

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

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1:07 pm, Sep 29, 2021

In the Matter of:

SOCIÉTÉ GÉNÉRALE S.A.,

Respondent.

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) **CFTC Docket No. 21-36**
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**ORDER INSTITUTING PROCEEDINGS PURSUANT TO
SECTION 6(c) AND (d) OF THE COMMODITY EXCHANGE ACT, MAKING
FINDINGS, AND IMPOSING REMEDIAL SANCTIONS**

I. INTRODUCTION

The Commodity Futures Trading Commission (“Commission”) has reason to believe that from in or about 2013 to at least July 2021 (“Relevant Period”), Société Générale S.A. (“Société Générale” or “Respondent”) violated Sections 2(a)(13)(G), 4r(a)(3), and 4s(h)(1) of the Commodity Exchange Act (“Act”), 7 U.S.C. §§ 2(a)(13)(G), 6r(a)(3), 6s(h)(1) (2018), and Regulations 23.431(a) and (d), 23.602(a), and 45.4(d)(2), 17 C.F.R. §§ 23.431(a), (d), 23.602(a), 45.4(d)(2) (2020) of the Commission Regulations (“Regulations”) promulgated thereunder. Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether Respondent engaged in the violations set forth herein and to determine whether any order should be issued imposing remedial sanctions.

In anticipation of the institution of an administrative proceeding, Respondent has submitted an Offer of Settlement (“Offer”), which the Commission has determined to accept. Without admitting or denying any of the findings or conclusions herein, Respondent consents to the entry of this Order Instituting Proceedings Pursuant to Section 6(c) and (d) of the Commodity Exchange Act, Making Findings, and Imposing Remedial Sanctions (“Order”), and acknowledges service of this Order.¹

¹ Respondent consents to the use of the findings of fact and conclusions of law in this Order in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party or claimant, and agrees that they shall be taken as true and correct and be given preclusive effect therein, without further proof. Respondent does not consent, however, to the use of this Order, or the findings or conclusions herein, as the sole basis for any other proceeding brought by the Commission or to which the Commission is a party or claimant, other than: a proceeding in bankruptcy or receivership; or a proceeding to enforce the terms of this Order. Respondent does not

II. FINDINGS

The Commission finds the following:

A. SUMMARY

During the Relevant Period, Société Générale, a provisionally registered swap dealer, failed to supervise its mid-market mark disclosure process diligently, resulting in Société Générale failing to comply with mid-market mark disclosure and swap data repository (“SDR”) reporting requirements for certain swap transactions. Société Générale’s failure to perform its supervisory obligations diligently with respect to mid-market mark disclosures resulted in numerous violations of the Act and Regulations.

Specifically, for many years, Société Générale failed to disclose daily mid-market marks (“daily marks”) entirely to a significant portion of its counterparties for which Société Générale was subject to daily mark disclosure requirements. For certain other swaps, Société Générale provided counterparties inaccurate daily marks and reported inaccurate swap valuation data to an SDR. Finally, Société Générale also failed to disclose pre-trade mid-market marks (“PTMMs”) to counterparties to swaps it transacted over certain electronic trading platforms. In each instance, Société Générale’s failures went undetected for extended periods due to its inadequate supervision and controls over its mid-market mark disclosure process.

In accepting Respondent’s Offer, the Commission recognizes the self-reporting and substantial cooperation of Société Générale in connection with the Division of Enforcement’s (“Division”) investigation of this matter. The Commission also acknowledges Respondent’s representations concerning its remediation in connection with this matter. The Commission’s recognition of Respondent’s self-reporting, substantial cooperation, and appropriate remediation is further reflected in the form of a substantially reduced penalty.

B. RESPONDENT

Société Générale S.A. is a non-United States swap dealer headquartered in Paris, France. Société Générale was provisionally registered as a swap dealer with the Commission on December 31, 2012.

C. FACTS

1. **Mid-Market Mark Disclosure and Swap Valuation Data Reporting Requirements**

As a provisionally registered swap dealer, Société Générale is subject to certain business conduct standards set forth in Section 4s(h) of the Act, 7 U.S.C. § 6s(h) (2018).² These include

consent to the use of the Offer or this Order, or the findings or conclusions in this Order, by any other party in any other proceeding.

² Section 4s(h) also sets forth business conduct standards for major swap participants. Because Société Générale is a swap dealer, the remainder of this Order will discuss the Act and Regulations only as they relate to swap dealers.

requirements that swap dealers disclose to counterparties: (1) information about the material characteristics of the swap; (2) the swap dealer’s material incentives and conflicts of interest related to the swap; and (3) a daily mark of each uncleared swap transaction. Section 4s(h)(3)(B) of the Act, 7 U.S.C. § 6s(h)(3)(B).

Regulation 23.431, 17 C.F.R. § 23.431 (2020), implements, among other provisions, the disclosure requirements of Section 4s(h). Pursuant to Regulation 23.431(a), swap dealers must disclose to counterparties,³ among other things, “[a]t a reasonably sufficient time prior to entering into a swap,” (1) the material characteristics of the particular swap, “which shall include the material economic terms of the swap, the terms relating to the operation of the swap, and the rights and obligations of the parties during the term of the swap,” and (2) the material incentives and conflicts of interest the swap dealer may have in connection with the swap, which shall include “[w]ith respect to disclosure of the price of the swap, the price of the swap and the mid-market mark of the swap.” Pursuant to Regulation 23.431(d), swap dealers must disclose to counterparties the mid-market mark of uncleared swaps daily during the term of the swap.

Regulation 23.431(d)(2) further instructs swap dealers that both the pre-trade and daily mid-market marks the swap dealer discloses “shall not include amounts for profit, credit reserve, hedging, funding, liquidity, or any other costs or adjustments.” The Commission has noted that the term mid-market “has been used by many industry participants since at least 1994,”⁴ and characterized the mid-market mark as an “objective”⁵ and “transparent”⁶ value. Because the mid-market mark requirement was a “principal based” rule, the Commission declined to “endorse any particular methodology” for calculating the mark.⁷

Société Générale, as a swap dealer, is also a reporting counterparty and thus is required to report certain data about its swap transactions to an SDR. See Sections 2(a)(13)(G) and 4r(a)(3) of the Act, 7 U.S.C. §§ 2(a)(13)(G), 6r(a)(3) (2018). This includes reporting “valuation data” for each uncleared swap daily.⁸ Regulation 45.4(d)(2), 17 C.F.R. § 45.4(d)(2) (2020). “Valuation

³ Both Section 4s(h) and Regulation 23.431 limit the disclosure requirements discussed in this Order to counterparties who are not swap dealers, major swap participants, security-based swap dealers, or major security-based swap participants. 7 U.S.C. § 6s(h)(3)(B); Regulation 23.431(a), (d). The Commission has expressed the view that, for non-U.S.-based swap dealers such as Société Générale, Regulations 23.431(a) and (d) will generally apply under CEA Section 2(i), 7 U.S.C. § 2(i) (2018), to swaps trades made with counterparties who fall within the definition of a U.S. person. See *Interpretive Guidance and Policy Statement Regarding Compliance with Certain Swap Regulations*, 78 Fed. Reg. 45,292, 45,351 (July 26, 2013). The remainder of this Order will use the general term “counterparties” to refer to counterparties that fall within the requirements of the Act and Regulation.

⁴ *Business Conduct Standards for Swap Dealers and Major Swap Participants with Counterparties*, 77 Fed. Reg. 9,734, 9,768 (Feb. 17, 2012) (“Final Rule Release”).

⁵ *Id.*

⁶ *Business Conduct Standards for Swap Dealers and Major Swap Participants with Counterparties*, 75 Fed. Reg. 80,638, 80,646 (Dec. 22, 2010).

⁷ Final Rule Release, 77 Fed. Reg. at 9,768.

⁸ The conduct at issue in this Order continued after recent amendments to Part 45 of the Regulations, 17 C.F.R. pt. 45 (2020), for which the compliance date is May 25, 2022. See *Swap Data Recordkeeping and Reporting Requirements*, 85 Fed. Reg. 75,503, 75,560-62 (Nov. 25, 2020) (to be codified at 17 C.F.R. pt. 45, 46, 49); *Certain Swap Data Repository and Data Reporting Requirements*, 85 Fed. Reg. 75,601, 75,654 (Nov. 25, 2020) (to be

data” is defined as “all of the data elements necessary to fully describe the daily mark of the transaction” pursuant to Section 4s(h)(3)(B)(iii) of the Act and Regulation 23.431. Regulation 45.1, 17 C.F.R. § 45.1 (2020).

2. Société Générale’s Supervision, Mid-Market Mark Disclosure, and SDR Reporting Failures

During the Relevant Period, Société Générale failed to supervise its mid-market mark disclosure process diligently, resulting in Société Générale failing to meet its mid-market mark disclosure and SDR reporting obligations in different ways. First, for several years, Société Générale failed to disclose daily marks entirely to a significant portion of its counterparties for which Société Générale was subject to daily mark disclosure requirements. Second, for certain other swaps, Société Générale provided counterparties inaccurate daily marks and reported inaccurate swap valuation data to an SDR. Finally, Société Générale also failed to disclose PTMMs to counterparties to certain foreign exchange (“FX”) swaps it transacted over electronic trading platforms. In each instance, Société Générale’s failures went undetected for extended periods due to its inadequate supervision and controls over its mid-market mark disclosure process. Société Générale’s failure to supervise resulted in numerous violations of the Act and Regulations.

a. Daily Mark Delivery

Since its daily mark disclosure obligations began in 2013, Société Générale used an automated report it had designed to identify transactions subject to daily mark disclosure requirements. Société Générale staff would then review the automated report to identify counterparties to enter into its daily mark reporting system such that Société Générale would send those counterparties daily mark disclosure reports. However, due to a design flaw, Société Générale’s automated report failed to identify comprehensively the transactions for which daily mark disclosures were required. As a result, from approximately 2013 through March 2019, Société Générale failed to enter a significant portion of its counterparties into its daily mark reporting system. In some instances, this resulted in Société Générale failing to provide its counterparties daily mark reports entirely, while in other instances, Société Générale began providing its counterparties with daily mark reports at some point during the lifetime of a swap, but did not provide them initially. Overall, due to this failure, Société Générale failed to disclose daily marks during this time period to between 28% - 48% per year of the counterparties for which Société Générale was subject to daily mark disclosure requirements.⁹

Société Générale did not have adequate supervision and controls to ensure that it delivered daily mark disclosures as required. In late 2016, Société Générale first implemented a control calling for a quarterly supervisory review of its identification of counterparties to enter into its daily mark reporting system and of sample daily mark disclosure reports it issued.

codified at 17 C.F.R. pt. 43, 45, 49). However, those amendments do not change substantively the reporting requirements for valuation data.

⁹ This made up approximately 4% of the transactions for which Société Générale was subject to daily mark disclosure requirements during this time period.

However, staff failed to perform the control properly, rendering the control ineffective, and Société Générale did not discover its control was ineffective until the end of 2018.

In April 2017, an external consultant could not complete its testing of Société Générale's daily marks because Société Générale was unable to produce almost all of the daily mark disclosure reports selected for review in time for the consultant's review. In 2018, internal compliance reviews raised concerns about daily marks. This led to an internal audit review, which ultimately identified, at the end of 2018, Société Générale's daily mark delivery failures and that its quarterly control implemented in late 2016 had been ineffective.

As Société Générale began strengthening its supervision and controls over its daily mark disclosures, it discovered additional daily mark disclosure errors. In late January 2020, Société Générale identified a technical problem with its daily mark reporting system that resulted in it issuing daily mark disclosure reports for certain FX swaps that contained a mark to market valuation, but failed to provide a daily mark value.¹⁰ Société Générale then created a new control to identify similar types of errors. Through this control, in March 2021, Société Générale identified a similar, but more widespread and longstanding, failure. Dating back to at least 2016, Société Générale failed to filter properly the transaction data it sent to its daily mark reporting system. This resulted in Société Générale issuing daily mark disclosure reports that contained a mark to market valuation, but failed to provide a daily mark value, for numerous swaps.¹¹

b. Daily Mark Accuracy and Swap Valuation Data Reporting

Société Générale's failure to supervise its mid-market marks process diligently extended to its supervision of the accuracy of the daily marks it provided to counterparties. In December 2018, a Société Générale internal audit review identified that its draft policy for calculating daily mark values, issued in 2013, had never been approved or updated, and internal audit flagged the issue for remediation. Société Générale did not, however, update its policy until June 2020. After it updated its policy, Société Générale then began a voluntary review of its daily mark calculations for compliance with its policy and CFTC regulatory requirements.

During this review, Société Générale discovered that it had been providing inaccurate daily marks to counterparties to certain exotic swaps for years. Since its daily mark disclosure obligations began in 2013, Société Générale used several swap pricers to generate swap valuations for daily mark disclosure purposes, among other purposes. Certain of Société Générale's swap pricers permitted Société Générale to adjust swap valuations to include amounts for profit and hedging, among other things,¹² and Société Générale did make such adjustments for a subset of exotic equity swap transactions priced using these pricers. Because Société Générale drew its daily mark disclosures from these swap pricers for these transactions, Société

¹⁰ This issue occurred from around early January 2020 until around mid-April 2020 and affected over ten thousand swaps.

¹¹ This issue occurred from approximately 2016 until around March 2021 and affected all FX swaps for which Société Générale was subject to daily mark disclosure requirements during this period, among other swaps.

¹² Société Générale used these pricers to price certain of its swap transactions. For example, for the period July 1, 2019 to June 30, 2020, Société Générale used the pricers at issue to price approximately 3% of its swap transactions subject to daily mark disclosure requirements.

Générale provided its counterparties daily marks that included amounts for profit, hedging, or other costs or adjustments prohibited by Regulation 23.431(d)(2). Société Générale continued to use these swap pricers for daily mark disclosure purposes, thereby providing counterparties inaccurate daily marks, through at least July 2021.

Société Générale also used the same methodology to calculate its daily marks as it did to calculate swap valuation data for SDR reporting purposes. Thus, for certain swaps, including the same set of swaps for which Société Générale disclosed inaccurate daily marks to counterparties, Société Générale also reported inaccurate swap valuation data to an SDR.

c. PTMMM Delivery

Société Générale also failed to have sufficient oversight of its PTMMM disclosure process for when it transacted via certain electronic trading platforms over which Société Générale streamed prices. Société Générale began using the first of these trading platforms in 2014 for a handful of transactions and, over the years, Société Générale began using four additional trading platforms in larger numbers. Prior to transacting over these trading platforms, Société Générale did not address its PTMMM disclosure obligations. Following identification of the issue, Société Générale worked with the respective trading platforms to implement an update that would permit Société Générale to disclose PTMMMs to counterparties via the trading platform. As a result of this issue, between approximately 2014 through at least 2020, Société Générale failed to disclose PTMMMs for over 31,000 FX swaps transacted over these trading platforms. This issue affected fourteen counterparties.

Société Générale began implementing post-trade controls over its PTMMM disclosures over time beginning in mid-2018. Société Générale did not discover its oversight with respect to PTMMMs for transactions done over certain electronic trading platforms until after a transaction was flagged during a post-trade PTMMM control in May 2020.

3. Société Générale's Self-reporting, Cooperation, and Remediation

Société Générale self-reported to Commission staff that it had failed to deliver daily marks to certain counterparties pursuant to Regulation 23.431(d). Société Générale's self-report led to the Division opening its investigation. After its initial disclosure, Société Générale continued to review its mid-market mark disclosure and swap valuation data SDR reporting processes further and disclosed additional compliance deficiencies to Division staff after it discovered them.

Société Générale's cooperation materially assisted the Division's investigation. Société Générale provided Division staff regular updates on the progress of its reviews; voluntarily provided documents and information; and categorized and detailed errors in its disclosures and reporting. Société Générale also conducted several analyses of transaction and mid-market mark records, including analyzing the number of counterparties and transactions affected by daily mark delivery failures; conducting extensive analysis of its exotic swap transactions; reviewing certain transactions in detail at the request of the Division; and analyzing the number of transactions executed over certain trading platforms. Société Générale's cooperation significantly conserved the time and resources of Division staff.

Société Générale also represented to the Commission that it engaged in substantial remediation efforts and devoted substantial time and resources to those efforts. For example, with respect to the provision of daily marks, Société Générale entered active counterparties requiring daily marks into its daily mark reporting system; transferred daily mark disclosure reporting responsibilities to a new team; replaced its automated report for identifying transactions subject to daily mark disclosure requirements; implemented a daily mark calculation policy, procedures, and governing body; and migrated to using a live portal for providing daily mark disclosures. Société Générale also implemented new and updated existing policies and procedures designed to ensure compliance with mid-market mark and swap valuation data reporting requirements. Société Générale also improved its operational processes and controls to ensure that its daily marks and PTMMMs are calculated and provided in a timely and accurate manner.

III. LEGAL DISCUSSION

A. **Section 4s(h)(1) of the Act and Regulation 23.431—Société Générale’s Failure to Disclose Daily Marks and PTMMMs and Its Failure to Disclose Accurate Daily Marks**

Section 4s(h)(1) of the Act, 7 U.S.C. § 6s(h)(1) (2018), and Regulation 23.431, 17 C.F.R. § 23.431 (2020) require swap dealers to disclose to counterparties: (1) information about the material characteristics of the swap; (2) the swap dealer’s material incentives and conflicts of interest related to the swap; and (3) a daily mark of each uncleared swap transaction. The Regulation additionally requires disclosure of a PTMMM as part of the disclosure of material incentives and conflicts of interest. Regulation 23.431(a)(3)(i). Regulation 23.431(d)(2) further requires that both the pre-trade and daily mid-market marks the swap dealer discloses “shall not include amounts for profit, credit reserve, hedging, funding, liquidity, or any other costs or adjustments.” In adopting Regulation 23.431, the Commission stated that it would “consider good faith compliance with policies and procedures reasonably designed to comply with the business conduct standards rules as a mitigating factor when exercising its prosecutorial discretion for violation of the rules.” Final Rule Release, 77 Fed. Reg. at 9,744.

As discussed above, during the Relevant Period, Société Générale, a swap dealer, failed to meet its mid-market mark disclosure requirements with respect to numerous swaps, including failing to disclose pre-trade and/or daily mid-market marks entirely and, for certain swaps, providing daily marks that were inaccurate because Société Générale adjusted them for profit, hedging, or other costs or adjustments prohibited by Regulation 23.431(d)(2). Société Générale therefore violated Section 4s(h)(1) of the Act and Regulations 23.431(a) and (d)(2).

Moreover, Société Générale did not act in good faith compliance with policies and procedures reasonably designed to comply with the business conduct standards rules. Société Générale’s mid-market mark failures persisted for years and were the result of inadequate procedures and controls, including that Société Générale did not have an effective daily mark calculation policy until June 2020 and did not address its PTMMM delivery obligations when transacting via certain electronic trading platforms. In light of these facts, Société Générale does not meet the requirements of the Commission’s policy statement regarding mitigation.

B. Sections 2(a)(13)(G) and 4r(a)(3) of the Act and Regulation 45.4(d)(2)—Société Générale’s Failure to Report Accurate Swap Valuation Data

The Act requires all swaps, both cleared and uncleared, to be reported to a registered SDR. *See* Sections 2(a)(13)(G) and 4r(a)(3) of the Act, 7 U.S.C. §§ 2(a)(13)(G), 6r(a)(3) (2018). These sections of the Act and the Commission’s implementing regulations in Part 45 of the Regulations, 17 C.F.R. pt. 45 (2020), were designed to enhance transparency, promote standardization, and reduce systemic risk. “The accuracy and completeness of swap reporting are critical to the Commission’s mission to protect market participants and to ensure market integrity.” *CFTC v. Deutsche Bank AG*, 16-cv-6544 (WHP), 2020 WL 4611985, at *8 (S.D.N.Y. June 17, 2020) (citing *In re Société Générale Int’l Ltd.*, CFTC No. 19-38, 2019 WL 4915485, at *6 (Sept. 30, 2019) (consent order) (collecting cases)). The Commission requires complete and accurate reporting data to engage in meaningful oversight of the swaps market. *Id.*

Regulation 45.4 requires the reporting of required swap continuation data, which includes all valuation data for a swap as defined in Regulation 45.1. *See* 17 C.F.R. § 45.1, 45.4 (2020). Regulation 45.4(d)(2) specifies that “valuation data for a swap must be reported by” a swap dealer to an SDR on a “daily” basis. 17 C.F.R. § 45.4(d)(2) (2020). Regulation 45.1 defines “[v]aluation data” as “all of the data elements necessary to fully describe the daily mark of the transaction.” 17 C.F.R. § 45.1 (2020).¹³

As set forth above, Société Générale failed to report certain swap valuation data to an SDR accurately. As a result, Société Générale violated Sections 2(a)(13)(G) and 4r(a)(3) of the Act and Regulation 45.4(d)(2).

C. Section 4s(h)(1)(B) of the Act and Regulation 23.602(a)—Société Générale’s Failure to Supervise Diligently

Section 4s(h)(1)(B) of the Act requires “diligent supervision of the business of the registered swap dealer.” 7 U.S.C. § 6s(h)(1)(B) (2018). Regulation 23.602 requires each swap dealer to establish and maintain a system to supervise, and to diligently supervise, all activities relating to its business performed by its partners, members, officers, employees, and agents (or persons occupying a similar function). 17 C.F.R. § 23.602(a) (2020).

Under Regulation 23.602, a violation is demonstrated by showing either that: (1) the registrant’s supervisory system was generally inadequate; or (2) the registrant failed to perform its supervisory duties diligently. *See In re Bank of Nova Scotia*, CFTC No. 20-26, 2020 WL 4926053, at *10 (Aug. 19, 2020) (consent order) (citing *In re Commerzbank AG*, CFTC No. 19-03, 2018 WL 5921385, at *10-11 (Nov. 8, 2018) (consent order); *In re INTL FCStone Mkts., LLC*, CFTC No. 15-27, 2015 WL 4980321, at *3 (Aug. 19, 2015) (consent order) (interpreting Regulation 23.602 and noting its similarity to Regulation 166.3, 17 C.F.R. § 166.3, making case law concerning Regulation 166.3 instructive); *cf. In re Murlas Commodities, Inc.*, CFTC No. 85-29, 1995 WL 523563, at *9 (Sept. 1, 1995) (consent order) (interpreting Regulation 166.3)).

¹³ Valuation data is also a “primary economic term” that is included in the Commission’s list “of minimum primary terms for swaps in each swap asset class.” Regulation 45.1 (defining “primary economic term”); Appendix 1 to Part 45 (identifying valuation data as a primary economic term).

Evidence of violations that “‘should be detected by a diligent system of supervision, either because of the nature of the violations or because the violations have occurred repeatedly’ is probative of a failure to supervise.” *In re Société Générale Int’l Ltd.*, CFTC No. 19-38, 2009 WL 4915485, at *7 (Sept. 30, 2019) (consent order) (quoting *In re INTL FCStone Markets*, 2015 WL 4980321, at *3).

As described above, during the Relevant Period, Société Générale failed to maintain an adequate supervisory system and failed to perform its supervisory obligations diligently with respect to mid-market mark disclosures. Société Générale’s failure to supervise is demonstrated by its failure to detect, prevent, and remediate repeated compliance failures over an extended period of time. Accordingly, Société Générale violated Section 4s(h)(1)(B) of the Act and Regulation 23.602(a).

IV. FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that, during the Relevant Period, Société Générale violated Sections 2(a)(13)(G), 4r(a)(3), and 4s(h)(1) of the Act, 7 U.S.C. §§ 2(a)(13)(G), 6r(a)(3), 6s(h)(1) (2018), and Regulations 23.431(a) and (d), 23.602(a), and 45.4(d)(2), 17 C.F.R. §§ 23.431(a), (d), 23.602(a), 45.4(d)(2) (2020).

V. OFFER OF SETTLEMENT

Respondent has submitted the Offer in which it, without admitting or denying the findings and conclusions herein:

- A. Acknowledges service of this Order;
- B. Admits the jurisdiction of the Commission with respect to all matters set forth in this Order and for any action or proceeding brought or authorized by the Commission based on violation of or enforcement of this Order;
- C. Waives:
 - 1. The filing and service of a complaint and notice of hearing;
 - 2. A hearing;
 - 3. All post-hearing procedures;
 - 4. Judicial review by any court;
 - 5. Any and all objections to the participation by any member of the Commission’s staff in the Commission’s consideration of the Offer;
 - 6. Any and all claims that it may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2018), and 28 U.S.C. § 2412 (2018), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. pt. 148 (2020), relating to, or arising from, this proceeding;

7. Any and all claims that it may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, tit. II, §§ 201–253, 110 Stat. 847, 857–74 (codified as amended at 28 U.S.C. § 2412 and in scattered sections of 5 U.S.C. and 15 U.S.C.), relating to, or arising from, this proceeding; and
 8. Any claims of Double Jeopardy based on the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief, including this Order;
- D. Stipulates that the record basis on which this Order is entered shall consist solely of the findings contained in this Order to which Respondent has consented in the Offer; and
- E. Consents, solely on the basis of the Offer, to the Commission’s entry of this Order that:
1. Makes findings by the Commission that Respondent violated Sections 2(a)(13)(G), 4r(a)(3), and 4s(h)(1) of the Act, 7 U.S.C. §§ 2(a)(13)(G), 6r(a)(3), 6s(h)(1) (2018), and Regulations 23.431(a) and (d), 23.602(a), and 45.4(d)(2), 17 C.F.R. §§ 23.431(a), (d), 23.602(a), 45.4(d)(2) (2020);
 2. Orders Respondent to cease and desist from violating Sections 2(a)(13)(G), 4r(a)(3), and 4s(h)(1) of the Act and Regulations 23.431(a) and (d), 23.602(a), and 45.4(d)(2);
 3. Orders Respondent to pay a civil monetary penalty in the amount of one million five hundred thousand dollars (\$1,500,000), plus post-judgment interest within ten days of the date of entry of this Order; and
 4. Orders Respondent and its successors and assigns to comply with the conditions and undertakings consented to in the Offer and as set forth in Part VI of this Order.
- F. Represents that it has already undertaken significant remediation efforts, including, but not limited to, the following:
1. Implemented new and updating existing policies, procedures, and controls designed to ensure compliance with mid-market mark and swap valuation data reporting requirements;
 2. Entered counterparties into its daily mark reporting system such that Société Générale will provide those counterparties daily mark disclosure reports;
 3. Revised its daily mark disclosure and swap valuation data reporting processes such that daily marks and swap valuation data values are populated from a new source that does not take into account any amounts for profit, hedging, or other costs or adjustments prohibited by Regulation 23.431(d)(2);
 4. Created new governance to oversee and monitor matters related to mid-market mark compliance requirements; and

5. Performed technical enhancements to its systems to ensure that it can provide PTMMs to counterparties when transacting over electronic trading platforms.

Upon consideration, the Commission has determined to accept the Offer.

VI. ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

- A. Respondent shall cease and desist from violating Sections 2(a)(13)(G), 4r(a)(3), and 4s(h)(1) of the Act, 7 U.S.C. §§ 2(a)(13)(G), 6r(a)(3), 6s(h)(1) (2018), and Regulations 23.431(a) and (d), 23.602(a), and 45.4(d)(2), 17 C.F.R. §§ 23.431(a), (d), 23.602(a), 45.4(d)(2) (2020).
- B. Respondent shall pay a civil monetary penalty in the amount of one million five hundred thousand dollars (\$1,500,000) (“CMP Obligation”), within ten days of the date of the entry of this Order. If the CMP Obligation is not paid in full within ten days of the date of entry of this Order, then post-judgment interest shall accrue on the CMP Obligation beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2018).

Respondent shall pay the CMP Obligation and any post-judgment interest by electronic funds transfer, U.S. postal money order, certified check, bank cashier’s check, or bank money order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

CFTC
C/O ESC/AMK-326; HQ RM 265
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
(405) 954-6569 office
(405) 954-1620 fax
9-AMC-AR-CFTC@faa.gov

If payment is to be made by electronic funds transfer, Respondent shall contact Marie Thorne or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Respondent shall accompany payment of the CMP Obligation with a cover letter that identifies the paying Respondent and the name and docket number of this proceeding. The paying Respondent shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

- C. Respondent and its successors and assigns shall comply with the following conditions and undertakings set forth in the Offer:

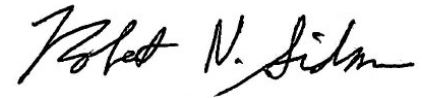
1. **Public Statements:** Respondent agrees that neither it nor any of its successors and assigns, agents or employees under its authority or control shall take any action or make any public statement denying, directly or indirectly, any findings or conclusions in this Order or creating, or tending to create, the impression that this Order is without a factual basis; provided, however, that nothing in this provision shall affect Respondent's: (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. Respondent and its successors and assigns shall comply with this agreement, and shall undertake all steps necessary to ensure that all of its agents and/or employees under its authority or control understand and comply with this agreement.
2. **Cooperation, in General:** Respondent shall cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement, in this action, and in any current or future Commission investigation or action related thereto. Respondent shall also cooperate in any investigation, civil litigation, or administrative matter related to, or arising from, this action. Respondent's cooperation shall continue for a period of five years from the date of the entry of this Order. As part of such cooperation, Respondent agrees to:
 - a. Subject to all applicable laws and regulations, preserve and produce to the Commission in a responsive and prompt manner, as requested by the Division's staff, all non-privileged documents, information, and other materials wherever located in the possession, custody, or control of Respondent;
 - b. Accept service by mail, electronic mail, or facsimile transmission of notices or subpoenas for documents and/or testimony at depositions, hearings, or trials;
 - c. Appoint Respondent's attorney as agent to receive service of such notices and subpoenas; and
 - d. Waive the territorial limits on service contained in Rule 45 of the Federal Rules of Civil Procedure and any applicable local rules in connection with requests or subpoenas of the Division's staff.
3. **Partial Satisfaction:** Respondent understand and agrees that any acceptance by the Commission of any partial payment of Respondent's CMP Obligation shall not be deemed a waiver of its obligation to make further payments pursuant to this Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.
4. **Change of Address/Phone:** Until such time as Respondent satisfies in full its CMP Obligation as set forth in this Order, Respondent shall provide written notice to the Commission by certified mail of any change to its telephone number and mailing address within ten calendar days of the change.

5. Remediation:

- a. Within 120 days of the date of this order, Respondent will provide daily mark disclosures compliant with Regulation 23.431(d)(2), 17 C.F.R. § 23.431(d)(2) (2020), to all counterparties with open swaps for which Respondent is subject to daily mark disclosure requirements. By the same date, Respondent will also inform counterparties with open swaps as of June 30, 2021 for which Respondent has previously disclosed inaccurate daily marks that they may request corrected daily marks for such swaps, and, on request, will provide counterparties with corrected daily marks;
- b. Within 120 days of the date of this Order, Respondent will provide to its SDR corrected valuation data for the open swaps as of June 30, 2021 for which Respondent previously reported inaccurate valuation data; and
- c. Respondent will continue its remediation efforts in relation to the mid-market mark disclosure and swap valuation data reporting deficiencies that are the subject matter of this Order to provide for mid-market mark disclosures and swap valuation data reporting that are compliant with the Act and Regulations. Within 120 days of the entry of this Order, Respondent shall make a report to the Commission, through the Division, concerning its remediation efforts before and since the entry of this Order. Within 365 days of the entry of this Order, Respondent shall submit a written report to the Commission, through the Division, explaining how Respondent has complied with the undertakings set forth herein. The written report shall provide an update on the status of Respondent's remedial efforts, including but not limited to discussion of: the policies, procedures and controls governing Respondent's mid-market mark disclosures and swap valuation data reporting obligations, including the procedure for the escalation to senior management of mid-market mark disclosure and swap valuation data reporting issues; independent periodic testing to test compliance with Respondent's mid-market mark disclosure and swap valuation data reporting obligations; the qualifications and training of staff responsible for compliance; and the status of any mid-market mark disclosure and swap valuation data reporting issues escalated to senior management. The written report shall contain a certification from Respondent's chief compliance officer(s) regarding whether Respondent has established policies, procedures, and controls to satisfy the terms set forth in this Order.

The provisions of this Order shall be effective as of this date.

By the Commission.

A handwritten signature in black ink, appearing to read "Robert N. Sidman". The signature is written in a cursive style with a prominent initial "R".

Robert N. Sidman
Deputy Secretary of the Commission
Commodity Futures Trading Commission

Dated: September 29, 2021