

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 88567 / April 6, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-19743

In the Matter of

Cantor Fitzgerald & Co.,

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 Cantor Fitzgerald & Co. (“Cantor” 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. Respondent admits the facts set forth in Section III. below, acknowledges that its conduct violated the federal securities laws, admits the Commission’s jurisdiction over it and the subject matter of these proceedings, and 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 Respondent's Offer, the Commission finds that:

Summary

1. These proceedings arise out of Cantor's failure to submit to the Commission true and complete data in response to Commission staff electronic blue sheets ("EBS") requests, resulting in the reporting of EBS that was incomplete or deficient.

2. Commission staff routinely sends requests for securities trading records to market makers, brokers and/or clearing firms in order to identify buyers and sellers of securities, and firms provide the requested records in a universal electronic format known as the EBS format. It is a fundamental obligation of broker-dealers to provide complete and accurate EBS data when requested by representatives of the Commission to do so. The submission of complete and accurate blue sheet data is critical to many aspects of the Commission's operations and its ability to discharge its enforcement and regulatory mandates. The failure of a broker-dealer to provide complete and accurate EBS information in response to a Commission request can impact the Commission's ability to discharge its statutory obligations, undermine the integrity of its investigations and examinations, and ultimately interfere with the Commission's ability to protect investors.

3. From January 1, 2014 to September 14, 2019 (the "relevant period"), Cantor submitted 14,868 EBS to the Commission, containing trade data for 34,884,409 transactions, all of which were deficient in one or more ways. As a result, Cantor violated the recordkeeping and reporting requirements of Section 17(a)(1) of the Exchange Act and Rules 17a-4(j) and 17a-25 thereunder.

4. Section 17 of the Exchange Act imposes on broker-dealers recordkeeping and reporting requirements that are essential to the Commission's ability to enforce the federal securities laws and to protect investors. To ensure the continued effectiveness of the Commission's enforcement and regulatory programs, broker-dealers must comply with, among other things: Rule 17a-25, requiring that broker-dealers submit electronically securities transaction information upon request by the Commission; and Rule 17a-4(j), requiring broker-dealers to furnish promptly legible, true, complete, and current copies of required records upon request by a representative of the Commission. Cantor failed to comply with these requirements, as described below.

Respondent

5. **Cantor Fitzgerald & Co. ("Cantor")** is a general partnership headquartered in New York, New York, that with its predecessor, has been registered with the Commission as a broker-dealer since 1947 and previously was dually registered as a broker-dealer and investment adviser at various times between 1994 and 2007.

Facts

A. Cantor's Deficient EBS Submissions

6. From at least January 1, 2014 through September 14, 2019, Cantor submitted 14,868 EBS to the Commission, containing trade data for 34,884,409 transactions, all of which were deficient in one or more ways.

7. Cantor's submissions contained inaccurate or missing EBS fields relating to firm or customer identifying information such as name and address fields, contra party identifiers, registered representative numbers, and opposing broker numbers. For example, of the 34,884,409 deficient transactions, Cantor reported incorrect name and address fields for 99%. In addition, Cantor reported approximately 30.6 million transactions (87% of all transactions reported) with incorrect contra party identifier codes and approximately 30.2 million transactions (86% of all transactions reported) with incorrect registered representative numbers. These deficient securities transaction fields resulted from an undetected coding error, software issues, and human error in maintaining certain EBS data files.

8. Cantor's submissions also contained inaccurate or missing data in EBS fields related to information such as average price account, exchange codes, and order execution time. For example, of the 34,884,409 deficient transactions, Cantor misreported approximately 25.9 million securities transactions (74% of all transactions reported) in which the average price account data field (e.g., house accounts used to incrementally execute orders over time and then transfer the shares between the customer's account and the average price account in one transaction) was left blank. Cantor further reported incorrect exchange code identifiers for approximately 25.5 million securities transactions (73% of all transactions reported). Finally, Cantor reported incorrect or blank order execution time data for approximately five million securities transactions (14% of all transactions reported). Cantor's failure to provide correct exchange codes, average prices, and order execution time data also resulted from undetected coding errors and software issues.

9. Cantor did not detect the errors in its EBS submissions, at least in part, because it did not have a reasonable process to verify that all of the fields required to be populated in EBS submissions included accurate values and information. For example, Cantor did not have pre-submission controls to validate that the information in its EBS submissions was complete and accurate. Because Cantor lacked processes for validating the accuracy of the information reported in its EBS submissions, no one at the firm recognized the systemic issues that led to the firm's regular reporting of deficient EBS information.

B. Cantor's Remedial Efforts

10. Cantor engaged in remedial efforts to address the causes for its deficient EBS submissions. Specifically, Cantor retained a regulatory and technology consultant to review its EBS reporting process and assist Cantor in the identification and correction of the deficiencies in

its EBS reporting. Further, Cantor is instituting new controls over its EBS reporting processes intended to ensure the completeness and accuracy of its EBS submissions – such as implementing a validation and correction process which identifies and remediates both system and human errors. Cantor is in the process of revising its supervisory procedures to reflect its new process for responding to EBS requests and verifying the accuracy of the information provided to regulators and is also in the process of resubmitting corrected EBS for the relevant period to the Commission.

Violations of the Federal Securities Laws

11. Section 17(a)(1) of the Exchange Act requires, among other things, that broker-dealers make and keep for prescribed periods such records, furnish such copies thereof, and make and disseminate such reports as the Commission, by rule, prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the securities laws. Exchange Act Rule 17a-4(j), promulgated thereunder, requires, in part, broker-dealers such as Cantor to furnish promptly legible, true, complete, and current copies of those records of the member, broker or dealer that are required to be preserved under Exchange Act Rule 17a-4 and any other (i.e., non-required) records of the member, broker or dealer subject to examination under Section 17(b) of the Exchange Act that are requested by a representative of the Commission. Likewise, Exchange Act Rule 17a-25 requires that broker-dealers such as Cantor shall, upon request, electronically submit to the Commission the securities transaction information as required in the rule.

12. As described above, Cantor failed to furnish complete and accurate records to the Commission staff that were requested by the Commission in its blue sheet requests. Therefore, Cantor willfully violated the recordkeeping and reporting requirements of Section 17(a)(1) of the Exchange Act and Rule 17a-4(j) thereunder by failing to furnish promptly true and complete trading information as requested by Commission staff over a period of approximately five years. In addition, Cantor willfully violated Exchange Act Rule 17a-25 by failing to submit electronically certain securities transaction information to the Commission through the EBS system in response to requests made by the Commission.

Cantor's Remedial Efforts

In determining to accept the Offer, the Commission considered remedial acts undertaken by Respondent and cooperation afforded the Commission staff.

IV.

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

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

A. Respondent Cantor cease and desist from committing or causing any violations and any future violations of Section 17(a)(1) of the Exchange Act and Rules 17a-4(j) and 17a-25 promulgated thereunder.

B. Respondent Cantor is censured.

C. Respondent Cantor shall, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of \$3.2 million 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 Cantor 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 Kelly L. Gibson, Regional Director, Philadelphia Regional Office, Securities and Exchange Commission, One Penn Center, 1617 John F. Kennedy Blvd., Suite 520, Philadelphia, Pennsylvania 19103-1844.

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