

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 70402 / September 16, 2013

ADMINISTRATIVE PROCEEDING
File No. 3-15489

In the Matter of

**MERU CAPITAL GROUP,
LP,**

Respondent.

**ORDER INSTITUTING CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 21C OF THE SECURITIES
EXCHANGE ACT OF 1934, MAKING
FINDINGS, AND IMPOSING A CEASE-
AND-DESIST ORDER AND CIVIL
PENALTY**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Meru Capital Group, LP. (“Meru Capital” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order and Civil Penalty (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Summary

1. These proceedings arise out of violations of Rule 105 of Regulation M of the Exchange Act by Meru Capital, a New York-based registered investment adviser. Rule 105 prohibits buying an equity security made available through a public offering, conducted on a firm commitment basis, from an underwriter or broker or dealer participating in the offering after having sold short the same security during the restricted period as defined therein.

2. On two occasions, from December 2009 through November 2011, Meru Capital bought offered shares from an underwriter or broker or dealer participating in a follow-on public offering after having sold short the same security during the restricted period. These violations collectively resulted in profits of \$262,616.

Respondent

3. Meru Capital Group, LP is a Delaware limited partnership with its principal place of business in New York, New York. Meru Capital Group, LP has been registered with the Commission since August 2011; it was not registered at the time of the violations. Meru Capital Group, LP provides advisory services to one domestic fund and three offshore funds and has total assets under management in excess of \$542 million.

Legal Framework

4. Rule 105 makes it unlawful for a person to purchase equity securities from an underwriter, broker, or dealer participating in a public offering if that person sold short the security that is the subject of the offering during the restricted period defined in the rule, absent an exception. 17 C.F.R. § 242.105; see Short Selling in Connection with a Public Offering, Rel. No. 34-56206, 72 Fed. Reg. 45094 (Aug. 10, 2007) (effective Oct. 9, 2007). The Rule 105 restricted period is the shorter of the period: (1) beginning five business days before the pricing of the offered securities and ending with such pricing; or (2) beginning with the initial filing of a registration statement or notification on Exchange Act Form 1-A or Form 1-E and ending with pricing.

5. "The goal of Rule 105 is to promote offering prices that are based upon open market prices determined by supply and demand rather than artificial forces." Final Rule: Short Sales, Exchange Act Release No. 50103. Rule 105 is prophylactic and prohibits the conduct irrespective of the short seller's intent in effecting the short sale.

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Meru Capital's Violations of Rule 105 of Regulation M

6. On December 15, 2009, Meru Capital sold short 500,000 shares of Citigroup Inc. ("C") during the restricted period at a price of \$3.6399 per share. On December 16, 2009, C announced the pricing of a follow-on offering of its common stock at \$3.15 per share. Meru Capital received an allocation of 1 million shares in that offering. The difference between Meru Capital's proceeds received from the restricted period short sales of C shares and the price paid for the 500,000 shares received in the offering was \$244,950.00. Respondent also improperly obtained a benefit of \$17,450.00 by purchasing the remaining 500,000 shares at a discount from C's market price. Thus, Meru Capital's participation in the C offering netted total profits of \$262,400.

7. On November 11, 2011, Meru Capital sold short 648 shares of Dunkin' Brands Group ("DNKN") during the restricted period at a price of \$25.9581 per share. On November 16, 2011, DNKN announced the pricing of a follow-on offering of its common stock at \$25.62 per share. Meru Capital received an allocation of 5,000 shares in that offering. The difference between Meru Capital's proceeds from the restricted period short sales of DNKN shares and the price paid for the 648 shares received in the offering was \$215.52. Thus, Meru Capital's participation in the DNKN offering netted total profits of \$215.52.

8. In total, Meru Capital's violations of Rule 105 resulted in profits of \$262,616.

Violations

9. As a result of the conduct described above, Meru Capital violated Rule 105 of Regulation M under the Exchange Act.

Meru Capital's Remedial Efforts

10. In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Respondent and cooperation afforded to Commission staff.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Meru Capital's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent Meru Capital cease and desist from committing or causing any violations and any future violations of Rule 105 of Regulation M of the Exchange Act;

B. Meru Capital shall within fourteen (14) days of the entry of this Order, pay disgorgement of \$262,616, prejudgment interest of \$4,600.51, and a civil money penalty in the

amount of \$131,296.98 (for a total of \$398,513) to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. Payments must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;²
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Meru Capital as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Gerald W. Hodgkins, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC 20549.

By the Commission.

Elizabeth M. Murphy
Secretary

² The minimum threshold for transmission of payment electronically is \$1,000,000. For amounts below the threshold, respondents must make payments pursuant to options (2) or (3) above.