



**DISCIPLINARY DECISION**

**Cboe Exchange, Inc.**

**Star No. 20180592148/File No. USRI-8706**

**Sumo Capital, 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, 4.24 – Supervision and 5.4 – Withdrawal of Approval of Underlying Securities

**Sanction**

A censure and a monetary fine in the amount of \$30,000

**Effective Date**

January 30, 2020

/s/ Greg Hoogasian

Greg Hoogasian, CRO, SVP

**Cboe Exchange, Inc.**  
**LETTER OF CONSENT**  
**Star No. 20180592148**  
**File No. USRI-8706**

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In the Matter of:

Sumo Capital, LLC  
190 South LaSalle Street  
Suite 1620  
Chicago, Illinois 60603

Subject

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Pursuant to the provisions of Cboe Exchange, Inc. (“Cboe” or the “Exchange”) Rule 13.3, Sumo Capital, LLC (the “Firm”) submits this Letter of Consent for the purposes of proposing a settlement of the alleged rule violations described below.

The Firm neither admits nor denies the allegations within Star No. 20180592148/File No. USRI-8706 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 (“TPH”) registered to conduct business on the Exchange. The Firm’s registrations remain in effect.
2. This matter originated from a review conducted by FINRA’s Market Regulation Department.

**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, 4.24 – Supervision, and 5.4 – Withdrawal of Approval of Underlying Securities.
4. During all relevant periods herein, Exchange Rule 5.4<sup>1</sup> provided, in relevant part:  

Whenever the Exchange determines that an underlying security previously approved for Exchange option transactions does not meet the

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<sup>1</sup> Effective October 7, 2019, Cboe Rule 5.4 was renumbered as Cboe Rule 4.4.

then current requirements for continuance of such approval or for any other reason should no longer be approved, the Exchange will not open for trading any additional series of options of the class covering that underlying security and therefore two Floor Officials, in consultation with a designated senior executive officer of the Exchange, may prohibit any opening purchase or sale transactions in series of options of that class previously opened (except that (i) opening transactions by Market-Makers executed to accommodate closing transactions of other market participants and (ii) opening transactions by TPH organizations to facilitate the closing transactions of public customers executed as crosses pursuant to and in accordance with Cboe Options Rule 6.74(b) or (d) may be permitted), to the extent it deems such action necessary or appropriate; provided, however, that where exceptional circumstances have caused an underlying security not to comply with the Exchange's current approval maintenance requirements, regarding number of publicly held shares or publicly held principal amount, number of shareholders, trading volume or market price the Exchange, in the interest of maintaining a fair and orderly market or for the protection of investors, may determine to continue to open additional series of option contracts of the class covering that underlying security.

5. During all relevant periods herein, Exchange Rule 4.24(e)<sup>2</sup> provided, in relevant part:

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 Rule 4.2<sup>3</sup> provided, in relevant part:

No Trading Permit Holder shall engage in conduct in violation of the... Rules of the Exchange...or any written interpretation thereof. Every Trading Permit Holder shall so supervise persons associated with the Trading Permit Holder as to assure compliance therewith.

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<sup>2</sup> Effective October 7, 2019, Cboe Rule 4.24 was renumbered as Cboe Rule 8.16.

<sup>3</sup> Effective October 7, 2019, Cboe Rule 4.2 was renumbered as Cboe Rule 8.2.

### **Opening Transactions in Restricted Options Series**

7. From in or about May 2018 through in or about October 2018 (the “Review Period”), the Firm executed seven opening transactions, consisting of 91 total contracts, in options classes that were restricted to closing-only transactions. Each of these trades established new positions in the Firm’s Market Maker account and none facilitated closing transactions for other market participants.
8. The acts, practices, and conduct described in Paragraph 7 constitute violations of Exchange Rule 5.4 by the Firm, in that the Firm executed opening transactions in restricted options series.

### **Written Supervisory Procedures**

9. As of May 2018 through in or about December 2018, the Firm failed to establish, maintain, and enforce written supervisory procedures (“WSPs”), and a system for applying such procedures, reasonably designed to prevent and detect violations of Exchange Rule 5.4, as such supervisory process related to Market-Maker transactions in restricted securities.
10. The acts, practices, and conduct described in Paragraph 9 constitute violations of Exchange Rule 4.24 by the Firm, in that the Firm failed to establish, maintain, and enforce WSPs, and a system for applying such procedures, reasonably designed to prevent and detect violations of Exchange Rule 5.4, as such supervisory process related to Market-Maker transactions in restricted securities.

### **Failure to Supervise**

11. During the Review Period, the Firm failed to supervise its Associated Persons to assure compliance with Exchange Rule 5.4, in that the Firm was on notice of continuing exceptions in addition to past disciplinary history of similar violative conduct.
12. The acts, practices, and conduct described in Paragraph 11 constitute violations of Exchange Rule 4.2 by the Firm, in that the Firm failed to supervise its Associated Persons to assure compliance with Exchange Rule 5.4.

### **DISCIPLINARY HISTORY**

13. On March 10, 2016, the Firm consented to sanctions including a \$20,000 fine, a censure and an undertaking to update its WSPs related to Exchange Rule 5.4. In that matter, the Firm effected 19 transactions in restricted classes between June 2014 and June 2015, in violation of Exchange Rule 5.4. In addition, the Firm failed to establish, maintain, and enforce WSPs reasonably designed to prevent and detect violations of Exchange Rule 5.4.

## SANCTIONS

14. In light of the alleged rule violations and disciplinary history discussed above, the Firm consents to the imposition of the following sanctions:
- a. A censure; and
  - b. A monetary fine in the amount of \$30,000.

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.

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 upon notice that this Letter of Consent has been accepted and that such payment is 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 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: 1/28/2020

Sumo Capital, LLC

By: 

Name: Daniel Gut

Title: Principal