

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 71127 / December 18, 2013**

**INVESTMENT COMPANY ACT OF 1940**  
**Release No. 30839 / December 18, 2013**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15653**

<p><b>In the Matter of</b></p> <p><b>Thomas Lekargerren,</b></p> <p><b>Respondent.</b></p>
--

**ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS, PURSUANT TO SECTIONS 15(b) AND 21C OF THE SECURITIES EXCHANGE ACT OF 1934 AND SECTION 9(b) OF THE INVESTMENT COMPANY ACT OF 1940, 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”) and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”) against Thomas Lekargerren (“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. Respondent admits to the facts set forth in Sections III.B. and C. below, acknowledges that his conduct violated the federal securities laws, admits the Commission’s jurisdiction over him and the subject matter of these proceedings and 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 and Section 9(b) of the Investment Company Act of 1940, 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 finds<sup>1</sup> that:

#### A. Summary

These proceedings arise out of Respondent's participation in a fraudulent scheme to conceal his employer's practice of charging undisclosed mark-ups and mark-downs in addition to disclosed commissions on certain global trading and transition management customer orders. G-Trade Services LLC ("G-Trade") and ConvergEx Execution Solutions LLC ("CES") are broker-dealers that held themselves out to the public as conflict-free agency brokers that charged explicit commissions for equity order execution. In addition to charging explicit commissions, however, G-Trade and CES routinely routed customer orders to their offshore affiliate, ConvergEx Global Markets Limited ("CGM"), which took undisclosed "trading profits" ("TP") from global trading and transition management customers by executing orders on a riskless basis and opportunistically adding a mark-up or mark-down to the price of the security. At all times relevant to these proceedings, Respondent was a sales trader for the CGM Division of G-Trade.

Respondent and other employees feared that they would lose business if customers became aware of the practice of taking TP. As a result, Respondent participated in a scheme to intentionally or recklessly conceal the practice of taking TP from customers. In furtherance of this scheme, Respondent engaged in specific acts to hide CGM's practice of taking TP from one of G-Trade's most profitable customers, which in turn helped to conceal the practice of taking TP more generally. These acts included making misleading statements to the customer regarding the delay in providing the customer with implementation of real-time trade reporting, reporting trades to the customer in a manner that concealed TP and providing falsified documents related to the customer's executed orders.

By virtue of his conduct, Respondent willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder; willfully aided and abetted and caused G-Trade's violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder; and willfully aided and abetted and caused G-Trade's violations of Section 15(c)(1) of the Exchange Act.

#### B. Respondent and Other Relevant Entities

1. **Thomas Lekargerren**, at all times relevant to these proceedings, was a sales trader for the CGM Division of G-Trade. In this capacity, Respondent was a registered representative with G-Trade from 2007 until 2010, and with ConvergEx Execution Solutions from

---

<sup>1</sup> 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.

2010 until he was discharged in 2011. Respondent has held securities licenses since 1997. Respondent, 43 years old, is a resident of New York.

2. **ConvergEx Global Markets Limited** was a Bermuda broker-dealer and a wholly-owned subsidiary of ConvergEx Group, LLC (“ConvergEx”).<sup>2</sup> CGM is not registered with the Commission in any capacity.

3. **G-Trade Services LLC** is a registered broker-dealer and a wholly-owned subsidiary of ConvergEx. G-Trade is headquartered in New York. G-Trade is currently and was at all times relevant to these proceedings registered as a broker-dealer with the Commission. ConvergEx Global Markets Division (the “CGM Division”) was an unincorporated business division of G-Trade and other offshore affiliates of ConvergEx, which offered global trading services from 2006 until 2011.

4. **ConvergEx Execution Solutions LLC** is a registered broker-dealer and a wholly-owned subsidiary of ConvergEx. CES is headquartered in New York. CES is currently and was at all times relevant to these proceedings registered with the Commission as a broker-dealer and as an investment adviser and was a member of the New York Stock Exchange. Global Transition Management (“GTM”) is an unincorporated business division of CES and other offshore affiliates of ConvergEx, which offers transition management services.

### C. Facts

5. From 2006 through 2011, the CGM Division offered customers global trading services, and GTM provided global transition management services. The CGM Division’s global trading services involved handling large non-electronic orders for either a single stock or a basket of stocks in markets around the world, including the United States. GTM’s global transition management services generally involved handling large orders to buy and sell stocks for customers who were changing fund managers or investment strategies. Customers seek out transition management services in order to minimize risks to their portfolios and preserve the value of their stocks while in transition.

6. From 2008 until his discharge in 2011, Respondent was a sales trader for G-Trade’s global trading business line, the CGM Division. In this capacity, Respondent’s primary responsibility was to serve as the sales trader and point of contact with respect to order execution for one of the CGM Division’s most lucrative customers.

---

<sup>2</sup> ConvergEx, formerly known as BNY ConvergEx Group, LLC, is a global investment services and technology firm that was established in October 2006 through the combination of an institutional trade execution business and an investment technology company. ConvergEx is headquartered in New York and is not registered with the Commission in any capacity.

7. GTM and the CGM Division of G-Trade acted as agents on behalf of customers and charged a disclosed commission. In this capacity, sales traders received customer orders and released them to CGM in Bermuda.

8. The CGM Division of G-Trade, GTM and CGM were not market makers, and they generally did not commit their own capital to facilitate customer executions or offer customers guaranteed prices. Thus, they assumed little, if any, market risk when they executed customer orders.

9. If CGM traders believed that they could add a mark-up or mark-down without detection by a customer, they added one to the price that CGM had received from the local broker and kept the difference for CGM as trading profits or “TP.” CGM then delivered the execution back to the CGM Division of G-Trade (which, in the case of an order for a transition management customer, would send the execution on to GTM). The trade would then be confirmed to the customer at a price that included TP. As a result, when TP was taken, the price reported to the customer was worse than the price that CGM had received from the local broker.

10. Each customer’s trade confirmation disclosed the commission charged by CES or G-Trade, but did not state that CGM also had taken a mark-up or mark-down on the price at which the local broker filled the order.

### ***Concealing TP***

11. Respondent and his superiors understood that customers likely were unaware of CGM’s practice of taking TP, and they feared customers would withdraw their business if they learned of the practice.

12. As a result, from at least 2009 until his discharge in 2011, Respondent participated in a fraudulent scheme by taking steps to intentionally or recklessly conceal TP from customers.

### ***False Statements and Steps to Prevent a Highly Lucrative Customer from Monitoring its Executions***

13. Over time, it became more difficult for CGM to take TP when advances in technology prompted an increased number of customers to request intraday execution price information on their trades in “real time.” Respondent and senior management of CGM understood that CGM would not be able to take TP if the customers received a live data feed that revealed the prices that CGM itself had received in the local markets for the customers’ trades.

14. As a result, when a highly lucrative customer in the global trading business line requested real-time reporting of its trades, Respondent made misleading statements to the customer with respect to the availability of that service to delay implementing that service for the customer for approximately one year so that CGM could continue to take TP.

15. Furthermore, even after the customer started receiving real-time data, traders at CGM and the CGM Division of G-Trade, in consultation with Respondent, intentionally disabled the service from time to time in order to enable CGM to continue taking TP on at least some of that customer's trades. In those instances, Respondent communicated to executing traders that they could report trades to the customer in batches, instead of in real time, thereby permitting the taking of TP without the customer detecting the charge. Conversely, Respondent instructed traders to process trades in real-time when the customer's trade did not present an opportunity to take TP.

16. On some occasions, Respondent falsely told the customer that it was not receiving real-time reporting of its trade executions because the traders were accessing dark pools to execute the customer's orders. On other occasions, Respondent falsely told the customer that it was not receiving real-time reporting of its trade executions because the company was experiencing technological difficulties with respect to its real-time reporting capabilities.

#### ***Falsified Time and Sales Reports***

17. On another occasion, the same highly lucrative customer that requested real-time trade reporting also requested a time and sales report for orders of a U.S. equity on which CGM had taken TP. Because CGM had added a mark-up to the price received from the local broker in order to take TP, the average of the prices reflected on the actual time and sales report did not match the price that had already been reported to the customer on the trade confirmation.

18. In order to conceal TP from the customer, a trader at CGM altered the actual time and sales data, so that the prices reflected on the report given to the customer would average to the price, inclusive of TP, that had previously been provided to the customer. Respondent, believing that the data had been altered, then transmitted the false data to the customer.

#### **D. Violations**

19. As a result of the conduct described above, Respondent willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities.

20. As a result of the conduct described above, Respondent willfully aided and abetted and caused G-Trade's violations of Section 10(b) of the Exchange Act and Rule 10b-5.

21. As a result of the conduct described above, Respondent willfully aided and abetted and caused G-Trade's violations of Section 15(c)(1) of the Exchange Act, which prohibits fraudulent conduct by a broker-dealer in effecting, inducing or attempting to induce any securities transaction.

**E. Respondent's Cooperation**

In determining to accept the Offer, the Commission considered the cooperation Respondent 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 Respondent's Offer.

Accordingly, pursuant to Sections 15(b) and 21C of the Exchange Act and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent cease and desist from committing or causing any violations and any future violations of Sections 10(b) and 15(c) of the Exchange Act and Rule 10b-5 thereunder.

B. Respondent be, and hereby is:

barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent or nationally recognized statistical rating organization;

prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor or principal underwriter; and

barred from participating in any offering of a penny stock, including: acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock.

C. Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

D. Respondent shall, within 30 days of the entry of this Order, pay disgorgement of \$110,089 and prejudgment interest of \$6,953 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. Payment must be made in one of the following ways:

- (1) 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
- (2) 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 Thomas Lekargeren as the 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 Stephen L. Cohen, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549-5553.

E. Such disgorgement and prejudgment interest may be combined with the funds paid in In the Matter of G-Trade Services LLC, ConvergeX Global Markets Limited and ConvergeX Execution Solutions LLC, to be filed contemporaneously with these proceedings, for distribution to harmed customers.

F. Respondent acknowledges that the Commission is not imposing a civil penalty based upon his entry into a Cooperation Agreement with the Commission in which he agrees to cooperate fully and truthfully in these proceedings and any other related enforcement litigation or proceeding to which the Commission is a party. If at any time following the entry of the Order, the Division of Enforcement (“Division”) obtains information indicating that Respondent has failed to comply with the obligations set forth in the Cooperation Agreement to cooperate fully and truthfully in these proceedings or any other related enforcement litigation or proceeding to which the Commission is a party, the Division may, at its sole discretion and with prior notice to the Respondent, petition the Commission to reopen this matter and seek an order directing that the Respondent pay a civil money penalty. Respondent may contest by way of defense in any resulting administrative proceeding whether he failed to comply with his obligations to cooperate fully and truthfully, but may not: (1) contest the findings in the Order; or (2) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

By the Commission.

Elizabeth M. Murphy  
Secretary