

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

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| FILED |
| APR 24 2024 |
| NATIONAL FUTURES ASSOCIATION LEGAL DOCKETING |

In the Matter of:)
)
CLARKSONS PLATOU FUTURES)
LIMITED) NFA Case No. 24-BCC-005
(NFA ID #286412),)
)
Respondent.)

COMPLAINT

Having reviewed the investigative report submitted by the 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 Clarksons Platou Futures Limited (Clarksons).

ALLEGATIONS

JURISDICTION

1. At all times relevant to this Complaint, Clarksons has been an introducing broker (IB) Member of NFA. As such, Clarksons was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof.

BACKGROUND

2. Clarksons has been registered with the Commodity Futures Trading Commission (CFTC) as an IB and approved as a swap firm and an NFA Member since 2014.

3. The firm is headquartered in London, UK and currently has 18 registered associated persons (APs).
4. Clarksons operates as an execution-only IB and brokers block futures in forward freight agreements (FFAs), as well as fuel oil, iron ore, and carbon derivatives. The firm brokers for US and non-US institutional clients and clears on various US and non-US exchanges.
5. NFA commenced an examination of Clarksons in August 2022. The exam found deficiencies at the firm, including the failure to register three individuals as APs and NFA Associates, the failure to maintain pre-trade communications, and disclosure of confidential client information. These and other deficiencies further revealed a lack of supervision at the firm.

APPLICABLE RULES

6. NFA Bylaw 301(b) provides, in pertinent part, that no person may be associated with a Member of NFA unless the person is registered with NFA as an NFA Associate or is an NFA Member.
7. NFA Compliance Rule 2-10(a) requires NFA Members to maintain adequate books and records necessary and appropriate to conduct their business including, without limitation, the records required to be kept under CFTC Regulation 1.35 for the period required under CFTC Regulation 1.31.
8. CFTC Regulation 1.35 requires, in pertinent part, IBs to keep full, complete, and systematic records of all transactions relating to its business of dealing in commodity interests. The Regulation also requires IBs generating over the preceding three years more than \$5 million in aggregate gross revenues from

their activities as an IB to keep all oral and written communications provided or received concerning quotes, solicitations, bids, offers, instructions, trading, and prices that lead to the execution of a transaction in a commodity interest whether transmitted by telephone, voicemail, instant messaging, chat room, electronic mail, mobile device or other digital or electronic media.

9. CFTC Regulation 1.31 requires, in pertinent part, IBs to keep written pre-trade communications for a period of not less than five years from the date of the communication. The Regulation further requires IBs obligated to keep oral pre-trade communications to retain them for a period of not less than one year from the date of the oral communication.
10. NFA Compliance Rule 2-26 provides that any Member or Associate who violates CFTC Regulation 155.4, among others, is deemed to have violated an NFA Requirement.
11. CFTC Regulation 155.4(b) provides, in pertinent part, that no IB or any of its affiliated persons shall disclose that an order of another person is being held by the IB or any of its affiliated persons, unless such disclosure is necessary to the effective execution of such order.
12. NFA Compliance Rule 2-9(a) requires NFA Members to diligently supervise their employees and agents in the conduct of their commodity interest activities for or on behalf of the Member.

COUNT I

VIOLATIONS OF NFA BYLAW 301(b): FAILURE TO REGISTER THREE INDIVIDUALS AS ASSOCIATED PERSONS AND NFA ASSOCIATES

13. The foregoing paragraphs are realleged as if fully stated herein.

14. During its exam, NFA determined that an individual (Broker #1) employed by an affiliate of Clarksons actively brokered block futures trades for Clarksons' US clients since November 2020, even though he was not registered as an AP of the firm or an NFA Associate.
15. Clarksons provided information that revealed Broker #1 had brokered approximately 70 block futures trades with four US clients by the time NFA began its 2022 exam.
16. Clarksons also disclosed that another individual (Broker #2) had brokered block futures trades for US clients since joining the firm in 2018, even though he was not registered as an AP of the firm or an NFA Associate.
17. Broker #2 brokered approximately 955 block futures trades with five US clients from January 2020 to August 2022.
18. NFA's exam further revealed that the head of Clarkson's wet FFA desk since September 2018 (Broker #3), to whom Broker #2 and the other wet FFA brokers reported, was not a registered AP and NFA Associate.
19. Clarksons attributed almost 30 block futures trades from May through July 2022 to Broker #3, while he also supervised the wet FFA desk brokers.
20. By reason of the foregoing acts and omissions, Clarksons is charged with violations of NFA Bylaw 301(b).

COUNT II

VIOLATIONS OF NFA COMPLIANCE RULE 2-10(a): FAILURE TO KEEP PRE-TRADE COMMUNICATIONS.

21. The foregoing paragraphs are realleged as if fully stated herein.

22. Clarksons is required keep written pre-trade communications for five years and has generated sufficient gross revenues since at least 2016 to require the firm to keep all oral pre-trade communications for one year.
23. NFA learned that Clarksons' brokers used unapproved third-party desktop and mobile communication channels since July 2019 to communicate with clients.
24. Clarkson did not approve these channels and, therefore, did not record or retain any of the oral and written communications transmitted through them.
25. Clarksons also did not record or retain all of Broker #1's client communications.
26. By reason of the foregoing acts and omissions, Clarksons is charged with violations of NFA Compliance Rule 2-10(a).

COUNT III

VIOLATIONS OF NFA COMPLIANCE RULE 2-26: DISCLOSING CONFIDENTIAL INFORMATION.

27. The foregoing paragraphs are realleged as if fully stated herein.
28. In reviewing Clarksons' communication records from May through July 2022, NFA identified numerous instances where Clarksons' brokers disclosed clients' names to other clients.
29. For example, on May 25, 2022, a Clarksons' broker disclosed the identities of two counterparties to block trades when his client asked, "who sold to us...?"
30. On July 6, 2022, another Clarksons' broker disclosed the identities of three counterparties to block trades when asked, "who's main sellers?"
31. Clarksons was unable to demonstrate that it had obtained its clients' permission to disclose their names.

32. However, Clarksons represented that its clients knew the firm disclosed their information and, with few exceptions, had not objected to the practice. Clarksons asserted that its clients, therefore, had tacitly consented to the disclosure of their information.
33. Following the exam, Clarksons contacted clients to obtain their consent to disclose prices, routes, and volumes, but not their names.
34. NFA reviewed 17 of the client responses and found that six of them (or about 35%) affirmatively told Clarksons not to disclose their names.
35. NFA had identified five of those six clients during the exam as names that Clarksons' brokers had disclosed, undercutting the firm's assertion that clients "tacitly consented" to having their names disclosed.
36. By reason of the foregoing acts and omissions, Clarksons is charged with violations of NFA Compliance Rule 2-26.

COUNT IV

VIOLATIONS OF NFA COMPLIANCE RULE 2-9(a): FAILURE TO SUPERVISE.

37. The foregoing paragraphs are realleged as if fully stated herein.
38. As the violations alleged above illustrate, Clarksons fell short of fulfilling its supervisory obligations to ensure the firm complied with its AP registration, recordkeeping, and client confidentiality requirements.
39. The deficiencies were due, in part, to Clarksons' failure to maintain adequate supervisory procedures.

40. For example, Clarksons' procedures failed to address how the firm would ensure it complied with AP registration requirements and, as a result, Clarksons allowed three individuals to act as APs without being registered.
41. Clarksons also claimed Broker #1 was explicitly told that he was not permitted to do regulated FFA business unless and until he became an AP. Despite this directive, Broker #1 brokered trades on the firm's behalf for more than two years.
42. Broker #3, who headed the wet FFA desk, knew Brokers #1 and #2 were not registered as APs, but permitted them to broker trades for US clients while the firm's back-office attributed the trades to other registered APs of the firm.
43. In addition, Clarksons failed to implement adequate communication monitoring procedures. Consequently, the firm failed to discover brokers acting as APs without registration and communicating with clients through unapproved and unrecorded channels.
44. The disclosure of client information is another area where Clarksons failed to adopt adequate procedures. Clarksons should have obtained clients' consent before disclosing their confidential information and retained evidence of their consent in its records.
45. Clarksons' supervisory procedures also failed to adequately address how the firm would monitor its brokers' trading conduct and practices.
46. NFA's communications review identified instances where brokers appeared to quote prices unsupported by bids and offers.
47. In one instance, a Clarksons' broker (Broker #4) provided a client with a price based on Bloomberg's real-time reporting of exchange trading prices. Broker #4

never told the client the price came from exchange screen pricing on Bloomberg, and the client, apparently believing the quote was a valid offer to sell, accepted it.

48. Broker #4 admitted that she quoted the exchange screen price on the assumption that a market maker would step in to fulfill any bid she received. However, under these circumstances, the broker should have told the client upfront where the pricing she provided came from so the client could make an informed decision about how to proceed.
49. In a second instance, another Clarksons broker (Broker #5) appeared to change a client's bid to a less favorable price without the client's permission. NFA noted the client told the broker it was willing to buy at 14000, but the broker changed the bid to 14100.
50. Broker #5 said he believed the price of 14000 was not within market range and would not generate interest, so he changed it without informing the client. He further claimed the bids he quoted were indicative and that clients would have known they were not tradeable unless and until he confirmed the price with them.
51. Clarksons claimed the dry FFA market is small, illiquid, predominantly voice-brokered, and highly specialized which, among other factors, contributed to a market that understood that Clarksons' brokers provided indicative, not executable, prices until confirmed with both parties.
52. However, Clarksons could not substantiate its claim that clients understood the firm's brokers provided indicative pricing and had permission to change their bids/offers to less favorable pricing.

53. Clarksons also did not appear to be aware of and supervise its brokers' practices until NFA questioned them.
54. Additionally, the firm admitted that it was under-resourced from a compliance perspective and lacked adequate policies and procedures, not only for monitoring communications, but also for monitoring broker trading for unusual or concerning trends.
55. By reason of the foregoing acts and omissions, Clarksons is charged with violations of NFA Compliance Rule 2-9(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 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
320 South Canal Street
Suite 2400
Chicago, Illinois 60606
Attn: Legal Department-Docketing

Email: 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

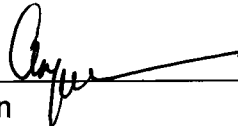
At the conclusion of the proceedings conducted in connection with the issuance of this Complaint, one or more of the following penalties may be imposed:

- (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.

The allegations in this Complaint may constitute a statutory disqualification from registration under Section 8a(3)(M) of the Commodity Exchange Act. A Respondent in this matter who applies for registration in any new capacity, including as an AP with a new sponsor, may, after opportunity for hearing, be denied registration or conditionally registered based on the pendency of this proceeding.

**NATIONAL FUTURES ASSOCIATION
BUSINESS CONDUCT COMMITTEE**

Dated: 04/24/2004

By: 
Chairperson