

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of:

Citigroup Global Markets Inc.,

Respondent.

)
)
)
) CFTC Docket No: 17-06
)
)
)
)
)
)

RECEIVED CFTC



Office of Proceedings
Proceedings Clerk

9:18 am, Jan 19, 2017

**ORDER INSTITUTING PROCEEDINGS PURSUANT TO
SECTION 6(c) AND 6(d) OF THE COMMODITY EXCHANGE ACT,
MAKING FINDINGS AND IMPOSING REMEDIAL SANCTIONS**

I.

The Commodity Futures Trading Commission (“Commission”) has reason to believe that Citigroup Global Markets Inc. (“Respondent” or “Citigroup”) violated Section 4c(a)(5)(C) of the Commodity Exchange Act (“Act” or “CEA”), 7 U.S.C. § 6c(a)(5)(C) (2012), and Commission Regulation (“Regulation”) 166.3, 17 C.F.R. § 166.3 (2016), from at least July 16, 2011 through December 31, 2012. 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.

II.

In anticipation of the institution of an administrative proceeding, Respondent has submitted an Offer of Settlement (“Offer”) that 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 6(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 entry of this Order and to the use of these findings in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party; provided, however, that Respondent does not consent to the use of the Offer or the findings or conclusions in this Order consented to in the Offer, as the sole basis for any other proceeding brought by the Commission, other than a proceeding in bankruptcy or to enforce the terms of this Order. Nor does Respondent consent to the use of the Offer or this Order, or the findings or conclusions in this Order consented to in the Offer, by any other party in any other proceeding.

III.

The Commission finds the following:

A. SUMMARY

Between July 16, 2011 and December 31, 2012 (“Relevant Period”), Citigroup—by and through five of its traders (“Traders”)—engaged in the disruptive practice of “spoofing” (bidding or offering with the intent to cancel the bid or offer before execution) in U.S. Treasury futures markets. Citigroup’s spoofing orders, of which there were more than 2,500 during the Relevant Period, violated Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C). Further, in conjunction with these spoofing orders, Citigroup failed to diligently supervise the activities of its employees and agents in violation of Commission Regulation 166.3, 17 C.F.R. § 166.3 (2016).

B. RESPONDENT

Citigroup Global Markets Inc. has been registered with the Commission as a futures commission merchant (“FCM”) since 1979 and has been provisionally registered with the Commission as a swap dealer since 2012. Citigroup is also an approved swap firm with the National Futures Association. Citigroup has its headquarters in New York, New York.

C. FACTS

1. **Citigroup Traders Entered More than 2,500 Orders into U.S. Treasury Futures Markets with the Intent to Cancel the Orders Before Execution.**

During the Relevant Period, the Traders were among those working on Citigroup’s U.S. Treasury and U.S. Swaps desks, which, among other things, made markets for interest rate swaps and cash treasuries. As part of the Traders’ duties, after transacting with counterparties, the Traders typically hedged some or all of Citigroup’s counterparty risk by trading in various U.S. Treasury cash markets and Chicago Mercantile Exchange (“CME”) futures products. Among the Traders’ CME activity were more than 2,500 orders placed with the intent to cancel before execution (*i.e.*, spoofing orders).

Generally, the Traders’ spoofing strategy involved placing bids or offers of 1,000 lots or more with the intent to cancel those orders before execution. The spoofing orders were placed in the U.S. Treasury futures markets after another smaller bid or offer was placed on the opposite side of the same or a correlated futures or cash market. The Traders placed their spoofing orders to create or exacerbate an imbalance in the order book. This created the impression of greater buying or selling interest than would have existed absent the spoofing orders and was done to induce other market participants to fill the Traders’ smaller resting orders on the opposite side of the market from the Traders’ spoofing orders in advance of anticipated price changes. The Traders cancelled their spoofing orders after either the smaller resting orders had been filled or the Traders believed that the spoofing orders were at too great a risk of being executed.

In addition to executing the spoofing strategy individually, on at least one occasion, some of the Traders coordinated with each other to implement the spoofing strategy, by placing one or

more spoofing orders after another trader had placed one or more smaller resting orders in the same or a correlated futures or cash market.

2. Citigroup Failed to Diligently Supervise.

During the Relevant Period, Citigroup provided insufficient training relating to spoofing to the traders on its U.S. Treasury and U.S. Swaps desks. For most of the Traders, the only communication received about spoofing before or during the Relevant Period consisted of a single compliance alert sent on July 11, 2011 that informed them of the anti-spoofing language found in Section 4c(a)(5)(C) of the Act. Further, Citigroup did not have adequate systems and controls in place to detect spoofing by traders on the U.S. Treasury and U.S. Swaps desks; as such, Citigroup did not analyze order and trading activity to identify potential spoofing by its traders. As a result, even though the Traders placed more than 2,500 spoofing orders, Citigroup did not detect these spoofing orders until after the Relevant Period, and then only after being contacted by the CME about suspicious order and trading activity by two of the Traders.

Moreover, even when alerted to a spoofing incident involving one of the Traders, a supervisor and other members on the U.S. Treasury desk failed to comply with Citigroup's then-existing policies regarding reporting violations of the Act. In late 2011, one of the Traders, a junior trader based in Tokyo, came to New York for training on making markets and trading in U.S. Treasuries. As part of his training, Citigroup had this junior trader observe other traders on the desk. The junior trader observed two of the Traders place spoofing orders. In January 2012, the junior trader returned to Tokyo and began placing spoofing orders. In one instance, on January 31, 2012, he placed a 4,000 lot offer in the 10-year U.S. Treasury futures market that he intended to cancel before execution to induce other market participants to trade on his smaller resting bid in the 10-year cash U.S. Treasury market. The majority of his 4,000 lot spoofing order traded before he could cancel the order and, as a result, he incurred a loss. Afterwards, the junior trader called several other members of the U.S. Treasury desk, including the head of the desk, to report his loss and explain his spoofing strategy and what had happened. Although the supervisor told the junior trader "that's not a smart thing to do" and cautioned him not to do it again, neither the supervisor nor the other members of the U.S. Treasury desk reported the incident to compliance or any other senior manager, despite having information that the junior trader engaged in spoofing.

In accepting Citigroup's Offer, the Commission recognizes Citigroup's cooperation during the Division of Enforcement's investigation of this matter. Upon notification of a CME inquiry regarding a limited number of suspicious orders placed by two Traders, Citigroup identified and promptly self-reported additional orders by other Traders that were potentially violative and provided the Division important information and analysis regarding the same. In addition, prior to the entry of this Order, Citigroup took corrective action to improve its supervisory systems and internal controls designed to detect and deter spoofing and enhanced its compliance training as it relates to the anti-spoofing prohibition.

IV.

LEGAL DISCUSSION

A. Section 4c(a)(5)(C) of the Act—Spoofing Violations

Section 4c(a)(5) of the Act makes it unlawful for “[a]ny person to engage in any trading, practice, or conduct on or subject to the rules of a registered entity that . . . is, is of the character of, or is commonly known to the trade as, ‘spoofing’ (bidding or offering with the intent to cancel the bid or offer before execution).” As described above, the Traders entered more than 2,500 bids or offers on a registered entity with the intent to cancel the bids or offers before execution in violation of Section 4c(a)(5)(C) of the Act. The Traders engaged in this illegal activity within the course and scope of their employment at Citigroup; therefore, the illegal activity is deemed that of Citigroup pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § (2)(a)(1)(B) (2012), and Regulation 1.2, 17 C.F.R. § 1.2 (2016).

B. Regulation 166.3—Failure to Supervise

Regulation 166.3 states:

Each Commission registrant, except an associated person who has no supervisory duties, must diligently supervise the handling by its partners, officers, employees and agents (or persons occupying a similar status or performing a similar function) of all commodity interest accounts carried, operated, advised or introduced by the registrant and all other activities of its partners, officers, employees and agents (or persons occupying a similar status or performing a similar function) relating to its business as a Commission registrant.

A violation under Regulation 166.3 is an independent violation for which no underlying violation is necessary. *See In re Collins*, [1996-1998 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 27,194 at 45,744 (CFTC Dec. 10, 1997). A violation of Regulation 166.3 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 Forex Capital Markets LLC*, [2012-2013 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 32,658, at 73,166 (Oct. 3, 2011) (citing *In re Murlas Commodities*, [1994-1996 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,485 at 43,161 (CFTC Sept. 1, 1995)); *see also In re GNP Commodities, Inc.*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,360 at 39,219 (CFTC Aug. 11, 1992) (providing that, even if an adequate supervisory system is in place, Regulation 166.3 can still be violated if the supervisory system is not diligently administered); *Samson Refining Co. v. Drexel Burnham Lambert, Inc.*, [1987-1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,596 at 36,566 (CFTC Feb. 16, 1990) (noting that, under Regulation 166.3, an FCM has a “duty to develop procedures for the detection and deterrence of possible wrongdoing by its agents”) (internal quotation omitted). 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 Paragon Futures Assoc.*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,266 at 38,850 (Apr. 1, 1992); *see CFTC v. Sidoti*, 178 F.3d 1132, 1137 (11th Cir. 1999) (holding defendant liable for failure to supervise

because he “knew of specific instances of misconduct, yet failed to take reasonable steps to correct the problems”).

Citigroup, a registered FCM, failed to diligently supervise its employees and agents during the Relevant Period by having an inadequate supervisory program and by failing to perform its supervisory duties diligently. Citigroup’s supervisory program was inadequate in two respects: (1) it did not sufficiently train traders on the U.S. Treasury and U.S. Swaps desks about spoofing; and (2) it did not have in place systems and controls designed to prevent and to detect spoofing. Further, Citigroup failed to perform its supervisory duties diligently by not taking sufficient action to address, detect, and prevent misconduct after one of the Traders disclosed to his supervisor and several other members on the U.S. Treasury desk his failed attempt to successfully implement the spoofing strategy during the Relevant Period.

V.

FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that Citigroup violated Section 4c(a)(5)(C) of the Act and Regulation 166.3.

VI.

OFFER OF SETTLEMENT

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

- A. Acknowledges receipt of service of this Order;
- B. Admits the jurisdiction of the Commission to all the matters set forth in this Order and for any action or proceeding brought or authorized by the Commission based on a 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 they may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2012) and 28 U.S.C. § 2412 (2012), and/or the rules promulgated

by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. §§ 148.1-30 (2016), relating to, or arising from, this proceeding;

- (7) any and all claims that they may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, §§ 201-253, 110 Stat. 847, 857-68 (1996), as amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112, 204-205 (2007), relating to, or arising from, this proceeding; and
 - (8) any claims of Double Jeopardy based upon the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief;
- 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 Citigroup violated Section 4c(a)(5)(C) of the Act and Regulation 166.3;
 - (2) orders Citigroup to cease and desist from violating Section 4c(a)(5)(C) of the Act and Regulation 166.3;
 - (3) orders Citigroup to pay a civil monetary penalty in the amount of twenty-five million dollars (\$25,000,000), plus post-judgment interest; and
 - (4) orders Citigroup and its successors and assigns to comply with the conditions, undertakings, and representations consented to in the Offer and set forth in Part VII of this Order.

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

VII.

ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

- A. Citigroup shall cease and desist from violating Section 4c(a)(5)(C) of the Act and Regulation 166.3.
- B. Civil Monetary Penalty
 1. Citigroup shall pay a civil monetary penalty in the amount of twenty-five million dollars (\$25,000,000) (the "CMP Obligation"). If the CMP Obligation is not paid in full within ten days of the date of entry of the Order, then post-judgment interest shall

accrue on the CMP Obligation beginning on the date of entry of the Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of the Order pursuant to 28 U.S.C. § 1961 (2012).

2. Respondent shall pay the CMP Obligation 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, Respondent shall make the payment payable to the Commodity Futures Trading Commission, and sent to the address below:

Commodity Futures Trading Commission
Division of Enforcement
ATTN: Accounts Receivables
DOT/FAA/MMAC/AMZ-341
CFTC/CPSC/SEC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
(405) 954-7262 office
(405) 954-1620 fax
nikki.gibson@faa.gov

If payment is to be made by electronic transfer, Respondent shall contact Nikki Gibson 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 Respondent and the name and docket number of this proceeding. 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.

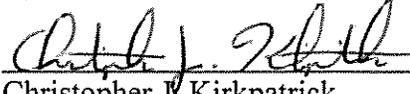
- C. Citigroup shall comply with the following conditions and undertakings set forth in the Offer:
 1. Public Statements: Citigroup agrees that neither it nor any of its successors, assigns, agents or employees under their authority or control shall take any action or make any public statement denying, 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.
 2. Procedures and Controls to Detect Spoofing Activity: Citigroup shall maintain systems and controls reasonably designed to detect spoofing activity by its traders, such as the systems and controls Citigroup developed and implemented in response to the Traders' spoofing activity. These systems and controls shall, at a minimum, be designed to detect and generate a report regarding patterns of trading that might constitute spoofing activity (e.g., the placement and rapid cancellation of large-lot

futures orders). Citigroup personnel shall promptly review such reports and follow up as necessary to determine whether spoofing activity has occurred.

3. Training: Citigroup shall provide annual training addressing the legal requirements of the Act with regard to spoofing, to be given to Citigroup employees who submit any orders on U.S. futures markets and their supervisors.
4. Cooperation with the Commission: Citigroup shall cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement, and any other governmental agency in this action, and in any investigation, civil litigation, or administrative matter related to the subject matter of this action or any current or future Commission investigation, civil litigation, or administrative matter related thereto. As part of such cooperation, Citigroup agrees to:
 - a. Preserve all records relating to the subject matter of this proceeding, including, but not limited to, audio files, electronic mail, other documented communications, and trading records;
 - b. Comply fully, promptly, completely, and truthfully, subject to any legally recognized privilege, with any inquiries or requests for information and documents;
 - c. Provide authentication of documents and other evidentiary material;
 - d. Use its best efforts to produce any current (as of the time of the request) officer, director, employee, or agent of Citigroup, regardless of the individual's location and at such a location that minimizes Commission travel expenditures, to provide assistance at any trial, proceeding, or Commission investigation related to the subject matter of this proceeding, including but not limited to, requests for testimony, depositions, and/or interviews, and to encourage them to testify completely and truthfully in any such proceeding, trial, or investigation; and
 - e. Subject to applicable laws and regulations, use their best efforts to assist in locating and contacting any prior (as of the time of the request) officer, director, employee, or agent of Citigroup.
5. Partial Satisfaction: Respondent understands 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.

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

By the Commission

A handwritten signature in black ink, appearing to read "Christopher J. Kirkpatrick", is written over a horizontal line.

Christopher J. Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission

Dated: January 19, 2017