

**THE NASDAQ STOCK MARKET LLC**  
**LETTER OF ACCEPTANCE, WAIVER AND CONSENT**  
**NO. 2013039483301**

TO: The NASDAQ Stock Market LLC  
c/o Department of Enforcement  
Financial Industry Regulatory Authority ("FINRA")

RE: ITG Inc., Respondent  
Broker-Dealer  
CRD No. 29299

Pursuant to Rule 9216 of The NASDAQ Stock Market LLC ("Nasdaq") Code of Procedure, ITG Inc. (the "firm") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, Nasdaq will not bring any future actions against the firm alleging violations based on the same factual findings described herein.

**I.**

**ACCEPTANCE AND CONSENT**

- A. The firm hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of Nasdaq, or to which Nasdaq is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by Nasdaq:

**BACKGROUND**

The firm has been a member of Nasdaq since July 12, 2006, and a member of FINRA since January 8, 1992, and its registrations remain in effect. The firm has no relevant disciplinary history.

**SUMMARY**

In Review No. 20130394833, FINRA's Market Regulation Department, Market Analysis Section (the "staff"), reviewed the firm's risk management controls and Written Supervisory Procedures ("WSPs") as a result of a referral by Nasdaq concerning a clearly erroneous event that occurred on July 3, 2014. More specifically, the staff reviewed the firm's controls and procedures concerning the prevention of erroneous orders and orders that would exceed appropriate pre-set credit or capital thresholds; and the firm's system for regularly reviewing the effectiveness of its risk management controls and supervisory procedures. As set forth below, the firm's controls and supervisory procedures were unreasonable, in violation of Securities Exchange Act ("SEA") Rules 15c3-5(c)(1)(i) and (ii) and 15c3-5(e)(1), and Nasdaq Rules 3010 and 2010A.

## FACTS AND VIOLATIVE CONDUCT

### Regulatory Framework

1. SEA Rule 15c3-5(b) provides that a “broker or dealer with market access, or that provides a customer or any other person with access to an exchange or alternative trading system through use of its market participant identifier or otherwise, shall establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of this business activity.”
2. Pursuant to SEA Rule 15c3-5(c)(1), the risk management controls and supervisory procedures required by paragraph (b) of the rule are to be “reasonably designed to systematically limit the financial exposure of the broker or dealer that could arise as a result of market access.”
3. Subparagraph (c)(1)(i) further provides that such controls and procedures are required to be reasonably designed to “[p]revent the entry of orders that exceed appropriate pre-set credit or capital thresholds in the aggregate for each customer and the broker or dealer and, where appropriate, more finely-tuned by sector, security, or otherwise by rejecting orders if such orders would exceed the applicable credit or capital thresholds.” In announcing the adoption of this rule, the Commission stated that it “expects broker-dealers will make such determinations based on appropriate due diligence as to the customer’s business, financial condition, trading patterns, and other matters, and document that decision.”
4. Subparagraph (c)(1)(ii) further provides that such controls and procedures are required to be reasonably designed to “[p]revent the entry of erroneous orders, by rejecting orders that exceed appropriate price or size parameters, on an order-by-order basis or over a short period of time, or that indicate duplicative orders.”
5. Pursuant to SEA Rule 15c3-5(e), a broker or dealer that is subject to paragraph (b) is required to “establish, document, and maintain a system for regularly reviewing the effectiveness of the risk management controls and supervisory procedures required by paragraphs (b) and (c) of this section and for promptly addressing any issues.”
6. Subparagraph (e)(1) further provides that “the broker or dealer shall review, no less frequently than annually, the business activity of the broker or dealer in connection with market access to assure the overall effectiveness of such risk management controls and supervisory procedures” and that “[s]uch review shall be conducted in accordance with written procedures and shall be documented.”

### Overview of the Staff’s Review

7. The staff initiated its review as a result of a referral from Nasdaq following a market event on July 3, 2014, that arose from an erroneous order to sell shares of Walker & Dunlop, Inc. (“WD”). The order was entered by a market access customer of the firm

who intended to enter an order to sell 19,092 shares of WD with a limit price of \$14.45, but instead entered the sale as a market order. As a result of the erroneous order, the market price for the security decreased from \$14.45 to \$11.59, and ultimately resulted in Nasdaq breaking all trades executed from 12:52:00 p.m. to 12:53:00 p.m. at or below the price of \$13.01.

#### Violative Conduct

8. From November 20, 2013, through December 31, 2015, the firm's SEA Rule 15c3-5(c)(ii) controls and supervisory procedures were not reasonably designed to prevent erroneously priced and/or sized orders. More specifically, the firm's price and notional value controls were not reasonably designed to prevent orders that could potentially result in unintended price deviations (ranging up to 100 percent away from the market), or orders that could potentially result in executions of unintended size given the particular nature and characteristics of the subject security. In addition, the firm lacked controls and procedures to prevent the entry of duplicative orders. As a result, the firm failed to have risk management controls and supervisory procedures, including written supervisory procedures, reasonably designed to prevent the entry of erroneous orders, by rejecting orders that exceed appropriate price or size parameters, on an order-by-order basis or over a short period of time, or that indicate duplicative orders, in violation of SEA Rule 15c3-5(c)(1)(ii) and Nasdaq Rules 3010 and 2010A.
9. From January 1, 2014, through February 17, 2017, the firm's SEA Rule 15c3-5(c)(i) credit and capital threshold controls and procedures were also unreasonable in two respects. First, although the firm assigned customers daily dollar amount thresholds for total order values – known as “Daily Aggregated Value Limit” (“DVL”) – the firm's controls and procedures failed to take into consideration: (a) that some customers traded under multiple customer identifiers, referred to as “monikers,” and (b) that customers could place orders through multiple order handling and routing system entry points (“Client Interfaces”). Accordingly, the firm's controls and procedures failed to aggregate, or otherwise fail to account for, DVLs for a customer using more than one moniker and/or trading through more than one CI, resulting in the potential for customers trading in excess of the DVL assigned to the customers.
10. Second, the firm assigned customers DVLs that failed to reasonably consider the customers' business and financial conditions. The firm assigned DVLs to clients based on the “risk tier” associated with the client. Risk tiers were based upon a multiple of an average of the “highest” daily trading values of the customer's positions during a certain period (for example, 2 times the largest trading day in the past 2 years, or 2 times the average top 5 highest trading days in the past 2 years). In doing so, the firm also failed to take into consideration the particular customer's businesses and financial conditions.
11. As a result, the firm failed to have risk management controls and supervisory procedures, including written supervisory procedures, reasonably designed to prevent the entry of orders that exceed appropriate pre-set credit or capital thresholds in the aggregate for

each customer and the broker or dealer and, where appropriate, more finely-tuned by sector, security, or otherwise by rejecting orders if such orders would exceed the applicable credit or capital thresholds, in violation of SEA Rule 15c3-5(c)(1)(i) and Nasdaq Rules 3010 and 2010A.

12. In addition, although the firm's procedures provided for an annual review to verify that its Rule 15c3-5 controls and procedures operated as intended, the firm's procedures did not provide for a review as to the effectiveness of its 15c3-5 controls and procedures. As a result, the firm failed to establish, document, and maintain a system for regularly reviewing the effectiveness of the risk management controls and supervisory procedures required by Rule 15c3-5(c) and for promptly addressing any issues. The conduct described in this paragraph constitutes violations of SEA Rule 15c3-5(e)(1) and Nasdaq Rules 3010 and 2010A.

- B. The firm also consents to the imposition of the following sanctions:

A censure; a unitary fine of \$85,000; and an undertaking to revise the firm's controls and written supervisory procedures with respect to the areas described in paragraphs I.A.8-12. Within 30 business days of acceptance of this AWC by the Nasdaq Review Council, a registered principal of the Respondent shall submit to the **COMPLIANCE ASSISTANT, LEGAL SECTION, MARKET REGULATION DEPARTMENT, 9509 KEY WEST AVENUE, ROCKVILLE, MD 20850**, a signed, dated letter, or an e-mail from a work-related account of the registered principal to **MarketRegulationComp@finra.org**, providing the following information: (1) a reference to this matter; (2) a representation that the firm has revised its controls and written supervisory procedures to address the deficiencies described in paragraphs I.A.8-12; and (3) the date the revised controls and procedures were implemented.

The firm agrees to pay the monetary sanction(s) in accordance with its executed Election of Payment Form.

The firm specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

## II.

### WAIVER OF PROCEDURAL RIGHTS

The firm specifically and voluntarily waives the following rights granted under Nasdaq's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against the firm;

- B. To be notified of the Formal Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the Nasdaq Review Council and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, the firm specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Regulatory Officer, the Nasdaq Review Council, or any member of the Nasdaq Review Council, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

The firm further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of Rule 9143 or the separation of functions prohibitions of Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

### III.

#### OTHER MATTERS

The firm understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by FINRA's Department of Enforcement and the Nasdaq Review Council, the Review Subcommittee, or the Office of Disciplinary Affairs ("ODA"), pursuant to Nasdaq Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the firm; and
- C. If accepted:
  - 1. This AWC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by Nasdaq or any other regulator against the firm;
  - 2. Nasdaq may release this AWC or make a public announcement concerning this agreement and the subject matter thereof in accordance with Nasdaq Rule 8310 and IM-8310-3; and
  - 3. The firm may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or

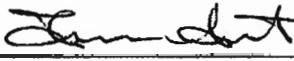
indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. The firm may not take any position in any proceeding brought by or on behalf of Nasdaq, or to which Nasdaq is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the firm's right to take legal or factual positions in litigation or other legal proceedings in which Nasdaq is not a party.

- D. The firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The firm understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by Nasdaq, nor does it reflect the views of Nasdaq or its staff.

The undersigned, on behalf of the firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that it has agreed to the AWC's provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the firm to submit it.

12/21/18  
Date

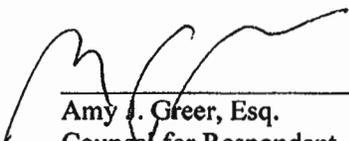
ITG Inc.  
Respondent

By: 

Name: THOMAS SHPETNER

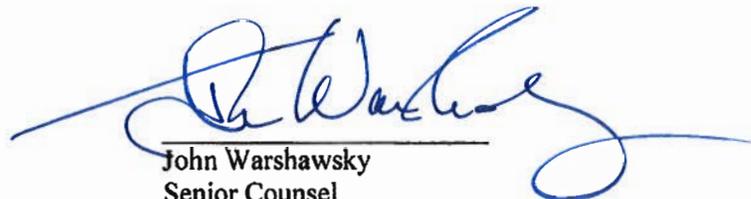
Title: CCO

Reviewed by:

  
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Amy J. Greer, Esq.  
Counsel for Respondent  
Morgan Lewis & Bockius LLP  
1111 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Telephone: 202-739-5076

Accepted by Nasdaq:

1/29/2019  
Date

  
\_\_\_\_\_  
John Warshawsky  
Senior Counsel  
Department of Enforcement

Signed on behalf of Nasdaq, by delegated  
authority from the Director of ODA

**ELECTION OF PAYMENT FORM**

The firm intends to pay the fine proposed in the attached Letter of Acceptance, Waiver and Consent by the following method (check one):

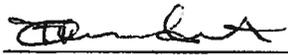
A firm check or bank check for the full amount

Wire transfer

Respectfully submitted,

Respondent  
ITG Inc.

12/21/18  
Date

By: 

Name: THOMAS SAPIENTZA

Title: COO

**Billing and Payment Contact**

Please enter the billing contact information below. Nasdaq MarketWatch will contact you with billing options and payment instructions. ***Please DO NOT submit payment until Nasdaq has sent you an invoice.***

Billing Contact Name: Adam Sebel

Billing Contact Address: One Liberty Plaza, 165 Broadway, New York, NY 10006

Billing Contact Email: adam.sebel@itg.com

Billing Contact Phone Number: 212-444-6332

ITG Inc. – Corrective Action Statement – NASDAQ – Matter No. 20130394833

Since the period at issue in this AWC, ITG Inc. has effectively fully revised its procedures for compliance with SEC Rule 15c3-5. Specifically, the Firm has already undertaken to revise its risk management controls and supervisory procedures, including its Daily Aggregated Value Limits for customers, and written supervisory procedures, related to, among other items, the supervisory review of erroneous orders and pre-set customer aggregate credit or capital thresholds.

*This Corrective Action Statement is submitted by the Respondent. It does not constitute factual or legal findings by Nasdaq, nor does it reflect the views of Nasdaq or its staff.*