

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 86658 / August 14, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-19346

In the Matter of

Canaccord Genuity LLC,

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTIONS 15(b) AND 21C
OF THE SECURITIES EXCHANGE ACT OF
1934, 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 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Canaccord Genuity LLC (“Canaccord”).

II.

In anticipation of the institution of these proceedings, Canaccord 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, Canaccord consents to the entry of this Order Instituting Administrative and Cease-And-Desist Proceedings Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934, 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 Canaccord's Offer, the Commission finds¹ that:

A. SUMMARY

1. These proceedings concern Canaccord's failure to comply with its obligations under Rule 15c2-11 of the Exchange Act to collect, review and retain issuer information. From at least October 2017 through September 2018, (the "relevant period"), Canaccord willfully violated Section 15(c)(2) of the Exchange Act and Rule 15c2-11 thereunder by publishing quotations for dozens of over-the-counter ("OTC") and non-exchange-listed securities without a reasonable basis for believing that the issuer information was accurate in all material respects and was obtained from a reliable source. Canaccord has since revised and improved its policies and procedures with respect to Rule 15c2-11.

B. RESPONDENT

2. **Canaccord Genuity LLC ("Canaccord")** is a Delaware limited liability company and registered broker-dealer headquartered in New York, New York.

C. FACTS

i. *Relevant Background*

3. Rule 15c2-11 of the Exchange Act imposes requirements on broker-dealers as a means to prevent fraudulent, deceptive, or manipulative acts or practices in OTC markets. Specifically, and, with certain exceptions and exemptions, it requires broker-dealers, prior to initiating or resuming the publication or submission of a quotation for an OTC and non-exchange-listed security, to obtain, review and maintain certain information about the issuer including financial statements and certain other information. The broker-dealer must have a reasonable basis for believing that the information is accurate in all material respects and was obtained from a reliable source. FINRA Rule 6432 requires, among other things, that a broker-dealer demonstrate compliance with Rule 15c2-11 by making a filing with FINRA before initiating quotation of an equity OTC or non-exchange-listed security. This filing, known as the Form 211, must identify the type of security to be quoted and be reviewed and signed by a principal of the member firm.

ii. *Canaccord's Form 211 Process*

4. During the relevant period, Canaccord's written policies and procedures required the trader seeking to make a market in a security to "conduct reasonable due diligence on the security and transmit the necessary information to Compliance for record keeping purposes." Canaccord's written policies and procedures also provided that, prior to Canaccord becoming a registered market maker in the relevant security "the trader" must have a reasonable basis for believing that the information is accurate in all material respects and was obtained from reliable sources.

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.

Canaccord's written policies and procedures required all Form 211s to be reviewed and signed by a "designated principal."

5. Canaccord's actual practices with respect to Rule 15c2-11 deviated from its written policies and procedures. For example, during the relevant period, Canaccord delegated to a compliance associate the responsibility to obtain and review the information required by Rule 15c2-11 and to fill out and sign the Form 211s, including placing the electronic signature of the designated principal on the filings. The compliance associate had no trading experience and no formal training to conduct the review required by the rule, such as training related to the analysis of financial statements and other information.

6. As required by FINRA, Canaccord's filed Form 211s included certifications from the designated principal of the firm. These certifications included representations that the firm's designated principal had examined the form and, to the best of his knowledge and belief, it was true, correct and complete. They also represented that Canaccord had a reasonable basis for believing that the information accompanying each Form 211 was accurate in all material respects and that the information was from a reliable source.

7. However, as noted above, during the relevant period, the compliance associate generally placed the electronic signature of the designated principal on Canaccord's Form 211 filings without having a reasonable basis to believe that the representations were accurate. In addition, the compliance associate generally understood that the firm's designated principal had not actually examined the form prior to its submission. Although its written policies and procedures placed the Rule 15c2-11 review obligations on the trader and designated principal, during the relevant period, Canaccord lacked internal processes or procedures to ensure that the designated principal actually reviewed and signed off on a Form 211 filing prior to its submission to FINRA.

8. While Rule 15c2-11 files were maintained within the compliance department by the compliance associate, the files could not be independently accessed by the traders or the firm's designated principal without requesting them from the compliance department. During the relevant period, the traders who intended to make a market in the security rarely, if ever, obtained or reviewed the required information contemplated under the Rule and Canaccord's policies and procedures, and the firm's designated principal rarely, if ever, reviewed or signed the Form 211s. As a result of this lack of access to the Rule 15c2-11 files and, therefore, not conducting the review required by Rule 15c2-11, Canaccord did not have the requisite reasonable basis for believing that the required information was accurate in all material respects and was obtained from a reliable source.

9. As a result of the conduct described above, Canaccord willfully violated Section 15(c)(2) of the Exchange Act and Rule 15c2-11 thereunder.

iv. *Canaccord's Remedial Measures*

10. On or about November 29, 2018, Canaccord revised its written policies and procedures with respect to Rule 15c2-11 and related FINRA regulations. The new procedures require that, after obtaining supervisory approval, the responsible trader document in an email his or her request for assistance from the compliance department and include therein a description of

the issuer and the security, including the structure and nature of the product and risks related thereto.

11. The designated compliance associate then obtains and reviews the information required by Rule 15c211, escalates any issues requiring trading, product and/or legal expertise, drafts the Form 211 and submits the draft to the responsible trader and supervisory principal, both of whom are obligated to review the form and the accompanying materials. The compliance department now provides the market making desk direct access to the Rule 15c2-11 files. In addition, the procedures require that the designated principal complete a written attestation confirming review of the Form 211 application in accordance with Rule 15c2-11 and Canaccord's procedures, a copy of which will be kept in the information file. The market making desk also is required to escalate new, complex products to the firm's new product approval committee.

12. In determining whether to accept the Offer, the Commission considered remedial measures undertaken by Canaccord and the cooperation afforded the staff.

IV.

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

Accordingly, pursuant to Sections 15(b) and 21C of the Exchange Act, it is hereby ORDERED that:

A. Canaccord cease and desist from committing or causing any violations and any future violations of Section 15(c)(2) of the Exchange Act and Rule 15c2-11 thereunder.

B. Canaccord is censured.

C. Canaccord shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of \$250,000 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 Canaccord 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 Reid Muoio, Division of Enforcement, Securities and Exchange Commission, 100 F St, NE, Washington, DC 20549-6013.

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