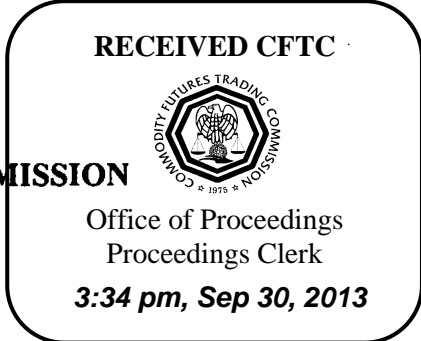


UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION



_____)
In the Matter of:)
)
ADM Investor Services, Inc.,) **CFTC Docket No. 13-43**
) _____
Respondent.)
)
)
_____)

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

I.

The Commodity Futures Trading Commission (“Commission”) has reason to believe that ADM Investor Services, Inc. (“ADMIS”) violated Section 4d(a)(2) of the Commodity Exchange Act (the “Act”), 7 U.S.C. § 6d(a)(2), and Commission Regulation 1.20(c), 17 C.F.R. § 1.20(c). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether ADMIS engaged in the violations set forth herein and to determine whether any order should be issued imposing remedial sanctions.

II.

In anticipation of the institution of an administrative proceeding, ADMIS 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, ADMIS consents to the entry of this Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act, as Amended, Making Findings and Imposing Remedial Sanctions (“Order”) and acknowledges service of this Order.¹

¹ADMIS consents to the entry of this Order and to 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, ADMIS does not consent to the use of the Offer, or the findings or conclusions in this Order consented to in the Offer, 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 ADMIS consent to the use of the Offer or this Order, or the findings or conclusions in this Order consented to in the Offer, by any other party in any other proceeding.

III.

The Commission finds the following:

A. Summary

ADM Investor Services, Inc. (“ADMIS”) is registered with the Commission as, among other things, a futures commission merchant (“FCM”). Pursuant to Section 4d(a)(2) of the Act, 7 U.S.C. § 6d(a)(2), and Commission Regulation 1.20(c), 17 C.F.R. § 1.20(c),² FCMs are required to segregate funds held on behalf of customers and are not permitted to commingle customer funds with the funds of any other person.

Prior to July 2011, ADMIS violated these segregation rules by treating as customer funds the funds of non-customer affiliates of ADMIS which were under common control with ADMIS and whose funds, therefore, constituted and should have been treated as non-customer funds of ADMIS and segregated from the funds of ADMIS’s customers. By combining funds of its commonly-controlled affiliates with funds of its customers, ADMIS unlawfully commingled its customers’ funds with funds in ADMIS’ non-customer accounts, in violation of Section 4d(a)(2) of the Act, 7 U.S.C. § 6d(a)(2), and Commission Regulation 1.20(c), 17 C.F.R. § 1.20(c).

B. Respondent

ADM Investor Services, Inc. (“ADMIS”), a corporation incorporated in the state of Delaware, has been registered with the Commission as an FCM since 1982. ADMIS is a wholly-owned subsidiary of Archer Daniels Midland Company (“ADM”).

C. Facts

Prior to July 2011, ADMIS treated the accounts of multiple entities (referred to herein as “Affiliates”) as customer accounts, notwithstanding ADM’s ownership interest in the Affiliates. ADM had ownership interests in the Affiliates ranging from 16% to 100%. In addition, ADM had a voting interest in each of the Affiliates (by virtue of ADM’s authority to appoint representatives to the Affiliates’ governing boards or equivalent governing bodies). Moreover, ADMIS is a wholly-owned subsidiary of ADM.

As a result of ADM’s ownership interest and voting interest in both the Affiliates and ADMIS, the Affiliates’ accounts were ADMIS’s non-customer accounts and ADMIS was prohibited from commingling its customers’ funds with funds held in the Affiliates’ accounts. In July 2011, ADMIS transferred its Affiliates’ positions and associated funds out of customer segregated accounts (the “July Transfer”).

² All citations to the Commission’s Regulations herein are to the text in effect prior to July 2011.

IV.

LEGAL DISCUSSION

Section 4d(a) of the Act provides that:³

It shall be unlawful for any person to engage as a[n FCM]...in soliciting orders or accepting orders for the purchase or sale of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market or derivatives transaction execution facility unless...(2) such person shall, if a[n FCM]..., treat and deal with all money, securities, and property received by such person to margin, guarantee, or secure the trades or contracts of any customer of such person, or accruing to such customer as the result of such trades or contracts, as belonging to such customer. Such money, securities, and property shall be separately accounted for and shall not be commingled with the funds of such [FCM] or be used to margin or guarantee the trades or contracts, or to secure or extend the credit, of any customer or person other than the one for whom the same are held.

Commission Regulation 1.20(c), 17 C.F.R. § 1.20(c), similarly provides that:

Each [FCM] shall treat and deal with the customer funds of a commodity customer or of an option customer as belonging to such commodity or option customer. All customer funds shall be separately accounted for, and shall not be commingled with the money, securities or property of a[n FCM] or of any other person, or be used to secure or guarantee the trades, contracts or commodity options, or to secure or extend the credit, of any person other than the one for whom the same are held....

Pursuant to Section 4d(a)(2) of the Act, 7 U.S.C. § 6d(a)(2), and Commission Regulation 1.20(c), 17 C.F.R. § 1.20(c), customer funds held by an FCM must be separately accounted for and may not be commingled with assets/positions of non-customers. An FCM is not permitted to commingle customer funds with funds in “proprietary accounts” as that term is defined in Commission Regulation 1.3(y). *See* Commission Regulation 1.3(k) (“An owner or holder of a proprietary account as defined in [Commission Regulation 1.3(y)] shall not be deemed to be a customer within the meaning of section 4d of the Act, the regulations that implement sections 4d and 4f of the Act and [Commission Regulation] 1.35[.]”); *see also In re Lincolnwood Commodities, Inc.*, 1984 WL 48104 at *10-12 (CFTC Jan. 31, 1984) (stating that Section 4d(a) of the Act and Commission Regulation 1.3(y) prohibit the commingling of customer funds with funds held in proprietary accounts). “Proprietary account” includes the account of a business affiliate of the FCM that, directly or indirectly, is controlled by or is under common control with the FCM. *See* Commission Regulation 1.3(y)(viii), 17 C.F.R. § 1.3(y)(viii).

³ Commission Regulation 33.2(a)(2) provides that Section 4d of the Act also applies to commodity options transactions.

Here, ADMIS is a wholly-owned subsidiary of ADM, and ADM had an ownership interest in the Affiliates ranging from 16% to 100% as well as a voting interest in each of the Affiliates. Consequently, ADM commonly controlled the Affiliates and ADMIS for purposes of Commission Regulation 1.3(y)(viii). By commingling customer funds and funds held in ADMIS' proprietary accounts prior to the July Transfer, ADMIS violated Section 4d(a)(2) of the Act, 7 U.S.C. § 6d(a)(2), and Commission Regulation 1.20(c), 17 C.F.R. § 1.20(c).

V.

FINDINGS OF VIOLATION

Based on the foregoing, the Commission finds that ADMIS violated Section 4d(a)(2) of the Act, 7 U.S.C. § 6d(a)(2), and Commission Regulation 1.20(c), 17 C.F.R. § 1.20(c).

VI.

OFFER OF SETTLEMENT

ADMIS 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;
 - 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 entry 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 ADMIS 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 ADMIS violated Section 4d(a)(2) of the Act, 7 U.S.C. § 6d(a)(2), and Commission Regulation 1.20(c), 17 C.F.R. § 1.20(c);
 2. orders ADMIS to cease and desist from violating Section 4d(a)(2) of the Act, 7 U.S.C. § 6d(a)(2), and Commission Regulation 1.20(c), 17 C.F.R. § 1.20(c);
 3. orders ADMIS to pay a civil monetary penalty in the amount of \$425,000, plus post-judgment interest; and
 4. orders ADMIS 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. ADMIS shall cease and desist from violating Section 4d(a)(2) of the Act, 7 U.S.C. § 6d(a)(2), and Commission Regulation 1.20(c), 17 C.F.R. § 1.20(c).
- B. ADMIS shall pay a civil monetary penalty in the amount of four hundred twenty-five thousand dollars (\$425,000) plus post-judgment interest ("CMP Obligation"), within ten (10) days of the date of entry of this Order. 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 ADMIS' 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 (2006). ADMIS shall pay its 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 other than by electronic funds transfer, then 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

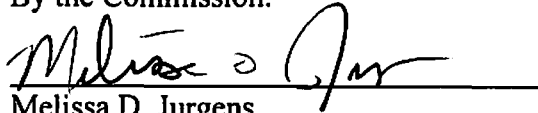
If payment is to be made by electronic funds transfer, ADMIS shall contact Linda Zurhorst or her successor at the above address to receive payment instructions and shall fully comply with those instructions. ADMIS shall accompany payment of the CMP Obligation with a cover letter that identifies ADMIS and the name and docket number of this proceeding. ADMIS shall simultaneously transmit copies of the cover letter and the form of payment to (1) the Regional Counsel, Division of Enforcement, Commodity Futures Trading Commission, 140 Broadway, 19th Floor, New York, NY 10005; and (2) the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

- C. ADMIS shall comply with the following conditions and undertaking set forth in the Offer:
1. **Improved Procedures:** ADMIS shall (to the extent, if any, it has not already done so) implement and maintain procedures designed to ensure the proper classification, as non-customer, of accounts owned by business affiliates of ADMIS that are controlled by ADMIS' parent company, ADM.
 2. **Public Statements:** ADMIS agrees that neither it nor any of its 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 ADMIS': (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. ADMIS 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.
 3. **Cooperation with the Commission:** ADMIS shall cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement, and any other governmental agency in this action, and in any investigation, civil litigation, or administrative matter related to the subject matter of this action or any current or future Commission investigation related thereto.
 4. **Partial Satisfaction:** ADMIS understands and agrees that any acceptance by the Commission of partial payment of ADMIS' 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.

5. Change of Address/Phone: Until such time as ADMIS satisfies in full its CMP Obligation as set forth in this Order, ADMIS 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 as of this date.

By the Commission.

A handwritten signature in black ink, appearing to read "Melissa D. Jurgens", is written over a solid horizontal line.

Melissa D. Jurgens
Secretary of the Commission
Commodity Futures Trading Commission

Dated: September 30, 2013