

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 80332 / March 29, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-17890

In the Matter of

**LOUIS CAPITAL
MARKETS, LP,**

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 Louis Capital Markets, LP (“LCM” 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 Respondent 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:

Summary

These proceedings arise out of an illicit scheme by interdealer broker LCM to obtain undisclosed trading fees from its customers. From at least 2008 through at least October 2012 (the "relevant period"), LCM gave its customers false prices on thousands of securities transactions, saddling the customers with lower sale prices and higher purchase prices than LCM obtained in the markets. These markups and markdowns, which were imposed in addition to commissions, were not adequately disclosed to LCM's customers, and were inconsistent with the customers' expectations. By charging these hidden fees, LCM unlawfully obtained millions of dollars from its customers.

Members of LCM's Cash Equity Desk executed orders to purchase and sell securities on behalf of their customers, primarily large foreign institutions and foreign banks. Typically, the Cash Equity Desk executed trades for LCM's customers on an agency basis. LCM filled a customer's orders by executing on that customer's behalf in the open market and did not hold any securities in its own accounts. Thus, typically, LCM facilitated the transactions in exchange for the agreed-upon commission without assuming any market risk. LCM purportedly charged small commissions—usually between one and three pennies per share.

However, in many instances during the relevant time period, after receiving and executing orders on behalf of customers, members of LCM's Cash Equity Desk recorded, on LCM's internal records, a false execution price that included a secret profit for LCM. LCM then charged the customer the inflated price while also charging the agreed-upon commission.

Brokers have a fundamental obligation to treat customers fairly. Customers, even sophisticated entities, rely on their brokers to execute orders at the most favorable terms reasonably available under the circumstances, taking into account the price and the customer's instructions, among other factors. In return for the services provided, the customer pays the broker the agreed upon compensation. When a broker represents that it will act as an agent for the customer and negotiates the compensation the customer will pay on transactions, imbedding an undisclosed markup or markdown in the price reported and charged to the customer, violates Section 15(c)(1) of the Exchange Act and injures the customer.

LCM is liable for the conduct of the members of the Cash Equity Desk. As such, LCM willfully violated Section 15(c)(1) of the Exchange Act.

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.

Respondent

1. LCM is a limited liability company formed under the laws of Delaware. During the relevant period, LCM's principal place of business was in New York, New York. It has been registered with the Commission as a broker-dealer since 2000.

Background

2. During the relevant time period, LCM's Cash Equity Desk acted as an interdealer broker for institutional customers dealing in equity products.

3. The LCM Cash Equity Desk's customers were primarily large foreign institutions and foreign banks. LCM operated as an agent and executed large volumes of securities trades on behalf of customers.

4. The LCM Cash Equity Desk typically did not hold any securities in its own accounts and sought to fill a customer's orders by executing orders on those customers' behalf.

5. LCM marketed and advertised itself as an agency business. For example, on its website, LCM represented that it was a "global independent agency broker-dealer providing execution services."

6. LCM's internal Compliance Manual also contained provisions stating that "LCM conducts an agency and risk-less principal only business... We accept and execute orders' [sic] on an agency basis."

7. Depending on the customer's preference, LCM accepted customer orders by telephone, instant message, or email. The LCM Cash Equity Desk also confirmed trades to customers by telephone, instant message, email or mail, depending on the customer's preference.

8. LCM and certain of its customers signed Terms of Business, which included language contemplating that LCM may charge commissions, markups and markdowns, but also stated that LCM's "commissions, charges, fees, or any other type of remuneration, for our services, will be as notified to you from time to time or as specifically agreed between us."

9. LCM agreed with certain institutional customers that LCM would charge only a commission for executing agency trades on those customers' behalf. These agreements normally applied to trades in which the customer did not ask LCM to risk its own capital in executing the trade, such as by guaranteeing the customer a particular price.

10. LCM and certain of its customers also signed Cash Equity Brokerage Schedules stating that LCM would charge these customers flat commission rates between \$0.01 per share and \$0.03 per share. The schedules did not contain any reference to possible markups or markdowns.

11. LCM's Cash Equity Desk ceased operations in 2013, and the persons responsible for the trading on the desk no longer are employed at LCM.

The Markup Scheme

12. Despite agreeing to charge certain customers specific flat rate commissions and representing to these customers that it would notify them of the remuneration being charged, LCM, on numerous occasions, charged these customers undisclosed markups and markdowns in addition to the agreed upon and disclosed commissions.

13. The LCM Cash Equity Desk did not add undisclosed markups or markdowns to every trade or for every customer. Instead, LCM opportunistically added markups/markdowns to trades at times when customers were unlikely to detect them, for example, during periods of market volatility.

14. The cost of the vast majority of the undisclosed markups/markdowns to LCM customers ranged from a few dollars to thousands of dollars per transaction.

15. Members of the desk maintained and updated LCM's internal "trade blotter" (hereafter "Trade Blotter"), a spreadsheet containing detailed information about trades executed by the LCM Cash Equity Desk, including the names of the customers on whose behalf the trades were executed and execution prices.

16. The Trade Blotter contained three price fields that reflected the scheme and recorded its profitability: (1) the "broker" price—the trade execution price received by LCM; (2) the "client gross" price—the "broker" price plus any undisclosed markup/markdown; and (3) the "client net" price—the "client gross" price plus the agreed-upon commission rate.

17. Frequently, the LCM Cash Equity Desk provided the false and/or misleading information regarding the broker or execution price through trade recaps communicated to customers by telephone, instant message, or email. The LCM Cash Equity Desk also sent, or caused to be sent, trade confirmations which reflected the inflated "client gross" price rather than the true execution price to some customers.

18. This scheme operated through deceptive conduct. LCM agreed with its customers to disclose its charges to customers. Instead, LCM charged undisclosed markups or markdowns in addition to the agreed-upon commissions. LCM then reported inflated execution prices to its customers to conceal the additional charges. In doing so, LCM acted improperly and contrary to its agreements with its customers.

Examples Of The Markups/Markdowns

19. On February 22, 2008, LCM executed a customer order to sell 19,000 shares of PetroChina Co. Ltd. ("PTR"). LCM executed the trade, selling 19,000 shares of PTR on the

customer's behalf at an average price of \$148.2800 per share. The Trade Blotter reflects a "broker" or execution price of \$148.2800, a "client gross" price of \$148.2512, and a "client net" price of \$148.2412. That evening LCM generated and emailed to the customer, a trade confirmation that reflected a trade execution price of \$148.2512 per share, rather than the true execution price of \$148.2800. LCM disclosed that in connection with this transaction, it was charging the customer a commission of \$0.01 per share or \$190. LCM did not disclose to the customer that the "execution" price on the confirmation included a markdown of \$0.0288 per share and that LCM was effectively charging the customer an additional fee of \$547.20 for the transaction.

20. On March 5, 2008, LCM executed a customer order to sell 29,204 shares of Morgan Stanley ("MS"). LCM executed the trade, selling 29,204 shares of MS on the customer's behalf at an average price of \$42.1938 per share. The Trade Blotter reflects a "broker" or execution price of \$42.1938, a "client gross" price of \$41.9038, and a "client net" price of \$41.8888. That evening LCM generated and emailed to the customer, a trade confirmation of \$41.9038 per share, rather than the true execution price of \$42.1938. LCM disclosed that in connection with this transaction, it was charging the customer a commission of \$0.015 per share or \$438.06. LCM did not disclose to the customer that the "execution" price on the confirmation included a markdown of \$0.29 per share and that LCM was effectively charging the customer an additional fee of \$8,469.16, for the transaction.

LCM Acted With Scienter

21. Among other things, LCM authorized members of the LCM Cash Equity Desk to interact with customers, agree upon commission rates to be charged for the services provided, and communicate the details of the transactions to the customers.

22. When engaging in the deceptive conduct described herein, the members of the LCM Cash Equity Desk were employees of LCM and acting within the scope of their authority. LCM is liable for the conduct of the members of the LCM Cash Equity Desk.

23. Members of the LCM Cash Equity Desk knew the prices at which the transactions were actually executed and that the prices and/or commissions that they and LCM communicated to their customers, either orally or in writing, were false.

LCM Engaged in Deceptive Conduct In Its Execution Of Customers' Orders

24. The LCM Cash Equity Desk, through telephone conversations, instant messages, emailed trade recaps, and trade confirmations sent to customers, reported the inflated execution prices and fees charged to customers and omitted to disclose material markups/markdowns embedded in the execution prices disclosed to the customers, which LCM had taken for its own undisclosed profit.

25. As a result of the conduct described above, LCM willfully violated 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.

26. Although the conduct here would support a substantial penalty, in determining to accept the Respondent's offer, the Commission considered the particular circumstances of this case, including the financial condition of the Respondent.

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, it is hereby ORDERED that:

A. Respondent LCM shall cease and desist from committing or causing any violations and any future violations of Section 15(c) of the Exchange Act.

B. Respondent LCM is censured.

C. Respondent LCM shall pay disgorgement of \$2,500,000 to the Securities and Exchange Commission. Payment shall be made in the following installments: \$1,500,000, within 14 days of the entry of this Order; \$500,000 within 180 days of the entry of this Order; and \$500,000 within 365 days of the entry of this Order. The Commission will hold funds paid pursuant to this paragraph in an account at the United States Treasury pending a decision whether the Commission, in its discretion, will seek to distribute funds or, transfer them to the general fund of the United States Treasury, subject to Section 21F(g)(3). 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 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 Louis Capital Markets, LP 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 Sansone, Co-Chief Market Abuse Unit, Division of Enforcement, Securities and Exchange Commission, Brookfield Place, 200 Vesey Street, Suite 400, New York, NY 10291.

By the Commission.

Brent J. Fields
Secretary