



Notice, Pursuant to Exchange By-Law 18-2, of Disciplinary Action Against McGowan Investors, L.P., Former Member Organization

To: Members, Member Organizations, Participants and Participant Organizations

From: John C. Pickford, Enforcement Counsel, NASDAQ OMX PHLXSM

DATE: July 22, 2011

FINRA Matter No. 20100215782 Enforcement No. 2011-01

On July 22, 2011, the Business Conduct Committee (the "Committee") issued a disciplinary decision against McGowan Investors, L.P. ("McGowan" or the "Firm"), a former member organization of the Exchange. In response to a Statement of Charges issued in this action, McGowan submitted an Offer of Settlement, Stipulation of Facts and Consent to Sanctions ("Offer"). Solely to settle this proceeding, and without admitting or denying the charges, McGowan consented to findings that during the period between January 1, 2009 and October 31, 2009 (the "Relevant Period"), it had violated Sections 15 and 17 of the Securities Exchange Act of 1934, as amended ("Exchange Act"), Rules 15b3-1, 17a-3, 17a-5, and Rule 200(g) of Regulation SHO promulgated under the Exchange Act, and Exchange Rules 703, 748(g), 760, and 761 by, among other things: (i) failing to keep accurate books and records; (ii) filing an inaccurate Financial and Operational Combined Uniform Single Report with the Exchange; (iii) mismarking options orders as "sell long" when it had, in fact, net short positions; (iv) failing to amend its Uniform Application for Broker-Dealer Registration filing to disclose an affiliate's correct ownership in the Firm; and (v) failing to detect that two employees had not disclosed on their ITSFEA Accounts List a total of 11 accounts that had been held away from the Firm.

The Firm also consented, without admitting or denying the charges, to findings by the Committee that McGowan had not adequately established, maintained and enforced written supervisory procedures, and a system for applying such procedures, that resulted in supervisory deficiencies regarding: (i) the requirement to make and maintain written agreements setting forth the Firm's relationship and compensation arrangement with its associated persons; (ii) the category of associated persons who had to register, and circumstances under which they were required to register, as Non-Registered Fingerprint persons; and (iii) the Firm's ability to demonstrate it could monitor moment-to-moment compliance with the net capital requirements of Rule 15c3-1 promulgated under the Exchange Act.

McGowan's Offer was accepted by the Committee and was the basis of its Decision. The Committee found that McGowan had violated Sections 15 and 17 of the Exchange Act, Rules 15b3-1, 17a-3, 17a-5, and Rule 200(g) of Regulation SHO promulgated under the Exchange Act, and Exchange Rules 703, 748(g), 760, and 761, concurred in the sanctions consented to by it, and ordered the imposition of the following sanctions: (i) a censure;

and (ii) a \$5,000 fine.

For more information, contact:

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