

THE NASDAQ OPTIONS MARKET LLC
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2020.01.0101

TO: The Nasdaq Options Market LLC
Nasdaq Enforcement Department

RE: Citigroup Global Markets, Inc., Respondent
Member Firm
CRD No. 7059

Pursuant to Rule 9216 of The Nasdaq Stock Market LLC (“Nasdaq” or the “Exchange”)¹ Code of Procedure, Citigroup Global Markets, Inc. (the “Firm,” “CGMI,” or “Respondent”) submits this Letter of Acceptance, Waiver and Consent (“AWC”) for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, Nasdaq will not bring any future actions against the Respondent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. The Firm hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of Nasdaq, or to which Nasdaq is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by Nasdaq:

BACKGROUND AND RELEVANT DISCIPLINARY HISTORY

CGMI became a member of The Nasdaq Options Market (“NOM”) on March 12, 2008, and its registration remains in effect. It provides investment banking, asset management, brokerage, securities trading, advisory, and other financial services to customers. The Firm has no relevant disciplinary history. During the relevant period, the Firm was allocated to NOM in accordance with the Intermarket Surveillance Group 17d-2 Agreement.²

SUMMARY

This matter involves a violation of NOM Rule Options 5, Section 101. Specifically, on February 15, 2019 (the “Review Date”), in order to take advantage of a material news announcement after the 5:30 p.m. exercise cut-off time, the Firm submitted a contrary exercise advice (“CEA”), without meeting the exceptions set forth in the rule. Additionally, the Firm violated Rules 3010(a) and 2010A (now General 9, Sections 20 and 1(a), respectively) from at least February 2019 through July 2021 (the “Supervisory Review Period”) because the Firm’s supervisory system was not reasonably designed to

¹ All Nasdaq Options Market LLC disciplinary matters are governed by the Nasdaq Code of Procedure.

² The Securities and Exchange Commission and options securities regulatory organizations (“SROs”) are parties to a 17d-2 Agreement, which allocates among the SROs regulatory responsibilities relating to compliance by the common members with rules for expiring exercise declarations, position limits, Options Clearing Corporation trade adjustments, and Large Options Position Reviews.

ensure that employees submitted CEAs in accordance with NOM rules.³

FACTS AND VIOLATIVE CONDUCT

Contrary Exercise Advice

1. Pursuant to NOM Rule Options 5, Section 101(c), option holders have until 5:30 p.m. Eastern Time on the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, on the business day immediately prior to the expiration date, to make a final decision to exercise or not exercise an expiring option. Participants may not accept exercise instructions for customer or non-customer accounts after 5:30 p.m. Eastern Time.⁴
2. Pursuant to NOM Rule Options 5, Section 101(j), submitting or preparing an exercise instruction, CEA or advice cancel after the applicable exercise cut-off time in any expiring options on the basis of material information released after the cut-off time is activity inconsistent with just and equitable principles of trade.
3. On the Review Date, the CGMI Derivatives desk (the “Desk”) held a long options position in Company A, which was “out of the money” at the close of trading and at the 5:30 p.m. exercise cut-off time on the date of expiration.
4. After the 5:30 p.m. exercise cut-off time on the Review Date, an unfavorable court decision was released that caused Company A’s share price to decrease.
5. Based on the material information released after the cut-off time, the Desk made a final decision to exercise its options position in Company A. The Desk then contacted the Middle Office at approximately 6:50 p.m., and then the Options Clearing Corporation (“OCC”) at approximately 7:08 p.m. to request a CEA. The OCC opened the window and the Desk submitted the CEA, exercising the options.
6. The next trading day, the traders responsible for submitting the late CEA and a member of middle office staff jointly escalated the late exercise decision to the Firm’s compliance and legal functions, which undertook to perform a review of the matter.
7. Following an investigation, the Firm self-reported to the Financial Industry Regulatory Authority (“FINRA”), updated and clarified relevant policies and procedures as well as training materials, and issued policy reminders to relevant traders and middle office personnel.
8. The conduct in paragraphs 3 through 5 constitutes a violation of NOM Rule 5, Sections 101(c) and 101(j).

Supervision

9. Nasdaq Rule 3010(a), now General 9, Section 20, provides, “Each member shall establish and maintain a system to supervise the activities of each registered representative and associated person that is reasonably designed to achieve compliance

³ As of December 6, 2019, Nasdaq Rule 3010 was renumbered and relocated to Nasdaq General 9, Section 20 and Nasdaq Rule 2010A was renumbered and relocated to Nasdaq General 9, Section 1(a).

⁴ As of December 6, 2019, NOM Rule Options 5, Section 101 was renumbered and relocated to NOM Rule Options 6B, Section 1.

with applicable securities laws and regulations and with applicable Nasdaq rules.”

10. Nasdaq Rule 2010A, now General 9, Section 1(a), provides, “A member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.”
11. During the Supervisory Review Period, the Firm’s supervisory system was not reasonably designed to ensure that employees submitted CEAs in accordance with NOM rules. Specifically, the Firm did not have a written system in place that was reasonably designed to monitor for compliance with the rules applicable to exercising options. The Firm’s procedures did not identify: (1) the specific individual(s) responsible for supervising compliance with the rule; (2) the supervisory steps and reviews to be taken by the appropriate supervisor; (3) the frequency of such reviews; and (4) how such reviews shall be documented.
12. While the Firm subsequently enhanced its procedures on August 5, 2019, they remained unreasonable because they failed to identify procedures to monitor for instances when a trader submits a late CEA. In addition, while the Firm included relevant material in its annual compliance training for its U.S. equity options desk, the Firm’s written procedures did not set forth the exemptions pursuant to which a late CEA submission may be made, how approval to submit a late CEA should be sought, or how such approval or disapproval should be documented. As of July 2021, the Firm has remediated the deficiencies identified in this paragraph.

OTHER FACTORS CONSIDERED

In resolving this matter, Nasdaq Enforcement took into account the Firm’s cooperation. In particular, the traders and middle office staff promptly self-escalated the late exercise to legal and compliance, which initiated an internal review prior to detection or intervention by NOM or another regulator. Subsequently, on August 19, 2019, the Firm self-reported the violation directly to FINRA. Moreover, the Firm proactively offered to disgorge the financial benefit derived from the late exercise and corrected the deficient procedures and systems that led to the late exercise.

- B. The Firm also consents to the imposition of the following sanctions:
1. A censure;
 2. A fine of \$50,000;
 3. An order to pay restitution of \$1,722,604.27:
 - a. The Firm shall make restitution payments to the harmed investors, as identified by the Exchange, in accordance with the following procedures:
 - i. The Exchange will provide the Firm with information identifying the financial institutions to which restitution is owed on behalf of such institution’s investors, as applicable (the “Restitution Information”) within 45 days of the issuance of this AWC, subject to reasonable extensions as agreed to by the Firm and the Exchange. The Exchange will confirm to the Firm that the institutions will accept the restitution payments as specified by the Exchange.
 - ii. The Restitution Information will consist of the following for each

financial institution: name of the institution, appropriate contact person(s), wire payment instructions and the amount of restitution owed and any other payment information needed for payment. The Restitution Information will not include the names or identifying information of any underlying investor customer of the institution.

- iii. Within 30 days of the issuance of this AWC, subject to reasonable extensions as agreed to by the Firm and the Exchange, the Firm shall retain an agent, not unacceptable to the Exchange, to facilitate the restitution payments (the "Payment Agent").
 - a. The Firm shall be solely responsible for the payment of the Payment Agent's fees and expenses.
 - b. Within three (3) business days after retaining the Payment Agent pursuant to the above, the Firm must provide to the Exchange a copy of the agreement between the Firm and the Payment Agent.
- iv. Within 60 days of receiving the Restitution Information, the Firm shall make payments to the financial institutions through the Payment Agent, in amounts as directed by the Exchange.
- v. The Firm will direct the Payment Agent to use commercially reasonable efforts to effectuate the restitution payments.
- vi. If, for any reason, a financial institution rejects a restitution payment or fails to cooperate with the Payment Agent's attempts to remit restitution, within 180 days after expiration of the 60-day period of part (iv) or such additional period agreed to by the Exchange, the Firm shall direct the Payment Agent to forward such undistributed restitution amount to the appropriate escheat, unclaimed-property or abandoned-property fund for the state in which such financial institution is incorporated or licensed.
- vii. Within 60 days of the completion of the restitution payments required by this AWC, the Firm shall certify to the Exchange that the payments have been made and shall provide the Exchange with documents sufficient to evidence such payments.

Respondent agrees to pay the monetary sanction(s) in accordance with its executed Election of Payment Form.

Respondent specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

The sanctions imposed herein shall be effective on a date set by Nasdaq Enforcement Department staff.

II.

WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under Nasdaq's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against the Firm;
- B. To be notified of the Formal Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the Nasdaq Review Council and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Respondent specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Regulatory Officer, the Nasdaq Review Council, or any member of the Nasdaq Review Council, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

Respondent further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of Rule 9143 or the separation of functions prohibitions of Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

Respondent understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the Nasdaq Enforcement Department and the Nasdaq Review Council, the Review Subcommittee, or the Office of Disciplinary Affairs ("ODA"), pursuant to Nasdaq Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the Respondent; and
- C. If accepted:
 - 1. This AWC will become part of the Respondent's permanent disciplinary record and may be considered in any future actions brought by Nasdaq or any other regulator against the Respondent;
 - 2. Nasdaq may release this AWC or make a public announcement concerning this agreement and the subject matter thereof in accordance with Nasdaq Rule 8310 and IM-8310-3; and

3. Respondent may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Respondent may not take any position in any proceeding brought by or on behalf of Nasdaq, or to which Nasdaq is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the Respondent's right to take legal or factual positions in litigation or other legal proceedings in which Nasdaq is not a party.
- D. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by Nasdaq, nor does it reflect the views of Nasdaq or its staff.

The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that the Firm has agreed to the AWC's provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the Firm to submit it.

Citigroup Global Markets, Inc.
Respondent

By: Mary Reiser

Print Name: Mary Reiser

Title: Managing Director

11/17/21

Date

Accepted by Nasdaq:

November 19, 2021

Date

Erik Wittman

Erik Wittman
Deputy Head of Enforcement
Nasdaq Enforcement Department

Signed on behalf of The Nasdaq Options
Market LLC, by delegated authority from the
Director of ODA

PAYMENT INFORMATION

The fine amount will be reflected on an upcoming invoice directed to your firm's chief compliance officer. **Please DO NOT submit payment at this time.** If you need to arrange for an alternative method of payment, please contact Nasdaq at (301) 978-8310.

Respectfully submitted,

Respondent

Citigroup Global Markets, Inc.

Date: 11/18/21

By: Mary Reiser

Name: Mary Reiser

Title: Managing Director