

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2017055673701**

TO: Department of Enforcement
Financial Industry Regulatory Authority (FINRA)

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

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Citigroup Global Markets Inc. (CGMI) 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, FINRA will not bring any future actions against Respondent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent 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 FINRA, or to which FINRA 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 FINRA:

BACKGROUND

CGMI has been a FINRA member since 1936. It provides investments banking, asset management, brokerage, securities trading, advisory, and other financial services to customers. The firm currently employs approximately 7,000 registered representatives at its headquarters in New York and across its 736 branch offices.

RELEVANT DISCIPLINARY HISTORY

On June 16, 2006, the firm executed AWC No. 2005000792101, in which the NASD found that, from July 2002 to May 2005, the firm, among other things, failed to make various disclosures required by NASD Rule 2711(h) in certain types of published research reports, and failed to establish and maintain a supervisory system reasonably designed to detect and prevent violations of NASD Rule 2711(h), in violation of NASD Rule 3010. The firm consented to a censure, a \$350,000 fine, and an undertaking to perform a comprehensive review of its research disclosures in certain types of published research reports.

On January 3, 2012, the firm executed AWC 2008012310101, in which FINRA found that, from at least January 2007 to at least March 2010, the firm failed to comply with various research rating disclosure requirements, in violation of NASD Rule 2711 and the Global Research Analyst Settlement. The firm also failed to establish and maintain a supervisory system reasonably designed to detect that the firm was not populating its research reports with required disclosures and that it was not complying with certain undertakings pursuant to the Global Research Analyst Settlement, in violation of NASD Rule 3010. The firm consented to a censure and a \$725,000 fine.

OVERVIEW

From November 2012 to November 2017, CGMI omitted approximately 24,800 required disclosures in 16,850 equity research reports that it was either a manager or co-manager of a public offering of equity securities for the companies covered in the reports. These omissions constituted approximately 6.75 percent of required manager/co-manager disclosures during the five-year period and affected approximately 4.43 percent of published equity research reports during this time period. By virtue of the foregoing, the firm violated NASD Rule 2711(h)(2)(A)(ii)(a) and FINRA Rule 2241(c)(4)(C)(i).¹

The firm's omissions were the result, in part, of CGMI's failure to establish and maintain a supervisory system and written supervisory procedures reasonably designed to achieve compliance with NASD Rule 2711(h)(2)(A)(ii)(a) and FINRA Rule 2241(c)(4)(C)(i). By virtue of the foregoing, the firm violated NASD Rules 2711(i) and 3010(a) and (b)(1) and FINRA Rules 3110(a) and (b)(1) and 2010.²

FACTS AND VIOLATIVE CONDUCT

1. CGMI omitted the manager/co-manager disclosure

NASD Rule 2711 primarily addressed conflicts of interest that arise when research analysts work for firms that have investment banking or other business relationships with subject companies or when analysts or firms own securities of subject companies or make a market in those securities. The rule implemented structural reforms designed to increase analysts' independence and further manage conflicts of interest, and required increased disclosure of conflicts in research reports and public appearances.³ FINRA Rule 2241, which replaced NASD Rule 2711 in 2015, generally retains the core disclosure provisions of Rule 2711 and, among other things, broadens the obligations of members to

¹ FINRA Rule 2241(c)(4)(C)(i) superseded NASD Rule 2711(h)(2)(A)(ii)(a) on December 24, 2015.

² The supervision provision in NASD Rule 2711(i) was not carried over to FINRA Rule 2241 and was removed effective September 25, 2015. Supervision relating to research analysts and research reports is now governed exclusively by FINRA Rule 3110. See Regulatory Notice 15-30. FINRA Rule 3110 superseded NASD Rule 3010 on December 1, 2014.

³ Order Approving Rule Changes, Release No. 34-45908, 67 FR 34968 (May 10, 2002).

identify and manage research-related conflicts of interest.⁴ As part of this regulatory framework, FINRA Rule 2241(c)(4)(C)(i) and its predecessor NASD Rule 2711(h)(2)(A)(ii)(a) require members to disclose in their research reports if the firm, or an affiliate, managed or co-managed a public offering for a covered issuer in the past 12 months. The disclosure of investment banking and underwriting relationships between firms and covered issuers is a core component of the rules.⁵ The required disclosure must be made at the time of publication or distribution of the report.

CGMI used data feeds from a third-party service provider to identify the firm's role in transactions for issuers covered by firm research reports. When a firm outsources a function to a third-party service provider, the firm remains responsible for compliance with all applicable laws, regulations, and rules regarding the outsourced function. As part of a reasonably designed supervisory system, a firm has a continuing responsibility to oversee, supervise, and monitor the third-party service provider's performance of covered activities. This requires specific policies and procedures to monitor the third-party service provider's compliance with the terms of any agreements and to assess its continued fitness and ability to perform the outsourced activities.⁶

During the relevant period, the firm tested to confirm that the data feeds were operating properly and that its disclosures matched the data it received from its third-party service provider. It did not, until mid-2017, test whether the data received from the third-party service provider were accurate and complete in the first instance. Likewise, until mid-2017, the firm did not test the accuracy and completeness of its manager/co-manager disclosures in the research reports it published by comparing the disclosures against the public offerings for which the firm or an affiliate acted as manager or co-manager during this time period.

In 2017, during a compliance review, the firm discovered that the third-party service provider's data relating to the manager/co-manager disclosure was sometimes inaccurate. During testing performed following identification of the issue, the firm discovered that the vendor data on occasion did not identify the correct entities involved in a relevant transaction, and on other occasions failed to document a relevant transaction altogether. Those errors caused CGMI's systems to not disclose that it was a manager or co-manager of an equity public offering as required by NASD and FINRA rules.

As a result of the data errors, between November 2012 and November 2017, the firm omitted approximately 24,800 required manager/co-manager disclosures in 16,850 equity research reports, which constituted approximately 6.75 percent of all required manager/co-manager disclosures impacting approximately 4.43 percent of published equity research reports during this time period. As a result, the firm deprived the investing public of important information regarding conflicts of interest.

⁴ Regulatory Notice 15-30. FINRA Rule 2241 became effective in part as of September 25, 2015, and in whole on December 24, 2015.

⁵ Notice to Members 02-39.

⁶ Notice to Members 05-48.

By virtue of the foregoing, CGMI violated NASD Rule 2711(h)(2)(A)(ii)(a) and FINRA Rules 2241(c)(4)(C)(i) and 2010.

2. CGMI failed to establish and maintain a reasonably designed supervisory system and written procedures to achieve compliance with the manager/co-manager disclosure rules.

FINRA Rules 3110(a) and (b)(1) and its predecessor NASD Rules 3010(a) and (b)(1) require that member firms establish and maintain a system, including written procedures, to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable NASD and FINRA rules. NASD Rule 2711(i) required member firms to “adopt and implement written supervisory procedures reasonably designed to ensure that the firm and its employees comply with the provisions of this rule.”

As described above, from November 2012 to mid-2017, CGMI did not test the accuracy and completeness of the third-party service provider data feed it used to populate the manager/co-manager disclosure. Likewise, the firm did not test the accuracy and completeness of the manager/co-manager disclosures in its research reports. It was incumbent upon the firm to take reasonable steps to ensure that the data supporting the population of its manager/co-manager disclosures was complete and accurate.

Accordingly, the firm failed to establish and maintain a system, including written procedures, reasonably designed to achieve compliance with the manager/co-manager disclosure rules, particularly in light of its obligation to supervise the activities of its third-party service provider and the firm’s prior disciplinary history. By virtue of the foregoing, CGMI violated NASD Rules 2711(i) and 3010(a) and (b)(1) and FINRA Rules 3110(a) and (b)(1) and 2010.

CREDIT FOR EXTRAORDINARY COOPERATION

In resolving this matter, Enforcement recognizes CGMI’s extraordinary cooperation for: (1) discovering the omitted disclosures during a planned compliance review, initiating an internal review prior to detection or intervention by FINRA or another regulator, and self-reporting directly to FINRA staff; (2) promptly correcting the cause of the omitted disclosures to prevent further omissions; (3) conducting a five-year lookback to determine the number of omitted disclosures, which required expending significant staff time to manually review voluminous transaction and disclosure data; (4) voluntarily employing corrective measures, such as changing vendors, revising its supervisory systems, and implementing automated testing with periodic manual checks; and (5) providing substantial assistance to FINRA’s investigation by maintaining an open dialogue with FINRA staff regarding improvements to supervisory systems, procedures, and controls, meeting with staff to explain how disclosures were applied to research reports, the particular issues with the vendor data that caused the omitted disclosures, and how the change in vendors and processes remediated the disclosure omissions, and by sharing the results of its five-year lookback periodically and at its conclusion.

B. Respondent also consents to the imposition of the following sanctions:

- A censure;
- A \$475,000 fine; and
- Within 180 days of Notice of Acceptance of this AWC, or such additional period as agreed to by a FINRA staff member in writing, a registered principal on behalf of the firm shall submit to Edwin Aradi, Senior Counsel, FINRA, at the address set forth below, a written certification that: (i) the firm has completed a review of its systems and written procedures regarding the supervision of disclosures in research reports; and (ii) as of the date of the certification, the firm's systems and written procedures are reasonably designed to achieve compliance with the applicable securities laws, regulations, and FINRA rules cited herein, including FINRA Rule 2241. The certification shall describe with specificity the actions taken by CGMI.

Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Respondent has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim an inability to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

II.

WAIVER OF PROCEDURAL RIGHTS

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

- A. To have a Complaint issued specifying the allegations against it;
- B. To be notified of the 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 National Adjudicatory Council (NAC) 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 Legal Officer, the NAC, or any member of the NAC, 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 FINRA Rule 9143 or the separation of functions prohibitions of FINRA 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:

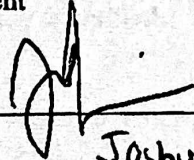
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against Respondent; and
- C. If accepted:
 - 1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator against Respondent;
 - 2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
 - 4. 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 FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects Respondent's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA 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 FINRA, nor does it reflect the views of FINRA or its staff.

The undersigned, on behalf of the Respondent, 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 it 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 it to submit it.

Citigroup Global Markets Inc.
Respondent

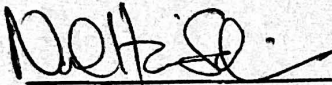
10/21/20
Date

By: 

Print Name: Joshua E. Levine

Title: Managing Director

Reviewed by:



Nader Salehi
Counsel for Respondent
Sidley Austin LLP
1501 K Street, N.W.
Washington, D.C. 20005

Accepted by FINRA:

November 10, 2020
Date

Signed on behalf of the
Director of ODA, by delegated authority



Edwin Aradi
Senior Counsel
FINRA
Department of Enforcement
15200 Omega Drive, 3rd Floor
Rockville, MD 20850