

FOR IMMEDIATE RELEASE

2014-114

Washington D.C., June 6, 2014 — The Securities and Exchange Commission today charged a New York-based brokerage firm that operates a dark pool alternative trading system with improperly using subscribers' confidential trading information in marketing its services.

Regulations require an alternative trading system (ATS) to establish and enforce safeguards and procedures to protect the confidential trading information of its subscribers. Among them is limiting access to subscribers' data to employees who operate the ATS or have a direct compliance role.

An SEC investigation found that Liquidnet Inc. violated its regulatory obligations and its own promises to its ATS subscribers during a nearly three-year period when it improperly allowed a business unit outside the dark pool operation to access the confidential trading data. Employees in that unit used the confidential information about Liquidnet's dark pool subscribers during marketing presentations and various communications to other customers. Liquidnet also used subscribers' confidential trading information in two ATS sales tools that it devised.

SEC examiners spotted potential data access problems during an examination of Liquidnet and referred the matter to the Enforcement Division for further investigation. Liquidnet has agreed to settle the SEC's charges and pay a \$2 million penalty.

"Dark pool operators violate the law when they fail to protect the confidential trading information that their subscribers entrust to them, as Liquidnet did here when it used this confidential information to try to expand its business," said Andrew J. Ceresney, director of the SEC Enforcement Division. "We will continue to aggressively police broker-dealers who operate an ATS and fail to rigorously ensure the protection of confidential trading information."

According to the SEC's order instituting a settled administrative proceeding, Liquidnet's core business is operating a block-trading dark pool for large institutional investors. Liquidnet has represented to its dark pool subscribers that it would keep their trading information confidential and allow them to trade with maximum anonymity and minimum information leakage. In an effort to find additional sources of liquidity for its dark pool, Liquidnet launched an Equity Capital Markets (ECM) desk in 2009 to offer block execution services to corporate issuers and control persons of corporate issuers as well as private equity and venture capital firms looking to execute large equity capital markets transactions with minimal market impact.

The SEC's order finds that Liquidnet provided ECM employees with access to the confidential trading information of dark pool subscribers from 2009 to late 2011, and they used it to market ECM's services. For example, ECM employees would provide issuers with descriptions of ATS subscribers who had recently indicated interest in buying or selling shares of issuers' stock. These descriptions included the geographic locations, approximate assets under management, and investment styles of those dark pool subscribers. ECM employees used dark pool subscribers' trading data to advise issuers about which institutional investors they should meet during investor conferences or non-deal roadshows. They also used dark pool subscriber data to advise ECM customers when they should execute transactions in the ATS given the liquidity the ECM employees could see in the dark pool.

"Liquidnet's subscribers trusted and believed that the firm was safeguarding their confidential information," said Daniel M. Hawke, chief of the SEC Enforcement Division's Market Abuse Unit. "Instead, the firm breached its assurances of confidentiality and anonymity to them by allowing its ECM employees to improperly access subscriber trading data."

According to the SEC's order, Liquidnet also improperly used the confidential trading data of dark pool subscribers in two ATS sales tools. Liquidnet created "ships passing" alerts that alerted ATS sales employees to missed execution opportunities between subscriber algorithmic orders and subscriber

indications. The firm also developed an application called Aqualytics, which identified subscribers to be contacted about Liquidnet's recent dominance in certain stocks.

The SEC's order charges Liquidnet with violating Section 17(a)(2) of the Securities Act of 1933, which prohibits obtaining money or property by means of materially false or misleading statements in the offer or sale of securities. Liquidnet also violated Rule 301(b)(2) of Regulation ATS, which requires that an ATS file certain amendments on Form ATS with the SEC, as well as Rule 301(b)(10) of Regulation ATS, which requires an ATS to establish adequate safeguards and procedures for protecting confidential trading information of its subscribers. Without admitting or denying the findings, Liquidnet consented to the SEC's order, which censures the firm and requires it to pay the \$2 million penalty and cease and desist from committing the violations.

The SEC's investigation was conducted by Simona Suh, Stephen A. Larson, and Mandy B. Sturmfelz of the Market Abuse Unit and Thomas P. Smith Jr. and Jordan Baker of the New York Regional Office. The case was supervised by Amelia A. Cottrell of the New York office. The SEC examiners who conducted the examination of Liquidnet that led to the investigation were June Reinertsen, Maggie Simmermon, Ronald Sukhu, Ian S. Felix, and Richard A. Heaphy of the New York office. The SEC appreciates the cooperation of the Financial Industry Regulatory Authority.

###

Related Materials

- [SEC order](#)