

**THE NASDAQ STOCK MARKET LLC  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2020068547302**

TO: The Nasdaq Stock Market LLC  
c/o Department of Enforcement  
Financial Industry Regulatory Authority (“FINRA”)

RE: Cantor Fitzgerald & Co., Respondent  
Broker-Dealer  
CRD No. 134

Pursuant to Rule 9216 of The Nasdaq Stock Market LLC (“Nasdaq”) Code of Procedure, Cantor Fitzgerald & Co. (the “firm”) 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, Nasdaq will not bring any future actions against the firm alleging violations based on the same factual findings described herein.

**I.**

**ACCEPTANCE AND CONSENT**

A. The firm 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 Nasdaq, or to which Nasdaq 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 Nasdaq:

**BACKGROUND**

Cantor became a member of Nasdaq in July 2006, and its registration remains in effect. The firm is headquartered in New York, New York, and has approximately 700 registered representatives and approximately 30 branch offices. The firm has no relevant disciplinary history.

**SUMMARY**

This matter originated from a FINRA Rule 4530 disclosure by the firm and FINRA surveillance alerts indicating that Cantor failed to timely and accurately submit Regulation M-related notifications to FINRA and various securities exchanges, including Nasdaq. Between September 2017 and January 2022, Cantor violated Rule 104 of Regulation M of the Securities Exchange Act of 1934 and Nasdaq Rules 4624 (for conduct before Nov. 23, 2020), 2010A (for conduct before Dec. 6, 2019), Equity 2, Section 15 (for conduct on or after Nov. 23, 2020), and General 9, Section 1(a) (for conduct on or after Dec. 6, 2019) in 74 instances by filing untimely notices of its intent to engage in syndicate covering transactions.

Between February 2017 and January 2022, Cantor violated Nasdaq Rules 4619(e)(1)(A) (for conduct before Nov. 23, 2020), 2010A (for conduct before Dec. 6, 2019), Equity 2, Section 10(e)(1)(A) (for conduct on or after Nov. 23, 2020), Equity 2, Section 10(e)(5), and General 9, Section 1(a) (for conduct on or after Dec. 6, 2019) in six instances by filing untimely or inaccurate notifications with Nasdaq in connection with its participation in security distributions that were subject to Regulation M under the Exchange Act.

From at least February 2017 to May 2024, Cantor also violated Nasdaq Rules 3010 (for conduct before Dec. 6, 2019), 2010A (for conduct before Dec. 6, 2019), and General 9, Sections 1(a) and 20 (for conduct on or after Dec. 6, 2019) by failing to establish and maintain a supervisory system, including written supervisory procedures (WSPs), reasonably designed to achieve compliance with Regulation M-related notification rules.

### **FACTS AND VIOLATIVE CONDUCT**

1. Regulation M, promulgated under the Exchange Act, is the SEC's principal anti-manipulation provision that applies to distributions of covered securities.
2. Regulation M is intended to address manipulative conduct by preventing persons with an interest in the outcome of a distribution from influencing the pricing of those distributions and conditioning the market in order to facilitate a distribution.
3. Regulation M prohibits manipulative conduct by deeming certain conduct as unlawful. For example, subject to the exceptions set forth therein, Rule 101 of Regulation M prohibits bidding for or purchasing a covered security during the applicable restricted period. Depending on the security, the restricted period begins either one or five business days prior to the determination of the offering price or, if the restricted period has already commenced, at such time a firm becomes a distribution participant.

#### **Cantor filed untimely Notices of Intent.**

4. Rule 104 of Regulation M regulates syndicate covering transactions, which are defined as "the placing of any bid or the effecting of any purchase on behalf of the sole distributor or the underwriting syndicate or group to reduce a short position created in connection with [an] offering."
5. Rule 104(h)(2) of Regulation M requires any person effecting a syndicate covering transaction to provide prior notice to the self-regulatory organization with direct authority over the principal market in the U.S. for the security for which the syndicate covering transaction is effected.
6. Nasdaq Rule Equity 2, Section 15, like its predecessor Nasdaq Rule 4624, requires a Nasdaq market maker acting as a manager, or in a similar capacity, of a distribution of a security subject to Rule 101 of Regulation M to provide a written notice of its intent to conduct a syndicate covering transaction pursuant to Rule 104 of Regulation

M prior to engaging in the first syndicate covering transaction.<sup>1</sup> This is known as a Notice of Intent.

7. Nasdaq Rule General 9, Section 1(a), like its predecessor Nasdaq Rule 2010A, states that “[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.”<sup>2</sup>
8. During the relevant period, Cantor was a market maker acting as a manager or similar capacity in connection with distributions subject to Regulation M. Between September 2017 and January 2022, Cantor failed to timely file 74 Notices of Intent prior to engaging in syndicate covering transactions.
9. Therefore, Cantor violated Rule 104 of Regulation M and Nasdaq Rules 4624, 2010A, Equity 2, Section 15, and General 9, Section 1(a).

**Cantor filed untimely and inaccurate Regulation M-related notifications.**

Restricted Period Notifications

10. Nasdaq Rule Equity 2, Section 10(e)(1)(A), like its predecessor Nasdaq Rule 4619(e)(1)(A), states that “[a] member acting as a manager (or in a similar capacity) of a distribution of a security that is a subject security or reference security under SEC Rule 101 and any member that is a distribution participant or an affiliated purchaser in such distribution that does not have a manager shall provide written notice to Nasdaq MarketWatch . . . no later than the business day prior to the first entire trading session of the one-day or five-day restricted period under SEC Rule 101.”<sup>3</sup> The required notice, commonly known as a Restricted Period Notification, must include “a request on behalf of each Nasdaq Market Maker that is a distribution participant or an affiliated purchaser to withdraw the Nasdaq Market Maker’s quotations, or that includes a request on behalf of each Nasdaq Market Maker that is a distribution participant (or an affiliated purchaser of a distribution participant) that its quotations be identified as those of a passive market maker and includes the contemplated date and time of the commencement of the restricted period.”
11. At all relevant times, Cantor was a manager and required to submit Restricted Period Notifications pursuant to Nasdaq Rules 4619(e)(1)(A) and Equity 2, Section 10(e)(1)(A) in connection with distributions subject to Regulation M.
12. Cantor submitted untimely Restricted Period Notifications in connection with four distributions during that time, which notifications were two, three, 55, and 1,068 days late.

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<sup>1</sup> Nasdaq Rule Equity 2, Section 15 superseded Nasdaq Rule 4624 on November 23, 2020.

<sup>2</sup> Nasdaq Rule General 9, Section 1(a) superseded Nasdaq Rule 2010A on December 6, 2019.

<sup>3</sup> Nasdaq Rule Equity 2, Section 10(e)(1)(A) superseded Nasdaq Rule 4619(e)(1)(A) on November 23, 2020.

13. Cantor also submitted an inaccurate Restricted Period Notification in connection with one distribution during that time. The inaccurate notification failed to identify all distribution participants in the distribution.
14. Therefore, Cantor violated Nasdaq Rules 4619(e)(1)(A), 2010A, Equity 2, Section 10(e)(1)(A), and General 9, Section 1(a).

Trading Notification

15. Nasdaq Rule Equity 2, Section 10(e)(5) states that “[a] member acting as a manager (or in a similar capacity of a distribution subject to subparagraph (e)(1)) of this Rule shall submit a request to Nasdaq MarketWatch . . . to rescind the excused withdrawal status or passive market making status of distribution participants and affiliated purchasers, which . . . shall include the date and time of the pricing of the offering, the offering price, and the time the offering terminated, and, if not in writing, shall be confirmed in writing no later than the close of business the day the offering terminates.” This is known as a Trading Notification.
16. Cantor submitted an untimely Trading Notification in connection with one December 2021 distribution, which Trading Notification was 55 days late.
17. Therefore, Cantor violated Nasdaq Rules Equity 2, Section 10(e)(5) and General 9, Section 1(a).

**Cantor failed to reasonably supervise its compliance with Regulation M-related notification rules.**

18. Nasdaq Rule General 9, Section 20(a), like its predecessor Nasdaq Rule 3010(a), states that “[e]ach member shall establish and maintain a system to supervise the activities of each registered representative and associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations and with applicable Nasdaq rules. Nasdaq members shall comply with FINRA Rule 3110 as if such Rule were part of Nasdaq’s Rules.”<sup>4</sup> A violation of Nasdaq Rule General 9, Section 20, formerly Nasdaq Rule 3010, also constitutes a violation of Nasdaq Rule General 9, Section 1(a), formerly Nasdaq Rule 2010A.
19. FINRA Rule 3110(b) states “[e]ach member shall establish, maintain, and enforce written procedures to supervise the types of business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules.”
20. From at least February 2017 to May 2024, Cantor’s supervisory system and WSPs were not reasonably designed to achieve compliance with Nasdaq Rules Equity 2,

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<sup>4</sup> Nasdaq Rule General 9, Section 20 superseded Nasdaq Rule 3010 on December 6, 2019.

Sections 10(e) and 15, specifically with respect to the timeliness and accuracy of the required notifications.

21. Cantor's WSPs did not describe any supervisory reviews to ensure notifications were submitted in a timely manner and with accurate information. Cantor also lacked reasonable WSPs to verify that it submitted amended Restricted Period Notifications reflecting the addition of distribution participants after the initial notifications were filed.
22. In practice, Cantor did not conduct reviews of its Regulation M-related notifications to determine whether the notifications were submitted to Nasdaq timely and with accurate information.
23. Therefore, Cantor violated Nasdaq Rules 3010, 2010A, and General 9, Sections 20 and 1(a).
24. By May 2024, Cantor took steps to revise its supervisory system and WSPs by implementing a new process to review Regulation M-related notifications and amend Restricted Period Notifications.

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

1. A censure and
2. A fine in the amount of \$92,500 (resolved simultaneously with similar matters for a total fine of \$225,000).<sup>5</sup>

The firm agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment are due and payable. The firm has submitted a Payment Information form showing the method by which it proposes to 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 imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

## II.

### **WAIVER OF PROCEDURAL RIGHTS**

The firm specifically and voluntarily waives the following rights granted under Nasdaq's Code of Procedure:

A. To have a Formal Complaint issued specifying the allegations against the firm;

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<sup>5</sup> Those matters were brought by FINRA and NYSE Arca, Inc.

- 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 Nasdaq Review Council 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 pre-judgment of the Chief Regulatory Officer, the Nasdaq Review Council, or any member of the Nasdaq Review Council, 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 prohibitions of Rule 9143 or the separation of functions prohibitions of Rule 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 and accepted by FINRA's Department of Enforcement and the Nasdaq Review Council, the Review Subcommittee, or the Office of Disciplinary Affairs ("ODA"), pursuant to Nasdaq Rule 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. This AWC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by Nasdaq or any other regulator against the firm;
  - 2. Nasdaq may release this AWC or make a public announcement concerning this agreement and the subject matter thereof in accordance with Nasdaq Rule 8310 and IM-8310-3; and
  - 3. 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 Nasdaq, or to which Nasdaq is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the firm's right to take legal or factual positions in litigation or other legal proceedings in which Nasdaq is not a party.

D. 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. This Statement does not constitute factual or legal findings by Nasdaq, nor does it reflect the views of Nasdaq or its staff.

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.

June 17, 2025

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Date

*Sage Kelly*

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Cantor Fitzgerald & Co.  
Respondent

By: \_\_\_\_\_  
Sage Kelly

Sage Kelly, Co-Chief Executive Officer

Accepted by Nasdaq:

July 8, 2025

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Date

*Carly M. Kostakos*

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Carly M. Kostakos  
Senior Counsel  
Department of Enforcement

Signed on behalf of Nasdaq by delegated authority from the Director of ODA