

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5643 / December 9, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-20164

In the Matter of

**ICE DATA PRICING &
REFERENCE DATA, LLC**

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTIONS 203(e) AND
203(k) OF THE INVESTMENT ADVISERS
ACT OF 1940, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS AND
A CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against ICE Data Pricing & Reference Data, LLC (“Respondent” or “PRD”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Sections 203(e) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Summary

1. The valuation of fixed-income securities can affect both retail and institutional investors. Independent valuations play a critical role in complex fixed-income investments because these securities are largely traded in over-the-counter markets. Inaccurate valuations can affect investment decisions, advisory fees, the accuracy of financial statements and investor account statements, and reported investment returns and portfolio performance.

2. PRD, a registered investment adviser, provides global securities pricing, evaluations, and other information to its advisory clients through various subscription options. PRD typically delivers prices based on its analysis of a variety of market information to produce an evaluated price. From at least 2015 through September 2020 ("Relevant Period"), for certain categories of fixed-income securities for which PRD was not able to provide an evaluation, PRD instead delivered to its clients a quote received from a single market participant, also known as a "single broker quote" or "broker quote."

3. During the Relevant Period, in connection with its single broker-quoted prices, PRD did not adopt and implement written compliance policies and procedures reasonably designed to prevent violations of the Advisers Act and rules thereunder. Although PRD had written policies and procedures to control for certain errors with respect to single broker-quoted prices, they were neither reasonably designed, nor adequately implemented. As a result of the conduct described above, PRD violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder.

Respondent

4. PRD, formerly known as Interactive Data Pricing & Reference Data LLC (a subsidiary of Interactive Data Corporation), is a Delaware limited liability company headquartered in New York, New York. PRD is a wholly-owned subsidiary of Intercontinental Exchange, Inc., a public company whose securities trade on the New York Stock Exchange. PRD has been registered with the Commission as an investment adviser since 1998, and provides as part of its advisory business, among other services, independent evaluated pricing for fixed-income securities to institutional clients, including clearing and custody firms, registered investment companies, pooled investment vehicles, broker-dealers, insurance companies, public accounting and research firms, banks and thrifts. PRD does not hold or manage assets for its clients.

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Background

5. PRD provides institutions, investment funds, and other types of financial services customers with global securities pricing, evaluations, reference data, analytics data, and corporate actions data. PRD's clients use PRD's securities pricing service for a variety of purposes, including for reporting prices of securities on retail client and customer account statements and in corporate books and records, for investment decisions, and as an input to comply with generally accepted accounting principles or other applicable obligations with respect to valuation. PRD's clients can receive or access securities pricing information through a number of web-based or file transfer service products, including by logging into 360View, one of PRD's proprietary web-based products.

6. PRD has teams of evaluators that oversee and monitor the daily operation of PRD's securities pricing applications and models. PRD provides independent evaluations for the vast majority of the 2.8 million fixed-income securities for which it provides pricing information. For evaluated prices, PRD uses market-based measurements to assess what the holder may receive in an orderly transaction under current market conditions. Evaluated prices are determined by considering various market inputs, including, in approximate order of priority, benchmark yields, reported trades, bids, offers, and two-way markets.

7. For approximately 46,000 securities, PRD's applications and models were unable to produce an evaluation and instead PRD provided its clients a single broker-quoted price that it received from a quote provider. According to PRD, it provided a single broker-quoted price when sufficient information, such as cash flows or other security structure or market information, were not available to produce an evaluation.

8. Clients accessed PRD's prices through 360View, as well as through PRD's other web-based or file-transfer service products. PRD generally charged clients the same amount for prices whether those prices were evaluated or single broker quoted.

PRD's Single Broker-Quoted Prices

9. From at least 2015 through June 2019, PRD provided single broker-quoted prices for various types of securities, including, but not limited to, certain synthetic convertible notes, structured notes, index-linked notes, church bonds, asset-backed securities, collateralized mortgage obligations, and commercial mortgage-backed securities. At times, however, PRD provided evaluated prices for these securities instead of prices based on broker quotes.

10. From at least 2015 through June 2019, for single broker-quoted prices, PRD delivered prices to its clients based on quotes received on a periodic basis from a single market participant such as a broker-dealer, secondary market-maker, issuer, or underwriter. PRD determined, among other things, from whom to accept single broker quotes, how frequently the quote provider was required to update its quotes, whether to continue to make quotes available to clients in the absence of receiving updated quotes, and whether to continue relying on a particular quote provider.

11. PRD's clients accessed single broker-quoted prices through 360View, as well as other web-based or file-transfer service products. 360View and PRD's other products did not identify the broker quote's source and did not clearly identify the date the quote was received by PRD. A list of PRD's single broker-quoted securities was updated daily and available to clients through 360View. 360View, and certain of PRD's other pricing delivery products, also contained a flag indicating whether a specific security was broker quoted. Nonetheless, it could be difficult for a client to determine whether a security's price was based upon PRD's independent evaluation or a single broker quote because, prior to May 2020, 360View's securities detail page also included fields referencing prices as "bid evaluation(s)" or "evaluated price(s)" whether or not the securities were evaluated or single broker quoted.

12. Beginning in July 2019, PRD stopped providing single broker-quoted prices for securities in all asset classes except index-linked notes and index-linked CDs, and then only if the issuer or underwriter of the index-linked note or index-linked CD provided broker quotes daily.

13. PRD discontinued its provision of single broker-quoted prices entirely on September 30, 2020.

PRD's Policies and Procedures for Single Broker Quotes Were Not Reasonably Designed or Implemented

14. PRD did not adopt or implement reasonably designed policies or procedures concerning the provision of single broker-quoted prices. PRD disclosed to clients that prices based on single broker quotes were subject to quality controls for unchanged values and daily tolerance. However, PRD did not have policies or procedures to address the risk that a quote it received from a market participant would not reasonably reflect a security's value, and its quality controls were not effectively or consistently implemented.

15. For the "unchanged value" control, PRD's automated system notified the evaluator assigned to a security when a quote provider had failed to provide a quote for more than 20 business days. However, there was no policy in place requiring an evaluator to take any action in response to an "unchanged value" notification. In practice, since at least October 2017, the evaluator responsible for index-linked notes waited until 30 business days after the last quote was received before beginning the process for discontinuing the provision of the price, which included first giving the quote provider notice and an opportunity to submit an updated quote.

16. From at least 2015 through April 2019, PRD's unchanged value control did not detect the submission of unchanged quotes from quote providers, *i.e.* the same quotes being submitted for days, weeks, or months. In April 2019, PRD enhanced its controls to include an unchanged broker quote control. This new control flagged unchanged prices after 20 business days. Even so, the evaluator responsible for index-linked notes was trained to wait until 40 business days before beginning the process for discontinuing the delivery of a price based on an unchanged broker quote. At that point, he would contact the quote provider to confirm that the quote was

meant to remain unchanged. Once the quote was confirmed by the provider, it would be accepted without additional scrutiny.

17. Additionally, from at least 2015 through June 2019, PRD did not always receive daily quotes from market participants for single broker-quoted securities, sometimes only receiving quotes once a month. It was difficult and at times not possible for PRD clients to determine the age of a single broker-quoted price. This meant that clients could have unknowingly relied upon prices for, among other things, trade decisions and account statement values that may have been up to a month old and not taken into account recent market events. In July 2019, PRD began requiring daily quotes be provided by all quote providers.

18. PRD's "daily tolerance" control flagged submissions of broker quotes whenever a quote moved up or down by 5% from PRD's previously provided price. This control was also deficient in design and implementation. For example, the evaluator responsible for index-linked notes was trained to apply this control only on broker quotes that moved by at least 10% or at times even 20% or more from the previous quote. Even then, the evaluator had discretion to accept a price based on the new quote. In the instances when the evaluator contacted the quote provider about a change in value, the evaluator only asked whether the quote was what the provider intended to submit. If the quote provider confirmed the quote, it would be delivered through 360View and PRD's other price delivery products without additional scrutiny.

19. In its provision of broker quotes, PRD did not adopt any policies or procedures to assess the reliability of the quotes it received from market participants. PRD did not consider other market information, when available, such as trades or quotes from other sources, as a check on whether the quotes being received reasonably reflected a security's value.

20. PRD did not consider other market information for broker-quoted securities even when clients presented PRD with trades or other market information that suggested the broker-quoted price may not be a reasonable reflection of a security's value. PRD offered clients the ability to challenge evaluated and broker-quoted prices through a "Security Pricing Evaluation Request" ("SPER") portal. PRD could either modify or affirm a price in response to a challenge. For most challenges to single broker-quoted prices, the SPER portal generated an automatic response identifying the challenged price as single broker quoted and rejecting the challenge without the challenge being reviewed by an evaluator. In the cases where an evaluator did review market information submitted by a client in support of a challenge to a price of a single broker-quoted security, the evaluator contacted the quote provider to confirm that the quote received was what the provider intended to submit to PRD. The evaluator did nothing more to analyze the market information provided by the client through the SPER portal to consider whether the broker quote may not have been a reasonable reflection of the security's value

21. Finally, PRD did not adopt any policies or procedures designed to assess whether a particular quote provider was an accurate source of information reasonably reflective of the values of a particular security or class of securities. For example, certain providers of single broker quotes at times submitted: (1) quotes that showed large movements, or conversely no movements at all,

from previous quotes, when such movements, or lack thereof, appeared inconsistent with the nature of the security; and/or (2) quotes that were subject to frequent client challenges due to their deviation from trade data. PRD did not have policies or procedures to assess whether it should discontinue delivering single broker-quoted prices from those providers.

Impact of PRD’s Unreasonably Designed Policies and Procedures

22. PRD’s failure to adopt and implement reasonably designed policies and procedures with respect to broker quotes resulted in PRD’s delivery to clients of single broker-quoted prices that may not have been a reasonable reflection of the security’s value. For example, PRD provided clients with unchanged prices for more than 18 months for 48 “HECM-IO” (Home Equity Conversion Real Estate Mortgage Investment Conduit, Interest Only) securities because its policies and procedures did not enable PRD to detect that the quote provider—a firm that made markets in such securities, Live Well Financial, Inc. (“Live Well”)—repeatedly provided PRD with unchanged quotes throughout the period. *See SEC v. Live Well Fin., et al.*, No. 19 Civ. 8086 (S.D.N.Y. filed Aug. 29, 2019) (district court action alleging that Live Well submitted falsely inflated bond prices to PRD knowing that PRD provided the prices to its clients as single broker quotes).

23. In addition, PRD at times provided clients single broker-quoted price updates showing volatility inconsistent with the nature of, and that did not reasonably reflect the value of, the security. For example, at times between September 2015 and September 2017, PRD delivered to clients broker-quoted prices submitted by Live Well for HECM-IO securities that were 10 percent to 49 percent greater than PRD’s previous price. *See id.*

Violations

24. As a result of the conduct described above, PRD willfully² violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which require registered investment advisers to, among other things, adopt and implement written policies and procedures reasonably designed to prevent violation of the Advisers Act and the rules adopted thereunder.

PRD’s Remedial Efforts

25. In determining to accept the Offer, the Commission considered remedial acts undertaken by Respondent.

² “Willfully,” for purposes of imposing relief under Section 203(e) of the Advisers Act “means no more than that the person charged with the duty knows what he is doing.” *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor “also be aware that he is violating one of the Rules or Acts.” *Tager v. SEC*, 344 F.2d 5, 8 (2d Cir. 1965).

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent PRD's Offer.

Accordingly, pursuant to Sections 203(e) and 203(k) of the Advisers Act, it is hereby ORDERED that:

A. Respondent PRD cease and desist from committing or causing any violations and any future violations of Section 206(4) of the Advisers Act and Rule 206(4)-7 promulgated thereunder.

B. Respondent PRD is censured.

C. PRD shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$8,000,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Section 21F(g)(3) of the Securities Exchange Act of 1934. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying PRD as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Daniel Michael, Division of Enforcement, Securities and Exchange Commission, Brookfield Place, 200 Vesey Street, Suite 400, New York, NY 10281-1022.

D. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To

preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary