



Notice of Disciplinary Action Against Cutler Group, LP, a Member Organization

To: Members, Member Organizations, Participants and Participant Organizations
From: John C. Pickford, Enforcement Counsel, NASDAQ OMX PHLXSM
DATE: January 3, 2013

FINRA Matter No. 20100219659
Enforcement No. 2012-16

On January 2, 2013, the Business Conduct Committee (the "Committee") issued a disciplinary decision against Cutler Group, LP ("Cutler"), a member organization of the Exchange. In response to a Statement of Charges issued in this action, Cutler submitted an Offer of Settlement, Stipulation of Facts and Consent to Sanctions ("Offer"). Solely to settle this proceeding, and without admitting or denying the charges, Cutler consented to findings that during the period between July 2009 and March 2010 (the "Review Period"), it had violated Rules 204(a), 204(b) and 204(d) of Regulation SHO promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Exchange Rule 748(g) by, among other things: (i) failing to close-out 12 fail-to-deliver positions in YRC Worldwide, Inc. ("YRCW") within the required time frame; (ii) effecting numerous short sale transactions without first borrowing the security or entering a bona fide arrangement to borrow the security (the "pre-borrow requirement") while carrying open fail-to-deliver positions in YRCW; and (iii) failing to notify its clearing firm that it had failed to timely close out allocated fail-to-deliver positions in YRCW securities and that it had become subject to the pre-borrow requirement of Rule 204(b) for the positions that were not closed out within the required time frame.

The Firm also consented, without admitting or denying the charges, to findings by the Committee that Cutler had failed to follow and enforce the written supervisory policies and procedures it had implemented to supervise for, and prevent violations of, the deliver, pre-borrow and notification provisions of Regulation SHO promulgated under the Exchange Act.

The Offer submitted by Cutler was accepted by the Committee and was the basis of its Decision. The Committee found that Cutler had violated Rules 204(a), 204(b) and 204(d) of Regulation SHO promulgated under the Exchange Act, and Exchange Rule 748(g), concurred in the sanctions consented to by it, and ordered the imposition of the following sanctions: (i) a censure; and (ii) a fine in the amount of \$52,500.

For more information, contact:

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