

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 98609 / September 28, 2023

INVESTMENT ADVISERS ACT OF 1940
Release No. 6440 / September 28, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21753

In the Matter of

**CITIGROUP GLOBAL
MARKETS, INC. and CITI
INTERNATIONAL
FINANCIAL SERVICES,
LLC, now known as
INSIGNEO
INTERNATIONAL
FINANCIAL SERVICES,
LLC,**

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTIONS 15(b) AND 21C OF THE
SECURITIES EXCHANGE ACT OF 1934,
AND SECTION 203(e) OF THE
INVESTMENT ADVISERS ACT OF 1940
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS AND CEASE-
AND-DESIST ORDERS**

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”) and Citi International Financial Services, LLC (“CIFS”), now known as Insigneo International Financial Services, LLC, (CGMI and CIFS, collectively, “Respondents”), and Section 203(e) of the Investment Advisers Act of 1940 (“Advisers Act”) against CGMI.

II.

In anticipation of the institution of these proceedings, Respondents have submitted an Offer of Settlement (“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 them and the subject matter of these proceedings, which are admitted, Respondents consent 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, and Section 203(e) of the Investment Advisers Act of 1940, Making Findings, And Imposing Remedial Sanctions and Cease-And-Desist Orders (“Order”), as set forth below.

III.

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

SUMMARY

1. From June 30, 2020 to at least March 2021, Respondents made securities recommendations to retail customers without complying with the disclosure requirements under Regulation Best Interest (Reg. BI) or the requirement to deliver the Form Client Relationship Summary (Form CRS).

2. The Commission adopted Reg. BI in June 2019, requiring broker-dealers to act in the best interest of their retail customers when making securities recommendations and to provide certain disclosures to those customers prior to or at the time of such recommendations. Among other things, broker-dealers are required to provide retail customers full and fair written disclosure of all material facts relating to the terms and scope of the relationship and conflicts of interest associated with securities recommendations (the “Disclosure Obligation”). Likewise, in June 2019, the Commission adopted Exchange Act Rule 17a-14, which requires broker-dealers to deliver Form CRS to, among others, existing retail customers. Broker-dealers were required to comply with Reg. BI’s Disclosure Obligation by June 30, 2020 and provide Form CRS to existing retail customers by July 30, 2020. By the same date, broker-dealers were also required to establish, maintain, and enforce written policies and procedures reasonably designed to achieve compliance with Reg. BI (the “Compliance Obligation”).

3. In the Reg. BI and Form CRS Adopting Releases, the Commission affirmed its long-standing guidance on electronic delivery of disclosures, which states that it is generally not appropriate for broker-dealers to rely on implied consent to meet the requirement that the broker-dealer receive evidence of delivery —i.e., where the broker-dealer informs customers of its intent to deliver disclosures electronically and deems its delivery obligation satisfied unless investors affirmatively object to such electronic delivery. *See Regulation Best Interest: The Broker-Dealer Standard of Conduct*, Exchange Act Release No. 86031 (June 5, 2019) (“*Reg. BI Adopting Release*”); *Form CRS Relationship Summary; Amendments to Form ADV*, Exchange Act Release No. 86032, Advisers Act Release No. 5247 (June 5, 2019) (“*Form CRS Adopting Release*”). Respondents nonetheless used implied consent and defaulted their approximately 360,000 accounts

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

belonging to existing retail customers (“Existing Retail Customers”) to electronic delivery of the required disclosures.²

4. Respondents did not comply with the Disclosure Obligation of Reg. BI and the delivery requirement of Form CRS until April 2021, when Respondents mailed the disclosures and Form CRS to Existing Retail Customers. By that time, however, registered representatives of the firms had made approximately 31,600 securities recommendations to approximately 13,600 Existing Retail Customers, all without effecting delivery within the framework of the Commission’s electronic delivery guidance for the required disclosures and Form CRS to nearly all those retail customers, in violation of Exchange Act Rule 15l-1(a)(1), as well as Section 17(a)(1) of the Exchange Act and Rule 17a-14(f)(3) thereunder.

RESPONDENTS

5. **CGMI** is a New York corporation with its principal place of business in New York, NY. It is an indirect wholly owned subsidiary of Citigroup, Inc. (“Citigroup”) also based in New York, NY. CGMI has been registered with the Commission pursuant to Section 15(b) of the Exchange Act as a broker-dealer since 1960 and as an investment adviser pursuant to Section 203 of the Advisers Act since 1964.

6. **CIFS**, now known as Insigneo International Financial Services, LLC, is a limited liability company formed in Puerto Rico with its principal place of business in San Juan, Puerto Rico. It has been registered as a broker-dealer with the Commission pursuant to Section 15(b) of the Exchange Act since 1986. It was an indirect wholly owned subsidiary of Citigroup until August 2022 when it was sold to Insigneo Financial Group, LLC. As a result of the sale, CIFS now operates under its new name, Insigneo International Financial Services, LLC.

FACTS

The Commission’s Adoption of Reg. BI and Form CRS Rules

7. On June 5, 2019, the Commission adopted Reg. BI, which enhances the standard of conduct applicable to broker-dealers and their associated persons. *See Reg. BI Adopting Release*. Reg. BI requires broker-dealers and their associated persons, when making a recommendation of any securities transaction or investment strategy involving securities (including account recommendations) to a retail customer, to “act in the best interest of the retail customer at the time the recommendation is made, without placing the financial or other interest of the broker, dealer, or natural person who is an associated person of a broker or dealer making the recommendation ahead of the interest of the retail customer.” *See* Exchange Act Rule 15l-1(a)(1) (“General Obligation”).

² The Existing Retail Customers included customers of CGMI’s consumer division and CIFS whose accounts were opened before April 1, 2020; customers of CGMI’s consumer division whose accounts were opened via a mobile application between June 1 and June 22, 2020; and customers of CGMI’s private banking division whose accounts were opened before July 31, 2020.

8. Broker-dealers can satisfy the General Obligation only if they comply with each of the component obligations, including, as relevant here, the Disclosure and Compliance Obligations described above. *See Reg. BI Adopting Release*, at 13. The Commission required broker-dealers to comply with Reg. BI by June 30, 2020.

9. The Commission affirmed the continued applicability of its prior guidance on electronic delivery of disclosures in the *Reg. BI Adopting Release*. The Commission specifically directed firms to its 2000 guidance on electronic delivery for clarification on how market intermediaries and other market participants can obtain consent for electronic delivery. *Id.* at 230-233; *see also Use of Electronic Media*, Exchange Act Release No. 42728 (Apr. 28, 2000) (“2000 Guidance”). The Commission stated in the release that “broker-dealers should be able to satisfy the Disclosure Obligation by using electronic delivery,” but must do so “within the framework of the Commission’s existing guidance regarding electronic delivery.” *Reg. BI Adopting Release*, at 233.

10. In the 2000 Guidance, the Commission also provided its interpretation on the appropriateness of an “implied consent model” for satisfaction of a broker-dealer’s delivery obligations, which it described as circumstances where a broker-dealer “rel[ies] on electronic delivery if investors do not affirmatively object when notified of the [broker-dealer’s] intention to deliver documents in an electronic format.” 2000 Guidance, at Section II.D.3. The Commission stated that it generally believed that “it would not be appropriate for issuers or intermediaries to rely on implied consent.” *Id.*

11. On June 5, 2019, the Commission also adopted rules relating to the delivery of Form CRS to retail customers or clients. *Form CRS Adopting Release*. Among other things, the Commission required firms that offer services to retail investors to deliver Form CRS to their existing clients and retail customers “in a manner consistent with the firm’s existing arrangement with that client or customer and with the Commission’s electronic delivery guidance.” *Form CRS Adopting Release*, at 208, 358. The Commission further required broker-dealers to deliver Form CRS to existing retail customers by July 30, 2020. *See* Exchange Act Rule 17a-14(f)(3) (“Form CRS Delivery Requirement”).

Respondents’ Ineffective Delivery of Reg. BI Disclosure Documents and Form CRS

Respondents Adopt and Implement the E-Delivery Amendment via Implied Consent.

12. In November 2019, Respondents established a common steering forum to plan for the implementation of Reg. BI and Form CRS requirements. On multiple occasions, the steering forum discussed how to provide the Reg. BI disclosures and Form CRS to new retail customers as well as Existing Retail Customers. The Existing Retail Customers had not previously agreed to electronic delivery of disclosures or Form CRS. Their account agreements, however, provided that Respondents could unilaterally amend those agreements with prior written notice to the customer.

13. By February 2020, the steering forum determined to amend the account agreements of Existing Retail Customers – via the amendment provisions of those agreements – to provide for a default to electronic delivery of the Reg. BI disclosures and Form CRS (the “E-Delivery Amendment”). The E-Delivery Amendment provided that these customers had consented to such electronic delivery if they continued to maintain their accounts with Respondents on or after May 18, 2020. Customers could request paper copies or opt out of the E-Delivery Amendment at any time, by contacting Respondents to do so.

14. CGMI provided notices of the E-Delivery Amendment to customers in the account statements for the periods ending in March, April, May, June, September, and December 2020 and in the 2020 quarterly “In The Know” (ITK) booklets or brochures provided to customers as inserts to the account statements for March, June, September, and December. The May 2020 statement mailing also included an insert containing a notice of the E-Delivery Amendment.

15. CIFS mailed a letter containing notice of the E-Delivery Amendment to customers in April 2020 along with a copy of the revised client agreement. CIFS also provided notice of the E-Delivery Amendment in the account statements for May, June, and December 2020; the May 2020 statement mailing also included an insert containing a notice of the E-Delivery Amendment.

16. Most of the notices featured links to websites that would contain the Reg. BI disclosures and Form CRS, the first version of which was posted on June 1, 2020.

17. In April 2020, Respondents adopted account agreements for new retail customers that expressly provided for electronic delivery of the Reg. BI disclosures and Form CRS.

Respondents Make Securities Recommendations to Existing Retail Customers without Complying with the Disclosure Obligation of Reg. BI and Form CRS Delivery Requirement.

18. Between June 30, 2020 and March 31, 2021, registered representatives of CGMI made approximately 27,400 recommendations to approximately 11,600 of their Existing Retail Customers while registered representatives of CIFS made approximately 4,200 recommendations to approximately 2,000 of their Existing Retail Customers without providing the required Reg. BI disclosures either by mail or within the framework of the Commission’s existing guidance regarding electronic delivery, as required by Reg. BI. Instead, CGMI and CIFS defaulted these customers to electronic delivery. By defaulting their Existing Retail Customers to electronic delivery from July 30, 2020 until March 31, 2021, Respondents also did not deliver Form CRS within the framework of the Commission’s existing guidance regarding electronic delivery, as affirmed by the Commission in the *Form CRS Adopting Release*.

19. In March 2021, Respondents determined to mail paper versions of the Reg. BI disclosures and Form CRS. Respondents sent these paper mailings to Existing Retail Customers in April 2021.

Respondents' Policies and Procedures Were Not Reasonably Designed to Achieve Compliance with Reg. BI.

20. Prior to the paper mailings, Respondents established, maintained, and enforced policies and procedures that were not reasonably designed to comply with the Disclosure Obligation of Reg. BI. The policies and procedures did not require that Respondents' registered representatives deliver Reg. BI disclosures to Existing Retail Customers prior to or at the time the representatives make a recommendation to the Existing Retail Customers. Rather, the policies and procedures relied on the "implied consent" of the E-Delivery Amendment and deemed compliance with Reg. BI's Disclosure Obligation for Existing Retail Customers as complete.

21. The policies and procedures required delivery of Reg. BI disclosures to Existing Retail Customers only in the limited circumstances when, among other things: (i) a registered representative recommends that the Existing Retail Customer roll over assets from a retirement account into a new or existing account or investment; or (ii) a representative recommends or provides a new brokerage or investment advisory service or investment, such as margins, options, or other complex investment products, that does not necessarily involve the opening of a new account and may be held or utilized in an existing account. Even in these limited circumstances, the policies and procedures did not require that registered representatives obtain the customer's affirmative consent to electronic delivery. Instead, Respondents directed their representatives to either provide a one-page disclosure in the account opening paperwork or email the disclosures to the Existing Retail Customer unless that customer has opted out of email delivery.

22. The policies and procedures were not within the framework of the Commission's guidance against the use of implied consent to effect electronic delivery and thus, were not reasonably designed to achieve compliance with Reg. BI with respect to existing customers.

23. In April 2021, after the paper mailings, Respondents revised their written policies and procedures to require delivery of disclosures required by Reg. BI's Disclosure Obligation and delivery of Form CRS for all retail customers in accordance with Commission guidance on electronic delivery. Respondents now require their registered representatives to request oral consent to electronic delivery from customers using a consent and disclosure script. The script solicits affirmative consent from customers and contains disclosures, including potential costs to customers (e.g., internet charges) associated with electronic delivery and the format in which electronic delivery will be made, to be followed by email confirmation, along with instructions to access the documents. If a customer does not consent to electronic delivery, the registered representative is directed to provide paper copies. These new policies and procedures became effective in April 2021.

Violations

24. As a result of the conduct described above, Respondents willfully³ violated Section 17(a)(1) of the Exchange Act and Rules 15l-1(a)(1) and 17a-14(f)(3) thereunder.

IV.

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

Accordingly, pursuant to Sections 15(b) and 21C of the Exchange Act and Section 203(e) of the Advisers Act, it is hereby ORDERED that:

A. Respondents cease and desist from committing or causing any violations and any future violations of Section 17(a)(1) of the Exchange Act and Rule 17a-14 thereunder.

B. Respondents cease and desist from committing or causing any violations and any future violations of Rule 15l-1 under the Exchange Act.

C. Respondents are censured.

D. Respondents shall, within 14 days of the entry of this Order, pay, jointly and severally, a civil money penalty in the amount of \$1,975,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Section 21F(g)(3) of the Exchange Act. 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) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondents 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) Respondents 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:

³ "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. 1974)). There is no requirement that the actor "also be aware that he is violating one of the Rules or Acts." *Tager v. SEC*, 344 F.2d 5, 8 (2d Cir. 1965).

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 CGMI or CIFS 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 Celeste A. Chase, Assistant Regional Director, Division of Enforcement, New York Regional Office, Securities and Exchange Commission, 100 Pearl Street, Suite 20-100, New York, NY 10004-2616, or such other person or address as the Commission staff may provide.

E. 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, Respondents agree that in any Related Investor Action, Respondents shall not argue that Respondents are entitled to, nor shall Respondents benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondents' payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that Respondents 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 Respondents 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