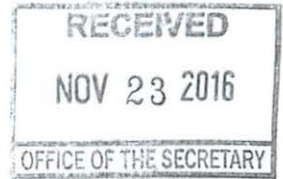


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UNITED STATES OF AMERICA
BEFORE THE
SECURITIES AND EXCHANGE COMMISSION

In the Matter of the Application of

INTERACTIVE BROKERS LLC and
INTERACTIVE BROKERS CORP.,

for Review of Disciplinary Action Taken by FINRA

SD-2060
SD-2061

3-17682

Application for Review

Pursuant to Section 19(d)(1) of the Exchange Act, 15 U.S.C. 78s(d)(1), and 17 C.F.R. § 201.420, Interactive Brokers LLC and Interactive Brokers Corp. (collectively, “Interactive”) hereby submit this Application for Review of FINRA’s determination (the “Determination”), dated October 12, 2016 (attached hereto as Exhibit A), that a certain Penalty Order (the “Penalty Order”) issued by the Austrian Financial Market Supervisory Authority against associated person Jonathan Chait is disqualifying under Exchange Act Section 14(b)(4)(G), 15 U.S.C. § 78o(b)(4)(G).¹ In addition, FINRA has not provided any written basis for its Determination that the Penalty Order is disqualifying.

FINRA erred in determining that the Penalty Order is disqualifying for the following reasons:

First, when Exchange Act Section 15(b)(4)(G) is read in context with other provisions of Section 15, it is ambiguous as to whether statutory disqualification for a violation of foreign law must also constitute a violation of U.S. law and whether the violation of foreign law requires a showing of willfulness. Because Section 15(b)(4)(G)(ii) is ambiguous, its legislative history can be used for interpretative guidance.

Second, the legislative history of Section 15(b)(4)(G) makes clear that Congress intended statutory disqualification for a violation of foreign securities law to be limited to willful

¹ Interactive is filing this Application for Review to ensure that the issues raised in herein are preserved for appellate review in the event that the Determination is deemed a final, appealable order.

conduct that would also be a violation of U.S. securities law. Mr. Chait's violation of Austrian law was not a disqualifying event because if the same trades that gave rise to the foreign violation had occurred in the United States, Mr. Chait would not have been in violation of U.S. securities law given his total lack of involvement in the trades and lack of willfulness.

Third, even if Section 15(b)(4)(G) is not ambiguous, FINRA's interpretation of the statute as including any strict liability violation of foreign law is impermissibly unreasonable. The only reason that Mr. Chait was penalized was because, under Austrian law (unlike U.S. law), violations are imposed on the "officers designated to represent the company *vis-à-vis* external parties," rather than the company itself. Under FINRA's interpretation of Section 15(b)(4)(G), Mr. Chait would be subject to statutory disqualification even though the violation of Austrian law did not arise from any misconduct by Mr. Chait himself and even though he would not be statutorily disqualified if the same events had occurred in the United States. Such an unreasonable interpretation of Section 15(b)(4)(G) should be rejected.

For the foregoing reasons, FINRA's Determination should be vacated because the Penalty Order is not a disqualifying event under Exchange Act Section 15(b)(4)(G).

Interactive can be served at their counsel's address set forth below.

Dated: New York, New York
November 11, 2016

SCHULTE ROTH & ZABEL LLP

By: 

Douglas I. Koff
Julian Rainero
Michael Kwon
Amanda Wichot

919 Third Avenue
New York, New York 10022
(212) 756-2000

*Attorneys for Interactive Brokers LLC
and Interactive Brokers Corp.*

EXHIBIT A



Andrew J. Love
Associate General Counsel

Direct: (202) 728-8281
Fax: (202) 728-8264

October 12, 2016

VIA Email and Certified Mail

Douglas I. Koff, Esq.
Schulte Roth & Zabel LLP
919 Third Avenue
New York, NY 10022
Douglas.Koff@srz.com

VIA Email and Inter-Office Mail

Ann-Marie Mason, Esq.
Lorraine Lee-Stepney
FINRA Non-Disciplinary Litigation
1735 K Street, NW, 6th Floor
Washington, DC 20006

Jeffrey D. Fox, Esq.
Deputy General Counsel
Interactive Brokers
2200 Pennsylvania Avenue, NW
Washington, DC 20037
jfox@interactivebrokers.com

**RE: SD-2060 – The Association of Jonathan Chait with Interactive Brokers LLC
SD-2061 – The Association of Jonathan Chait with Interactive Brokers Corp.**

Dear Parties:

The Hearing Panel has considered the parties' pre-hearing briefs concerning whether the order entered by the Austrian Financial Markets Supervisory Authority renders Mr. Chait statutorily disqualified. Based upon the arguments raised in the parties' briefs, the Hearing Panel has concluded that the order is disqualifying under Exchange Act Section 15(b)(4)(G), and has determined that a hearing on the merits of the applicants' MC-400 Applications should go forward. The parties will be contacted regarding a date and time for the hearing, at which the applicants should be prepared to present their case in support of the applications (including the proposed supervision for Mr. Chait).

If you have any questions, please contact Melanie Campbell, Legal Support Manager, at (202) 728-6998.

Very truly yours,



Andrew J. Love

cc: **Melanie Campbell**

Investor protection. Market integrity.

1735 K Street, NW t 202 728 8000
Washington, DC www.finra.org
20006-1506

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for Review of Disciplinary Action Taken by FINRA

CERTIFICATE OF SERVICE

I, MICHAEL KWON, an attorney associated with the law firm of Schulte Roth & Zabel LLP, hereby certify that on November 11, 2016 I served a copy of (i) the Application for Review; and (ii) the Notice of Appearance, which were filed in the above-captioned proceeding, by mailing the papers through the U.S. Postal Service by first class mail in accordance with 17 C.F.R. § 201.150(c)(2), upon the following:

Andrew J. Love, Esq.
Associate General Counsel
1735 K Street, NW
Washington, D.C. 20006-1506

Lorraine Lee-Stepney
FINRA Non-Disciplinary Litigation
1735 K Street, NW
Washington, D.C. 20006-1506

Ann-Marie Mason, Esq.
FINRA Non-Disciplinary Litigation
1735 K Street, NW
Washington, D.C. 20006-1506

Dated: New York, New York
November 11, 2016

SCHULTE ROTH & ZABEL LLP

By: 

Michael Kwon

919 Third Avenue
New York, New York 10022
(212) 756-2000

*Attorneys for Interactive Brokers LLC
and Interactive Brokers Corp.*