Stone was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof.

**BACKGROUND**

2. Stone became a provisionally registered SD in December 2012 and has been an NFA Member since April 2013. The firm is headquartered in Chicago, IL.

3. NFA commenced an examination of Stone in June 2020 (the 2020 exam).
4. At the time of the 2020 exam, Stone had approximately 255 swap associated persons (swap APs) located in 17 offices in the U.S. and ten other countries.
5. The firm had approximately 2,200 counterparties at the time of the 2020 exam. Its swap dealing activity consisted primarily of commodity and foreign exchange swaps and a small volume of interest rate swaps.
6. Stone utilized a risk management program (RMP), which had last been updated in October 2019, to monitor and manage the firm's market, credit, liquidity, and other risks with respect to swaps and any products used to hedge swaps.
7. Based on Stone's average daily aggregate notional amount of uncleared swaps, the firm did not have to comply with the CFTC's initial margin (IM) rules at the time of the 2020 exam.
8. Nevertheless, Stone contractually required counterparties through its "Terms of Business" or other comparable agreements (hereafter referred to as the counterparty agreement) to post IM as security to maintain the counterparty's position for each swap transaction. According to Stone's counterparty agreement, the firm had the sole discretion to calculate IM as security for a counterparty to maintain its swaps position.
9. Since at least 2015, Stone used a third-party system to manage trade information and monitor and calculate the risks associated with its trades. The system helped calculate the collateral a counterparty would be required to post to comply with daily IM amounts by using various inputs, including three years of historical price data by product, to calculate value-at-risk (VaR) for Stone's trades.

10. Stone reported the counterparties' IM amount, as well as their cash balance, withdrawable funds, and other information on daily account statements the firm provided to its counterparties.
11. During the 2020 exam, NFA learned that Stone had discovered in December 2019 that up to two-and-a-half years of historical price data the firm used for calculating VaR and determining counterparties' IM had been deleted from its third-party trading and risk management system (hereafter referred to as the "IM incident").
12. Stone could not ascertain the length of time the data had been missing, but estimated the data was deleted on a continuing basis starting sometime in or after late October 2019.
13. After discovering the IM incident, Stone continued to use the third-party system to calculate VaR and determine counterparties' IM. However, due to the deletion of the historical data, the calculated IM amounts for hundreds of the firm's counterparties deviated from the amounts that would have been calculated with full data.
14. On March 6, 2020, approximately three months after discovering the IM incident, Stone restored the missing historical price data for all products to calculate counterparties' IM amounts, cash balances, and withdrawable funds that the firm reported on counterparties' daily account statements.
15. The deletion of historical price data, and Stone's lack of knowledge that the data was missing, demonstrate deficiencies with the firm's risk management and supervisory programs.

16. More significantly, at no time during the period when the historical price data was missing did Stone notify its counterparties that it was not calculating IM according to its customary practices, or that the missing historical price data caused changes to the IM that would have been calculated under its customary practices and, as a result, changes to other information reported on counterparties' daily account statements, or that the firm had sent inaccurate quarterly reports to some counterparties regarding compliance with its back-office procedures.
17. The 2020 exam also revealed that Stone had deficiencies related to swap activity recordkeeping, communication recordkeeping, disclosing material information (*i.e.*, pre-trade mid-market marks) about swap transactions to counterparties, and adequate supervision.

#### **APPLICABLE RULES**

18. NFA Compliance Rule 2-4 requires all Members to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their swaps business.
19. NFA Compliance Rule 2-9(d) requires each SD Member to diligently supervise its employees and agents in the conduct of their swap activities for or on behalf of the Member.
20. NFA Compliance Rule 2-49(a) provides that any SD Member that violates any requirement under Part 23 of the CFTC's Regulations shall be deemed to have violated an NFA Requirement.
21. CFTC Regulation 23.201 requires an SD to keep full, complete, and systematic records of all its swaps activities.

22. CFTC Regulation 23.202(a)(1) requires, in pertinent part, that an SD make and keep pre-execution trade information, including records of all oral and written communications that lead to the execution of a swap.
23. CFTC Regulation 23.203(b) requires, in pertinent part, an SD to maintain the records required to be kept pursuant to Part 23 of the Regulations in accordance with CFTC Regulation 1.31.
24. CFTC Regulation 1.31(b) requires, in pertinent part, a records entity to keep regulatory records of oral communications for a period of not less than one year from the date of the communication, and to keep other regulatory records for a period of not less than five years from the date on which the record was created.
25. CFTC Regulation 23.431(a) requires, in pertinent part, an SD to disclose to any counterparty (other than a SD, major swap participant, security-based swap dealer, or major security-based swap participant), at a reasonably sufficient time prior to entering into a swap, material information concerning the swap, which must include with respect to disclosure of the price of the swap, the mid-market mark of the swap.
26. CFTC Regulation 23.600(b) requires, in pertinent part, an SD to maintain and enforce a system of risk management policies and procedures designed to monitor and manage the risks associated with its swap activities, referred to collectively as a "Risk Management Program."
27. CFTC Regulation 23.602 requires an SD to diligently supervise all activities relating to its business performed by its partners, members, officers, employees,

and agents (or persons occupying a similar status or performing a similar function).

### COUNT I

#### **VIOLATIONS OF NFA COMPLIANCE RULE 2-4: FAILURE TO OBSERVE HIGH STANDARDS OF COMMERCIAL HONOR AND JUST AND EQUITABLE PRINCIPLES OF TRADE BY FAILING TO PROVIDE TIMELY AND COMPLETE DISCLOSURE TO COUNTERPARTIES.**

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28. The foregoing paragraphs are realleged as if fully stated herein.
29. After learning of the deletion of historical price data used by Stone to calculate IM, NFA required the firm to provide more information about the IM incident.
30. The information provided revealed that Stone had engaged in a course of conduct towards its counterparties that contradicted the high standards of commercial honor and just and equitable principles of trade required of NFA Members.
31. As alleged above, after discovering the IM incident in December 2019, Stone did not notify its counterparties of the missing historical data or that the IM reflected in their daily account statements had not been calculated according to its customary practices.
32. In mid-January 2020, Stone analyzed the impact of the missing historical price data on IM for open positions as of January 10, 2020. To recalibrate the VaR calculation, the analysis used the full historical price data that the firm had recovered for almost 40 products but did not include data involving several energy products for which historical price data had not yet been restored.
33. The impact analysis also did not account for other factors Stone considered that could reduce or eliminate the amount of collateral that a counterparty must

deposit with the firm as part of its total IM requirement (e.g., cash collateral on deposit with the firm, positive trade equity, and IM thresholds).

34. Nevertheless, if Stone had used the recalibrated VaR data to calculate the total IM requirement for transactions involving non-energy products according to its customary practices, the analysis projected an approximate aggregate VaR increase of \$19 million for over 500 accounts, which meant many of those accounts had less IM than they otherwise should have.
35. The analysis also projected an approximate aggregate VaR decrease of roughly \$3.8 million for over 100 accounts, which meant many of those accounts had more IM and potentially less withdrawable funds available than they otherwise should have.
36. Stone knew or should have known from the January 2020 analysis which counterparties were affected by the IM incident. However, the firm elected not to inform the counterparties about the missing data, or that the firm was not calculating IM according to its customary practices, or that the missing historical price data impacted the IM and withdrawable funds calculations reflected in the daily account statements that Stone issued to them.
37. This conduct by Stone contradicted the high standards of commercial honor expected of NFA Members.
38. Stone conducted an additional analysis as of March 5, 2020, which included the recalibrated VaR calculation using historical price data for all products.

39. The March 2020 analysis projected an approximate aggregate VaR increase of \$500,000 for roughly 75 accounts, which meant many of those accounts had less IM than they otherwise should have.
40. The March 2020 analysis also projected an approximate aggregate VaR decrease of more than \$10 million for more than 600 accounts, which meant many of those accounts had more IM and potentially less withdrawable funds available than they otherwise should have.
41. As alleged above, on March 6, 2020, Stone restored the missing historical price data for all products and resumed using the complete historical data set to calculate counterparties' cash balances, IM amounts, and withdrawable funds that the firm reported on their daily account statements.
42. However, Stone again failed to provide any explanation or notice to counterparties about the erroneous VaR calculations or the discrepancies in the amount of IM and withdrawable funds reported daily in their account statements.
43. As alleged previously, Stone's counterparty agreements stated the firm had sole discretion to calculate IM as security for a counterparty to maintain its swaps position. However, under the circumstances alleged above, Stone did not intend to change its customary IM calculation practices starting in December 2019 and, therefore, did not exercise discretion to change its IM calculation.
44. The firm acknowledged to NFA during the 2020 exam that, while Stone may be the sole-determinant of IM, a back-office issue affecting its valuation is not identical to the firm determining IM when there is no potential issue affecting valuation.

45. Initially, the firm unknowingly calculated IM in an unintended manner because it did not have historical price data needed for the calculation and was not aware the data had been deleted. After Stone discovered that the data was missing, it knowingly continued to calculate counterparties' IM in a manner that differed from its customary historical and intended VaR calculations until March 6, 2020, when the firm restored all the historical data and returned to its prior IM calculation practices.
46. Stone also acknowledged to NFA during the 2020 exam that the IM amounts calculated during the fourth quarter of 2019 and the first quarter of 2020 were not in accordance with its historical or intended VaR calculations.
47. Nevertheless, Stone sent notices about its back-office margin and collateral procedures to counterparties during the fourth quarter of 2019 and the first quarter of 2020 that failed to disclose the IM incident's impact on the firm's calculation of margin and collateral requirements for these counterparties' accounts.
48. Sending notices to these counterparties that failed to disclose the IM incident's impact on the firm's calculation of margin and collateral requirements also demonstrates Stone's failure to act in a just and equitable manner.
49. On February 26, 2021, at NFA's direction and nearly a year after the firm corrected its IM calculation issue, Stone sent a notice to the affected counterparties making them aware of the IM incident.
50. By reason of the foregoing acts and omissions, Stone is charged with violations of NFA Compliance Rule 2-4.

## COUNT II

### **VIOLATIONS OF NFA COMPLIANCE RULE 2-49(a): FAILURE TO COMPLY WITH CFTC REGULATION 23.600(b) BY FAILING TO MAINTAIN AND ENFORCE AN ADEQUATE RISK MANAGEMENT PROGRAM WITH RESPECT TO THE FIRM'S VAR CALCULATION AND DAILY IM DETERMINATION.**

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51. The foregoing paragraphs are realleged as if fully stated herein.
52. As alleged above, Stone utilized an RMP to monitor and manage the risk of the firm's swaps transactions. Stone also used a third-party system that helped calculate the collateral a counterparty would be required to post to comply with daily IM amounts by using various inputs, including historical price data by product, to calculate VaR and determine daily IM.
53. Starting sometime in or after late October 2019, up to two-and-a-half years of historical price data the firm used for calculating VaR and determining daily IM was deleted from Stone's trading and risk management system.
54. The deletion of the historical data demonstrates the firm's failure to maintain and enforce its RMP.
55. Stone discovered the data was deleted in early December 2019 but could not ascertain the length of time the data had been missing.
56. The failure of Stone to know that the data had been deleted and how long it was missing reflects the firm's failure to adequately supervise its RMP with respect to the firm's VaR calculation and daily IM determination.
57. By reason of the foregoing acts and omissions, Stone is charged with violating NFA Compliance Rule 2-49(a).

### COUNT III

#### **VIOLATIONS OF NFA COMPLIANCE RULE 2-49(a): FAILURE TO COMPLY WITH CFTC REGULATIONS 23.201, 23.202(a)(1) AND 23.431(a) BY FAILING TO RETAIN REQUIRED RECORDS AND FAILING TO PROVIDE PRE-TRADE MID-MARKET MARKS.**

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58. The foregoing paragraphs are realleged as if fully stated herein.
59. As alleged above, NFA's 2020 exam revealed additional deficiencies that related to Stone's communication recordkeeping and disclosure of pre-trade mid-market marks (PTMM) to counterparties.
60. Stone is required to make and keep full and complete records of all its swap activities.
61. Between October 2018 and October 2020, Stone on-boarded over 40 new swap APs but failed to retain internal instant messages for 22 of them.
62. The retention deficiency spanned from approximately one month to over 18 months.
63. Stone is likewise required to make and keep records of all oral and written communications that lead to the execution of a swap.
64. Stone failed to record one of the new swap AP's external instant messages for approximately two months.
65. Stone also failed to record telephone communications for five of its new swap APs, where four of the new swap APs' calls were not recorded for approximately three to six months, and the fifth swap AP's calls were unrecorded for close to one year.
66. Stone is also required to disclose material information about a swap to the counterparty before trade execution, including the PTMM of an uncleared swap.

67. However, when NFA tested Stone's pre-trade communications for evidence that its swap APs had provided counterparties with the required PTMM, NFA identified eight instances in the 22 trades reviewed where the swap APs failed to provide the counterparty with PTMM, as required.
68. By reason of the foregoing acts and omissions, Stone is charged with violating NFA Compliance Rule 2-49(a).

#### COUNT IV

#### **VIOLATIONS OF NFA COMPLIANCE RULES 2-9(d) AND 2-49(a): FAILURE TO SUPERVISE AND FAILURE TO COMPLY WITH CFTC REGULATION 23.602.**

69. The foregoing paragraphs are realleged as if fully stated herein.
70. As alleged throughout this Complaint, Stone failed to diligently supervise its employees, agents, and swaps activities.
71. Stone's supervisory failures include the IM incident described above, which the firm failed to promptly disclose to NFA and the CFTC, even though the deletion of the historical price data used to calculate IM amounts revealed inadequacies with the firm's RMP and its ability to sufficiently monitor and manage the risks associated with its swap activities.
72. Stone's handling of the IM incident also demonstrated the firm's inadequate supervision, where the firm failed to disclose to counterparties that the firm was not calculating IM according to its procedures.
73. Stone's failure to make and keep all communication records and to provide counterparties with required PTMM also show that the firm did not adequately supervise its swap APs and activities.

74. In addition to the foregoing, Stone had other supervisory shortcomings that include the following:
- Failure to conduct trade reconstructions to monitor and oversee the firm's swaps sales and trading activity from March 2020 to at least October 2020;
  - For reconstructions performed prior to March 2020, the firm identified instances where APs failed to provide PTMM, but implemented ineffective remedial actions to address them, as evidenced by continuing PTMM deficiencies;
  - Failure to develop written procedures detailing the measures the firm used to review swap APs' oral and written communications and did not maintain documentation substantiating what, if any, reviews the firm conducted; and
  - Failure to monitor or review the oral communications of 65 of its 255 swap APs since the firm only reviewed the oral communications of swap APs who were also swap APs of its affiliate FCM.
75. Since at least 2018, Stone shared most of its compliance personnel with its affiliated FCM, including the CCO position.
76. However, as demonstrated by deficiencies alleged above, Stone failed to ensure this compliance-sharing arrangement enabled the firm to implement adequate policies and procedures reasonably designed to achieve compliance with CFTC Regulations and NFA Requirements.
77. By reason of the foregoing acts and omissions, Stone is charged with violating NFA Compliance Rules 2-9(d) and 2-49(a).

### **PROCEDURAL REQUIREMENTS**

#### **ANSWER**

You must file a written Answer to the Complaint with NFA within thirty (30) 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 infor-

mation 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 South Riverside Plaza  
Suite 1800  
Chicago, Illinois 60606  
Attn: Legal Department-Docketing

Email: [Docketing@nfa.futures.org](mailto:Docketing@nfa.futures.org)

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, one or more of the following penalties may be imposed:

- (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 \$500,000 for each violation found; and
- (e) order to cease and desist or any other fitting penalty or remedial action not inconsistent with these penalties.

**NATIONAL FUTURES ASSOCIATION  
BUSINESS CONDUCT COMMITTEE**

Dated: 1/12/2023

By: Greg L. Wolff  
Chairperson