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Release Number 8954-24

CFTC Orders Nasdaq Futures, Inc. to Pay \$22 Million for Core Principle Violations, Failing to Fully Disclose Incentives, Providing False and Misleading Information

August 29, 2024

Washington, D.C. — The Commodity Futures Trading Commission today issued an order filing and settling charges against **Nasdaq Futures, Inc.**, formerly a designated contract market (DCM). The order finds Nasdaq Futures, Inc. failed to properly establish, monitor, or enforce rules related to an incentive program Nasdaq Futures, Inc. offered to certain traders on its DCM. The order also finds Nasdaq Futures, Inc. did not fully disclose this incentive program’s details to the CFTC or the public consistent with the requirements of the Commodity Exchange Act (CEA) and Commission Regulations. In addition, the order finds Nasdaq Futures, Inc. made false and misleading statements to the CFTC regarding the incentive program. The order requires Nasdaq Futures, Inc. to pay a \$22 million civil monetary penalty.

“The CFTC’s oversight regime depends upon CFTC-designated exchanges providing the CFTC and market participants accurate information,” said CFTC Director of Enforcement Ian McGinley. “Nasdaq Futures, Inc.’s conduct here represents significant violations of both its duty to provide such information and several statutory Core Principles applicable to CFTC-designated exchanges.”

Case Background

The order finds from July 2015 through July 2018, Nasdaq Futures, Inc. operated as a DCM focused on energy commodity futures contracts. Nasdaq Futures, Inc. offered various incentive programs to certain traders on its contract market, including its “Designated Market Maker” (DMM) program. The DMM program, as disclosed to the CFTC and the public, paid a fixed monthly stipend to market makers. However, Nasdaq Futures, Inc. also made payments to a select number of DMM program participants that were based on the total volume of contracts those participants traded; this volume-based component was not disclosed to the CFTC, as required by the CEA and associated regulations. In fact, Nasdaq Futures, Inc.’s rule submissions to the CFTC regarding its incentive programs omitted or explicitly denied the existence of a volume-based incentive as part of the DMM program. In addition, when interviewed by CFTC staff about whether Nasdaq Futures, Inc. paid DMM program participants for trade volume, its employees repeatedly stated there was no volume-based component to the DMM program. Nasdaq Futures, Inc. reasonably should have known all such denials, statements, and omissions were false and misleading at the time.

Further, Nasdaq Futures, Inc.’s failure to disclose this volume-based component of the DMM program to the CFTC, the public, its own compliance staff, and regulatory service provider led to the violation of several DCM Core Principles mandated in the CEA. Finally, Nasdaq Futures, Inc. did not follow its regulatory service provider’s recommendation to contact three DMM program participants about certain trading activity or document why it did not, in violation of a CFTC Regulation.

The CFTC appreciates the assistance of the National Futures Association.

The Division of Enforcement staff responsible for this matter are Brett Shanks, Elsie Robinson, Jeff Le Riche, Brandon Wozniak, Margaret Aisenbrey, Jordon Grimm, Christopher Reed, Charles Marvine, and former staff member Jo Mettenburg.

Customers and other individuals can report suspicious activities or information, such as possible violations of commodity trading laws, to the Division of Enforcement via a toll-free hotline 866-FON-CFTC (866-366-2382), [file a tip or complaint](#) online, or contact the [Whistleblower Office](#). Whistleblowers are eligible to receive between 10 and 30 percent of the monetary sanctions collected paid from the CFTC Customer Protection Fund financed through monetary sanctions paid to the CFTC by violators of the CEA.

-CFTC-

RELATED LINKS
Order: Nasdaq Futures, Inc.
Dissenting Statement of Commissioner Caroline D. Pham

Resources

- CFTC Regulations
- Commodity Exchange Act
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