



DISCIPLINARY DECISION

Cboe Exchange, Inc.

Star No. 20170559003/File No. USRI-8749

SG Americas Securities, LLC

Pursuant to Exchange Rule 13.3, attached to and incorporated as part of this Decision is a Letter of Consent.

Applicable Rule(s)

- Cboe Rules 4.2 – Adherence to Law and Rule 4.24 – Supervision
- Rule 14e-4 – Prohibited Transactions in Connection with Partial Tender Offers, promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”)

Sanction

A censure, a monetary fine of \$35,000, and disgorgement in the amount of \$178,512.30.

Effective Date

April 8, 2020

/s/ Greg Hoogasian

Greg Hoogasian, CRO, SVP

Cboe Exchange, Inc.
LETTER OF CONSENT
Star No. 20170559003
File No. USRI-8749

In the Matter of:

SG Americas Securities, LLC
245 Park Avenue
New York, NY 10167

Subject

Pursuant to the provisions of Cboe Exchange, Inc. (“Cboe” or the “Exchange”) Rule 13.3 – Expedited Proceeding, SG Americas Securities, LLC (“SGAS” or the “Firm”) submits this Letter of Consent for the purpose of proposing a settlement of the alleged rule violations described below.

The Firm neither admits nor denies that violations of Exchange Rules or the Securities Exchange Act of 1934, as amended (“Exchange Act”) rules have been committed, and the stipulation of facts and findings described herein do not constitute such an admission.

BACKGROUND

1. During all relevant periods herein, the Firm was acting as a registered Broker-Dealer and was an Exchange Trading Permit Holder registered to conduct business on the Exchange as a clearing firm, and to engage in proprietary trading. The Firm’s registrations remain in effect.
2. This matter originated from an investigation in FINRA’s Department of Market Regulation to determine whether the Firm engaged in violations of Exchange Act Rule 14e-4 in connection with the partial tender offers for Yahoo! Inc. (“YHOO”) and Amgen, Inc. (“AMGN”).

VIOLATIVE CONDUCT

Applicable Rules

3. During all relevant periods herein, the following rules were in full force and effect: Exchange Rules 4.2 – Adherence to Law and 4.24 – Supervision,¹ and Exchange Act Rule 14e-4 – Prohibited Transactions in Connection with Partial Tender Offers.

¹ As of October 7, 2019, Exchange Rule 4.2 was re-numbered as Exchange Rule 8.2 – Adherence to Law, and Exchange Rule 4.24 was re-numbered as Exchange Rule 8.16 - Supervision. These rules’ text remain unchanged.

4. During all relevant periods herein, Cboe Rule 4.2 provided, in relevant part, that no Trading Permit Holder shall engage in conduct in violation of the Securities Exchange Act of 1934, as amended, rules or regulations thereunder.
5. During all relevant periods herein, Cboe Rule 4.24(e) provided that each Trading Permit Holder shall establish, maintain, and enforce written supervisory procedures, and a system for applying such procedures, to supervise the types of business in which the Trading Permit Holder engages and to supervise the activities of all associated persons. The written supervisory procedures and the system for applying such procedures shall reasonably be designed to prevent and detect violations of applicable securities laws and regulations, and applicable Exchange rules.
6. During all relevant periods herein, Exchange Act Rule 14e-4(b) provided, in relevant part, that it shall be unlawful for any person acting alone or in concert with others, directly or indirectly, to tender any subject security in a partial tender offer for his own account unless at the time of tender, and at the end of the proration period or period during which securities are accepted by lot (including any extensions thereof), he has a net long position equal to or greater than the amount tendered in the subject security and will deliver or cause to be delivered such security for the purpose of tender to the person making the offer within the period specified in the offer; or an equivalent security and, upon the acceptance of his tender will acquire the subject security by conversion, exchange, or exercise of such equivalent security to the extent required by the terms of the offer, and will deliver or cause to be delivered the subject security so acquired for the purpose of tender to the person making the offer within the period specified in the offer.

Over-Tender in YHOO

7. On or about June 16, 2017, SGAS failed to account for relevant in-the-money short call options positions when determining its “net long position” pursuant to Exchange Act Rule 14e-4, and over-tendered 225,453 shares when participating in the YHOO partial tender offer.
8. The acts, practices and conduct described in Paragraph 7 constitute a violation of Cboe Rule 4.2 and Exchange Act Rule 14e-4 by SGAS, in that SGAS tendered shares for the partial tender offer in YHOO in excess of its net long position.

Over-Tender in AMGN

9. On or about March 5, 2018, SGAS failed to account for relevant in-the-money short call options positions when determining its “net long position” pursuant to Exchange Act Rule 14e-4, and over-tendered 20,172 shares when participating in the AMGN partial tender offer.

10. The acts, practices and conduct described in Paragraph 9 constitute a violation of Cboe Rule 4.2 and Exchange Act Rule 14e-4 by SGAS, in that SGAS tendered shares for the partial tender offer in AMGN in excess of its net long position.

Written Supervisory Procedures

11. From on or about May 16, 2017 through on or about March 1, 2018, SGAS failed to establish, maintain, and enforce adequate written supervisory procedures, and a system for applying such procedures, reasonably designed to prevent and detect violations of Exchange Act Rule 14e-4. Further, from on or about March 1, 2018 through on or about March 5, 2018, SGAS failed to adequately enforce its written supervisory procedures to assure compliance with Exchange Act Rule 14e-4, relating to partial short tender activity with regards to the AMGN partial tender offer.
12. The acts, practices and conduct described in Paragraph 11 constitute a violation of Cboe Rule 4.24 by SGAS, in that SGAS failed to establish, maintain, and enforce written supervisory procedures, and a system for applying such procedures, reasonably designed to prevent and detect violations of Exchange Act Rule 14e-4.

SANCTIONS

13. The Firm has relevant prior relevant formal disciplinary history, in that the Firm was previously censured, fined \$50,000, and disgorged ill-gotten gain in the amount of \$469,130, for its over-tender in connection with the CBS Corp. (“CBS”) partial tender offer that expired on July 9, 2014, in violation of Exchange Act Rule 14e-4. That matter also involved the Firm’s failure to maintain, establish and enforce adequate supervisory procedures to assure compliance with Exchange Act Rule 14e-4 during the CBS partial tender offer.²
14. In light of the alleged rule violations described above, the Firm consents to the imposition of the following sanctions:
 - a. A censure;
 - b. A monetary fine in the amount of \$35,000; and
 - c. Disgorgement in the amount of \$178,512.30.

If this Letter of Consent is accepted, the Firm acknowledges that it shall be bound by all terms, conditions, representations and acknowledgements of this Letter of Consent, and, in accordance with the provisions of Exchange Rule 13.3, waives the right to review or to defend against any of these allegations in a disciplinary hearing before a Hearing Panel. The Firm further waives the right to appeal any such decision to the Board of Directors, the U.S. Securities and Exchange Commission, a U.S. Federal District Court, or a U.S. Court of Appeals.

² See Cboe File No. 18-0005.

The Firm waives any right to claim bias or prejudgment of the Chief Regulatory Officer (“CRO”) in connection with the CRO’s participation in discussions regarding the terms and conditions of this Letter of Consent, or other consideration of this Letter of Consent, including acceptance or rejection of this Letter of Consent.

The Firm agrees to pay the monetary sanction(s) upon notice that this Letter of Consent has been accepted and that such payment(s) are due and payable. The Firm 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 Firm understands that submission of this Letter of Consent is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the CRO, pursuant to Exchange Rule 13.3. If the Letter of Consent is not accepted, it will not be used as evidence to prove any of the allegations against the Firm.

The Firm understands and acknowledges that acceptance of this Letter of Consent will become part of its disciplinary record and may be considered in any future actions brought by Cboe or any other regulator against the Firm.

The Firm understands that it may not deny the charges or make any statement that is inconsistent with the Letter of Consent. The Firm may attach a Corrective Action Statement to this Letter of Consent that is a statement of demonstrable corrective steps taken to prevent future misconduct. Any such statement does not constitute factual or legal findings by the Exchange, nor does it reflect the views of the Exchange 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 Letter of Consent and has been given a full opportunity to ask questions about it; that it has agreed to the Letter of Consent’s provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein, has been made to induce the Firm to submit it.

Date: April 3, 2020

SG Americas Securities, LLC

By:  Jeffrey ROSEN
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Name: Jeffrey ROSEN

Title: MD & COO