UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 77056 / February 4, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17099

In the Matter of

E.S. Financial Services, Inc. n/k/a Brickell 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 E.S. Financial Services, Inc. n/k/a Brickell Global Markets, Inc. ("Respondent").[1]

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

[1] Subsequent to the time period relevant to the matters set forth in this Order, and following remediation efforts, E.S. Financial Services, Inc. was renamed Brickell Global Markets, Inc.

Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order ("Order"), as set forth below.

III.

Summary

This matter involves violations of Section 17(a) of the Exchange Act and Rule 17a-8 thereunder, which require broker-dealers to comply with the reporting, recordkeeping and record retention requirements in regulations implemented under the Bank Secrecy Act,[2] including the customer identification program rule (31 C.F.R. § 1023.220, the "CIP Rule") by Respondent, a Miami-based broker-dealer. In January 2003, a Central American bank (the "Central American Bank"), at the time affiliated with Respondent, opened a brokerage account with Respondent, its affiliate, purportedly for the sole purpose of brokerage trading by the Central American Bank itself. No sub-account holders or other beneficial owners were identified on the Central American Bank account application. In actuality, 13 entities that maintained accounts with the Central American Bank were sub-account holders of the Central American Bank account. These Central American Bank corporate accounts were beneficially owned by 23 non-U.S. citizens who interfaced directly with Respondent's registered representatives to solicit securities trading advice and to request account maintanenace, securities orders, and execution through the Central American Bank account. Until approximately August 2013, Respondent violated the federal securities laws by failing accurately to document its CIP procedures, comply with the Commission's CIP Rule, or create and maintain the required books and records for the Central American Bank account, the Central American Bank corporate accounts, or their beneficial owners. During this ten year time-frame, the beneficial owners of the Central American Bank corporate accounts effectuated securities transactions totaling approximately $23.8 million.

Respondent

1. Respondent is a Miami, Florida-based corporation that has been registered with the Commission as a broker-dealer since March 6, 2001, and is a member of FINRA. During the relevant time period, a Portuguese bank with its headquarters in Portugal was the parent company of Respondent and the Central American Bank. Within this structure, Respondent and the Central American Bank were financial affiliates due to their ownership by the same parent company. In 2013, when the violations at issue ceased, Respondent had approximately 70 employees and 1700 corporate and individual accounts. In March 2015, Respondent's affiliated bank in Miami, Florida agreed to a number of AML-related undertakings as part of a consent order it reached with the FDIC.

[2] Currency and Foreign Transactions Reporting Act of 1970, as amended by the USA PATRIOT Act and other legislation (commonly referred to as the Bank Secrecy Act), 12 U.S.C. § 1829b, 12 U.S.C. §§ 1951-1959, and 31 U.S.C. §§ 5311–5314 and 5316–5332.

Factual Findings

2. In January 2003, the Central American Bank opened a brokerage account with Respondent, its affiliate, purportedly for the sole purpose of brokerage trading by the Central American Bank itself. No sub-account holders or other beneficial owners were identified on the Central American Bank account application.

3. In actuality, 13 entities (the "Central American Bank Corporate Accounts") that maintained accounts with the Central American Bank were sub-account holders of the Central American Bank account. These Central American Bank Corporate Accounts were beneficially owned by 23 non-U.S. citizens (the "Beneficial Owners") who interfaced directly with Respondent's registered representatives to solicit securities trading advice and to request account maintenance, securities orders, and execution through the the Central American Bank account.

4. From April 15, 2003, through August 19, 2013, the Beneficial Owners executed securities transactions in the Central American Bank account totaling $23.8 million.

5. Prior to opening a new individual or corporate account, Respondent's CIP procedures required it to collect and verify certain information regarding the prospective account-holder. For all new accounts, Respondent's CIP procedures required it to collect: (1) name, residence, and contact information; (2) occupation; (3) citizenship; (4) investor profile, financial status, and objectives; (5) tax status; and (6) a completed Know Your Customer ("KYC") form. Respondent's CIP Procedures further stated that the KYC form must contain accurate and complete information about the client, including identification of "all the account principals and beneficial owners."

6. Respondent's CIP procedures also required verification of new corporate and individual accounts through documentary methods. For corporate accounts, Respondent's procedures required it to obtain: (1) a corporate resolution; (2) verification of permanent addresses and identifications on all signers, beneficial owners and at least two directors on the account; (3) a certificate of beneficial owners on all beneficial owners of the account; (4) a certificate of incorporation; (5) articles of incorporation; (6) tax identification documents; and (7) a certificate of good standing. For individual accounts, Respondent's procedures required it to obtain at a minimum: (1) a copy of a valid passport or other government-issued identification; (2) verification of permanent addresses on all parties to the account; (3) tax identification forms; and (4) a U.S. Office of Foreign Assets Control check on the account name, authorized signatories, beneficial owners, and directors.

7. Respondent adopted its CIP procedures in 2005. The Central American Bank account was opened in January 2003, and nine of the 13 Central American Bank Corporate Accounts began interfacing with Respondent prior to April 2005. However, according to Respondent's CIP procedures, Respondent was required to satisfy its CIP requirements for both new customers and existing customers as of April 2005. Thus, Respondent was required to follow its CIP procedures for both the Central American Bank account and all of the Central American

Bank Corporate Accounts and Beneficial Owners regardless of when they first began interfacing with Respondent.

8. The Beneficial Owners of the Central American Bank Corporate Accounts never opened brokerage accounts at Respondent, and instead effectuated their securities transactions through the Central American Bank account. The Beneficial Owners, however, interfaced directly with Respondent's registered representatives and other personnel on their own behalf without any intermediation by the Central American Bank.[3] Thus, the Beneficial Owners were Respondent's customers for purposes of the CIP Rule and the firm's CIP procedures.

9. Likewise, the Central American Bank Corporate Accounts never opened brokerage accounts at Respondent, and instead the Beneficial Owners effectuated securities transactions on behalf of these corporate accounts through the Central American Bank account. The Beneficial Owners, however, interfaced directly with Respondent's registered representatives and other personnel on behalf of the Central America Bank Corporate Accounts without any intermediation by the Central American Bank. Thus, the Central American Bank Corporate Accounts were Respondent's customers for purposes of the CIP Rule and the firm's CIP procedures.

10. As a result of the foregoing, Respondent did not accurately collect, verify and maintain information regarding the Central American Bank account in accordance with its CIP procedures. Despite being aware of the Central American Bank Corporate Accounts and the Beneficial Owners, Respondent did not collect and verify any information regarding the Beneficial Owners or Corporate Accounts. Respondent also did not follow its CIP procedures for verification of new corporate accounts, and therefore did not document those procedures accurately. Besides tax identification documentation, none of the other required documentation was obtained or verified for the Central American Bank account despite the fact that Respondent's CIP procedures required such activities to occur.

11. Additionally, despite treating the Central American Bank Corporate Accounts and Benefical Owners as its customers, as decribed above, Respondent did not collect any identification documentation or verify any information whatsoever regarding the Central American Bank

[3] On October 1, 2003, staff from the Commission's Division of Trading and Markets (f/k/a Division of Market Regulation) and the Financial Crimes Enforcement Network ("FinCEN"), a bureau within the Department of Treasury that administers the BSA, published a "Question and Answer" ("Q&A") regarding a broker-dealer's CIP obligations with respect to transactions in omnibus accounts and sub-accounts. See Question and Answer Regarding the Broker-Dealer Customer Identification Program Rule (31 CFR 103.122) at http://sec.gov/divisions/marketreg/qa-bdidprogram.htm. The Q&A addressed non-exclusive circumstances under which a broker-dealer could treat an omnibus account holder as the only customer for the purposes of the CIP rule and would not also be required to treat the underlying beneficial owner as a customer. Among other things, the Q&A contemplated a scenario in which all securities transactions in the omnibus account or sub-account would be initiated by the financial intermediary holding the omnibus account, and the beneficial owner of the omnibus account or sub-account would have no direct control of the transactions effected in the account. In contrast, the account at issue here was not an intermediated relationship, as Respondent treated the sub-account holders as its own customers.

Corporate Accounts or the Beneficial Owners in violation of the CIP Rule and Respondent's CIP procedures.

12. In 2011, the Miami Regional Office ("MIRO"), Office of Compliance, Inspections and Examinations ("OCIE") requested that Respondent provide documents sufficient to identify all customer accounts. In 2013, MIRO OCIE requested that Respondent provide documents sufficient to identify all "customer master and corresponding sub-accounts." Respondent provided brokerage services directly to the Central American Bank Corporate Accounts and Beneficial Owners including investment advice, order taking, and execution and account maintenance. However, Respondent failed to produce documents in its possession that identified the Central American Bank Corporate Accounts or Beneficial Owners with respect to both the 2011 and 2013 MIRO OCIE requests.

13. On January 6, 2014, during the course of a MIRO OCIE examination, Respondent voluntarily reported to the Commission various issues regarding the Central American Bank account that pertain to the matters set forth herein.

Applicable Law

14. On April 29, 2003, the Commission and the Treasury Department, through the Financial Crimes Enforcement Network, jointly adopted the CIP Rule implementing Section 326 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107-56, 115 Stat. 296 (2001) (the "USA PATRIOT Act"). The CIP Rule requires broker-dealers to "establish, document, and maintain a written Customer Identification Program ("CIP) appropriate for [the broker-dealer's] size and business . . ." 31 C.F.R. § 1023.220(a)(1). As part of its written CIP program, a broker-dealer must collect, at a minimum, basic information about each of its customers, including each customer's name, date of birth, address, and identification number. 31 C.F.R. § 1023.220(a)(2)(i).

15. The broker-dealer's CIP must include risk-based procedures for verifying the identity of each customer such as to enable the broker-dealer to form a reasonable belief that it knows the true identify of each customer. 31 C.F.R. § 1023.220(a)(2).

16. The broker-dealer's CIP also must include procedures for making and maintaining records of the customer's identifying information and its verification of the customer's identity. 31 C.F.R. § 1023.220(a)(3).

17. Rule 17a-8, which was promulgated under Section 17(a) of the Exchange Act, requires broker-dealers to comply with the reporting, recordkeeping and record retention requirements in regulations implemented under the Bank Secrecy Act, including the CIP Rule.

18. Section 17(a) of the Exchange Act also requires broker-dealers to make and keep records required by the Commission, and furnish records thereof upon request to the Commission. Accordingly, Rule 17a-3(a)(3) requires broker-dealers to make and keep ledger

accounts (or other records) itemizing separately all purchases, sales, receipts, and deliveries for each customer's account, and Rule 17a-4(a) requires the broker-dealer to preserve these records for at least six years. Rule 17a-3(a)(9) requires broker-dealers to make and keep for each account a record that includes, among other things, the name and address of the account's beneficial owner, and Rule 17a-4(b)(1) requires the broker-dealer to preserve these records for at least three years. Rule 17a-4(j) provides that upon request of a representative of the Commission, broker-dealers must furnish promptly the records required to be retained by Rule 17a-4.

Violations

19. As a result of the conduct described above, Respondent willfully violated Section 17(a) of the Exchange Act and Rules 17a-3(a)(3) and (9) thereunder.

20. As a result of the conduct described above, Respondent willfully violated Section 17(a) of the Exchange Act and Rules 17a-4(a), (b)(1), and (j) thereunder.

21. As a result of the conduct described above, Respondent willfully violated Section 17(a) of the Exchange Act and Rule 17a-8 thereunder.

Respondent's Remedial Efforts

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

Undertakings

Respondent has undertaken to:

Within 60 days from the issuance of this Order, at its own cost, hire an independent consultant, not unacceptable to Commission staff, to review its CIP/AML compliance program for a period of two years. At the end of a 90 day review, the consultant will submit to the staff and to Respondent a written report: (1) addressing the adequacy of Respondent's CIP/AML compliance program; (2) describing the review performed and the conclusions reached; and (3) addressing the consultant's recommendations, if any, for modifications and enhancements to Respondent's policies, systems, procedures, and training. After delivery of the consultant's report, Respondent will adopt and implement the consultant's recommendations, if any, or propose alternatives to the consultant within 30 days after issuance of the report. The consultant will determine whether the proposed alternatives are acceptable. Within 30 days after issuance of the consultant's report or written determination regarding alternative procedures (if any), Respondent will provide staff with a written implementation report detailing its adoption and implementation of the consultant's recommendations. Beginning from the date Respondent officially implements the consultant's recommendations the consultant will thereafter monitor and review Respondent's compliance with his/her recommendations for a period of two years.

During this period, the consultant will submit to staff every six months a written report addressing Respondent's compliance with his/her recommendations.

Respondent will further require the consultant to enter into an agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with Respondent, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity, with the exception of Brickell Bank. The agreement will also provide that the consultant will require that any firm with which he/she is affiliated or of which he/she is a member, and any person engaged to assist the consultant in performance of his/her duties under this Order shall not, without prior written consent of the Miami Regional Office, enter into any employment, consultant, attorney-client, auditing or other professional relationship with Respondent, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement, with the exception of Brickell Bank.

Certify, in writing, compliance with the undertaking set forth above. The certification shall identify the undertaking, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondent agrees to provide such evidence. The certification and supporting material shall be submitted to Glenn S. Gordon, Associate Regional Director, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than sixty (60) days from the date of the completion of the undertakings.

IV.

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

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

A. Respondent cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Exchange Act and Rules 17a-3(a)(3) and (9), 17a-4(a), (b)(1), and (j), and 17a-8 thereunder.

B. Respondent is censured.

C. Respondent shall, within 30 days of the entry of this Order, pay a civil money penalty in the amount of $1,000,000 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:

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 E.S. Financial as 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 Glenn S. Gordon, Associate Regional Director, Division of Enforcement, Securities and Exchange Commission, 801 Brickell Avenue, Suite 1800, Miami, FL 33131.

D. Respondent acknowledges that the Commission is not imposing a civil penalty in excess of $1,000,000 based upon its cooperation in this Commission investigation. If at any time following the entry of the Order, the Division of Enforcement obtains information indicating that Respondent knowingly provided materially false or misleading information or materials to the Commission or in a related proceeding, the Division of Enforcement 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 an additional civil penalty. Respondent may contest by way of defense in any resulting administrative proceeding whether it knowingly provided materially false or misleading information, 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.

E. Respondent shall comply with the undertakings enumerated in Section III above.

By the Commission.

Brent J. Fields
Secretary