



## NEWS RELEASE

# Six Exchanges Collectively Fine Merrill Lynch \$3 Million for Violating the SEC's Market Access Rule and the Exchanges' Respective Supervision Rules

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Kansas City and New York – The Bats BZX Exchange, Inc., Bats BYX Exchange, Inc., Bats EDGX Exchange, Inc., New York Stock Exchange LLC, NYSE Arca, Inc., and The NASDAQ Stock Market LLC (collectively, the “exchanges”) announced today that, in disciplinary actions initiated by the Financial Industry Regulatory Authority (“FINRA”) on their behalf, the exchanges collectively fined Merrill Lynch, Pierce, Fenner & Smith Incorporated (“Merrill Lynch” or the “firm”) \$3 million for violating the Securities and Exchange Commission’s (“SEC”) market access rule and the exchanges’ respective supervision rules.

The SEC’s market access rule, Rule 15c3-5, requires, among other things, that broker-dealers who provide customers with access to the markets implement risk management controls reasonably designed to prevent the entry of erroneous or unintended orders that might otherwise jeopardize the broker-dealer’s financial condition, that of other market participants, or the integrity of the markets. As a result of the investigation, the exchanges found, among other things, that at various times during the period from July 14, 2011 through October 20, 2014 (the “Review Period”) the firm’s controls for preventing the entry of erroneous or unintended orders were not adequate. More specifically, the exchanges found that:

- The single order quantity (“SOQ”) limits and the single order notional value (“SOV”) limits established by certain of the firm’s trading desks were set at levels too high to be reasonably expected to prevent erroneous orders without additional erroneous order controls in place to supplement the SOQ and SOV limits established by those desks;
- Certain of the firm’s trading desks failed to implement a control designed to reject orders whose price was not

reasonably related to the quoted price of the security by Rule 15c3-5's July 14, 2011 compliance date;

- The firm's controls for managing the risk of unintended or inadvertent orders resulting from malfunctioning software programs or systems were too narrow to be reasonably designed to manage such risk; and
- The firm failed to regularly review its erroneous order controls for the purpose of ensuring that they were effective.

The exchanges found that, during the Review Period, the firm filed over 200 clearly erroneous petitions with the exchanges, raising concerns among the exchanges about the adequacy of the firm's erroneous order controls. In some instances, the market disruption caused by these erroneous orders was substantial. For example, on May 17, 2013, with less than a minute to go in the trading day, one of the firm's traders entered a market order to sell 400,000 shares of Anadarko Petroleum Corporation ("APC") for the firm's account. That order represented approximately 12 percent of the stock's ADV over the prior 30 calendar days. When the trader became concerned that a portion of the order was hung up in the firm's system, and that little time remained in the trading day in which to execute the order, the trader entered a new sell order for 150,000 shares, directing a firm algorithm to use an aggressive trading strategy to execute the order. The handling of the order resulted in the price of APC dropping from \$90.24 to \$0.01 by the time both orders were executed, a price decline in the last second of trading of 99.99%. As a result of the error, all executions at or below \$87.56 were broken.

In addition to the deficiencies described above, the exchanges also found that that the firm violated the SEC's market access rule in that:

- The firm's supervisory policies and procedures were not reasonably designed to detect and prevent wash sales in that the firm's exception report for certain direct market access clients did not include certain potential wash sales transactions for review;
- The firm failed to establish a capital threshold for two of its trading desks by the November 30, 2011 compliance date, and failed to fully automate the capital control for one of those desks;
- The credit threshold established by the firm for certain of its customers was not reasonably designed to systematically limit the firm's financial exposure; and
- Certain of the written descriptions maintained by the firm that described the firm's erroneous order controls in effect on the dates reviewed by the exchanges were incomplete and/or inaccurate.

As a result of the above violations, Merrill Lynch also violated the exchanges' respective supervision rules.

Tami Schademann, Chief Regulatory Officer, BATS Exchange Inc., John Zecca, Senior Vice President of Market Regulation for Nasdaq's U.S. Markets and Anthony J. Albanese, Chief Regulatory Officer for NYSE, issued the following joint statement: "Today's announcement by the six exchanges underscores the exchanges' efforts at ensuring firms comply with the SEC's market access rule and exchange supervision rules which require firms maintain effective risk management controls and procedures to prevent the entry of erroneous or unintended

orders as well as effective capital and credit thresholds. Adherence by firms to these requirements is essential to the stability of U.S. financial markets.”

In concluding this settlement, Merrill Lynch neither admitted nor denied the charges, but consented to the entry of the exchanges’ findings. In resolving this matter, FINRA took into consideration a parallel disciplinary action instituted against the firm by the SEC.

The settlements will become final on the dates set by the rules of the respective self-regulatory organizations.

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