

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 98238 / August 29, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21583

In the Matter of

Citigroup Global Markets Inc.

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTIONS 15(b) AND 21C
OF THE SECURITIES EXCHANGE ACT OF
1934, MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS AND A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Citigroup Global Markets Inc. (“CGMI” 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 Administrative and Cease-and-Desist Proceedings Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

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

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.

Summary

The federal securities laws impose recordkeeping requirements on broker-dealers to ensure that they responsibly discharge their crucial role in our markets. The Commission has long said that compliance with these requirements is essential to the Commission's efforts to further its mandate of protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation.

This matter concerns Respondent's failure to make and keep current books and records concerning expenses that the firm incurred in connection with its underwriting of securities offerings. For at least ten years, ending in May 2019, CGMI calculated and recorded in its books and records certain expense estimates as underwriter for securities offerings without knowing the basis for its calculation method during this period or taking steps to review or verify whether it was reasonable.

An underwriter is typically engaged by a company to manage and sell the company's securities, in exchange for a fee. A lead underwriter may form an underwriting syndicate by enlisting other underwriters to participate in a securities offering. Oftentimes, the lead underwriter will act as billing and delivery bank ("BDB"), responsible for, among other things, aggregating expenses incurred by the underwriting syndicate and computing the underwriting fees to be paid to the syndicate members, net of expenses, including indirect expenses.

From at least 2009 through May 2019, while serving as BDB, CGMI had no policies and procedures or review process for its method of estimating its indirect expenses associated with the underwriting of securities offerings. Instead, without knowing the basis during this period for its method, CGMI calculated its indirect expenses using a fixed percentage of each deal's underwriting fee, which it divided into expense categories by fixed percentages and recorded in its general ledger. As a result, CGMI violated recordkeeping requirements of Section 17(a) of the Exchange Act and Rule 17a-3 thereunder, which require broker-dealers to make and keep current certain books and records.

Respondent

1. **Citigroup Global Markets Inc. ("CGMI")** is a New York corporation with its principal place of business in New York, New York and is dually registered with the Commission as a broker-dealer and investment adviser. CGMI is an indirect wholly owned subsidiary of Citigroup, Inc., a global financial services firm incorporated in Delaware and headquartered in New York, New York.

Facts

2. At all relevant times, CGMI engaged in the underwriting of securities offerings, managing and selling issuers' securities, in exchange for a fee. CGMI sometimes enlisted other underwriters to form a syndicate of underwriters and frequently acted as the lead underwriter or BDB within the syndicate for such offerings. As BDB, CGMI was responsible for deal settlement, which included paying other syndicate members their *pro rata* portions of the fees earned by the syndicate, less each member's *pro rata* share of any expenses incurred in connection with the securities offering.

3. As BDB, CGMI, like other underwriters, charged "direct" and "indirect" expenses of securities offerings to the syndicate. CGMI categorized expenses that could be directly tied to a specific underwritten securities offering as direct expenses. CGMI categorized expenses that it could not directly link to a specific deal, *e.g.*, annual subscriptions to market data providers, as indirect expenses.

4. From at least 2009 until May 2019, CGMI calculated indirect expenses for thousands of its underwritten securities offerings as follows: First, upon deal settlement, CGMI calculated indirect expenses based on fixed percentages of the deal's underwriting fee, an amount paid to the syndicate per share underwritten. For equity securities offerings, CGMI calculated its indirect expenses to be 7% of the deal's underwriting fee and capped the indirect expense amount at either \$75,000 or \$85,000, depending on the underwriting fee. For debt securities offerings, CGMI calculated the indirect expense to be 10% of the deal's underwriting fee and capped the indirect expense amount at \$75,000.

5. Second, after arriving at the total indirect expense amount for a particular offering, CGMI used "allocation grids" to divide the total indirect expenses for that offering into specific categories of expenses, including "word processing, copying, printing," and "travel and entertainment."

6. After calculating indirect expenses pursuant to the unsubstantiated method above, CGMI then recorded these indirect expense amounts in the firm's general ledger, a record required to be made and kept current by the firm under Exchange Act Rule 17a-3.

7. CGMI did not know the basis for its method of calculation of indirect expenses during the relevant period, including its use of fixed percentages of underwriting fees to calculate indirect expenses per deal, its use of expense amount caps, or its use of "allocation grids," as described above.

8. For at least a decade, prior to May 2019, CGMI conducted no review or similar process to verify that its method of calculating indirect expense estimates was reasonable.

9. In May 2019, CGMI voluntarily revised its method of calculating indirect expenses associated with its underwriting business.

Violation

10. As a result of the conduct described above, CGMI willfully² violated the recordkeeping requirements of Section 17(a) of the Exchange Act and Rule 17a-3 thereunder, which require broker-dealers to make and keep current certain books and records, including “[l]edgers (or other records) reflecting all assets and liabilities, income and expense and capital accounts” (paragraph (a)(2) of Rule 17a-3).

CGMI’s Remedial Efforts

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

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in CGMI’s Offer.

Accordingly, pursuant to Sections 15(b) and 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondent CGMI cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Exchange Act and Rule 17a-3 promulgated thereunder.

B. Respondent CGMI is censured.

C. Respondent CGMI shall, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of \$2.9 million to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717. Payment 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) 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:

² “Willfully,” for purposes of imposing relief under Section 15(b) of the Exchange Act, “means no more than that the person charged with the duty knows what he is doing.” *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)).

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 Citigroup Global Markets Inc. 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 Joseph G. Sansone, Chief, Market Abuse Unit, Division of Enforcement, Securities and Exchange Commission, 100 Pearl Street, Suite 20-100, New York, New York 10004-2616.

D. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary