

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2019063480501**

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

RE: SG Americas Securities, LLC (Respondent)  
Member Firm  
CRD No. 128351

Pursuant to FINRA Rule 9216, Respondent SG Americas Securities, LLC 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 in this AWC.

**I.**

**ACCEPTANCE AND CONSENT**

- A. Respondent accepts and consents to the following findings by FINRA without admitting or denying them:

**BACKGROUND**

SG Americas has been a FINRA member since April 2004. The firm is headquartered in New York, New York, and it currently employs approximately 730 registered representatives at its three branch offices. The firm conducts a general securities business.

In June 2019, Cboe Exchange, Inc. accepted a Letter of Consent in which SG Americas was censured and fined \$50,000 for violations of Cboe rules for, from November 2012 through November 2017, failing to report or inaccurately reporting positions to the Large Options Positions Reporting system (LOPR) in approximately 34,000 instances, and related supervisory violations.

In March 2019, NYSE Arca, Inc. accepted an AWC in which SG Americas was censured and fined \$550,000 for violations of NYSE Arca, Inc. rules for, from June 2010 through August 2017, failing to report positions to the LOPR in approximately 876,000 instances, and inaccurately reporting positions to the LOPR in approximately 1,359,000 instances.

In April 2017, Cboe accepted a Letter of Consent, and NYSE Arca accepted an AWC, in which SG Americas was censured and a fined a total of \$200,000 for violations of Cboe and NYSE Arca rules for, from January 2010 through November 2014, inaccurately

reporting positions to the LOPR in approximately 5.7 million instances, and related supervisory violations.<sup>1</sup>

## **OVERVIEW**

From August 2014, through February 2021, SG Americas violated FINRA Rules 2360(b)(5) and 2010 by failing to report over-the-counter (OTC) options positions to the LOPR in approximately 219,000 instances, and reporting inaccurate information in approximately 1.4 million instances.

Additionally, from August 2014, through February 2021, SG Americas violated NASD Rule 3010 and FINRA Rules 3110<sup>2</sup> and 2010 by failing to establish and maintain a supervisory system reasonably designed to achieve compliance with its LOPR reporting obligations.

## **FACTS AND VIOLATIVE CONDUCT**

This matter originated from the firm's self-report to FINRA, and an OTC exercise limit review conducted by FINRA's Options Regulation group.

### ***Background—LOPR Reporting***

FINRA rules require member firms to report large options positions to the LOPR.<sup>3</sup> Specifically, FINRA Rule 2360(b)(5) requires that member firms file a report for each customer or firm account that, acting alone or in-concert, has established an aggregate position of 200 or more option contracts on the same side of the market covering the same underlying security or index. The report must identify the account holder and the total number of option contracts for each options class comprising the reportable position and must include other information as prescribed by FINRA. A violation of FINRA Rule 2360(b)(5) also is a violation of FINRA Rule 2010, which requires "[a] member, in the conduct of its business, [to] observe high standards of commercial honor and just and equitable principles of trade."

FINRA Regulatory Notice 16-17 reminded member firms of their obligations when reporting reportable options positions to the LOPR. Among those obligations is the requirement to include the tax identification number or tax type of the customer holding the reportable options position.

FINRA uses LOPR information to surveil for potentially manipulative behavior, including attempts to corner the market in the underlying equity, leverage an option position to affect the price, or move the underlying equity to change the value of a large

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<sup>1</sup> For more information about the firm, including prior regulatory events, visit BrokerCheck® at [www.finra.org/brokercheck](http://www.finra.org/brokercheck).

<sup>2</sup> FINRA Rule 3110 superseded NASD Rule 3010 on December 1, 2014.

<sup>3</sup> The Options Clearing Corporation (OCC) hosts the LOPR system and collects and disseminates all LOPR data for the U.S. options exchanges and FINRA.

option position. The accuracy of LOPR reporting is essential to FINRA's surveillance. It is particularly important with respect to the OTC options market because there is no independent source of data for regulators to review OTC options.

***SG Americas failed to report and inaccurately reported OTC options positions to the LOPR.***

From September 2014, through July 2019, the firm failed to report OTC options positions to the LOPR in approximately 210,000 instances.<sup>4</sup> While updating its OTC LOPR reporting system, the firm identified that it had only been reporting positions that originated from its U.S.-based activity. The firm had not been reporting instances in which a U.S. customer traded with the firm's foreign affiliate because its LOPR reporting logic had filtered out, and thus not reported, activity from its non-U.S. affiliate. SGAS, however, was required to report those positions during the entire period.

Additionally, from August 2014, through February 2021, the firm's LOPR reporting system did not recognize that the accounts of certain customers were under common control. As a result, the firm failed to report to the LOPR account groups as acting in-concert in approximately 1,384,000 instances and reported positions with an incorrect acting-in-concert number in approximately 20,000 instances. In addition, the firm's failure to properly aggregate these account groups led to a failure to report positions in approximately 9,000 instances.

Furthermore, from March 2017, through April 2020, in approximately 4,500 instances, the firm reported OTC options positions to the LOPR without the customers' tax identification number or tax type.

Therefore, Respondent violated FINRA Rules 2360(b)(5) and 2010.

***SG Americas failed to establish and maintain a supervisory system reasonably designed to comply with its LOPR reporting obligations.***

FINRA Rule 3110(a), like its predecessor NASD Rule 3010(a), requires that FINRA members establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules.

From September 2014, through February 2021, the firm failed to establish and maintain a supervisory system reasonably designed to achieve compliance with rules governing LOPR reporting.

The firm had a supervisory system in place that included sampling positions that it reported to the OTC LOPR to determine whether they had been accurately reported.

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<sup>4</sup> An "instance" occurs where a firm fails to report, or inaccurately reports, a position for one day. The number of instances is determined by multiplying a given reportable position by the number of trade dates that the position was not reported or was reported inaccurately.

From September 2014, through July 2019, however, the firm's supervisory system related to LOPR reporting did not provide for, and the firm did not conduct, a review of its LOPR reporting logic to determine whether its system captured all reportable positions, including those transactions between U.S. customers and a foreign affiliate of the firm that SGAS incorrectly excluded from its LOPR reports. In August 2019, the firm removed the filter that prevented it from including reportable positions involving foreign affiliates. The firm also implemented additional controls and reviews designed to identify potential issues with its LOPR reporting.

Additionally, from August 2014, through February 2021, the firm's supervisory system for detecting accounts that were acting in-concert was too restrictive to be effective, because it only linked its acting-in-concert accounts that shared an internal legal entity number<sup>5</sup> or were identified in the system as having the same fund manager. In February 2021, the firm implemented changes to its system to more precisely identify accounts required to be designated as acting-in-concert.

Therefore, Respondent violated NASD Rule 3010 and FINRA Rules 3110 and 2010.

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

- A censure and
- A \$325,000 fine.

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 after the execution of this AWC, the monetary sanction imposed in this matter.

The sanctions imposed in this AWC shall be effective on a date set by FINRA.

## 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;

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<sup>5</sup> The firm assigned an internal legal entity number to identify legal entities involved in financial transactions that contains information about an entity's ownership.

- 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 its acceptance or rejection.

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;

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3. FINRA may make a public announcement concerning this agreement and its subject matter 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 right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party. Nothing in this provision affects Respondent's testimonial obligations in any litigation or other legal proceedings.
- 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.

The undersigned, on behalf of Respondent, certifies that a person duly authorized to act on Respondent's 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 Respondent 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 in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce Respondent to submit this AWC.

August 3, 2022

\_\_\_\_\_  
Date

*Jeffrey Rosen*

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SG Americas Securities, LLC  
Respondent

Jeffrey Rosen

Print Name: \_\_\_\_\_

Managing Director

Title: \_\_\_\_\_

Accepted by FINRA:

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

August 10, 2022

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Date

*Steven Tanner*

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Steven M. Tanner  
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FINRA  
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