

Kathleen Banar, Chief Trial Attorney  
 (IL Bar No. 6200597)  
 David Slovick, Senior Trial Attorney  
 (IL Bar No. 6257290)  
 Margaret Aisenbrey, Trial Attorney  
 (Mo Bar No. 59560)  
 U.S. Commodity Futures Trading  
 Commission  
 1155 21 St. NW  
 Washington, DC 20581  
*kbanar@cftc.gov, dslovick@cftc.gov,*  
*maisembrey@cftc.gov*  
 (202) 418-5335  
 (202) 418-5987 (facsimile)

Blaine T. Welsh (NV Bar No. 4790)  
 Assistant United States Attorney  
 United States Attorney's Office  
 333 Las Vegas Boulevard, Suite 5000  
 Las Vegas, Nevada 89101  
*blaine.welsh@usdoj.gov*  
 (702) 388-6336  
 (702) 388-6787 (facsimile)

**UNITED STATES DISTRICT COURT  
 DISTRICT OF NEVADA**

	)	
<b>U.S. COMMODITY FUTURES TRADING</b>	)	
<b>COMMISSION,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Case No. 2:13-cv-00992-MMD-VCF</b>
	)	
<b>v.</b>	)	
	)	<b>CONSENT ORDER FOR</b>
	)	<b>PRELIMINARY INJUNCTIVE</b>
<b>BANC DE BINARY LTD. (A/K/A E.T.</b>	)	<b>RELIEF AGAINST DEFENDANT</b>
<b>BINARY OPTIONS LTD.),</b>	)	<b>BANC DE BINARY LTD.</b>
	)	
<b>Defendant.</b>	)	
	)	

1. On June 5, 2013, Plaintiff U.S. Commodity Futures Trading Commission (“Commission” or “CFTC”) filed a Complaint for Injunctive and Other Equitable Relief and for Civil Monetary Penalties against Defendant Banc de Binary Ltd., a/k/a E.T. Binary Options Ltd. (“Banc de Binary” or “Defendant”) for violations of the Commodity Exchange Act (“Act” or “CEA”), 7 U.S.C. §§ 1 *et seq.* (2012) and Commission Regulations (“Regulations”), 17 C.F.R. §§ 1.1 *et seq.* (2013), promulgated thereunder.

2. Specifically, the Complaint alleges that, during the period from May 2011 to the present, Banc de Binary through its internet trading website [www.bbinary.com](http://www.bbinary.com) (and affiliated websites [www.bancdebinary.com](http://www.bancdebinary.com), and [www.bbinary.net](http://www.bbinary.net)) (hereinafter, the “website”) violated Sections 4c(b), 2(e), and 4(a) of the Act, 7 U.S.C. §§ 6c(b), 2(e), and 6(a) (2012), and Regulations 32.2 and 32.11, 17 C.F.R. §§ 32.2 and 32.11 (2012) (repealed and replaced June 26, 2012), and Regulation, 17 C.F.R. § 32.2 (2013), by offering to, entering into with, confirming the execution of or maintaining a position in, and soliciting and accepting orders (and funds) from U.S. customers, including U.S. customers who were not “eligible contract participants” (“ECPs”), to trade options not excepted or exempted from the CFTC’s ban on trading options off-exchange. These include, among others, binary options betting on the prices of wheat, oil, gold, platinum, sugar, coffee, corn, foreign currency (“forex”) pairs, and stock indices.

3. In addition, the Complaint alleges that, during the period from July 2011 through at least March 2013, Banc de Binary operated as an unregistered futures commission merchant (“FCM”) and solicited and accepted orders (and funds) from U.S. customers, including U.S. customers who were not ECPs, in violation of Sections 2(c)(2)(B)(iv)(I)(aa) and 4d(a) of the Act, 7 U.S.C. §§ 2(c)(2)(B)(iv)(I)(aa) & 6d(a) (2012) and Regulation 5.3(a)(4)(i)(B), 17 C.F.R. § 5.3(a)(4)(i)(B) (2013).

4. On June 28, 2013, the CFTC filed a Motion for Preliminary Injunction and Other Equitable Relief (“PI Motion”) and Points and Authorities in Support against Banc de Binary.

5. On July 15, 2013, Banc de Binary filed a Motion to Dismiss Counts One, Three and Four of the Complaint.

6. Banc de Binary represents and warrants to the Court and the CFTC that:

- a. Since January 25, 2013, it has employed blocking technology to prevent any person with an internet protocol (IP) address that reflects his or her presence in the United States from opening a new Banc de Binary account, and that Banc de Binary has not knowingly permitted any person located in the U.S. to open a new account since that date.
- b. Since June 30, 2013, it has employed that blocking technology to prevent any existing customer accessing the website from an IP address that reflects his or her presence in the United States from executing any trades in that account, and that Banc de Binary has not knowingly permitted any person located in the U.S. to execute trades on Banc de Binary's platform since that date. Banc de Binary also represents and warrants to the Court and the CFTC that it has not solicited additional funds from, entered into any transactions with, or given trading advice to, any such U.S. person since that date.
- c. Banc de Binary intends to promptly process refunds from the accounts of existing U.S. customers, including those customers trading under the bonus program.

7. The CFTC does not endorse or otherwise confirm the accuracy of the representations by Banc de Binary set forth in paragraph 6 above, and stands by the allegations in its Complaint and the evidence submitted in support of its PI Motion. Nothing in this injunction and order shall limit the CFTC's ability to seek equitable or monetary relief from Banc de Binary, including a permanent injunction, restitution, disgorgement and civil monetary penalties, should Banc de Binary be found liable by this Court.

8. In consideration of the foregoing, and based upon the entire record in this case, the CFTC and Banc de Binary stipulate and agree to this Consent Order for Preliminary Injunction ("Order") containing the terms and conditions set forth below. Defendant Banc de Binary enters into this Order voluntarily, and no promise or threat has been made by the CFTC, or any member, officer, agent, or representative of the CFTC, to induce Defendant to consent to this Order.

9. The Court having considered the CFTC's Complaint, the PI Motion, the CFTC's supporting Points and Authorities for that motion and its supporting declarations and exhibits, the parties' agreement as set forth in paragraph 8 above, and for good cause shown, finds as set forth below. The Court does not make any findings with respect to the representations by Banc de Binary set forth in paragraph 6, above.

**ORDER OF PRELIMINARY INJUNCTION**  
**AND OTHER EQUITABLE RELIEF**

**I.**

**JURISDICTION AND VENUE**

**THE PARTIES AGREE AND IT IS HEREBY ORDERED** that:

10. This Court has jurisdiction over the parties and over the subject matter of this action pursuant to Section 2(c)(2) and 6c of the Act, 7 U.S.C. §§ 2(c)(2) and 13a-1 (2012).

Section 6c of the Act, 7 U.S.C. § 13a-1, authorizes the Court to enter a preliminary injunction against Defendant Banc de Binary.

11. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2006).

## II.

### PROHIBITION FROM VIOLATING THE ACT AND REGULATIONS

**THE PARTIES AGREE AND IT IS HEREBY ORDERED** that:

12. Defendant Banc de Binary, and all corporations, limited liability companies, partnerships, or other entities owned or controlled by (directly or indirectly), or otherwise affiliated with, Banc de Binary; all agents, servants, employees, successors, assigns, and attorneys of Banc de Binary; and all persons insofar as they are acting in active concert or participation with Banc de Binary who receive actual notice of this Order by personal service or otherwise, are hereby restrained and preliminarily enjoined from directly or indirectly:

- a. engaging in conduct in violation of Sections 4(a), 4c(b), 4d(a), 2(c)(2)(B)(iv)(I)(aa), and/or 2(e) of the Act, 7 U.S.C. §§ 6(a), 6c(b), 6d(a), 2(c)(2)(B)(iv)(I)(aa), 2(e) (2012), and Regulations 5.3, and 32.2, 17 C.F.R. §§ 5.3 and 32.2 (2013);
- b. operating any website containing any content that violates Sections 4(a), 4c(b), 4d(a), 2(c)(2)(B)(iv)(I)(aa), and/or 2(e) of the Act, 7 U.S.C. §§ 6(a), 6c(b), 6d(a), 2(c)(2)(B)(iv)(I)(aa), 2(e) (2012), or Regulations 5.3 or 32.2, 17 C.F.R. §§ 5.3 and 32.2 (2013);
- c. offering to, soliciting, or accepting any orders or funds from any person located in the U.S. (or its territories), through any website or by any other

means, for the purpose of purchasing or selling any commodity futures, options on commodity futures, commodity options (as that term is defined in Regulation 1.3(hh), 17 C.F.R. § 1.3(hh) (2013), including binary options as offered by the Defendant on the [www.bbinary.com](http://www.bbinary.com) website), foreign currency (as described in Sections 2(c)(2)(B) and 2(c)(2)(C)(i) of the Act, 7 U.S.C. §§ 2(c)(2)(B) and 2(c)(2)(C)(i) (2012)), security futures product and/or swap (as that term is defined in Section 1a(47)(A) of the Act, 7 U.S.C. § 1a(47)(A) (2012)), or retail commodity transactions (as described in Section 2(c)(2)(D) of the Act, 7 U.S.C. § 2(c)(2)(D) (2012)), in violation of the Act or the Regulations.

**THE PARTIES AGREE AND IT IS FURTHER ORDERED** that:

13. Banc de Binary and all persons insofar as they are acting in the capacity of agents, servants, employees, successors, assigns, or attorneys of Banc de Binary, and all persons insofar as they are acting in concert or participation with Banc de Binary who receive actual notice of this Order by personal service or otherwise, shall: within five (5) days of receipt of this Order, remove from the Internet or block all persons located in the U.S. from accessing all webpages posted by the Defendant, or authorized by the Defendant to be posted, in which Defendant 1) offers to enter into, enters into, confirms the execution of, or maintains a position in options (including binary options), swaps, or retail commodity transactions; or 2) solicits or accepts orders or accounts from persons located in the U.S. who are non-ECPs in connection with options (including binary options), swaps, or retail commodity transactions, at Banc de Binary or through any websites maintained or controlled by it.

### **III.**

#### **U.S. CUSTOMER INFORMATION**

**THE PARTIES AGREE AND IT IS FURTHER ORDERED** that:

14. Within five (5) days of the date of this Order, Defendant shall provide the CFTC with a list of all of Banc de Binary's U.S. customers who currently maintain accounts with Banc de Binary or who have maintained an account with Banc de Binary at any time between May 2011 and the present, including each customer's name, physical address(es), e-mail address(es), telephone number(s), and Banc de Binary trading account number(s).

### **IV.**

#### **LIST OF ENTITIES THROUGH WHICH DEFENDANTS TRADED**

**THE PARTIES AGREE AND IT IS FURTHER ORDERED** that:

15. Within five (5) days of the date of this Order, Defendant shall provide the CFTC a complete list of all individuals, groups, organizations, websites, and businesses (including any corporation, limited liability company, partnership, or other entity) through which Defendant solicited, offered, confirmed or maintained a position in, or is continuing to solicit, offer, confirm or maintain a position in, orders for off-exchange binary option contracts, binary options products, or binary option transactions to or with U.S. customers, including, without limitation, the names, web addresses, physical addresses, telephone numbers, and account numbers associated with each such individual, group, organization, website, business, or agent of such individual, group, organization, website or business.

### **V.**

#### **BOND NOT REQUIRED**

**THE PARTIES AGREE AND IT IS FURTHER ORDERED** that because the CFTC is an agency of the United States of America, no bond need be posted by the CFTC.

VI.

FORCE AND EFFECT

**THE PARTIES AGREE AND IT IS FURTHER ORDERED** that this Order shall remain in full force and effect until further order of this Court, and that this Court retains jurisdiction of this matter for all purposes.

ATTORNEYS FOR DEFENDANT  
BANC DE BINARY LTD., A/K/A  
E.T. BINARY OPTIONS LTD.

ATTORNEYS FOR PLAINTIFF  
U.S. COMMODITY FUTURES  
TRADING COMMISSION

/s/ A. Jeff Ifrah

A. Jeff Ifrah  
IFRAH PLLC  
1717 Pennsylvania Avenue, Suite 650  
Washington, D.C. 20006  
(202) 524-4140  
(202) 524-4141 (facsimile)  
*jeff@ifrahlaw.com*  
(D.C. Bar No. 456661)

David B. Deitch  
IFRAH PLLC  
1717 Pennsylvania Avenue, Suite 650  
Washington, D.C. 20006  
(202) 524-4147  
(202) 524-4141 (facsimile)  
*ddeitch@ifrahlaw.com*  
(D.C. Bar No. 426218)

/s/ Kathleen Banar

Kathleen Banar  
(202) 418-5335  
(202) 418-5987 (facsimile)  
*kbanar@cftc.gov*  
(Ill. Bar No. 6200597)

David S. Slovick  
(202) 418-5451  
(202) 418-5987 (facsimile)  
*dslovick@cftc.gov*  
(Ill. Bar No. 6257290)

Margaret Aisenbrey  
(816) 960-7749  
(816) 960-7751 (facsimile)  
*maisembrey@cftc.gov*  
(Mo. Bar No. 59560)

**SO ORDERED** at 3:46 pm PDT, this 18th day of July, 2013



UNITED STATES DISTRICT JUDGE