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UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of:

Enskilda Futures Limited,

Respondent.

CFTC Docket No. 13 – 17

ORDER INSTITUTING PROCEEDINGS PURSUANT TO SECTIONS 6(c) and 6(d) OF THE COMMODITY EXCHANGE ACT, MAKING FINDINGS AND IMPOSING REMEDIAL SANCTIONS

I.

The Commodity Futures Trading Commission ("Commission") has reason to believe that for eleven (11) days between July 14 and August 2, 2011 (the "Relevant Period"), Enskilda Futures Limited ("EFL") violated Section 4f(b) of the Commodity Exchange Act (the "Act"), 7 U.S.C. § 6f(b) (2006), and Commission Regulation 1.17, 17 C.F.R. § 1.17 (2011).[1] Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether EFL has engaged in the violations as set forth herein and to determine whether any order should be issued imposing remedial sanctions.

II.

In anticipation of the institution of this administrative proceeding, EFL has submitted the Offer of Settlement of Respondent Enskilda Futures Limited ("Offer"), which the Commission has determined to accept. Without admitting or denying any of the findings or conclusions herein, EFL consents to the entry of this Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act, Making Findings and Imposing Remedial Sanctions

[1] The acts resulting in violations of the Act and Commission Regulations occurred in 2011. Therefore, citations to the Code of Federal Regulations related to violations cite the 2011 version of the Code of Federal Regulations. However, prospective references to the Code of Federal Regulation cite the current version, which is 2012.

("Order") and acknowledges service of this Order.[2]

III.

The Commission finds the following:

A. Summary

EFL is a registered futures commission merchant ("FCM") located in London, United Kingdom. EFL enters orders and clears trades on Globex, the CME Group, Inc.'s ("CME") electronic trading platform, on behalf of certain clients of its ultimate parent, Skandinaviska Enskilda Banken, AB ("SEB").

During the Relevant Period, EFL failed to call for sufficient margin collateral on an intra-month basis from SEB. At month end, EFL and SEB settled up and EFL called for gross margin; thus, there was no effect on EFL's monthly capital. The failure to collect adequate gross margin on an intra-month basis resulted in EFL failing to meet the minimum capital requirements as set forth in Section 4f(b) of the Act, 7 U.S.C. § 6f(b) (2006), and Commission Regulation 1.17, 17 C.F.R. § 1.17 (2011), on eleven (11) days during the Relevant Period. The capital deficiencies ranged from $1.7 million to $27.6 million.

The error was discovered during a routine risk-based audit by CME on or about November 8, 2011. On November 9, 2011, EFL filed notice with the Commission, the National Futures Association (the "NFA") and the CME, pursuant to Commission Regulation 1.12(a) and (f)(3) (2011), advising of its failure to meet the net capital requirements during the relevant period. EFL immediately undertook measures to revise its policies and procedures and collect adequate margin collateral from its customer.

EFL has cooperated fully with CME and Commission staff. Further, it appears that at all times during the Relevant Period, SEB possessed ample funds to satisfy any intra-month collateral call from EFL. EFL need only have collected such funds.

B. Respondent

Enskilda Futures Limited. is a London-based FCM with its address at Scandinavian House, 2-6 Cannon Street, London, United Kingdom. EFL has been continuously registered

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[2] EFL consents to the entry of this Order and the use of these findings in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party provided, however, that EFL does not consent to the use of the Offer, or the findings or conclusions consented to in this Order, as the sole basis for any other proceeding brought by the Commission, other than in a proceeding in bankruptcy or to enforce the terms of this Order. Nor does EFL consent to the use of the Offer or this Order, or the findings or conclusions consented to in the Offer or this Order, by any other party in any other proceeding.

with the Commission as an FCM since July 8, 2004.

C. Facts

As a registered FCM, EFL enters orders and clears trades on Globex, CME's electronic trading platform, on behalf of an omnibus account held by its ultimate parent, SEB. SEB is a financial services group incorporated and monitored in Sweden, whose activities include futures and options brokering outside of the United States.

EFL is required to post *net* margin collateral with the CME for positions held by EFL's client SEB. However, pursuant to CME Rule 930.J, EFL is required to collect *gross* margin collateral from SEB, which holds an omnibus account with EFL.

During the Relevant Period, EFL collected only net margin collateral from SEB on an intra-month basis and not gross margin collateral as required. At month end, EFL and SEB settled up and EFL called for gross margin; thus, there was no effect on EFL's monthly capital. However, because EFL failed to collect adequate margin collateral on an intra-month basis from SEB, EFL was required to take appropriate charges to its adjusted net capital for the deficit between gross and net margin collateral collected.[3]

Also, during the Relevant Period, EFL maintained a buffer of approximately ten million dollars ($10,000,000) in additional excess capital.

The difference between the net margin collateral collected and gross margin collateral required exceeded the buffer of ten million dollars ($10,000,000) on eleven days during the Relevant Period. Thus, on those eleven (11) days, EFL failed to meet the minimum net capital requirements as follows:

Date	Minimum Net Capital Deficiency as a Result of Capital Charge
July 14, 2011	$16,167,025
July 15, 2011	$10,362,146
July 18, 2011	$27,624,627
July 19, 2011	$7,164,000
July 21, 2011	$1,722,836

[3] Adjusted net capital must be reduced when an FCM fails to collect sufficient margin collateral from its customer. *See* 17 C.F.R. §1.17(c)(5)(ix) (2011) ("The term 'adjusted net capital' means net capital less: ... (ix) In the case of a futures commission merchant, for undermargined commodity futures and commodity option noncustomer and omnibus accounts the amount of funds required in each such account to meet maintenance margin requirements of the applicable board of trade[.]").

July 22, 2011	$2,786,493
July 25, 2011	$3,989,959
July 27, 2011	$11,510,743
July 28, 2011	$15,221,535
August 1, 2011	$11,552,898
August 2, 2011	$15,512,312

CME noticed the error in margining procedure during a routine risk-based audit and brought it to EFL's attention on or about November 8, 2011. On November 9, 2011, EFL filed a notice with the Commission, the NFA and the CME, pursuant to Commission Regulation 1.12(a) and (f)(3) (2011), advising of its failure to meet the net capital requirements during the relevant period.

EFL cooperated with the CME and immediately developed and implemented revised margining procedures, which call for gross margin collateral on an intra-month basis.

EFL has also cooperated fully with Division of Enforcement staff throughout the course of its investigation.

At all times during the Relevant Period, SEB held ample funds to satisfy any intra-month margin call from EFL.

IV. LEGAL DISCUSSION

A. EFL Failed to Meet the Minimum Financial Requirements

The Act and Commission Regulations set forth minimum financial requirements for FCMs. EFL's error in its margining procedure resulted in EFL failing to meet the minimum financial requirements as set forth in the Act and Commission Regulations on eleven (11) days.

Pursuant to Section 4f(b) of the Act, 7 U.S.C. § 6f(b) (2006), "no person desiring to register as futures commission merchant shall be so registered unless he meets such minimum financial requirements as the Commission may by regulation prescribe as necessary to insure his meeting his obligations as a registrant, and each person so registered shall at all times continue to meet such prescribed minimum financial requirements . . . ."

Commission Regulation 1.17(a)(1)(i)(B) sets forth the minimum financial requirements and provides that each FCM must maintain "adjusted net capital" "equal to or in excess of ... [t]he futures commission merchant's risk-based capital requirement, computed as eight percent of the total risk margin requirement for positions carried by the futures commission merchant in customer accounts and noncustomer accounts." 17 C.F.R. §1.17(a)(1)(i)(B) (2011).[4]

[4] "Risk margin for an account means the level of maintenance margin or performance bond required for the customer or noncustomer positions by the applicable exchanges or clearing

Thus, when EFL failed to call for and collect sufficient margin collateral from SEB on an intra-month basis, it was required to reduce its adjusted net capital by an equivalent amount. *See* 17 C.F.R. §1.17(c)(5)(ix) (2011). During the Relevant Period, EFL maintained a buffer of approximately ten million dollars ($10,000,000) in additional excess capital. However, on eleven (11) days, the difference between the net margin collateral collected and gross margin collateral required exceeded the buffer, resulting in deficiencies. As a result, on those eleven (11) days, EFL's adjusted net capital fell below the minimum net capital required as set forth in Section 6f(b) of the Act, 7 U.S.C. § 6f(b) (2006), and Commission Regulation 1.17, 17 C.F.R. §1.17 (2011).

B. EFL Promptly Reported the Deficiencies Upon Discovery

EFL's error in margining procedure was discovered during a routine-risk based audit by the CME on or about November 8, 2011. EFL made the required adjustments to its computation of adjusted net capital, identified the deficiencies, and immediately filed notices of deficiency with the Commission, the NFA and CME, pursuant to Commission Regulation 1.12(a) and (f)(3) (2011), as required.

V. FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that, during the Relevant Period, EFL violated Section 6f(b) of the Act, 7 U.S.C. § 6f(b) (2006), and Commission Regulation 1.17, 17 C.F.R. §1.17 (2011).

VI. OFFER OF SETTLEMENT

EFL has submitted the Offer in which it, without admitting or denying the findings and conclusions herein:

A. Acknowledges receipt of service of this Order;

B. Admits the jurisdiction of the Commission with respect to all matters set forth in this Order and for any action or proceeding brought or authorized by the Commission based on violation of or enforcement of this Order;

C. Waives:

1. the filing and service of a complaint and notice of hearing;

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organizations, and, where margin or performance bond is required only for accounts at the clearing organization, for purposes of the FCM's risk-based capital calculations applying the same margin or performance bond requirements to customer and noncustomer positions in accounts carried by the FCM…." 17 C.F.R. §1.17(b)(8) (2011).

2. a hearing;

3. all post-hearing procedures;

4. judicial review by any court;

5. any and all objections to the participation by any member of the Commission's staff in the Commission's consideration of the Offer;

6. any and all claims that it may possess under the Equal Access to Justice Act, 5 U.S.C. §504 (2006) and 28 U.S.C. §2412 (2006), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Commission's Regulations, 17 C.F.R. §§ 148.1-30 (2012), relating to, or arising from, this proceeding;

7. any and all claims that it may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, §§ 201-253, 110 Stat. 847, 857-868 (1996), as amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112, 204-205 (2007), relating to, or arising from, this proceeding; and

8. any claims of Double Jeopardy based on the institution of this proceeding or the entity in this proceeding of any order imposing a civil monetary penalty or any other relief;

D. Stipulates that the record basis on which this Order is entered shall consist solely of the findings contained in this Order to which EFL has consented in the Offer;

E. Consents, solely on the basis of the Offer, to the Commission's entry of this Order that:

1. makes findings by the Commission that EFL violated Section 6f(b) of the Act, 7 U.S.C. § 6f(b) (2006), and Commission Regulation 1.17, 17 C.F.R. §1.17 (2011);

2. orders EFL to cease and desist from violating Section 6f(b) of the Act, 7 U.S.C. § 6f(b) (2006), and Commission Regulation 1.17, 17 C.F.R. §1.17 (2012);

3. orders EFL to pay a civil monetary penalty in the amount of one hundred twenty-five thousand dollars ($125,000), within ten (10) days of the date of entry of this Order, plus post-judgment interest; and

4. orders EFL and its successors and assigns to comply with the conditions and undertakings consented to in the Offer and as set forth in Part VII of this Order.

Upon consideration, the Commission has determined to accept the Offer.

VII.

ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

A. EFL shall cease and desist from violating Section 6f(b) of the Act, 7 U.S.C. § 6f(b) (2006), and Commission Regulation 1.17, 17 C.F.R. §1.17 (2012).

B. EFL shall pay a civil monetary penalty in the amount of one hundred twenty-five thousand dollars ($125,000), within ten (10) days of the date of the entry of this Order (the "CMP Obligation"). If the CMP Obligation is not paid in full within ten (10) days of the date of entry of this Order, then post-judgment interest shall accrue on the CMP beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2006). EFL shall pay the CMP Obligation by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made by other than electronic funds transfer, the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

Commodity Futures Trading Commission
Division of Enforcement
Attn: Accounts Receivables – AMZ 340
E-mail Box: 9-AMC-AMZ-AR-CFTC
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone: (405) 954-5644

If payment by electronic funds transfer is chosen, EFL shall contact Linda Zurhorst or her successor at the above address to receive payment instructions and shall fully comply with those instructions. EFL shall accompany payment of the CMP Obligation with a cover letter that identifies EFL and the name and docket number of this proceeding. EFL shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

C. EFL and its successors and assigns shall comply with the following conditions and undertakings set forth in the Offer:

1. EFL shall continue to follow the policies and procedures adopted and implemented subsequent to November 8, 2011, with regard to collection of margin collateral. EFL shall provide a sworn statement signed by an

officer or director of EFL to the Division of Enforcement within 45 days of the date of entry of this Order certifying compliance with this provision and detailing the supervisory procedures required by this Order.

2. Public Statements: EFL agrees that neither it nor any of its successors and assigns, agents or employees under its authority or control shall take any action or make any public statement denying, directly or indirectly, any findings or conclusions in this Order or creating, or tending to create, the impression that this Order is without a factual basis; provided, however, that nothing in this provision shall affect EFL's: (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. EFL and its successors and assigns shall undertake all steps necessary to ensure that all of its agents and/or employees under its authority or control understand and comply with this agreement.

D. Partial Satisfaction: EFL understands and agrees that any acceptance by the Commission of partial payment of EFL's CMP Obligation shall not be deemed a waiver of its obligation to make further payments pursuant to this Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.

E. Change of Address/Phone: Until such time as EFL satisfies in full its CMP Obligation as set forth in this Order, EFL shall provide written notice to the Commission by certified mail of any change to its telephone number and mailing address within ten (10) calendar days of the change.

The provisions of this Order shall be effective on this date.

By the Commission

Melissa Jurgens
Secretary of the Commission
Commodity Futures Trading Commission

Dated: February 19, 2013