

BEFORE THE BUSINESS CONDUCT COMMITTEE
OF THE
CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED

_____)	
In the Matter of:)	
)	
Oppenheimer & Co. Inc.)	
85 Broad Street, 22 nd Floor)	File No. 17-0049
New York, NY 10004)	STAR No. 20150451860
)	
Subject)	
_____)	

DECISION ACCEPTING LETTER OF CONSENT

This proceeding was instituted by the Business Conduct Committee (the "Committee") of the Chicago Board Options Exchange, Incorporated (the "Exchange") as a result of an investigation by the staff of the Exchange. In order to resolve this matter, the subject, Oppenheimer & Co. Inc. has submitted a Letter of Consent. Such Letter of Consent was submitted solely for the purposes of this proceeding without admitting or denying that a violation of Exchange Rules has been committed. With due regard to the stipulated facts and findings and the proposed sanction contained therein, the Committee believes it is appropriate to accept the Letter of Consent for File No. 17-0049 (STAR No. 20150451860) which is attached to and made a part of this Decision.

SO ORDERED
FOR THE COMMITTEE

Dated: October 5, 2017

By: /s/ Bruce Andrews
Bruce Andrews
Chairman
Business Conduct Committee

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LETTER OF CONSENT

In order to resolve these proceedings pursuant to Chicago Board Options Exchange, Incorporated (the "Exchange") Rule 17.3 – Expedited Proceeding, the Subject, Oppenheimer & Co. Inc. ("Oppenheimer" or the "Firm"), hereby submits this Letter of Consent in the above captioned matter. Only for purposes of this proceeding, and without admitting or denying that a violation of Exchange Rules has been committed, Oppenheimer consents to the Stipulation of Facts and Findings and Sanction set forth below.

Stipulation of Facts and Findings

1. During all relevant periods herein, Oppenheimer was an Exchange Trading Permit Holder registered to act as a clearing firm and to transact business with the public.
2. During all relevant periods herein, Oppenheimer was acting as a registered broker-dealer.
3. During all relevant periods herein, Exchange Rules 4.2 – Adherence to Law, 4.13 – Reports Related to Position Limits, and 4.24¹ – Supervision were in full force and effect.
4. Exchange Rule 4.13 provides, in relevant part that, "In a manner and form prescribed by the Exchange, each Trading Permit Holder shall report to the Exchange, the name, address, and social security or tax identification number of any customer who, acting alone, or in concert with others, on the previous business day maintained aggregate long or short positions on the same side of the market of 200 or more contracts of any single class of option contracts dealt in on the Exchange. The report shall indicate for each such class of options, the number of option contracts comprising each such position and, in the case of short positions, whether covered or uncovered."
5. During the approximate period from on or about January 19, 2010 through on or about December 31, 2016, in at least 1.5 million instances, Oppenheimer: (i) failed to submit reportable positions to the Large Options Positions Report ("LOPR"); (ii) submitted reports to the LOPR with incorrect position quantities; (iii) submitted reports to the LOPR that failed to identify customer accounts as acting in-concert; (iv) submitted reports to the LOPR with invalid or missing fields, such as customer address or tax ID information; or (v) incorrectly reported as-of transactions.

¹ Exchange Rule 4.24 became effective in March 2014. Therefore, the violations of Exchange Rule 4.24 cited in Paragraphs 6 and 9 below, are only applicable from in or about March 2014 through in or about December 31, 2016.

6. During the approximate period from on or about January 19, 2010 through on or about December 31, 2016, Oppenheimer failed to establish adequate supervisory procedures, including written supervisory procedures and a separate system of follow-up and review, reasonably designed to ensure compliance with rules governing reporting options positions to the LOPR, which resulted in the LOPR reporting violations described in paragraph 5 above.
7. During the approximate period from on or about January 19, 2010 through on or about December 31, 2016, Oppenheimer failed to adequately supervise its LOPR reporting activity so as to ensure compliance with the rules governing reporting options positions to the LOPR, which resulted in the LOPR reporting violations described in paragraph 5 above.
8. The acts, practices, and conduct described in Paragraph 5 above constitute violations of Exchange Rule 4.13 by Oppenheimer, in that in at least 1.5 million instances, Oppenheimer: (i) failed to submit reportable positions to the LOPR; (ii) submitted reports to the LOPR with incorrect position quantities; (iii) submitted reports to the LOPR that failed to identify customer accounts as acting in-concert; (iv) submitted reports to the LOPR with invalid or missing fields, such as customer address or tax ID information; or (v) incorrectly reported as-of transactions.
9. The acts, practices, and conduct described in Paragraph 6 above constitute violations of Exchange Rules 4.2 and 4.24 by Oppenheimer, in that Oppenheimer failed to establish adequate supervisory procedures, including written supervisory procedures and a separate system of follow-up and review, reasonably designed to ensure compliance with Exchange Rule 4.13, which resulted in the LOPR reporting violations described in paragraph 5 above.
10. The acts, practices, and conduct described in Paragraph 7 above constitute violations of Exchange Rule 4.2 by Oppenheimer, in that Oppenheimer failed to adequately supervise its LOPR reporting activity so as to ensure compliance with Exchange Rule 4.13, which resulted in the LOPR reporting violations described in paragraph 5 above.

Sanction: A censure and a total fine imposed by CBOE and the other options exchange identified below² in the amount of \$700,000, of which \$625,000 shall be paid to CBOE.³

Oppenheimer agrees to an undertaking whereby within thirty (30) days of acceptance of this Letter of Consent by the Business Conduct Committee, a registered principal of Oppenheimer shall submit to CBOE, care of FINRA Market Regulation – Legal (Chicago), a signed, dated attestation providing the following information: (1) a reference to this matter; and (2) a representation that Oppenheimer has implemented remediation to address the reporting issues described above.

Subject acknowledges that it has read the foregoing Letter of Consent, that no promise or inducement of any kind has been made to it by the Exchange or its staff, and that this Letter of Consent is voluntary on its part.

Subject understands and acknowledges that the Committee's decision in this matter will become part of its disciplinary record and may be considered in any future Exchange proceeding.

² NASDAQ PHLX LLC.

³ The Exchange notes that during the course of the underlying investigation in this matter, Oppenheimer provided significant cooperation and substantial assistance to staff. The Exchange took these efforts of the Firm into consideration when determining the appropriate sanction in this matter.

Subject understands and acknowledges that the acceptance of this Letter of Consent is conditioned upon acceptance of a parallel settlement agreement in a related matter between the Subject and the self-regulatory organization referenced in Footnote 2.

Subject also acknowledges that the Committee's decision to accept or reject this Letter of Consent is final, and that it may not seek review thereof in accordance with Exchange Rule 17.3.

Date

7/14/17

Oppenheimer & Co. Inc.