



## **DISCIPLINARY DECISION**

**Cboe Exchange, Inc.**

**Star No. 20200660058/File No. URE-31-01**

**CIBC World Markets Corp.**

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

### **Applicable Rules:**

Cboe Exchange Rules 4.2 – Rights and Obligations of Holders and Writers, 5.12 – Transactions Off the Exchange, 8.1 – Just and Equitable Principles of Trade, 8.2 – Adherence to Law, and 8.16 – Supervision; and OCC By-Laws Article VI, Section 1 – General Clearance Rule.<sup>1</sup>

### **Sanction**

- A censure, and
- Monetary fine in the amount of \$80,000.

### **Effective Date**

May 8, 2023

/s/ Greg Hoogasian

Greg Hoogasian, CRO, EVP

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<sup>1</sup> Prior to October 7, 2019, Cboe Rules 4.2, 5.12, 8.1, 8.2, and 8.16 were numbered as Cboe Rules 5.2, 6.49, 4.1, 4.2, and 4.24, respectively.

**Cboe Exchange, Inc.**  
**LETTER OF CONSENT**  
**Star No. 20200660058/File No. URE-31-01**

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In the Matter of:

CIBC World Markets Corp.  
300 Madison Avenue  
New York, NY 10017

Subject

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Pursuant to the provisions of Cboe Exchange, Inc. (“Cboe” or the “Exchange”) Rule 13.3 – Expedited Proceeding, CIBC World Markets Corp. (“CIBC” 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 have been committed, and the stipulation of facts and findings described herein do not constitute such an admission.

**BACKGROUND**

1. During all relevant periods, CIBC was acting as a registered Broker-Dealer and was an Exchange Trading Permit Holder registered to conduct business on the Exchange. The Firm’s registrations remain in effect.
2. This matter originated from a review of CIBC’s use of the Options Clearing Corporation’s (“OCC”) options position adjustment process.

**VIOLATIVE CONDUCT**

**Applicable Rules**

3. During all relevant periods, the following rules were in full force and effect: Cboe Rules 4.2 – Rights and Obligations of Holders and Writers, 5.12 – Transactions Off the Exchange, 8.1 – Just and Equitable Principles of Trade, 8.2 – Adherence to Law, and 8.16 – Supervision; and OCC By-Laws Article VI, Section 1 – General Clearance Rule.<sup>1</sup>
4. During all relevant periods, Cboe Rule 4.2 provided that “[t]he rights and obligations of holders and writers shall be as set forth in the Rules of the Clearing Corporation.”

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<sup>1</sup> Prior to October 7, 2019, Cboe Rules 4.2, 5.12, 8.1, 8.2, and 8.16 were numbered as Cboe Rules 5.2, 6.49, 4.1, 4.2, and 4.24, respectively.

5. During all relevant periods, Cboe Rule 5.12 provided that “[e]xcept as otherwise provided by this Rule, no Trading Permit Holder...may effect transactions in any class of option contracts listed on the Exchange for a premium in excess of \$1.00 other than (1) on the Exchange, (2) on another exchange..., or (3) in the over-the-counter market...”
6. During all relevant periods, Cboe Rule 8.1 provided that “[n]o Trading Permit Holder shall engage in acts or practices inconsistent with just and equitable principles of trade.”
7. During all relevant periods, Cboe Rule 8.2 provided that “[n]o Trading Permit Holder shall engage in conduct in violation of the...Rules of the Exchange, or the Rules of the Clearing Corporation insofar as they relate to the reporting or clearance of any Exchange transaction, or any written interpretation therefor. Every Trading Permit Holder shall so supervise persons associated with the Trading Permit Holder as to assure compliance therewith.”
8. During all relevant periods, Cboe Rule 8.16(e) provided that “[e]ach 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.”
9. During all relevant periods, OCC By-Laws Article VI, Section 1 provided that “[a]ll confirmed options trades shall be cleared through the Corporation, and no other transaction shall be cleared through the Corporation without its consent.” Interpretations and Policies .01(a) to this by-law provided that the OCC would permit firms, subject to additional requirements, to submit adjustments to positions with the OCC to, among other things, correct bona fide errors in trades that were previously submitted to the OCC.

### **Improper Use of the OCC Adjustment Process**

10. From in or around March 2016 through in or around December 2019, CIBC used the OCC adjustment process in 20 instances to change the prices of trades that had executed on an exchange to the held prices it had agreed to with its customers in writing. The held prices were communicated to a floor broker, who in turn was not able to execute at those prices. In 16 of these instances, the adjustments resulted in the Firm’s customers receiving prices that were better than what executed on exchanges. In four instances, however, the adjustments resulted in its customers, including a Firm affiliate, receiving prices that were worse than what executed on an exchange.<sup>2</sup>

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<sup>2</sup> In the four instances where the adjusted prices resulted in a loss for the Firm’s customers, three of the four losses were sustained by the Firm’s Canada-based affiliate, and in the remaining instance, the Firm’s customer sustained a de minimis loss of \$1.26.

11. CIBC's OCC adjustments constituted transactions in listed option contracts off of the Exchange. These adjustments potentially harmed the Exchange, and other market participants, in that they denied other market participants the opportunity to trade the options in the open market, thereby foregoing potential price improvement. Further, the adjustments were not made to correct bona fide errors, and as such were made for a purpose other than one permitted by Exchange Rules and OCC By-Laws.
12. The acts, practices, and conduct described in Paragraphs 10 and 11 constitute violations of Cboe Rules 4.2, 5.12, 8.1, and 8.2, and OCC By-Laws Article VI, Section 1 by the Firm.<sup>3</sup>

### **Supervisory Procedures**

13. During the relevant period, CIBC did not establish sufficient supervisory procedures regarding its use of the OCC adjustment process. The Firm had in place procedures regarding its accommodation account, which it used as part of the adjustment process. However, those procedures were not consistent with Interpretations and Policies .01(a) to OCC By-Laws Article VI, Section 1, since they permitted adjustments, after supervisory review and sign-off, for purposes other than to correct bona fide errors in trades that were previously submitted to the OCC.<sup>4</sup>
14. The acts, practices and conduct described in Paragraph 13 constitute violations of Exchange Rule 8.16 by the Firm.<sup>5</sup>

### **SANCTIONS**

15. CIBC does not have any prior relevant disciplinary history specifically related to improper use of the OCC adjustment process.
16. In light of the alleged rule violations described above, the Firm consents to the imposition of the following sanctions:
  - a. A censure; and
  - b. A monetary fine in the amount of \$80,000.

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

<sup>3</sup> Prior to October 7, 2019, Cboe Rules 4.2, 5.12, 8.1, and 8.2 were numbered as Cboe Rules 5.2, 6.49, 4.1, and 4.2, respectively.

<sup>4</sup> CIBC entered buy and sell trades in its accommodation account at the agreed upon price and netted them against the Exchange trades so that its customers could receive the held price.

<sup>5</sup> Prior to October 7, 2019, Cboe Rule 8.16 was numbered as Cboe Rule 4.24.

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(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:** May 4, 2023

**CIBC World Markets Corp.**

**By:** 

**Name:** Achilles Perry

**Title:** General Counsel