

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 104934 / March 6, 2026**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-22608**

**In the Matter of**

**NEW YORK STOCK  
EXCHANGE LLC,**

**Respondent.**

**ORDER INSTITUTING CEASE-AND-  
DESIST PROCEEDINGS PURSUANT  
TO SECTION 21C OF THE  
SECURITIES EXCHANGE ACT OF  
1934, MAKING FINDINGS, AND  
IMPOSING A CEASE-AND-DESIST  
ORDER**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against New York Stock Exchange LLC (“NYSE” or “Respondent”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (“Offer”) that 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 Cease-And-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934 Making Findings, and Imposing a Cease-And-Desist Order (“Order”), as set forth below.

**III.**

On the basis of this Order and Respondent’s Offer, the Commission finds that:

**Summary**

1. This matter arises out of a January 24, 2023 event in which NYSE failed to run opening auctions for 2,824 NYSE-listed securities (“the 2,824 Securities”) due to a critical systems

disruption. Instead, NYSE initiated continuous trading for those securities. NYSE's failures caused market-wide impacts, including price-triggered restrictions on trading, market-wide trading pauses in 84 of the securities, and ultimately thousands of busted trades.

2. NYSE's written policies and procedures concerning Regulation Systems Compliance and Integrity ("Regulation SCI") failed to establish written policies and procedures to monitor SCI systems that support its opening auctions to determine if opening auctions had occurred. Prior to this event, on the evening of January 23, 2023, NYSE activated its backup trading system to conduct planned maintenance to address a hardware issue. After concluding the maintenance tasks, NYSE staff failed to shut down the backup trading system. When the primary system began its start-of-day functions, the backup trading system was still running. The simultaneous running of both the primary and backup trading systems ultimately caused the primary trading system to incorrectly treat the opening auction processes for the 2,824 Securities as having occurred. NYSE was unaware for a period of time that these opening auctions did not occur.

3. Specifically, NYSE staff did not know its systems had failed to run opening auctions for the 2,824 Securities until approximately 10:09 AM, and as of 10:53 AM, NYSE still did not know the total number of securities for which it had failed to conduct opening auction processes.

4. Only NYSE-listed securities participate in NYSE's opening auction processes, and at the relevant time, there were 3,421 NYSE-listed securities. The publication of a security's first trade of the day by its primary listing market, typically following its opening auction process, performs important functions, including, among other things, establishing the reference prices for industry-wide trading parameters known as Limit Up-Limit Down ("LULD") Bands.

5. Regulation SCI requires national securities exchanges like NYSE and other SCI entities to, among other things, establish, maintain, and enforce written policies and procedures reasonably designed to monitor their SCI systems, including their systems that support the opening auction process. The Commission adopted Regulation SCI to ensure that national securities exchanges and other SCI entities maintain their operational capability and to further the Commission's mission of maintaining fair and orderly markets.

6. SCI systems that directly support functionality relating to the opening of trading on a primary listing market such as NYSE, are "critical SCI systems." Regulation SCI requires SCI entities to establish, maintain, and enforce written policies and procedures reasonably designed to, among other things, ensure that its SCI systems have levels of capacity, integrity, resiliency, availability, and security, adequate to maintain the SCI entity's operational capability and promote the maintenance of fair and orderly markets. These policies and procedures must include, at a minimum, monitoring of such systems to identify potential SCI events, which include "systems disruptions," which are events in an SCI entity's SCI systems that disrupt, or significantly degrade, the normal operation of an SCI system. On January 24, 2023, NYSE did not have established written policies and procedures under Regulation SCI for monitoring whether its critical SCI systems that directly supported its opening auctions had in fact run their opening auction processes. Additionally, NYSE failed to follow one of its own rules when it failed to conduct opening

auctions.

7. As a result of the conduct described herein, NYSE violated Rule 1001(a)(2)(vii) of Regulation SCI and Exchange Act Section 19(g)(1).

### **Respondent**

8. NYSE is a national securities exchange registered with the Commission pursuant to Section 6 of the Exchange Act, and an SCI entity.<sup>1</sup> NYSE is a New York limited liability company and an indirect, wholly-owned subsidiary of Intercontinental Exchange, Inc. (“ICE”).

### **Obligations of National Securities Exchanges**

9. As a result of their critical role in the national market system, national securities exchanges are subject to significant regulatory compliance obligations. The Exchange Act requires self-regulatory organizations, including national securities exchanges to, among other things, comply with their own rules and the federal securities laws. The obligation of national securities exchanges such as NYSE to operate in compliance with their own rules is fundamental. It enables the exchange’s members and all participants in the trading that occurs on the exchange, as well as all persons seeking access to the facilities of the exchange, to understand on what terms and conditions trading will be conducted on the exchange, thereby fostering a fair, orderly, free, and open market. The Exchange Act requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, protect investors and the public interest.

### **Requirements Under Regulation SCI for Written Policies and Procedures**

10. The Commission adopted Regulation SCI to, among other things, help ensure that national securities exchanges and other SCI entities maintain their operational capability and to further the Commission’s mission of maintaining fair and orderly markets.

11. An SCI entity has obligations under Regulation SCI with respect to its “SCI systems,” which include its “critical SCI systems.” SCI systems “means all computer, network, electronic, technical, automated, or similar systems of, or operated by or on behalf of, an SCI entity that, with respect to securities, directly support trading, clearance and settlement, order routing, market data, market regulation, or market surveillance.” Rule 1000 of Regulation SCI (17 C.F.R. § 242.1000). Further, Rule 1000 of Regulation SCI defines a critical SCI system as any SCI

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<sup>1</sup> SCI entities are entities that the Commission has determined are market participants that play a significant role in the U.S. securities markets and/or have the potential to impact investors, the overall market, or the trading of individual securities in the event of certain types of systems problems. SCI entities comprise self-regulatory organizations, certain alternative trading systems, plan processors, certain competing consolidators, and certain exempt clearing agencies. 17 C.F.R. § 242.1000.

system of an SCI entity that, among other things, directly supports functionality relating to openings on the primary listing market. *Id.* Additionally, the Regulation SCI Adopting Release notes that the definition of critical SCI systems was designed to cover “those SCI systems whose functions are critical to the operation of the markets, including those systems that represent potential single points of failure in the securities markets.” Securities Exchange Act Rel. No. 73639 (Nov. 19, 2014), 79 F.R. 72252 at 72277 (Dec. 5, 2014) (“SCI Adopting Release”).

12. Rule 1001(a)(1) of Regulation SCI requires SCI entities to “establish, maintain, and enforce written policies and procedures reasonably designed to ensure that its SCI systems and, for purposes of security standards, indirect SCI systems, have levels of capacity, integrity, resiliency, availability, and security, adequate to maintain the SCI entity’s operational capability and promote the maintenance of fair and orderly markets.” Rule 1001(a)(1) of Regulation SCI (17 C.F.R. § 242.1001(a)(1)). Rule 1001(a)(2) of Regulation SCI prescribes certain minimum requirements for an SCI entity’s written policies and procedures. Specifically, Rule 1001(a)(2) states that policies and procedures required by paragraph (a)(1) of this section shall include, at a minimum: “[m]onitoring of such systems to identify potential SCI events.” Rule 1001(a)(2)(vii) of Regulation SCI (17 C.F.R. § 242.1001(a)(2)(vii)).

### **NYSE’s Systems and the Events of January 24, 2023**

13. NYSE operates a securities trading platform called “Pillar” that includes primary and secondary systems. The primary trading system is called “Pillar Production” and the secondary or backup trading system, which is maintained at a separate data center, is called “Pillar DR” (disaster recovery). NYSE describes Pillar as “our integrated trading technology platform which enables member firms to connect to all NYSE equities and options markets using a standard protocol.” On the evening of January 23, 2023, NYSE did not properly shut down Pillar DR.

14. Specifically, after trading hours on January 23, 2023, NYSE staff activated Pillar DR as part of planned hardware maintenance during NYSE’s standard maintenance window from 5:00 PM to 11:30 PM. NYSE staff then intended to shut down Pillar DR after the maintenance window closed; however, NYSE staff mistakenly ran the shutdown commands against the already-shut down Pillar Production. As a result, Pillar DR incorrectly remained operational after the maintenance window.

15. NYSE uses automated operational controls called “Health Check Jobs” which are system checks that NYSE has implemented to, among other things, verify that there are no unexpected application processes running or hardware issues in advance of system startup for the next production day. Around 11:00 PM on January 23, 2023, as part of NYSE’s standard, automated operational controls, NYSE systems ran separate Health Check Jobs against Pillar Production and Pillar DR. The Health Check Job against Pillar DR failed. The Health Check Job on Pillar DR failed for two reasons: the planned Pillar DR hardware maintenance was incomplete, and because Pillar DR was still operational.

16. At the time, NYSE staff mistakenly believed that the Health Check Job against Pillar DR failed for one reason only: the incomplete Pillar DR hardware maintenance. NYSE staff missed, however, that the Health Check Job also failed because Pillar DR itself was operational,

which might have been discovered had the failed Health Check Job been investigated further. But it was not. Instead, NYSE staff manually re-designated the failed Health Check Job as successfully resolved, despite not having fully investigated the issue or escalated it for supervisory review or approval.

17. On January 24, 2023, at 12:19 AM, Pillar Production initiated start-of-day processes while Pillar DR was still running. Pillar Production completed its start-of-day processes at 12:24 AM, as expected. At this point, Pillar Production and Pillar DR were operating simultaneously.

18. The Consolidated Tape Association (“CTA”) is made up of participating self-regulatory organizations (“SROs”), including NYSE. CTA oversees the dissemination of real-time trade and quote information in securities listed on NYSE (Network A) and certain other exchanges (Network B). The CTA Securities Information Processor (“SIP”) links the U.S. markets trading Network A and B securities by processing and consolidating all best bid/ask quotes and trades in those securities from participating SROs into a single data feed. The SIP disseminates and calculates critical regulatory information including the National Best Bid and Offer (“NBBO”), LULD Bands, and other important information such as short sale restrictions and regulatory halts. At 1:01 AM, the SIP began accepting participant input connections, while the two systems, Pillar Production and Pillar DR, were in effect competing to connect with the SIP. Pillar DR was the first to connect to the SIP for the 2,824 Securities, each identified by a unique ticker symbol, while Pillar Production was first to connect for the other 597 NYSE-listed securities.

19. But Pillar DR was not supposed to be in use, and when it connected to the SIP, it sent quotes with a price of zero and a quantity of zero (“zero quotes”) for each of the 2,824 Securities. These zero quotes had been queued on Pillar DR as an artifact of normal processing of the system during the overnight maintenance window. Had NYSE properly shut down Pillar DR, the zero quotes would have been discarded by the system and never sent to the SIP. Pillar Production’s normal operation was not to send any quotes (zero or otherwise) to the SIP until after it ran the normal opening auction process (which it did at 9:30 AM for the other 597 NYSE-listed securities).

20. The SIP received the zero quotes for the 2,824 Securities and published them on its outbound multicast feed. NYSE’s ticker plant system NYSE CTPX SIP (hereafter “CTPX”) picked up the zero quotes. CTPX is designed to process SIP and other market data and deliver it to Pillar Production. In other words, quote data flows from NYSE to the SIP and is combined with other market data and sent back to Pillar Production via CTPX. Because CTPX had received the zero quotes for the 2,824 Securities from the SIP, CTPX internally updated the state of each of the 2,824 Securities to reflect that they had been quoted that day. These “quoted flags” incorrectly communicated to Pillar Production that the opening auction process had already run for the 2,824 Securities.

21. Meanwhile, since both Pillar Production and Pillar DR were active, both systems were simultaneously disseminating two multicast proprietary market data message streams, with each message from each stream numbered in sequence. Simultaneous market data publication from Pillar Production and Pillar DR is not an expected mode of operation, thus internal NYSE

applications and external market data customers received messages from different market data streams with non-consecutive sequence numbers. Alerts about these discrepancies caused NYSE staff to realize that Pillar DR was active. At 1:48 AM, NYSE staff shut down Pillar DR and restarted Pillar Production, as part of an effort to recover from the by-then known simultaneous operation of Pillar Production and Pillar DR.

22. By 2:20 AM, Pillar Production had completed its restart, purged all symbol state data it had previously received from CTPX (including symbol state information that the 2,824 Securities had already been quoted that day), and reconnected to CTPX. However, NYSE staff remained unaware that the zero quotes in the 2,824 Securities from Pillar DR had been sent to, and published by, the SIP, and thereafter had reached CTPX. When Pillar Production re-connected to CTPX, CTPX re-communicated to Pillar Production that the 2,824 Securities had already been quoted that day, which signified to Pillar Production that opening auction processes had already been run in the 2,824 Securities. Consequently, NYSE staff were unaware that Pillar Production was poised to skip auction processes based on this incorrect symbol state data (received at approximately 2:20 AM) for NYSE-listed securities, and transition to continuous trading for the 2,824 Securities when the market opened later at 9:30 AM.

23. NYSE-listed securities do not trade on NYSE prior to 9:30 AM, and, under normal conditions, Pillar Production transitions a security from pre-open to continuous trading if it is after 9:30 AM and an “Auction Done” condition has been satisfied by the security having been previously opened by an auction. After a system restart, Pillar Production would evaluate whether the “Auction Done” condition was satisfied for a given NYSE-listed security by determining whether a NYSE quote in that security had already been published by the SIP that day, regardless of the time and method of opening. Under normal conditions, the SIP would not be expected to have published a NYSE quote for a NYSE-listed security unless NYSE had first sent the quote (resulting from the running of NYSE’s opening auction process) to the SIP. Next, CTPX would supply this symbol state information to Pillar Production.

24. By around 3:33 AM, NYSE staff incorrectly believed that all issues were resolved, without any impact to clients or operations, and that the Pillar Production was in a fully functional state and ready for trading later that morning. Instead, at 9:30 AM on the day of the event, Pillar Production did not run the opening auction processes for the 2,824 Securities and instead transitioned them into continuous trading. In other words, Pillar Production determined that it was after 9:30 AM, and the 2,824 Securities satisfied the “Auction Done” condition based on the zero quote data transmitted by CTPX at 2:20 AM.

25. At the opening of trading at 9:30 AM, NYSE did not conduct an opening auction for the 2,824 Securities, the vast majority of NYSE-listed securities.

26. NYSE’s failure to conduct opening auctions in the 2,824 Securities before transitioning to continuous trading resulted in immediate adverse impacts and affected numerous market participants who placed orders to trade in these securities. Among other impacts, an unusually high 84 securities almost immediately went into LULD trading pauses.

27. The National Market System Plan to Address Extraordinary Market Volatility

(“LULD Plan”) is designed to prevent trading from occurring outside specific price bands. These LULD Bands are set at a percentage level below and above the average price of a security over a preceding five-minute period, with the first price bands of the day generally set by reference to the price of the transaction that opens trading (or the closing price of the security the prior day) on the primary listing market for a security. Trading is required to be paused in an individual security if prevailing quotes persist at corresponding LULD Bands for 15 seconds, and listing exchanges’ automated systems are expected to automatically notify the SIP when such pauses are required. Because the opening auction process did not occur for the 2,824 Securities at 9:30 AM on January 24, 2023, the first NYSE trade of the day sent to the SIP as the reference price in those securities was the product of the first match of orders remaining on the NYSE order book. However, in the absence of an opening auction, orders slated for execution only in an auction were automatically cancelled, and the resulting immediate automated executions of what was left on the order book were done without the benefit of an auction-based price-setting mechanism. For 84 of the 2,824 Securities, the first trades of the day under these circumstances were particularly far away from prices that were otherwise prevailing in the broader market, as were the resultant LULD Bands derived from reference prices tied to those trades.

28. NYSE staff’s initial investigation into the 84 LULD pauses on January 24, 2023 validated that bids and offers persisted long enough at the price levels of the LULD Bands in the 84 impacted securities to trigger the LULD pauses. NYSE staff, however, did not uncover the underlying cause of the off-market reference price levels that set those LULD Bands, which was NYSE’s failure to conduct the opening auctions in the relevant 84 securities. NYSE’s Designated Market Makers subsequently facilitated successful reopening auctions in the LULD-paused securities.

29. At the point when the LULD pauses were initially triggered, NYSE staff had incorrectly assumed that all NYSE-listed securities had transitioned normally from pre-open to continuous trading states because NYSE staff incorrectly assumed that opening auctions had been conducted for each security. At this time, although NYSE staff monitored whether a security was in an “open” state or a “pre-open” state, NYSE did not have a procedure in place to monitor whether an opening auction process had occurred in any of its NYSE-listed securities, including the 84 securities with LULD pauses.

30. By 9:47 AM, NYSE staff incorrectly concluded that all systems had been operating normally as they were still not aware that the 2,824 Securities had not had opening auctions. NYSE staff were also unaware at this point that, in the absence of opening auctions preceding the transition into continuous trading, the initial LULD Bands for some of the 2,824 securities had been set by trades that were done at prices that were far enough away from prevailing market prices that LULD pauses in those securities were inevitable.

31. Based on this assessment, despite failing to conduct opening auctions for the 2,824 Securities, NYSE issued a market status update at 9:48 AM which read “STATUS: NORMAL” and “All systems are currently operational.”

32. At 9:50 AM, a representative of the Commission contacted NYSE. During the call, NYSE explained its then-current understanding, which was incomplete, that the 84 LULD pauses

had been triggered due to specific client quoting behavior (*i.e.*, a client's order had set the NBBO at the corresponding LULD Band).

33. At approximately 10:09 AM, NYSE staff became aware as they investigated the LULD pauses, that opening auctions had not been conducted in certain securities with LULD pauses. Subsequently, at 10:15 AM, NYSE's then-Chief Operating Officer made a declaration of an immediately reportable SCI event. Next, at 10:19 AM, NYSE called to notify the Commission representative that an immediately reportable SCI event had occurred because NYSE did not run opening auctions in a subset of securities.

34. At 10:21 AM, NYSE published a market status update advising members that there were issues with the opening auctions.

35. At 10:53 AM, NYSE staff determined that the opening auction processes had not run for a larger subset of NYSE-listed securities beyond the ones subject to the 84 LULD pauses but was still attempting to determine how many securities had been affected.

36. NYSE's failure to conduct opening auctions for the 2,824 Securities ultimately caused market-wide impacts, including price-triggered restrictions on trading, market-wide trading pauses in dozens of securities, and ultimately thousands of busted trades. NYSE's failure to conduct opening auctions directly impacted trading, order routing, and market data. Specifically, LULD pauses were triggered for 84 securities. 81 securities had price declines of 10% or more during this event, which triggered short sale restrictions on such securities. Over 4,000 trades were ultimately undone or "busted," including in a number of securities that experienced price swings immediately upon opening. For example, trades in Company A's securities were busted after a price swing of over 27% in the milliseconds after 9:30 AM.

37. NYSE also ultimately paid over \$5.77 million to member organizations who filed claims for trading losses related to the event.

#### **NYSE Failed to Establish Certain Written Policies and Procedures for Monitoring Required by Regulation SCI**

38. Rule 1001(a)(2)(vii) of Regulation SCI requires an SCI entity to establish, maintain, and enforce written policies and procedures, which must be reasonably designed pursuant to Rule 1001(a)(1), to monitor SCI systems, including critical SCI Systems, that support the opening of trading, including the opening auction process, to identify potential SCI events. Rule 1001(a)(2)(vii) of Regulation SCI (17 C.F.R. § 242.1001(a)(2)(vii)).

39. NYSE was required to conduct opening auctions for all its listed securities but did not for the 2,824 Securities. NYSE did not know that certain of its critical SCI systems were not operating normally and did not know that it had not conducted opening auctions for many of its listed securities until 10:09 AM. As of 10:53 AM, NYSE still had not determined how many of its listed securities had not had opening auctions.

40. While NYSE has established certain Regulation SCI written policies and

procedures generally, NYSE failed to establish any written policies and procedures to monitor whether its critical SCI systems that support its opening auctions actually conducted such auctions, so as to identify potential SCI events. Consequently, NYSE did not know, until further investigation, that the 2,824 Securities had failed to go through the opening auction processes which delayed NYSE's ability to ascertain the underlying conditions of the event. Accordingly, NYSE violated Rule 1001(a)(2)(vii) of Regulation SCI.

### **NYSE's Failure to Follow Its Rule Concerning Opening Auctions**

41. NYSE's own rule required it to conduct an opening auction for all NYSE-listed securities prior to transitioning to continuous trading. NYSE violated one of its own rules and therefore Section 19(g)(1) of the Exchange Act when it failed to operate in a manner consistent with its rule. Specifically, NYSE violated Rule 7.34 Trading Sessions, its rule that states that the NYSE Core Trading Session will begin for NYSE-listed securities with an opening auction, when it failed to conduct an opening auction in the 2,824 Securities in a manner consistent with its rule.

### **Violations**

42. As a result of the conduct described above, NYSE violated Rule 1001(a)(2)(vii) of Regulation SCI, which requires that covered entities establish, maintain, and enforce written policies and procedures, which must be reasonably designed pursuant to Rule 1001(a)(1), to monitor their SCI systems to identify potential SCI events. Rule 1001(a)(2)(vii) of Regulation SCI (17 C.F.R. § 242.1001(a)(2)(vii)).

43. As a result of the conduct described above, NYSE violated Section 19(g)(1) of the Exchange Act, which requires a national securities exchange, as a self-regulatory organization, to comply with the provisions of the Exchange Act, the rules, and regulations thereunder, and its own rules.

### **Remedial Efforts**

44. In determining to accept the Offer, the Commission considered multiple remedial acts promptly undertaken by NYSE to prevent a recurrence of the failure to conduct opening auctions.

45. NYSE implemented opening auction monitoring capabilities to specifically confirm that opening auction processes have in fact been run across NYSE-listed securities, rather than monitoring only whether each one transitioned from a pre-open to continuous trading state. Further, NYSE modified its procedures to require a second approval before a failed Health Check Job may be manually designated as successfully completed and instituted a separate Health Check Job during the Pillar Production start-up process to specifically verify that Pillar DR is not active. NYSE also re-programmed Pillar Production (a) to ignore symbol state information received from CTPX for NYSE-listed securities if received before 9:30 AM and ultimately (b) to maintain its own database to determine whether an auction has been conducted in a security and not to obtain such symbol state information from CTPX.

#### IV.

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

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent cease and desist from committing or causing any violations and any future violations of Rule 1001(a)(2)(vii) of Regulation SCI of the Exchange Act.

B. Pursuant to Section 21C of the Exchange Act, Respondent cease and desist from committing or causing any violations and any future violations of Section 19(g)(1) of the Exchange Act.

C. Respondent shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of \$9,000,000.00 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). 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 NYSE 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 Joseph Sansone, New York Regional Office, Securities and Exchange Commission, 100 Pearl St., Suite 20-100, New York, NY 10004-2616.

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