

NEW YORK STOCK EXCHANGE, INC.

**EXCHANGE HEARING PANEL DECISION 03-62**

April 28, 2003

SALOMON SMITH BARNEY INC.  
MEMBER ORGANIZATION

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**Violated the Exchange's Market-On-Close order entry cancellation  
Procedures and Policy – Consent to censure and \$65,000 fine.**

**Appearances:**

For the Division of Enforcement  
Joy A. Weber, Esq.  
Kathleen M. Toner, Esq.

For the Respondent  
James Tyne, Esq.

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An Exchange Hearing Panel met to consider a Stipulation of Facts and Consent to Penalty entered into between the Exchange's Division of Enforcement and Salomon Smith Barney Inc. the "Firm"), a member organization. Without admitting or denying guilt, the Firm consents to a finding by the Hearing Panel that it violated the Exchange's Market-On-Close order entry and cancellation Procedures and Policy approved by the Securities and Exchange Commission and set forth in Information Memoranda 98-20 and 99-51.

For the sole purpose of settling this disciplinary proceeding, the Division of Enforcement and the Firm stipulate to the following:

**Background and Jurisdiction**

1. The current Firm was formed in 1997 when Smith Barney Holdings Inc, the brokerage arm of Traveler's Group, was combined with Salomon Inc. to form Salomon Smith Barney Holdings Inc. In 1998, Salomon Smith Barney, the brokerage arm of Salomon Smith Barney Holdings, Inc. became an affiliate of Citigroup, which was the result of a merger between Citicorp and Traveler's Group.
2. The Firm is currently a global full-service investment banking and securities brokerage firm with almost 13,000 financial consultants in 500 offices in the United States.
3. Following a referral by the Exchange's Division of Market Surveillance, by letter dated November 7, 2002, which the Firm received, Enforcement advised Salomon it was the subject of an Exchange investigation regarding its entry and cancellation of market-on-close ("MOC") orders.

### **Summary of Violations**

4. During the period May 2002 through November 2002, the Firm violated the Exchange's Procedures and Policy regarding MOC orders in that the Firm cancelled 112 MOC trades after the 3:40 p.m. cut-off time and entered 15 MOC orders after the 3:40 p.m. cut-off time, which orders did not offset a published imbalance. The Exchange's Procedures and Policy regarding MOC orders and cancellations and the Firm's violation of those Procedures and Policy are detailed below.

### **Violative Conduct**

#### **Exchange MOC Order Entry and Cancellation Requirements**

5. An MOC order insures an execution for the purchase or sale of a stock at the closing price, provided that trading in the stock was not halted before the close. The Exchange's MOC policies, described in detail below, were created to minimize the volatility of the market at the close of the trading day and to encourage early entry of orders so that offsetting orders may be entered.
6. Exchange procedures concerning the entry and cancellation of MOC orders have been approved by the Securities and Exchange Commission and are set forth in Exchange Information Memoranda 98-20 and 99-51.
7. Exchange Information Memorandum 98-20, which was made effective on June 24, 1998, and which was in effect at all relevant times, requires that all MOC orders, unless entered to offset a published imbalance, must be entered by 3:40 p.m. in any stock on any trading day. No MOC orders in any stock may be canceled or reduced in size after 3:40 p.m. except in a case of legitimate error.
8. Exchange Information Memorandum 99-51 which was made effective on November 29, 1999, and which was in effect at all times relevant, states that the cancellation or reduction in size of MOC orders after 3:50 p.m. is not permitted for any reason including, among other things, the cancellation of a legitimate error.
9. On 12 trade days between May 29, 2002 and November 15, 2002, the Firm cancelled 112 MOC orders after the 3:40 p.m. cut-off period; 97 of these MOC orders were cancelled on two expiration Fridays. The 61 MOC orders cancelled on November 15, 2002 were part of a basket.
10. On July 19, 2002, one of the two expiration Fridays cited in paragraph 9, and a day on which certain S&P indices were rebalanced, the Firm cancelled 36 MOC orders for over 400,000 shares in various stocks after the 3:50 p.m. cut-off time. The 36 MOC orders cancelled on July 19, 2002, were part of a basket.

11. Between July 29, 2002 and November 1, 2002, the Firm entered 15 MOC orders after the 3:40 p.m. cut-off time. These orders did not offset a published imbalance, and there were no regulatory halts, at, or after the 3:40 p.m. cut-off time in the securities involved.
12. Between May 4, 2001 and June 3, 2002, the Exchange issued three summary fines to the Firm for canceling MOC orders in violation of the applicable MOC Policy. The Firm paid the fines, which totaled \$15,000. At the time the summary fines were issued, the Firm was informed that further violations of the MOC procedures could result in further regulatory action.

#### **Additional Factors Considered**

13. Salomon has represented to the Exchange that the violations that occurred on July 19, 2002 and November 15, 2002, both expiration Fridays, occurred as the result of certain systems issues. Further, Salomon has represented that it has taken steps to tighten its various automated systems to prevent the re-occurrence of untimely cancellations or late entries of MOC orders.

#### **DECISION**

The Hearing Panel, in accepting the Stipulation of Facts and Consent to Penalty, found the Firm guilty as set forth above by unanimous vote.

#### **PENALTY**

In view of the above findings, the Hearing Panel, by unanimous vote, imposed the penalty consented to by the Firm of a censure and a fine of \$65,000.

For the Hearing Panel

Edward W. Morris, Jr.  
Chief Hearing Officer