

## Circular 24/001

### Disciplinary Notice: Settlement of Disciplinary Proceedings against R.J O'Brien (MENA) Capital Limited

#### Category

Disciplinary

#### Attachments

None

ICE Futures Europe (the "Exchange") has proceeded with and settled disciplinary measures against R.J O'Brien (MENA) Capital Limited ("MENA") following an investigation in which the Exchange suspected two brokers at MENA of taking advantage of client orders.

#### Background

In its investigation, the Exchange identified that, between January 2021 and April 2022, the two brokers frequently traded against their clients in Gasoil, Diesel, Fuel Oil, Gasoline and Naphtha futures markets at prices which were significantly marked-up by the brokers compared with prices quoted to the brokers by market makers. The two brokers concurrently arranged to trade with market makers in the opposite direction, for the same volume, enabling those brokers to offset their positions and realise considerable profits.

The two brokers did not inform their clients of the prices quoted by market makers, nor the details of the marked-up prices. Further, on multiple occasions the two brokers in question split their client trades into multiple transactions when reporting them to the Exchange. The Exchange considered that this was to disguise their trading strategy and give the impression to other market participants that multiple independent trades had occurred.

Further, the Exchange observed that MENA did not meet adequate standards in respect of its record keeping and that MENA did not have adequate systems and controls in place during the relevant period to properly supervise and monitor the two brokers' activity, nor to keep proper records of such activity.

MENA has since dismissed the two brokers involved.

#### Allegations

The Exchange considered that MENA, through the two brokers' trading activity described above, breached the following Exchange Rules:

##### **G.9 Abuse of Orders**

*(a) A Member must not take advantage of a client's order for its own benefit, the benefit of another Member or the benefit of any Member's Representative, whether by trading ahead of the client's order or otherwise.*

##### **F.7.5 Price**

*Members shall ensure, when submitting details of a Contingent Agreement to Trade in respect of Block Trades, that the price of any Block Trade being quoted represents the fair market value for that trade. On each occasion of quoting a price for a Contingent Agreement to Trade in respect of a Block Trade, the Member must, at the time, make it clear to the potential counterparty(ies), whether a Member or a client who is not a Member of the Exchange, that the price being quoted relates to a Block Trade price and not necessarily the prevailing Market price.*

##### **E.1.2 (a) Conduct in relation to trading**

*No Member (or other Person Subject to the Regulations) shall in relation to Contracts or Corresponding Contracts entered into, or orders placed, on the Market or otherwise in accordance with the Regulations:*

- (ii) act dishonestly;*
- (xi) mislead other market participants;*

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The Exchange considered that MENA's inadequate records and systems and controls described above breached the following Exchanges Rules:

#### **A.11 Systems and Controls**

*A.11.1 Without prejudice and in addition to any other specific requirement in these Regulations regarding systems and controls, each Member and non-Member Sponsored Principal shall be responsible for making adequate arrangements, systems and controls to ensure that:*

- (a) its internal affairs are organised and controlled in a responsible and effective manner with adequate risk management systems;*
- (b) its internal record-keeping is complete, adequate and consistent and compliant with applicable laws, including MiFID II (where applicable);*
- (c) all of its Responsible Individuals and Member's Representatives involved in the conduct of business on the Market are fit and proper, suitable, adequately trained and properly supervised;*
- (d) all business conducted on the Market including individual transactions complies with the Member's and Responsible Individual's obligations under the Regulations;*

#### **F.3 Transaction Records**

*(a) All Members shall keep proper and complete accounting and other records relating to all Contingent Agreements to Trade, bids, offers or orders in Block Transparency Auctions, details of transactions submitted to become ICE Futures Block Contracts, Contracts, Corresponding Contracts and Indirect Clearing Corresponding Contracts to which they are a party made on the Market or otherwise in accordance with the Regulations, whether for a Member's own or a client's account, and containing such details as the Directors or the Authorisation, Rules and Conduct Committee may from time to time prescribe. Separate accounts shall be kept in relation to each client and all orders and accounts shall be given a unique and clearly identifiable reference.*

Accordingly, the Exchange commenced disciplinary proceedings pursuant to Exchange Rule E.4.

In accordance with Exchange Rule E.4.3A, MENA was given the opportunity to settle disciplinary proceedings at any stage with the Exchange. An agreement was reached and, as per the same Exchange Rule, any terms of settlement agreed between the Compliance Officer and MENA required ratification by the Chair of the Authorisation, Rules and Conduct Committee. Following such ratification these terms shall now take effect.

#### **Details of Settlement**

MENA cooperated fully with the Exchange throughout the course of the investigation. In agreeing to the settlement terms, the Exchange took into account the remedial steps since taken by MENA to prevent reoccurrences of the misconduct in question, which includes the dismissal of the two brokers involved, enhancements to MENA's policies and procedures in respect of block trading, improvements in MENA's systems and controls for record keeping, increased supervision of broker trading activity, and further training in relation to block trading procedures.

As a result, MENA has agreed, without admitting or denying the alleged breaches, to settle the charge that MENA did not comply with Exchange Rules G.9(a), F.7.5, E.1.2(a)(ii) and (xi), A.11.1(a)(b)(c) and (d) and F.3(a) during the relevant period by:

- paying a total settlement amount of £1,318,100, reduced from £1,883,000 for early settlement.

But for the dismissal of the two brokers responsible for the trading activity in question, the Exchange also would have required significant suspensions from ICE Futures Europe markets for both brokers as part of the settlement terms.

The Exchange takes seriously any conduct which is contrary to the fair treatment of market participants and threatens the integrity of the Exchange's markets. The Exchange reminds Members as well that they should have in place effective systems and controls to ensure that proper record keeping is maintained in respect of trading activity and that such activity is properly monitored and supervised.

Please ensure that the appropriate members of staff within your organisation and customers are advised of the content of this Disciplinary Notice.

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**For more information, please contact:**

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