

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 101143 / September 24, 2024**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-22167**

**In the Matter of**

**Qatalyst Partners LP,**

**Respondent.**

**ORDER INSTITUTING  
ADMINISTRATIVE AND CEASE-AND-  
DESIST PROCEEDINGS, PURSUANT TO  
SECTIONS 15(b) AND 21C OF THE  
SECURITIES EXCHANGE ACT OF 1934,  
MAKING FINDINGS, AND IMPOSING  
REMEDIAL SANCTIONS AND A CEASE-  
AND-DESIST ORDER**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Qatalyst Partners LP (“Respondent” or “Qatalyst”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (“Offer”) that the Commission has determined to accept. Respondent admits the facts set forth in Section III below, acknowledges that its conduct violated the federal securities laws, admits the Commission’s jurisdiction over it and the subject matter of these proceedings, and consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

### III.

On the basis of this Order and Respondent's Offer, the Commission finds<sup>1</sup> that:

#### Summary

1. The federal securities laws impose recordkeeping requirements on broker-dealers to ensure that they responsibly discharge their crucial role in our markets. The Commission has long said that compliance with these requirements is essential to investor protection and the Commission's efforts to further its mandate of protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation.

2. These proceedings arise out of Qatalyst's identification—and self-report—of failures by Qatalyst personnel to adhere to certain of these essential recordkeeping requirements and Qatalyst's own policies and procedures. Using their personal devices, these personnel communicated both internally and externally by personal text messages and/or other unapproved written communications platforms ("off-channel communications").

3. In response to the Commission's recent off-channel enforcement actions, Qatalyst conducted an internal investigation, disciplined the relevant personnel, and self-reported the findings of its investigation to the Commission staff. It proactively identified key documents and facts, which assisted the Commission staff in efficiently investigating the conduct.

4. The investigation showed that from at least 2021 (the "Relevant Period"), a small number of Qatalyst personnel sent and received off-channel communications that related to its broker-dealer business. Qatalyst did not maintain or preserve these written communications. Qatalyst's failure involved personnel at various levels of authority. As a result, Qatalyst violated Section 17(a) of the Exchange Act and Rule 17a-4(b)(4) thereunder.

5. Qatalyst's failure to implement a system reasonably expected to determine whether all personnel were following its policies and procedures that prohibit such communications led to its failure to reasonably supervise its personnel within the meaning of Section 15(b)(4)(E) of the Exchange Act.

6. As described below, prior to self-reporting its recordkeeping violations, Qatalyst had in place recordkeeping practices, policies and procedures designed to, among other things, prevent and detect recordkeeping violations and took disciplinary action against those who violated the policies. After its self-report, it took steps to remediate the violations, including implementing further technology solutions for personnel, and cooperated with the Commission's investigation. Because of Qatalyst's self-policing, self-report, prompt remediation, and cooperation, the Commission will not impose a civil penalty.

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<sup>1</sup> The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

## **Respondent**

7. **Qatalyst** is a Delaware limited partnership with its principal office in San Francisco, California and has been registered with the Commission as a broker-dealer since 2008.

### **Recordkeeping Requirements Under the Exchange Act**

8. Section 17(a)(1) of the Exchange Act authorizes the Commission to issue rules requiring broker-dealers to make and keep for prescribed periods, and furnish copies of, such records as necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Exchange Act.

9. The Commission adopted Rule 17a-4 under the Exchange Act pursuant to this authority. Rule 17a-4 specifies the manner and length of time that the records made in accordance with Commission rules, and certain other records made by broker-dealers, must be maintained and produced promptly to Commission representatives.

10. The rules adopted under Section 17(a)(1) of the Exchange Act, including Rule 17a-4(b)(4), require that broker-dealers preserve for at least three years, the first two years in an easily accessible place, originals of all communications received and copies of all communications sent relating to the broker-dealer's business as such. These rules impose minimum recordkeeping requirements that are based on standards a prudent broker-dealer should follow in the normal course of business.

11. The Commission previously has stated that these and other recordkeeping requirements "are an integral part of the investor protection function of the Commission, and other securities regulators, in that the preserved records are the primary means of monitoring compliance with applicable securities laws, including antifraud provisions and financial responsibility standards." Commission Guidance to Broker-Dealers on the Use of Electronic Storage Media under the Electronic Signatures in Global and National Commerce Act of 2000 with Respect to Rule 17a-4(f), 17 C.F.R. Part 241, Exchange Act Rel. No. 44238 (May 1, 2001).

### **Qatalyst's Policies and Procedures**

12. Qatalyst maintained certain policies and procedures designed to ensure the retention of business-related records, including electronic communications, in compliance with the relevant recordkeeping provisions.

13. As early as 2008, Qatalyst personnel were advised that the use of unapproved electronic communications methods, including on their personal devices, was not permitted, and they should not use personal email, chats or text messaging applications for business purposes, or forward work-related communications to unapproved applications on their personal devices. Qatalyst reinforced its policies at least annually with regular, mandatory training and reinforcement from compliance and senior management. Qatalyst personnel were specifically advised not to list personal phone numbers in email signatures.

14. In addition, beginning in March 2017, Qatalyst provided its personnel with a compliant text-messaging process that could retain business communications. Qatalyst instructed

its personnel to use only this process to communicate about Qatalyst's broker-dealer business by text message.

15. Over time, Qatalyst updated its policies and procedures to allow for additional messaging applications to be used in its broker-dealer business. Beginning in 2020, Qatalyst required all personnel to have a firm-issued device on which to conduct Qatalyst business, and encouraged personnel to use firm-issued devices when communicating with both business and personal contacts. These phones were configured to retain communications with business contacts but allow personnel to separate communications with personal contacts, which were either not retained or retained and not reviewed. Alternatively, the firm's policies allowed personnel to maintain both a Qatalyst-owned and a separate personal phone—but made clear that communicating with business contacts on this personal device could subject personnel to censure, fines, or termination.

16. In 2020 and 2022, Qatalyst implemented additional policies and procedures to retain Slack and LinkedIn communications, respectively.

17. If firm personnel received communications through an unapproved platform, Qatalyst policies required retaining these communications. Qatalyst policies required that the communications promptly be forwarded to Qatalyst. Policies and reminders explained to personnel that this process was not a substitute for using on-channel communications, and prohibited personnel from responding substantively to, or initiating a substantive business conversation with, a firm customer.

18. Messages sent through firm-approved communications methods were monitored, subject to review, and archived. Qatalyst's compliance staff reviewed a random sample of incoming and outgoing messages on all monitored platforms. Messages sent through unapproved communications methods, such as WhatsApp and WeChat on personal devices, were not monitored, subject to review or archived.

19. Qatalyst conducted trainings for its personnel, which were designed to address the firm's supervision of its personnel and adherence to Qatalyst's books and recordkeeping requirements. Supervisory policies notified personnel that electronic communications were subject to surveillance by Qatalyst. Starting in 2017, Qatalyst implemented a compliant text-messaging process that allowed personnel to text and retained these communications.

20. Qatalyst had procedures for all personnel, including supervisors, requiring annual self-attestations of compliance. Personnel who received discipline for off-channel communications, as described below, were required to provide additional attestations of compliance.

21. Qatalyst has also encouraged adherence to its policies by disciplining firm personnel for failure to retain off-channel communications. Over the last decade, it issued censure letters and fines to at least 17 personnel at all levels of seniority for violations of its policies, both for sending off-channel communications or for failing to timely forward off-channel communications received from outside the firm.

22. Qatalyst, however, failed to implement a system reasonably expected to determine whether all personnel, including supervisors, were following Qatalyst’s policies and procedures. While permitting personnel to use approved communications methods, including on personal phones, for business communications, Qatalyst failed to implement sufficient monitoring to ensure that its recordkeeping and communications policies and procedures were always being followed.

### **Qatalyst’s Broker-Dealer Business Recordkeeping Failures**

23. In September 2021, the Commission staff commenced a risk-based initiative to investigate whether broker-dealers were properly retaining business-related messages sent and received on personal devices. In March 2024, Qatalyst voluntarily contacted the staff regarding certain off-channel communications activity that it had identified related to its broker-dealer business. As reported to the Commission staff, Qatalyst personnel who had engaged in the use of off-channel communications included senior leadership.

24. Qatalyst collected data from a sampling of broker-dealer personnel and found that during the Relevant Period, several broker-dealer personnel, including at senior levels, had engaged in off-channel communications that concerned the broker-dealer’s business as such. These personnel sent and received a number off-channel communications involving other Qatalyst personnel and Qatalyst’s brokerage customers or other participants in the securities industry.

### **Qatalyst’s Violations and Failure to Supervise**

25. As a result of the conduct described above, Respondent willfully<sup>2</sup> violated Section 17(a) of the Exchange Act and Rule 17a-4(b)(4) thereunder.

26. As a result of the conduct described above, Respondent failed reasonably to supervise its personnel with a view to preventing or detecting certain of its personnel’s aiding and abetting violations of Section 17(a) of the Exchange Act and Rule 17a-4(b)(4) thereunder, within the meaning of Section 15(b)(4)(E) of the Exchange Act.

### **Qatalyst’s Self-Reporting, Cooperation, Remedial Efforts, and Self-Policing**

27. In determining to accept the Offer, the Commission considered Qatalyst’s self-reporting of its violations to the Commission’s staff. In March 2024, Qatalyst self-reported to the Commission staff that several employees had texted about the business of the broker-dealer, in violation of the firm’s policies and procedures and its recordkeeping requirements. The Commission also considered Qatalyst’s cooperation with the staff’s investigation. For example, Qatalyst cooperated with the staff’s investigation by proactively gathering communications from the personal devices of its personnel, presenting evidence of findings, including violative off-

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<sup>2</sup> “Willfully,” for purposes of imposing relief under Section 15(b) of the Exchange Act, “means no more than that the person charged with the duty knows what he is doing.” *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)).

channel communications, and detailing the firm's past efforts at compliance and disciplinary actions, all within several months.

28. The Commission also considered Qatalyst's self-policing prior to its discovery of the misconduct, including its adoption and implementation of policies and procedures designed to prevent and detect any violations of the federal securities laws regarding recordkeeping requirements. Since 2015, Qatalyst has required personnel to forward any off-channel communications to the firm promptly for Qatalyst's retention and has sanctioned personnel for delays in doing so. The communications identified as part of the Commission's investigation appeared to demonstrate substantial compliance with this policy. Since 2017, Qatalyst has provided personnel with a compliant text-messaging process that allows its personnel to send SMS communications that the Firm retains. Qatalyst repeatedly reiterated its communications policies through compliance reminders and a disciplinary framework for violations. Between 2012 and 2023, Qatalyst censured, fined, and retrained through attestations at least 17 personnel at all levels of seniority who had not complied with electronic communications policies.

29. The Commission also considered Qatalyst's prompt remediation after its discovery of the violations at issue, including discipline of the personnel whose recordkeeping violations Qatalyst identified during its investigation, strengthening its self-policing procedures by making investments in new technologies to improve surveillance efforts, and conducting trainings and sending firm-wide reminders that emphasized the importance of complying with recordkeeping obligations. Qatalyst also took proactive remedial steps to onboard and preserve off-channel communications.

#### IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent's Offer.

Accordingly, pursuant to Sections 15(b) and 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondent shall cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Exchange Act and Rule 17a-4 thereunder.

B. Respondent is censured.

C. Respondent acknowledges that the Commission is not imposing a civil penalty based upon Respondent's self-policing, self-report, prompt remediation, and cooperation in a Commission investigation. If at any time following the entry of the Order, the Division of Enforcement ("Division") obtains information indicating that Respondent knowingly provided materially false or misleading information or materials to the Commission, or in a related

proceeding, the Division may, at its sole discretion and with prior notice to the Respondent, petition the Commission to reopen this matter and seek an order directing that the Respondent pay a civil money penalty. Respondent may contest by way of defense in any resulting administrative proceeding whether it knowingly provided materially false or misleading information, but may not: (1) contest the findings in the Order; or (2) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

By the Commission.

Vanessa A. Countryman  
Secretary