

II. FINDINGS

The Commission finds the following:

A. SUMMARY

During the Relevant Period, Daewoo Securities, which Mirae later acquired, by and through one of its traders (“Trader A”), engaged in the disruptive trading practice of “spoofing” (i.e., bidding or offering with the intent to cancel the bid or offer before execution) in the E-mini S&P 500 Index futures contract (the “E-Mini”) traded on the Chicago Mercantile Exchange (“CME”), a designated contract market owned and operated by CME Group Inc. The disruptive trading violated Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C) (2012).

In accepting the Offer, the Commission recognizes Mirae’s cooperation during the Division of Enforcement’s (“Division”) investigation of this matter. The Commission specifically notes that Mirae’s cooperation is being recognized in the form of a reduced civil monetary penalty.

B. RESPONDENT

Mirae Asset Daewoo Co., Ltd., formerly known as Mirae Asset Securities Co. Ltd., which acquired Daewoo Securities after the Relevant Period, is a brokerage and investment banking firm in the Republic of Korea (“Korea”). During the Relevant Period, Daewoo Securities engaged in proprietary futures contract trading in the United States through traders, including Trader A, in its Seoul office.

C. FACTS

1. Daewoo Securities’ Spoofing

During the Relevant Period, Daewoo Securities employed Trader A in Seoul, Korea. Trader A’s duties included placing orders for futures contracts, including the E-Mini contract, on the CME. During the Relevant Period, on behalf of Daewoo Securities and within the scope of his employment at Daewoo Securities, Trader A placed numerous orders for the E-Mini contract with the intent to cancel those orders before execution.

One strategy Trader A employed involved three steps. First, Trader A entered one or more disproportionately large orders—that he intended to cancel—on one side of the market (the “Spoof Order”). Trader A placed the Spoof Orders with the intention of giving a misleading impression of market depth and inducing other market participants to trade opposite the orders. Second, capitalizing on the increased buying or selling interest that the Spoof Orders created, Trader A placed a small order—that he intended to execute—on the opposite side of the market (the “Genuine Order”). Third, within seconds of the Genuine Order being filled, Trader A cancelled the Spoof Order before it was filled.

2. Mirae's Cooperation

Immediately upon learning of the Division's investigation into conduct engaged in by an employee of Daewoo Securities, which Mirae had acquired, Mirae began cooperating with the Division's investigation. As part of that cooperation, Mirae voluntarily produced documents and provided important information and analysis at the Division's request. In addition, Mirae hired U.S. counsel to conduct an internal review, which included reviewing documents and interviewing and meeting with more than a dozen Mirae Representatives in Seoul. Also as part of its review, Mirae hired an expert to analyze Trader A's trading activity. Mirae completed its investigation and data analysis in a timely fashion, which expedited the completion of the Division's investigation.

Due to Mirae's cooperation, the civil monetary penalty imposed by the Commission has been reduced from the otherwise applicable penalty.

III. LEGAL DISCUSSION

A. Spoofing in Violation of Section 4c(a)(5)(C) of the Act

Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C) (2012), makes it unlawful for “[a]ny person to engage in any trading, practice, or conduct on or subject to the rules of a registered entity that . . . is, is of the character of, or is commonly known to the trade as, ‘spoofing’ (bidding or offering with the intent to cancel the bid or offer before execution).” *See also United States v. Coscia*, 866 F.3d 782, 792-93 (7th Cir. 2017) (holding that because the Act clearly defines spoofing, it provides adequate notice of prohibited conduct), *cert denied*, 138 S. Ct. 1989 (2018). As described above, Daewoo Securities, by and through Trader A, entered bids or offers on a registered entity with the intent to cancel the bids or offers before execution in violation of Section 4c(a)(5)(C) of the Act.

B. Mirae Is Vicariously Liable for the Acts of Daewoo Securities, Which It Acquired After the Relevant Period

Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2012), and Commission Regulation (“Regulation”) 1.2, 17 C.F.R. § 1.2 (2019), provide that the act, omission, or failure of any official, agent, or other person acting for any individual, association, partnership, corporation, or trust within the scope of his or her employment or office shall be deemed the act, omission, or failure of such individual, association, partnership, corporation, or trust. Principals are strictly liable for the actions of their agents under Section 2(a)(1)(B) of the Act and Regulation 1.2. *See Dohmen-Ramirez v. CFTC*, 837 F.2d 847, 857-58 (9th Cir. 1988); *Rosenthal & Co. v. CFTC*, 802 F.2d 963, 966-67 (7th Cir. 1986); *CFTC v. Byrnes*, 58 F. Supp. 3d 319, 324 (S.D.N.Y. 2014).

Trader A engaged in the conduct described herein within the scope of his employment with Daewoo Securities, which was subsequently acquired by Mirae; therefore, pursuant to Section 2(a)(1)(B) of the Act and Regulation 1.2, Mirae, as successor to Daewoo Securities, is liable for Trader A's acts, omissions, and failures in violation of Section 4c(a)(5)(C) of the Act.

IV. FINDINGS OF VIOLATION

Based on the foregoing, the Commission finds that, during the Relevant Period, Daewoo Securities violated Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C) (2012).

V. OFFER OF SETTLEMENT

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

- 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 a 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 (2012) and 28 U.S.C. § 2412 (2012), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. pt. 148 (2019), 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 upon 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. Stipulates that the record basis on which this Order is entered shall consist solely of the findings contained in this Order to which Respondent has consented in the Offer; and

- 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 Daewoo Securities, which Mirae subsequently acquired, violated Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C) (2012);
 2. Orders Respondent to cease and desist from violating Section 4c(a)(5)(C) of the Act;
 3. Orders Respondent to pay a civil monetary penalty in the amount of seven hundred thousand dollars (\$700,000), plus post-judgment interest within ten days of the date of entry of this Order; and
 4. Orders Respondent and its 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. Respondent shall cease and desist from violating Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C) (2012).
- B. Respondent shall pay a civil monetary penalty in the amount of seven hundred thousand dollars (\$700,000) ("CMP Obligation"), within ten days of the date of the entry of this Order. If the CMP Obligation is not paid in full within ten 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 (2012).

Respondent 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, Respondent shall make the payment 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 fax
9-AMC-AR-CFTC@faa.gov

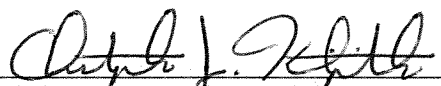
If payment is to be made by electronic funds transfer, Respondent shall contact Marie Thorn or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Respondent shall accompany payment of the CMP Obligation with a cover letter that identifies the paying Respondent and the name and docket number of this proceeding. The paying Respondent 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, NW, Washington, DC 20581.

- C. Respondent and its successors and assigns shall comply with the following conditions and undertakings set forth in the Offer:
1. Public Statements: Respondent agrees that neither it nor any of its successors and assigns, agents or employees under its authority or control shall take any action or make any public statement on behalf of Respondent 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 Respondent's: (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. Respondent and its successors and assigns shall comply with this agreement, and 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.
 2. Cooperation, in General: Respondent shall cooperate fully and expeditiously with the Commission, including the Division, in this action, and in any current or future Commission investigation or action related thereto. Respondent shall also cooperate with the Commission in any investigation, civil litigation, or administrative matter related to, or arising from, the subject matter of this action. As part of such cooperation, Respondent agrees to do the following for a period of two years from the date of the entry of this Order, or until all related investigations and litigation are concluded, including through the appellate review process, whichever period is longer:
 - i. Preserve all records relating to the subject matter of this proceeding, including, but not limited to, audio files, electronic mail, other communications, and trading records;
 - ii. Subject to applicable laws and regulations, comply fully, promptly, completely, and truthfully with all inquiries or requests for information and documents;
 - iii. Identify and authenticate relevant documents and other evidentiary materials, execute affidavits or declarations, and provide a corporate representative to testify completely and truthfully at depositions, trial, and other judicial proceedings, when requested to do so by Division Staff;

- iv. Subject to applicable laws and regulations, use its best efforts to produce any current (as of the time of the request) officer, director, employee, or agent of Respondent, regardless of the individual's location and at such a location that minimizes Commission travel expenditures, to provide assistance at any trial, proceeding, or Commission investigation related to the subject matter of this proceeding, including but not limited to, requests for testimony, depositions, and/or interviews, and to encourage them to testify completely and truthfully in any such proceeding, trial, or investigation; and
 - v. Subject to applicable laws and regulations, use its best efforts to assist in locating and contacting any prior (as of the time of the request) officer, director, employee, or agent of Respondent.
3. Partial Satisfaction: Respondent understands and agrees that any acceptance by the Commission of any partial payment of Respondent's 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.
4. Change of Address/Phone: Until such time as Respondent satisfies in full its CMP Obligation as set forth in this Order, Respondent shall provide written notice to the Commission by certified mail of any change to its telephone number and mailing address within ten calendar days of the change.

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: January 13, 2020