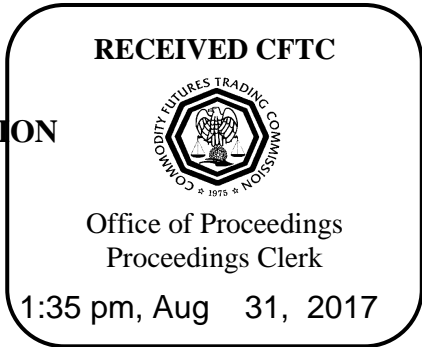


**UNITED STATES OF AMERICA**  
**Before the**  
**COMMODITY FUTURES TRADING COMMISSION**



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 )  
**In the Matter of:** )  
 )  
 **Ikon Global Markets, Inc.** ) **CFTC Docket No. 17-23**  
 )  
 )  
 **Respondent.** )  
\_\_\_\_\_ )

**ORDER INSTITUTING PROCEEDINGS PURSUANT TO SECTION 6(c) AND (d) OF THE COMMODITY EXCHANGE ACT, MAKING FINDINGS AND IMPOSING REMEDIAL SANCTIONS**

**I.**

**INTRODUCTION**

The Commodity Futures Trading Commission (“Commission”) has reason to believe that from in or about February 9, 2012, through the present (the “Relevant Period”), Ikon Global Markets, Inc. (“Ikon” or “Respondent”) violated Section 4g(a) of the Commodity Exchange Act (the “Act”), 7 U.S.C. § 6g(a) (2012), and Commission Regulations (“Regulations”) 1.31(a)(1) and (2) and 1.35(a), 17 C.F.R. §§ 1.31(a)(1), (2), 1.35(a) (2017). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether Respondent engaged in the violations set forth herein and to determine whether any order should be issued imposing remedial sanctions.

In anticipation of the institution of an administrative proceeding, Respondent has submitted an Offer of Settlement (“Offer”), which the Commission has determined to accept. Without admitting or denying any of the findings or conclusions herein, Respondent consents to the entry of this Order Instituting Proceedings Pursuant to Section 6(c) and (d) of the Commodity Exchange Act, Making Findings and Imposing Remedial Sanctions (“Order”) and acknowledges service of this Order.<sup>1</sup>

<sup>1</sup> Respondent consents to the use of these findings and conclusions in this Order in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party or claimant, and agrees that they shall be taken as true and correct and be given preclusive effect therein, without further proof.

Respondent does not consent, however, to the use of this Order, or the findings or conclusions herein, as the sole basis for any other proceeding brought by the Commission or to which the Commission is a party,

## II. FINDINGS

The Commission finds the following:

### A. SUMMARY

During the Relevant Period, Ikon, through its agents, officers and/or employees, entered into and reported to NASDAQ OMX Futures Exchange, Inc. (“NFX”) thousands of gold Exchange for Physical (“EFP”) trades. Ikon failed to keep and promptly produce required documentation for these trades, including orders, copies of confirmations, and statements of purchase and sale in violation of Section 4g(a) of the Act, 7 U.S.C. § 6g(a) (2012), and Regulations 1.31(a)(1) and (2) and 1.35(a), 17 C.F.R. §§ 1.31(a)(1), (2), 1.35(a) (2017).

### B. RESPONDENT

**Ikon Global Markets, Inc.** is a futures commission merchant (“FCM”) incorporated and with a business address in New York, New York. Ikon became registered with the Commission and a member of the National Futures Association (“NFA”) in March 2003. In August 2013, NFA barred Ikon from reapplying for membership.

### C. FACTS

From February 9, 2012, through September 12, 2012, Ikon, for a proprietary account, entered into thousands of EFP transactions with one of its customers, which were reported to the NFX (“EFP Transactions”). These EFP Transactions involved a privately negotiated and simultaneous exchange of a position in the XAU/USD Spot Gold Futures contract (“NAU contract”)<sup>2</sup> for a corresponding and offsetting cash position in gold. As an FCM, pursuant to Section 4g of the Act and Regulation 1.35(a), Ikon was required to keep full, complete and systematic records relevant to its dealings in the NAU contract and any related cash positions, including all orders, copies of confirmations, and copies of statements of purchase and sale. On March 18, 2015, the Division of Enforcement (“Division”), via a lawfully issued subpoena duces tecum, requested that Ikon produce, for certain accounts including the Ikon proprietary account and the relevant customer account, all documents related to transactions in the NAU contract, including, among other things, all orders. In the subpoena, Division staff also requested all documents reflecting any cash or other related position or the transfer of any cash or other related position in connection with any off-exchange transactions related to the NAU contract (i.e., the EFP Transactions). On May 8, 2015, Ikon produced daily records reflecting the end of day

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other than a: statutory disqualification proceeding; proceeding in bankruptcy, or receivership; or proceeding to enforce the terms of this Order.

Also, Respondent does not consent to the use of the Offer or this Order, or the findings or conclusions in this Order, by any other party in any other proceeding.

<sup>2</sup> The NAU contract was a cash-settled spot futures contract listed on the NFX; each contract was equal to 10 Troy ounces of gold.

positions in NAU contracts but did not produce records relevant to the EFP Transactions or other transactions involving the NAU contract.

On August 30, 2016, Division staff issued to Ikon a second subpoena which identified seven specific EFP transactions and requested certain documents regarding those transactions. On January 31, 2017, Ikon produced certain additional documents for those seven EFP Transactions specifically identified by the Division in its second subpoena. However, its production did not include certain documents requested by Division staff such as customer orders, copies of confirmations, or copies of statements of purchase or sale. By letter dated February 24, 2017, Division staff explained that, Ikon had failed to make a complete production of all documents requested by staff. Division staff requested that all outstanding documents requested be produced by no later than March 17, 2017. Ikon failed to produce further documentation.

### **III.**

#### **LEGAL DISCUSSION**

Throughout the Relevant Period, Section 4g(a) of the Act, 7 U.S.C. § 6g(a) (2012), required, in relevant part, every FCM to keep books and records for a period of time specified by the Commission and to make those books and records available for Commission inspection upon request. Regulation 1.31(a)(1), 17 C.F.R. § 1.31(a)(1) (2017), specified that such books and records must be kept for a period of five years. Pursuant to Regulation 1.35(a), 17 C.F.R. § 1.35(a) (2017), an FCM was required to keep full, complete, and systematic records of all transactions relating to its business of dealing in commodity futures and cash commodities, including, among other things, all orders, copies of confirmations, and copies of statements of purchase and sale, and to produce such records to the Commission upon request. Notwithstanding subsequent amendments to the regulation, these requirements continue to apply. Regulation 1.35 (a)(1)(i) continues to require that an FCM keep full, complete, and systematic records of all transactions relating to its business of dealing in commodity interests and related cash transactions, including, among other things, all orders, copies of confirmations, and copies of statements of purchase and sale. Regulation 1.35(a)(8) continues to require that an FCM produce such records to the Commission upon request. Ikon either did not create or did not retain, and did not produce all documents requested by the Commission related to the EFP Transactions during the Relevant Period. These failures violated Section 4g(a) of the Act and Regulations 1.31(a)(1) and 1.35(a).

Additionally, during the Relevant Period, Regulation 1.31(a)(2) provided that persons required to keep books and records by the Act or by the Regulations shall provide those records “promptly” to a Commission representative upon request. Ikon was unable to produce in a timely manner the requested EFP documentation. This failure violated Regulation 1.31(a)(2).

#### **IV.**

#### **FINDINGS OF VIOLATIONS**

Based on the foregoing, the Commission finds that, during the Relevant Period, Ikon violated Section 4g(a) of the Act, 7 U.S.C. § 6g(a) (2012), and Regulations 1.31(a)(1) and (2) and 1.35(a), 17 C.F.R. §§ 1.31(a)(1), (2), 1.35(a) (2017).

#### **V.**

#### **OFFER OF SETTLEMENT**

Respondent has submitted the Offer in which it, without admitting or denying the findings and conclusions herein:

- A. Acknowledges receipt of service of this Order;
- B. Admits the jurisdiction of the Commission with respect to all matters set forth in this Order and for any action or proceeding brought or authorized by the Commission based on violation of or enforcement of this Order;
- C. Waives:
  - 1. The filing and service of a complaint and notice of hearing;
  - 2. A hearing;
  - 3. All post-hearing procedures;
  - 4. Judicial review by any court;
  - 5. Any and all objections to the participation by any member of the Commission's staff in the Commission's consideration of the Offer;
  - 6. Any and all claims that it may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2012) and 28 U.S.C. § 2412 (2012), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Commission's Regulations, 17 C.F.R. pt. 148 (2017), relating to, or arising from, this proceeding;
  - 7. Any and all claims that it may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, §§ 201-253, 110 Stat. 847, 857-874 (1996) (codified as amended in scattered sections of 5 U.S.C. and 15 U.S.C.), relating to, or arising from, this proceeding; and
  - 8. Any claims of Double Jeopardy based on the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief;

- D. Stipulates that the record basis on which this Order is entered shall consist solely of the findings contained in this Order to which Respondent has consented in the Offer;
- E. Consents, solely on the basis of the Offer, to the Commission's entry of this Order that:
  - 1. Makes findings by the Commission that Respondent violated Section 4g(a) of the Act, 7 U.S.C. § 6g(a) (2012), and Regulations 1.31(a)(1) and (2) and 1.35(a), 17 C.F.R. §§ 1.31(a)(1), (2), 1.35(a);
  - 2. Orders Respondent to cease and desist from violating Section 4g(a) of the Act and Regulations 1.31(a)(1) and (2) and 1.35(a);
  - 3. Orders Respondent to pay, a civil monetary penalty in the amount of \$200,000, plus post-judgment interest within ten (10) days of the date of entry of this Order; and
  - 4. Orders Respondent and its successors and assigns to comply with the conditions and undertakings consented to in the Offer and as set forth in Part VII of this Order.

Upon consideration, the Commission has determined to accept the Offer.

## VI.

### ORDER

**Accordingly, IT IS HEREBY ORDERED THAT:**

- A. Respondent, and its successors and assigns, shall cease and desist from violating Section 4g(a) of the Act, 7 U.S.C. § 6g(a) (2012), and Regulations 1.31(a)(1) and (2) and 1.35(a), 17 C.F.R. §§ 1.31(a)(1), (2), 1.35(a) (2017).
- B. Respondent shall pay a civil monetary penalty in the amount of two hundred thousand dollars (\$200,000) ("CMP Obligation"), plus post-judgment interest, within ten (10) days of the date of the entry of this Order. If the CMP Obligation is not paid in full within ten (10) days of the date of entry of this Order, then post-judgment interest shall accrue on the CMP Obligation beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2012).

Respondent shall pay the CMP Obligation by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

Commodity Futures Trading Commission  
Division of Enforcement

ATTN: Accounts Receivables  
DOT/FAA/MMAC/AMZ-341  
CFTC/CPSC/SEC  
6500 S. MacArthur Blvd.  
Oklahoma City, OK 73169  
(405) 954-7262 office  
(405) 954-1620 fax  
[nikki.gibson@faa.gov](mailto:nikki.gibson@faa.gov)

If payment is to be made by electronic funds transfer, Respondent shall contact Nikki Gibson or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Respondent shall accompany payment of the CMP Obligation with a cover letter that identifies the paying Respondent and the name and docket number of this proceeding. The paying Respondent shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

C. Respondent and its successors and assigns shall comply with the following conditions and undertakings set forth in the Offer:

1. Public Statements: Respondent agrees that neither it nor any of its successors and assigns, agents or employees under its authority or control shall take any action or make any public statement denying, directly or indirectly, any findings or conclusions in this Order or creating, or tending to create, the impression that this Order is without a factual basis; provided, however, that nothing in this provision shall affect Respondent's: (i) testimonial obligations; or (ii) right to take legal positions in other proceedings to which the Commission is not a party. Respondent and its successors and assigns shall comply with this agreement, and shall undertake all steps necessary to ensure that all of its agents and/or employees under its authority or control understand and comply with this agreement.
2. Respondent agrees to withdraw from registration with the Commission in all capacities.
3. Respondent agrees that it shall never, directly or indirectly:
  - a. apply for registration or claim exemption from registration with the Commission in any capacity, or engage in any activity requiring such registration or exemption from registration with the Commission except as provided for in Regulation 4.14(a)(9), 17 C.F.R. § 4.14(a)(9) (2017).


D. Cooperation, in General: Respondent shall cooperate fully and expeditiously with the Commission, including the Commission's Division of Enforcement, in this action, and in any current or future Commission investigation or action related

thereto. Respondent shall also cooperate in any investigation, civil litigation, or administrative matter related to, or arising from, this action.

- E. Partial Satisfaction: Respondent understands and agrees that any acceptance by the Commission of any partial payment of Respondent's CMP Obligation shall not be deemed a waiver of its obligation to make further payments pursuant to this Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.
- F. Change of Address/Phone: Until such time as Respondent satisfies in full its CMP Obligation as set forth in this Order, Respondent shall provide written notice to the Commission by certified mail of any change to its telephone number and mailing address within ten (10) calendar days of the change.

**The provisions of this Order shall be effective as of this date.**

By the Commission.

  
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Christopher J. Kirkpatrick  
Secretary of the Commission  
Commodity Futures Trading Commission

Dated: August 31, 2017