Notice of Disciplinary Action against Oppenheimer & Co. Inc., Member Organization

To:	Members, Member Organizations, Participants and Participant Organizations
From:	Joseph Cusick, Chief Regulatory Officer, NASDAQ PHLX℠
DATE:	October 6, 2017

Enforcement No. 2017-14
FINRA Nos. 20140434935

On October 5, 2017, the Business Conduct Committee (the "Committee") of the NASDAQ PHLX LLC ("PHLX" or the "Exchange") issued a disciplinary decision against Oppenheimer & Co. Inc. ("Oppenheimer" or the "Firm"), a member organization of the Exchange. In response to a Statement of Charges issued in this action, Oppenheimer submitted an Offer of Settlement ("Offer"). Solely to settle this proceeding, and without admitting or denying the charge, Oppenheimer consented to findings that during the period between January 19, 2010 and June 30, 2015 (the "Review Period"), Oppenheimer violated Exchange Rules 1003, 748(g) (for the period prior to November 23, 2012), 748(h) (for the period on and after November 23, 2012), and 707. Specifically, Oppenheimer consented to findings that the Firm had inaccurately reported options positions to the Large Options Positions Report ("LOPR") during the Review Period, and had failed to have a supervisory system reasonably designed to ensure compliance with its LOPR obligations under Exchange rules. Additionally, during the Review Period and through May 2017, Oppenheimer's written supervisory procedures ("WSPs") were inadequate with respect to achieving compliance with the rules governing the reporting of options positions to the LOPR system in violation of Exchange Rules 748(g) and (h) and 707.

With respect to its compliance with LOPR-related rules, Oppenheimer consented to findings that it had over-reported options positions to the LOPR in approximately 260,890 instances because of a coding error in its LOPR logic that caused: (i) records that were processed on an "as of" basis to close a position to be erroneously processed as new opening positions rather than closing positions; and (ii) disparate reporting of cancellation and rebooking activity to the LOPR following trade corrections.

Oppenheimer also consented to findings that its WSPs and supervisory system were inadequate to achieve compliance with the rules governing the reporting of options positions to the LOPR system. Specifically, its WSPs failed to specify: (i) what reviews the Firm conducted, including the steps to be taken in connection with such reviews, to detect issues relating to the formatting of its LOPR report, acting-in-concert activity, and rejected LOPR submissions; (ii) the person(s) responsible for conducting such reviews; (iii) the frequency of such reviews; and (iv) how the reviews are to be documented.

The Committee found that Oppenheimer had violated Exchange Rules 1003, 748(g), 748(h), and 707, and ordered the imposition of the following sanctions against Oppenheimer: (i) a censure; and (ii) a fine in the amount of $75,000.

For more information, contact:

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