

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION



In the Matter of:)
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 Jie “Elaine” Yu,)
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 Respondent.) CFTC Docket No. 23-46
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ORDER INSTITUTING PROCEEDINGS PURSUANT TO
SECTION 6(c) AND (d) OF THE COMMODITY EXCHANGE ACT, MAKING
FINDINGS, AND IMPOSING REMEDIAL SANCTIONS

I. INTRODUCTION

The Commodity Futures Trading Commission (“Commission”) has reason to believe that in 2021, Jie “Elaine” Yu (“Yu” or “Respondent”) violated Section 4c(a)(2)(A)(ii) of the Commodity Exchange Act (“Act”), 7 U.S.C. § 6c(a)(2)(A)(ii) and Commission Regulation (“Regulation”) 1.38(a), 17 C.F.R. § 1.38(a) (2022). Therefore, the Commission deems it appropriate, and in the public interest, that public administrative proceedings be, and hereby are, instituted to determine whether Respondent engaged in the violations set forth herein and to determine whether any order should be issued imposing remedial sanctions.

In anticipation of the institution of an administrative proceeding, Respondent has submitted an Offer of Settlement (“Offer”) which the Commission has determined to accept. Without admitting or denying any of the findings or conclusions herein, Yu consents to the entry of this Order Instituting Proceedings Pursuant to Section 6(c) and (d) of the Commodity Exchange Act, Making Findings, and Imposing Remedial Sanctions (“Order”) and acknowledges service of this Order.¹

¹ Respondent agrees that the findings of fact and conclusions of law in this Order shall be taken as true and correct and be given preclusive effect without further proof in this proceeding and any other proceeding brought by the Commission or to which the Commission is a party or claimant, including but not limited to, a proceeding in bankruptcy or receivership. Respondent does not consent to the use of the Offer or this Order, or the findings or conclusions in this Order, by any other party in any other proceeding.

II. FINDINGS

The Commission finds the following:

A. SUMMARY

In October and November 2021 (the “Relevant Period”), Yu engaged in a series of illegal transactions on the Chicago Mercantile Exchange (“CME”) involving 33 non-competitive, fictitious sales of 410 futures contracts. Through this illegal scheme, Yu transferred at least, \$159,000 to her cousin, “Trader A” of Shanghai, China.

By engaging in this conduct, Yu violated Section 4c(a)(2)(A)(ii) of the Commodity Exchange Act (“Act”), 7 U.S.C. § 6c(a)(2)(A)(ii), by entering into transactions that are fictitious sales involving the purchase or sale of any commodity for future delivery. Yu also violated Commission Regulation (“Regulation”) 1.38(a), 17 C.F.R. § 1.38(a) (2022), by entering into illegal, non-competitive fictitious transactions to buy and sell commodities for future delivery.

B. RESPONDENT

Jie Yu (also known as “Elaine Yu”) resides in Irvine, California. Yu is registered with FINRA to trade securities. Yu has never been registered with the Commission in any capacity.

C. FACTS

During the Relevant Period, Yu entered into 33 fictitious, non-competitive sales, involving 410 futures contracts, with Trader A. Yu’s fictitious trading scheme focused on three futures contracts (1) CME Wheat Futures; (2) CME Oats Futures; and (3) CME Soybean Futures, all traded on CME’s Globex platform (collectively, the “Agricultural Futures”). For purposes of trading the Agricultural Futures at the heart of her fictitious trading scheme, Yu opened an account at FCM No. 1 (“Yu’s Account”). Soon thereafter, Trader A opened an account at FCM No. 2, for the express purpose of fictitious trading with Yu (“Trader A’s Account”).

Subsequently, Yu agreed to engage in a series of fictitious trades to move funds from her account to Trader A’s Account by trading, in concert, illiquid Agricultural Futures. Yu and Trader A worked in tandem, closely coordinated their trading, and synchronized their fictitious sales by communicating in real time about their bids and offers. Yu intentionally entered orders during periods of low overall trading volume with the express purpose of finding and matching Trader A’s opposite orders on CME Globex. Likewise, Yu consistently entered orders immediately after Trader A’s orders and aggressively “priced into” Trader A’s orders by crossing the bid-ask spread. Ultimately, Yu entered into 33 fictitious sales, involving 410 Agricultural Futures contracts, with Trader A. As a result of these trades, over \$159,000 was transferred from Yu’s Account to Trader A’s Account.

For example, on November 1, 2021 at approximately 12:40 a.m. (00:40:41.322, as represented in the CME trading data; all times are expressed in Central Time), Trader A placed an order to sell 15 contracts of July 2024 Wheat Futures at \$7.2875 per bushel (there are 5,000 bushels per contract) at FCM No. 2. At approximately 12:41 a.m. (00:41:12.324), Yu placed an

order to buy 10 contracts of July 2024 Wheat Futures, at \$7.29 per bushel at FCM No. 1. Instantaneously, the two orders matched on the CME at \$7.2875 for 10 contracts.

Approximately thirty-eight seconds later at 00:41:50.451(12:41 a.m.), Trader A placed an order to buy 10 contracts of July 2024 Wheat Futures at \$7.1625 per bushel. Less than a minute later, at 00:42:43.843 (12:42 a.m.), Yu placed an order to sell 10 contracts of July 2024 Wheat Futures at \$7.16 per bushel. At approximately 00:42:43.843 (12:42 a.m.), the two orders matched on the CME at \$7.1625. This series of trades resulted in the transfer of approximately \$6,250 from Yu's Account to Trader A's Account.

III. LEGAL DISCUSSION

Section 4c(a) of the Act, 7 U.S.C. § 6c(a), provides that it is unlawful for any person to enter into a transaction that:

- (i) is, is of the character of, or is commonly known to the trade as, a 'wash sale' or 'accommodation trade'; or
- (ii) is a fictitious sale.

A fictitious sale is a general category that includes, at a minimum, the unlawful practices specifically enumerated in Section 4c(a), as well as prearranged trading. *In re Thomas Collins*, CFTC No. 94-13, 1997 WL 761927, at *7 (Dec. 10, 1997). The Commission has held that “the central characteristic of the general category of fictitious sales is the use of trading techniques that give the appearance of submitting trades to the open market while negating the risk of price competition incident to such a market.” *In re Harold Collins*, CFTC No. 77-15, 1986 WL 66165 at *8 (Apr. 4, 1986) (holding that illegitimate prearranged trading is a form of fictitious sale “[b]y determining trade information such as price and quantity outside the pit, then using the market mechanism to shield the private nature of the bargain from public scrutiny, both price competition and market risk are eliminated.”), *rev'd on other grounds sub nom. Stoller v. CFTC*, 834 F.2d 262 (2d Cir. 1987). “By enacting Section 4c(a), Congress sought to ensure that all trades are focused in the centralized marketplace to participate in the competitive determination of the price of the futures contracts.” *In re Thomas Collins*, 1997 WL 761927, at *6 (quoting S. REP. NO. 93-1131, at 16-17 (1974)) (internal quotation marks omitted).

During the Relevant Period, Yu entered into a series of fictitious sales to shift funds from her account to Trader A's Account by trading, in concert, illiquid Agricultural Futures. Yu and Trader A worked in tandem, closely coordinated their trading, and synchronized their fictitious sales by communicating in real time about their bids and offers. Yu intentionally engaged in trading activity that lacked both price competition and market risk for the sole purpose of passing funds to Trader A's Account. Consequently, Yu violated Section 4c(a)(2)(A)(ii) of the Act, 7 U.S.C. § 6c(a)(2)(A)(ii) by engaging in a series of illegal transactions on the CME involving at least 33 fictitious sales involving 410 Agricultural Futures contracts.

Similarly, Regulation 1.38(a) provides that “[a]ll purchases and sales of any commodity for future delivery . . . on or subject to the rules of a contract market shall be executed openly and competitively . . .” 17 C.F.R. § 1.38(a) (2022). By engaging in fictitious trading—executed trades that, by definition, were not subject to the competitive forces of the market—

Respondent intentionally engaged in noncompetitive trading. As set forth above, such trading conduct negates the risk incident to a market and, as a result, Respondent's trading activity during the Relevant Period violated Regulation 1.38. *See In re Harold Collins*, 1986 WL 66165 at *8.

IV. FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that, during the Relevant Period, Yu violated Section 4c(a)(2)(A)(ii) of the Act, 7 U.S.C. § 6c(a)(2)(A)(ii) and Regulation 1.38(a), 17 C.F.R. § 1.38(a) (2022).

V. OFFER OF SETTLEMENT

Respondent Yu has submitted the Offer in which, without admitting or denying the findings and conclusions:

- A. Acknowledges 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;
 - 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 and 28 U.S.C. § 2412, and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. pt. 148 (2022), 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, tit. II, §§ 201-253, 110 Stat. 847, 857-74 (codified as amended at 28 U.S.C. § 2412 and in scattered sections of 5 U.S.C. and 15 U.S.C.), relating to, or arising from, this proceeding; and

8. Any claims of Double Jeopardy based on the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief, including this Order;
- D. Acknowledges that the Commission is the prevailing party in this action for purposes of the waiver of any and all rights under the Equal Access to Justice Act and the Small Business Regulatory Enforcement Fairness Act of 1996, specified in subparts 6 and 7 of Paragraph C of this Section;
- E. Stipulates that the record basis on which this Order is entered shall consist solely of the findings contained in this Order to which Yu has consented in the Offer;
- F. Consents, solely on the basis of the Offer, to the Commission's entry of this Order that:
 1. Makes findings by the Commission that Yu violated Section 4c(a)(2)(A)(ii) of the Act, 7 U.S.C. § 6c(a)(2)(A)(ii) and Regulation 1.38(a), 17 C.F.R. § 1.38(a) (2022);
 2. Orders Yu to cease and desist from violating Section 4c(a)(2)(A)(ii) of the Act, 7 U.S.C. § 6c(a)(2)(A)(ii) and Regulation 1.38(a), 17 C.F.R. § 1.38(a) (2022);
 3. Orders Yu to pay a civil monetary penalty in the amount of three-hundred thousand dollars (\$300,000.00) within fourteen days of the date of the entry of this Order, plus post-judgment interest, if applicable;
 4. Orders that Yu is prohibited from, directly or indirectly, engaging in trading on or subject to the rules of any registered entity (as that term is defined in Section 1a(40) of the Act, 7 U.S.C. § 1a(40), for a period of six months after the date of entry of this Order, and all registered entities shall refuse Respondent's trading privileges; and
 5. Orders Yu and her successors and assigns to comply with the conditions and undertakings consented to in the Offer and as set forth in Part VI of this Order,

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

VI. ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

- A. Yu shall cease and desist from violating Section 4c(a)(2)(A)(ii) of the Act, 7 U.S.C. § 6c(a)(2)(A)(ii) and Regulation 1.38(a), 17 C.F.R. § 1.38(a) (2022);
- B. Yu is prohibited from, directly or indirectly, engaging in trading on or subject to the rules of any registered entity (as that term is defined in Section 1a(40) of the Act, 7 U.S.C. §

1a(40), for a period of six months after the date of entry of this Order, and all registered entities shall refuse Respondent's trading privileges; and

- C. Yu shall pay a civil monetary penalty in the amount of three hundred thousand dollars (\$300,000.00) (the "CMP Obligation") within fourteen days of the date of the entry of this Order. If the CMP Obligation is not paid in full within fourteen days of the date of entry of this Order, then post-judgment interest shall accrue on the CMP Obligation 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.

Yu shall pay the CMP Obligation and any post-judgment interest 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 other than by electronic funds transfer, the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

MMAC/ESC/AMK326
Commodity Futures Trading Commission
Division of Enforcement
6500 S. MacArthur Blvd.
HQ Room 181
Oklahoma City, OK 73169
(405) 954-6569 office
(405) 954-1620 facsimile
9-AMC-AR-CFTC@faa.gov

If payment is to be made by electronic transfer, Yu shall contact Tonia King or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Yu shall accompany payment of the CMP Obligation with a cover letter that identifies Yu and the name and docket number of this proceeding. Yu 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, N.W., Washington, DC 20581.

- D. Yu and her successors and assigns shall comply with the following conditions and undertakings set forth in the Offer:
1. Public Statements: Yu agrees that neither she nor any of her successors, assigns, agents, or employees under her 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 Yu's and/or her agents' and/or employees' (i) testimonial obligations; or (ii) right to take positions in other proceedings to which the Commission is not a party. Yu and her successors and assigns shall comply with this Order, and shall

undertake all steps necessary to ensure that all of her agents and/or employees under her authority or control understand and comply with this agreement.

2. Trading Ban: Yu agrees that she shall not, for a period of six months from the date of entry of this Order, directly or indirectly:
 - a. enter into any transactions involving “commodity interests” (as that term is defined in Regulation 1.3, 17 C.F.R. § 1.3 (2022)) for her own personal accounts or for any accounts in which she has a direct or indirect interest;
 - b. have any commodity interests traded on her behalf;
 - c. control or direct the trading for or on behalf of any other person or entity, whether by power of attorney or otherwise, in any account involving commodity interests;
 - d. solicit, receive, or accept any funds from any person for the purpose of purchasing or selling any commodity interests;
 - e. apply for registration or claim exemption from registration with the Commission in any capacity, and engage in any activity requiring such registration or exemption from registration with the Commission except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2022); and/or
 - f. act as a principal (as that term is defined in Regulation 3.1(a), 17 C.F.R. § 3.1(a) (2022)), agent or any other officer or employee of any person (as that term is defined in Section 1a(38) of the Act, 7 U.S.C. § 1a(38)), registered, required to be registered, or exempted from registration with the Commission except as provided for in Regulation 4.14(a)(9).
3. Cooperation, In General: Respondent shall cooperate fully and expeditiously with the Commission, including the Commission’s Division of Enforcement, in this action, and in any current or future Commission investigation or action related thereto. Respondent shall also cooperate in any investigation, civil litigation, or administrative matter related to, or arising from, the subject matter of this action.
4. Partial Satisfaction: Yu understands and agrees that any acceptance by the Commission of partial satisfaction of her CMP Obligation shall not be deemed a waiver of her 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.
5. Change of Address: Until such time as Yu satisfies in full her CMP Obligation as set forth in this Order, Yu shall provide written notice to the Commission by

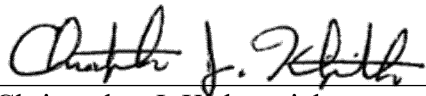
certified mail of any change to her telephone number and mailing address within ten days of the change.

6. Until such time as Respondent satisfies her CMP Obligation, upon the commencement by or against Respondent of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of Respondent's debts, all notices to creditor required to be furnished to the Commission under Title 11 of the United States Code or other applicable law with respect to such insolvency, receivership bankruptcy, or other proceedings shall be sent to the address below:

Secretary of the Commission
Office of the General Counsel
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington DC 20581

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

By the Commission.



Christopher J. Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission

Dated: September 22, 2023