UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of:	)	
	)	
Vitol Inc.,	)	
	)	**CFTC Docket No. 21-01**
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 at various times between 2005 and early 2020 ("Relevant Period"), Vitol Inc. ("Vitol" or "Respondent") has, for conduct occurring on or after August 15, 2011 ("Charging Period"), violated Section 6(c)(1) of the Act, 7 U.S.C. § 9(1) (2018), and Regulation 180.1, 17 C.F.R. § 180.1 (2020), of the Commission Regulations ("Regulations"). 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, Vitol 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, except to the extent that Vitol admits those findings in any related action against Vitol by, or any agreement with, the United States Department of Justice ("DOJ") or any other governmental agency or offices, Vitol 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.[1]

[1] Vitol consents to the use of the findings of fact and conclusions of law 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. Vitol 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 or claimant, other than: a proceeding in bankruptcy or receivership; or a proceeding to enforce the terms of this Order. Vitol 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.

II. FINDINGS

The Commission finds the following:

A. Summary

Vitol is a significant participant in the globally interconnected physical and derivatives markets for oil, with a substantial trading operation based in Houston, Texas. At various times from 2005 through early 2020, Vitol engaged in conduct designed to increase profits from physical and derivatives trading in the global oil markets through corruption, fraud, and at times during August 2014 and July 2015, manipulation.

Vitol's conduct during the Relevant Period involved corrupt payments (e.g., bribes and kickbacks) to employees and agents of certain state-owned entities ("SOEs") in Brazil, Ecuador, and Mexico. Vitol or its affiliates made the corrupt payments in exchange for improper preferential treatment and access to trades with the SOEs. Regarding Brazil, the corrupt payments also were in exchange for nonpublic information from employees and agents of the SOE, including information material to Vitol's transactions with the SOE or related trading. Vitol's conduct was intended to secure unlawful competitive advantages in trading physical oil products and related derivatives to the detriment of its counterparties and market participants.

Regarding the Brazil scheme, from approximately 2005 until 2015, in exchange for corrupt payments to employees and agents of the Brazilian SOE ("SOE agents"), Vitol obtained, in addition to improper preferential treatment and access to trades, confidential information concerning the SOE's projected supply, demand, and strategic planning related to oil products markets around the world, including U.S. markets. At times, the confidential information Vitol obtained included the exact nonpublic price—at times referred to internally at Vitol as the "gold number"—at which Vitol understood it would win a supposedly competitive bidding or tender process. Vitol used the corruptly obtained confidential information to deceive the SOE and other market participants. Vitol traders, while in possession of this improperly obtained information, traded and secured physical oil products and related derivative contracts in a broad range of oil markets in the United States and globally. At times, Vitol used improperly obtained confidential information from the SOE to secure facially legitimate Exchange of Futures for Physical transactions ("EFPs") on the U.S. derivatives markets, whereby Vitol exchanged futures positions for physical oil with that SOE.

Regarding the Ecuador and Mexico schemes, between in or about 2015 and in or about 2020, Vitol via intermediaries made corrupt payments to SOE agents in Ecuador and in Mexico in exchange for improper preferential treatment and access to trades with the relevant SOEs.

In addition, at times during August 2014 and July 2015, Vitol also attempted to manipulate certain U.S. price assessment benchmarks relating to physical fuel oil products in order to benefit its related physical and derivatives positions.

Vitol's manipulative and deceptive conduct undermined the legitimate forces of supply and demand and the integrity of the global physical and derivatives oil markets.

In accepting Respondent's Offer, the Commission recognizes the substantial cooperation of Vitol with the Division of Enforcement's ("Division") investigation of this matter. The Commission also acknowledges Respondent's representations concerning its remediation in connection with this matter. The Commission's recognition of Respondent's substantial cooperation and appropriate remediation is further reflected in the form of a reduced penalty.

B. Respondent

Vitol Inc. is one of the companies doing business together as the **Vitol Group**, a sophisticated, multinational energy and commodities trading firm that is a global trader of oil and oil products. The affiliates comprising Vitol Group include, among others, **Vitol S.A.**, headquartered in Geneva, Switzerland; **Vitol Inc.** and **Vitol Capital Management Ltd.**, based in Houston, Texas; and **Vitol do Brasil Ltda.**, based in Brazil. Vitol Group is the world's largest privately owned physical oil and gas trading firm. Vitol Inc. maintains a substantial trading operation based in Houston, Texas. During the Relevant Period and the Charging Period, Vitol Inc. actively traded physical and derivative oil products across major trading hubs in the United States, the Americas, and beyond. Neither Vitol Inc. nor any of its affiliates has ever been registered with the Commission.

C. Facts

1. Market Background

The global oil markets include physical commodity flows among oil producers, refiners, shipping and storage facilities, and consumers. Numerous oil products are traded in these markets, including crude oil, distilled and refined products, and oil byproducts blended to various specifications that are used for a variety of purposes. These varied oil products flow across geographic regions before reaching distributors and end-user consumers. The United States is a world leader in the global markets for physical oil. Major trading hubs in the United States include, among others, the U.S. Atlantic Coast and the U.S. Gulf Coast.

The physical flows of oil products around the world are linked in various physical and derivatives markets. Market participants use the derivatives markets, which include among other things futures, options, and swaps, to manage physical price exposures and to speculate on price trends. The United States is a world leader in the derivatives markets as well; U.S.-based exchanges have many derivatives products tied to the prices of oil products.

S&P Global Platts ("Platts") is a London-based price reporting agency that has offices in several countries, including the United States. Platts provides benchmark prices for a variety of energy-related products and markets throughout the world, including oil products. Benchmarks provided by Platts (as well as benchmarks provided by other price reporting agencies) are often used by market participants as a price reference for physical contracts. These contracts are generally set at an agreed-upon benchmark value, plus or minus a negotiated dollar differential that may reflect the quality of the product or other aspects of the trade.

With relevance here, the Platts New York Harbor No. 6 1% Fuel Oil benchmark and the Platts U.S. Gulf Coast High Sulfur Fuel Oil benchmark are both assessed from Platts' offices in Houston, Texas. Both benchmarks are assessed by Platts using the "market-on-close" (MOC)

methodology. The MOC methodology takes into account trading activity and market information that is reported throughout the day by market participants, as well as the trading activity that occurs during a 30 or 45 minute period of time each day ("trading window") through Platts' online tool known as the Editorial Window ("eWindow").[2] During the trading window, approved market participants may submit, bids, offers, or intents to trade in the eWindow based on a set of rules established by Platts. At the close of the trading window, Platts considers activity in the eWindow and other information it has gathered in order to assess the benchmark for the day.

Generally, physical oil prices, oil derivatives prices, and oil benchmark prices are interrelated. Derivative products such as futures and swaps allow market participants to hedge physical transactions and otherwise manage price risks, conduct price discovery, and complement their physical trading activities. Benchmarks may serve as references both to physical trades, and to futures contracts and swaps that price in reference to the benchmarks. Those futures contracts trade on exchanges based in the United States, like the New York Mercantile Exchange ("NYMEX"), a Designated Contract Market ("DCM") owned by CME Group, Inc. ("CME") and are cleared on registered Derivatives Clearing Organizations ("DCOs"), such as ICE Clear Europe Ltd. Similarly, swaps include those cleared through DCOs in the United States, as well as those not centrally cleared, but rather reported to the Commission through swap data repositories. At times, market participants such as Vitol use futures contracts to engage in EFPs, in which a futures position is traded for a physical commodity, and then the futures position is submitted for clearing by a DCO.

2. Vitol's Fraudulent and Manipulative Conduct

a. Fraud Using Corrupt Practices

At various times during the Relevant Period and the Charging Period, Vitol, by and through its traders and agents, made corrupt payments to employees and agents working at SOEs of Brazil, Ecuador, and Mexico. Vitol or its affiliates made the corrupt payments in exchange for improper preferential treatment and access to trades with the SOEs. Regarding Brazil, the corrupt payments also were in exchange for nonpublic information from employees and agents of the SOE, including information material to Vitol's transactions with the SOE or related trading. Vitol's conduct was designed to increase Vitol's profits from certain physical and derivatives trading in oil markets around the world.

To conceal the corruption, the corrupt payments were made through offshore bank accounts or to shell entities. In some instances, corrupt payments also were invoiced through a putative third-party company, which issued deceptive invoices to Vitol for euphemistic services such as "market intelligence" or "sell support."

With respect to Vitol's corruption scheme in Brazil, SOE agents who had access to confidential information—and who owed a duty to the SOE under law and applicable

[2] The length of time for the trading window (30 or 45 minutes) has changed over time during the Relevant Period, and may also vary by product. Prior to the introduction of the eWindow, Platts collected bids, offers, and intents to trade during the trading window via phone, instant message, email and/or fax.

employment policies to keep the information confidential—disclosed nonpublic information, including information material to Vitol's transactions with the SOE or related trading, to Vitol in exchange for corrupt payments. Vitol traders in knowing possession of the confidential information then entered into physical transactions and related futures transactions. From approximately 2005 until 2015, a supervisor at Vitol affiliate Vitol do Brasil Ltda (the "Vitol Brazil supervisor"), overseen by Vitol supervisors in Houston, made corrupt payments to four SOE agents at the SOE, all of whom were required under company ethics and employment requirements, as well as legal requirements, to maintain the confidentiality of the information. In breach of such duties, and in exchange for substantial corrupt payments, these SOE agents routinely disclosed confidential information to the Vitol Brazil supervisor, who then disseminated it to Vitol traders in Houston. The corrupt payments Vitol paid to SOE agents, along with intermediaries who facilitated the corrupt payments, amounted to approximately $3 million. A Vitol supervisor and personnel in Houston knew of, oversaw, and approved such corrupt payments.

Vitol used these corrupt payments to, among other things, rig or circumvent bidding processes for oil contracts to the detriment of the SOE and market participants involved in the bidding processes. For example, the confidential information obtained through corruption included the specific nonpublic price—referred to internally at Vitol as the "gold number"—at which Vitol understood it would win a supposedly competitive bidding or tender processes. By receiving a "last look," Vitol was given the opportunity to meet or beat the best price offered to the SOE, including the preferential treatment of winning the trade in the event of a tie.

In one instance in early 2013, Houston-based Vitol oil traders communicated about a particular trade opportunity with the Vitol Brazil supervisor who had obtained confidential information from SOE agents through corrupt payments. The Vitol Brazil supervisor informed the traders regarding the exact, nonpublic price at which they could win the trade, explaining:

Vitol Brazil supervisor	[A competitor] is offering [a particular price]. This is the gold number. Let [me] know . . . .
Houston trader	So if we go to [the gold number price] they will give it to us?
Vitol Brazil supervisor	Yes. This is the gold number.
Houston trader	Okay great . . . we'll take it.

The Vitol trader in Houston then entered into the trade for 275,000 barrels of high sulfur diesel with the SOE's subsidiary in the United States. The trade was priced in reference to a U.S. price benchmark for oil. This variety of information provided Vitol traders and supervisors in Houston, as well as others at Vitol Group, an improper asymmetric information advantage over their counterparties and other market participants.[3] Other categories of confidential

[3] Apart from confidential information itself, Vitol also obtained improper preferential treatment through bribery. For example, in early 2013, a Vitol trader bid the exact same price as a competitor to purchase a 300,000 barrel high sulfur diesel cargo from the SOE, worth more than $30 million. The Vitol trader obtained the trade, even though the bids were identical. As a result, the SOE was deprived of a potentially more-competitive bid for the cargo, and the

information obtained through corrupt payments included details of the SOE's forecasted supply and demand, as well as historical import/export data. Once the confidential information was obtained through corrupt payments, it typically was disseminated to Vitol traders in the United States and elsewhere to be used in connection with trading activity in the physical and derivative oil markets, among other things.

At times, Vitol and/or its affiliates used improperly obtained confidential information from the SOE to secure a facially legitimate EFP on the U.S. derivatives markets, whereby Vitol exchanged futures positions for physical oil with that SOE.[4] Also at times, Vitol, while in possession of the confidential information, would assume a derivatives position in advance of the SOE obtaining its physical position.

Vitol documents and communications reveal that Vitol supervisors and traders understood the sensitivity of improperly obtained confidential information, and took steps to maintain it in confidence and ensure that the SOE would not learn they had it in their possession. To that end, the communications disseminating the improperly obtained confidential information within Vitol were labeled "private and confidential" or "pnc" for short. Vitol traders appreciated the sensitivity of this information, and considered it material to certain of Vitol's business and trading decisions.[5]

Regarding the Ecuador and Mexico schemes, between in or about 2015 and in or about 2020, Vitol via intermediaries made corrupt payments to SOE agents in Ecuador and in Mexico in exchange for improper preferential treatment and access to trades with the relevant SOEs.

b. Vitol Attempted to Manipulate U.S Physical Fuel Oil Pricing Benchmarks to Benefit Physical and Derivatives Positions

On certain occasions during August 2014 and July 2015, Vitol attempted to manipulate Platts benchmarks related to physical fuel oil in order to benefit Vitol's related physical and derivatives positions, including those obtained while in possession of the SOE's nonpublic information.

As mentioned above, the price of Vitol's physical oil contracts with counterparties, including SOEs, was often determined in reference to Platts benchmarks. If the price of the

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market was deprived of a fair bidding process. In connection with this specific cargo trade, which Vitol was awarded despite not outbidding a competitor, Vitol made corrupt payments exceeding $20,000 to an SOE agent.

[4] CME rules provide that "EFRPs [including EFPs] may be transacted at such commercially reasonable prices as are mutually agreed upon by the parties to the transaction. EFRPs may not be priced to facilitate the transfer of funds between parties for any purpose other than as the consequence of legitimate commercial activity." Exchange for Related Positions, CME Rulebook Rule 538.F (Jan. 2, 2020).

[5] In October 2015, for example, the Vitol Brazil supervisor sent confidential information concerning the SOE's import and export program to Vitol and Vitol affiliates traders and supervisors in London, Houston, and Asia. The transmittal email prefaced the confidential information with "<PRIVATE AND CONFIDENTIAL_PLEASE>," denoting that it was obtained from SOE agents. In response, one Vitol trader replied to the email: "Thanks [Vitol Brazil supervisor] - very useful and will be kept private." The trader then requested additional confidential SOE information, which the Vitol Brazil supervisor provided soon thereafter.

relevant Platts benchmark increased or decreased during the time period in which a physical deal priced, Vitol stood to make or lose profits on benchmark exposure from those physical oil deals (to the extent the exposure was not hedged).

Vitol's violative trading activity occurred in the Platts New York Harbor No. 6 1% Fuel Oil benchmark and the Platts U.S. Gulf Coast High Sulfur Fuel Oil benchmark trading windows, and included submitting bids, offers, and intents to trade in order to benefit Vitol's related physical and/or derivatives positions such as futures and swaps. Numerous futures contracts on U.S. exchanges were settled in reference to these physical fuel oil benchmarks' respective daily assessments, as were certain swaps.

First, in August 2014, Vitol had physical and derivatives positions that together generated daily net short exposures of varying sizes for Vitol to the Platts New York Harbor No. 6.1% Fuel Oil benchmark. Part of Vitol's short exposures to the benchmark in August 2014 arose from two transactions with a Brazilian SOE in which Vitol agreed to buy an aggregate amount of approximately 500,000 barrels of low sulfur fuel oil from the SOE, transactions made while in possession of improperly obtained confidential information. Both deals were priced in reference to the Platts New York Harbor No. 6 1% Fuel Oil benchmark.

Vitol did not hedge its daily exposure to the Platts benchmark during August 2014 through derivatives trades. Instead, Vitol traders' positions in derivatives, such as futures contracts traded in U.S. futures markets, amplified Vitol's exposure to the relevant benchmark. And then, on numerous days in August 2014, Vitol engaged in trading activity at prices and in a manner intended to influence the benchmark downward in order to benefit its related positions.

Second, in July 2015, Vitol had significant exposure to the Platts U.S. Gulf Coast High Sulfur Fuel Oil benchmark. Using U.S. derivatives, Vitol entered into a futures "calendar spread," in which it had long daily exposures in July and short daily exposures in August to that benchmark. As a result of these positions, Vitol would benefit from a wider spread between the benchmark pricing in the two months, meaning it would have increased profits if the average benchmark price in July rose (or fell less) relative to the average benchmark price in August.

In other months around this time, Vitol submitted both bids and offers in that eWindow—that is, Vitol was consistently on both sides of the market. But in July 2015, with only one exception, Vitol was active only on the buy side of the market. In particular, virtually every day that month Vitol submitted bids and purchased cargos in the trading window, in a manner and at prices intended to influence upward the level of the daily benchmark price, thereby intending to increase the July-August spread. Vitol did so with the intent to benefit its related derivatives positions.

By attempting to manipulate such benchmarks, Vitol was also attempting to manipulate and would have distorted numerous futures, swaps, and other derivatives and physical trades that price in reference to those benchmarks. This would be to the detriment of market participants that had opposite exposure (including Vitol's counterparties), or who looked to rely on the benchmarks as a fair price reference for physical or derivative trades, including U.S. futures contracts and swaps.

3. Cooperation

Vitol voluntarily provided material information to the Division obtained by Vitol through an internal investigation it conducted. Vitol proactively identified information of interest, produced expeditious and prioritized responses to the Division Staff's requests for information on a voluntary basis, and assisted the Division in analyzing trading data.

Vitol also commenced significant remedial action to improve internal controls and policies related to the use of third-party agents and payments to third parties, as well as related to eWindow trading. In particular, Vitol represents that Vitol and its affiliates have strengthened due diligence and approval processes related to the use of third parties, updated relevant model agreements, and initiated a global review of payment processes. Vitol further represents that Vitol has also dedicated additional resources to the compliance function and enhanced its internal trading surveillance processes, including with respect to trading activity in oil liquids MOCs.

III. LEGAL DISCUSSION

A. Manipulative or Deceptive Device or Contrivance in Violation of Section 6(c)(1) of the Act and Regulation 180.1

Section 6(c)(1) of the Act, 7 U.S.C. § 9 (2018), and Regulation 180.1, 17 C.F.R. § 180.1 (2020), prohibit the use or attempted use of any manipulative or deceptive device, untrue or misleading statements or omissions, or deceptive practice, in connection with any swap or contract of sale of any commodity in interstate commerce, or for future delivery. Specifically, Regulation 180.1(a)(1)–(3) makes it:

> [U]nlawful . . . , directly or indirectly, in connection with any swap, or contract of sale of any commodity in interstate commerce, or contract for future delivery on or subject to the rules of any registered entity, to intentionally or recklessly (1) [u]se . . . or attempt to use . . . any manipulative device, scheme, or artifice to defraud; (2) [m]ake, or attempt to make, any untrue or misleading statement of a material fact or to omit to state a material fact necessary in order to make the statements made not untrue or misleading; (3) [e]ngage, or attempt to engage, in any act, practice, or course of business, which operates or would operate as a fraud or deceit upon any person.

Section 6(c) of the Act and Regulation 180.1 prohibit fraud or manipulation. *CFTC v. Monex Credit Co.*, 931 F.3d. 966, 976-77 (9th Cir. 2019) (holding, in the context of leveraged transactions, "the CFTC may sue for fraudulently deceptive activity regardless of whether it was also manipulative.").

To establish fraud or manipulation in violation of Section 6(c)(1) of the Act and Regulation 180.1(a)(1)–(3), the Commission must establish that Respondent: (1) attempted to engage or engaged in prohibited fraudulent or manipulative conduct (i.e., employed a manipulative device, scheme, or artifice to defraud; made a material misrepresentation,

misleading statement or deceptive omission; or engaged in a business practice that would operate as a fraud); (2) with scienter; and (3) in connection with any swap, or contract of sale of any commodity in interstate commerce, or contract for future delivery on or subject to the rules of any registered entity. *CFTC v. McDonnell*, 332 F. Supp. 3d 641, 717 (E.D.N.Y. 2018); *In re McVean Trading*, CFTC No. 17–15, 2017 WL 2729956, at *10 (June 21, 2017) (consent order); *see also CFTC v. S. Tr. Metals, Inc.*, 894 F.3d 1313, 1325 (11th Cir. 2018).

For manipulative conduct, Section 6(c)(1) of the Act and Regulation 180.1 do not require the showing of an intent to affect prices or an actual effect on prices. *E.g.*, *McVean Trading*, 2017 WL 2729956, at *10*; In re Grady*, CFTC No. 18–41, 2018 WL 4697026, at *5 (Sept. 26, 2018) (consent order) (internal citations omitted). Nor does either require "a showing of reliance or harm to market participants in a government action brought under CEA section 6(c)(1) and final Rule 180.1." *McVean Trading*, 2017 WL 2729956, at *10. The Commission "will consider all relevant facts and circumstances in determining whether a violation of Section 6(c)(1) and Regulation 180.1 has occurred." *Id*. (internal quotation omitted).

Vitol violated Section 6(c)(1) of the Act and Regulation 180.1, among other ways, by intentionally or recklessly: (1) submitting manipulative bids and offers and otherwise engaging in manipulative trading activity relating to Platts physical fuel oil price benchmarks in order to attempt to benefit, among other positions, physical positions and related derivatives positions held on U.S. derivatives markets[6]; (2) using misappropriated and corruptly obtained nonpublic information material to Vitol's transactions with the SOE or related trading, for example, through its trading of physical oil products and related derivatives contracts[7]; and (3) obtaining improper preferential treatment and access to trades from agents of its counterparties as a result of corrupt payments to benefit its trading of physical oil products and related derivatives contracts in the global oil markets, including in the United States, and thereby defrauding its counterparties and harming other market participants.[8]

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[6] *In re Total Gas & Power N. Am. , Inc.*, CFTC No. 16–03, 2015 WL 8296610, at *9 (Dec. 7, 2015) (consent order) (finding "Respondents intentionally employed a manipulative device by purchasing and/or selling large volumes of fixed-price natural gas at the relevant hubs before and during bid-week that were intended to benefit . . . related financial positions); *see McVean Trading*, 2017 WL 2729956, at *10 (internal citations omitted); *In re Goldman Sachs Group*, CFTC No. 17–03, 2016 WL 7429257, at *23 n. 11 (Dec. 21, 2016) (consent order) ("Irrespective of whether the Goldman traders had an interest in hedging, the traders engaged in attempted manipulation when they placed bids and offers or executed trades . . . with the improper intent to move the [benchmark rate] in Goldman's favor" to benefit related positions).

[7] *CFTC v. EOX Holdings L.L.C.*, 405 F. Supp. 3d 697, 708-16 (S.D. Tex. 2019) (finding complaint charging intentional or reckless trading on basis of, and tipping of, material nonpublic information in breach of a pre-existing duty to source stated claim under Section 6(c)(1) of the Act and Regulation 180.1); *see also United States v. Blaszczak*, 947 F.3d 19, 30–37 (2d Cir. 2019) (holding misappropriation of confidential nonpublic information constituted fraud in violation of various federal fraud statutes) (citations omitted); *SEC v. Obus*, 693 F. 3d 276, 286–89 (2d Cir. 2012) (addressing tipper and tippee liability in context of SEC Rule 10b–5) (citations omitted).

[8] *In re Sogemin Metals Inc.*, CFTC No. 00–04, 2000 WL 136059, at *1–4 (Feb. 7, 2000) (consent order) (holding broker's kickback scheme "defrauded the . . . clients [two Chilean government-owned metals companies] within the meaning of Section 4b of the Act and Section 30.9 of the Regulations," where broker of London Metal Exchange's trades failed to disclose the kickback scheme involving brokerage commission payments channeled to, among others, the Chilean companies' employees or to their family members); *see also Riordan v. S.E.C.*, 627 F.3d 1230,

B. Respondent Is Liable for the Acts of Its Agents

Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2018), and Regulation 1.2, 17 C.F.R. § 1.2 (2020), provide that "[t]he act, omission, or failure of any official, agent, or other person acting for any individual, association, partnership, corporation, or trust within the scope of his employment or office shall be deemed the act, omission, or failure of such individual, association, partnership, corporation, or trust." Pursuant to Section 2(a)(1)(B) of the Act and Regulation 1.2, strict liability is imposed on principals for the actions of their agents. *See, e.g.*, *Rosenthal & Co. v. CFTC*, 802 F.2d 963, 966 (7th Cir. 1986); *Dohmen-Ramirez & Wellington Advisory, Inc. v. CFTC*, 837 F.2d 847, 857–58 (9th Cir. 1988); *CFTC v. Byrnes*, 58 F. Supp. 3d 319, 324 (S.D.N.Y. 2014).

Traders and employees of Vitol and its affiliates engaged in the conduct described herein within the scope of their employment or agency with Vitol. Therefore, pursuant to Section 2(a)(1)(B) of the Act and Regulation 1.2, Vitol is liable for those acts, omissions, and failures in violation of the provisions of the Act and Regulations cited above. Accordingly, as set forth above, Respondent violated Section 6(c)(1) of the Act, and Regulation 180.1(a)(1)–(3).

IV. FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that Respondent violated Section 6(c)(1) of the Act, 7 U.S.C. §§ 9(1) (2018), and Regulation 180.1, 17 C.F.R. § 180.1 (2020).

V. OFFER OF SETTLEMENT

Respondent has submitted the Offer in which, without admitting or denying the findings and conclusions herein, except to the extent that Respondent admits those findings in any related action against Respondent by, or any agreement with, the United States Department of Justice or any other governmental agency or office, Respondent:

A. Acknowledges 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;

1230–34 (D.C. Cir. 2010) (affirming finding of liability, where scheme to provide bribes and kickbacks—in exchange for being directed business, seeing competitors' bids outside the normal competitive bidding process, and ability to submit bids outside the normal competitive bidding process, such as past due date—constituted "scheme to defraud" in violation of 15 U.S.C. §§ 10b, 17(a), and S.E.C. Rule 10b-5) (Kavanaugh, J.), *abrogated on other grounds*; *S.E.C. v. Zwick*, 2007 WL 831812, at *16 (S.D.N.Y. 2007) (finding scheme to provide bribes, kickbacks, and items of value to a third party's employee, in exchange for that employee directing trades to payer of bribe, constituted "scheme to defraud" in violation of Exchange Act §§ 17(a) and 10b, and S.E.C. Rule 10b-5), *aff'd, S.E.C. v. Zwick*, 317 Fed. Appx. 34 (2d Cir. 2008).

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 (2018) and 28 U.S.C. § 2412 (2018), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. pt. 148 (2020), 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, 857–68 (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 6(c)(1) of the Act, 7 U.S.C. § 9(1) (2018); and Regulation 180.1(a), 17 C.F.R. § 180.1(a) (2020);

2. Orders Respondent to cease and desist from violating Section 6(c)(1) of the Act, 7 U.S.C. § 9(1)(2018); and Regulation 180.1(a), 17 C.F.R. § 180.1(a) (2020);

3. Orders Respondent to pay a civil monetary penalty in the amount of eighty-three million dollars ($83,000,000), plus post-judgment interest, within ten (10) business days of the date of entry of this Order (the "CMP Obligation"), provided, however, that the CMP Obligation will be offset, up to sixty-seven million dollars ($67,000,000), by the amount of any criminal monetary payment made pursuant to the resolution concerning corruption between Respondent and the United States Department of Justice dated December 3, 2020 (the "Criminal Resolution"), and/or

payment made pursuant to the resolution between Respondent or any affiliate and law enforcement authorities in Brazil dated December 3, 2020 (the "Brazil Resolution"); 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 VI of this Order, including but not limited to the undertaking by Respondent to pay disgorgement in the amount of twelve million, seven hundred ninety-one thousand dollars ($12,791,000) plus post-judgment interest, within ten (10) business days of the date of entry of this Order, provided, however, that the disgorgement will be offset by the amount of any disgorgement made pursuant to the Criminal Resolution.

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

* * *

VI. ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

A. Respondent shall cease and desist from violating Section 6(c)(1) of the Act, 7 U.S.C. § 9(1) (2018); and Regulation 180.1(a), 17 C.F.R. § 180.1(a) (2020);

B. Respondent shall pay a civil monetary penalty in in the amount of eighty-three million dollars ($83,000,000), plus post-judgment interest, within ten (10) business days of the date of entry of this Order. If the CMP Obligation is not paid in full or otherwise satisfied within ten business 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 (2018).

C. The CMP Obligation will be offset, up to sixty-seven million dollars ($67,000,000), by the amount of any criminal monetary penalty paid pursuant to the Criminal Resolution concerning corruption and/or the Brazil Resolution. Respondent shall provide (to the persons and addresses listed below) proof of any payment under the Criminal Resolution and/or the Brazil Resolution, including the case name(s) and number(s) in connection with which such payment has been made, and the amount by which the CMP Obligation is to be reduced, within ten business days of making such payment.

D. Respondent shall pay the CMP Obligation, except for any portion satisfied by offset, and any post-judgment interest 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:

MMAC/ESC/AMK326
Commodity Futures Trading Commission
Division of Enforcement
6500 S. MacArthur Blvd.
HQ Room 181
Oklahoma City, OK 73169
(405) 954-6569 office
(405) 954-1620 fax
9-AMC-AR-CFTC@faa.gov

If payment is to be made by electronic funds transfer, Respondent shall contact Marie Thorne 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 Respondent and the name and docket number of this proceeding. The 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.

E. 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 on behalf of Respondent or any of its affiliates 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. Disgorgement

Respondent shall pay disgorgement in the amount of twelve million, seven hundred ninety-one thousand dollars ($12,791,000) plus post-judgment interest, within ten (10) business days of the date of entry of this Order (the "Disgorgement Obligation"). If the Disgorgement Obligation is not paid in full or otherwise satisfied within ten business days of the date of

the entry of this Order, then post-judgment interest shall accrue on the Disgorgement Obligation beginning on the date following the 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 (2018).

The Disgorgement Obligation will be offset by the amount of any disgorgement paid pursuant to the Criminal Resolution. Respondent shall provide (to the persons and addresses listed below) proof of any payment under the Criminal Resolution, including the case name(s) and number(s) in connection with which such payment has been made, and the amount by which the Disgorgement Obligation is to be reduced, within ten business days of making such payment.

Respondent shall pay the Disgorgement Obligation, except for any portion satisfied by offset, and any post-judgment interest 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:

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If payment is to be made by electronic funds transfer, Respondent shall contact Marie Thorne or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Respondent shall accompany payment of the Disgorgement Obligation with a cover letter that identifies the Respondent and the name and docket number of this proceeding. The 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.

3. Cooperation with the Commission

Respondent and Vitol S.A. shall cooperate fully and expeditiously with the Commission, including the Division, in this action, and in any current or future Commission investigation or action related thereto. Respondent and Vitol S.A. shall also cooperate in any investigation, civil litigation, or administrative matter related to or arising from, this action. As part of

such cooperation, Respondent and Vitol S.A. agree to do the following for a period of three (3) years from the date of the entry of this Order, or until all related investigations and litigations in which the Commission, including the Division, is a party, are concluded, including through the appellate review process, whichever period is longer:

a. Preserve all records relating to the subject matter of this proceeding, including, but not limited to, audio files, electronic mail, other documented communications, and trading records;

b. Comply fully, promptly, completely, and truthfully with all inquiries and requests for non-privileged information or documents;

c. Provide authentication of documents and other evidentiary material;

d. Provide copies of non-privileged documents within Respondent's or Vitol S.A.'s possession, custody, or control, subject to applicable laws and regulations;

e. Subject to applicable laws and regulations, make Respondent's or Vitol S.A.'s best efforts to produce any current (as of the time of the request) officer, director, employee, or agent of Respondent or Vitol S.A., regardless of the individual's location, and at such location that minimizes Commission travel expenditures, to provide assistance at any trial, proceeding, or Commission investigation related to the subject matter of this proceeding, including, but not limited to, requests for testimony, depositions, and/or interviews, and to encourage them to testify completely and truthfully in any such proceeding, trial, or investigation;

f. Subject to applicable laws and regulations, make Respondent's or Vitol S.A.'s best efforts to assist in locating and contacting any prior (as of the time of the request) officer, director, employee, or agent of Respondent or Vitol S.A.; and

g. Respondent and Vitol S.A. also agree that they will not undertake any act that would limit their ability to cooperate fully with the Commission. Respondent and Vitol S.A. will designate an agent located in the United States of America to receive all requests for information pursuant to these Undertakings, and shall provide notice regarding the identity of such Agent to the Division upon entry of this Order. Should Respondent or Vitol S.A seek to change the designated agent to receive such requests, notice of such intention shall be given to the Division fourteen (14) days

before it occurs. Any person designated to receive such request shall be located in the United States of America.

4. Prohibited or Conflicting Undertakings

Should the Undertakings herein be prohibited by, or be contrary to, the provisions of any obligations imposed on Respondent and/or Vitol S.A. by any presently existing, or hereinafter enacted or promulgated laws, rules, regulations, or regulatory mandates, then Respondent and/or Vitol S.A. shall promptly transmit notice to the Commission (through the Division) of such prohibition or conflict, and shall meet and confer in good faith with the Commission (through the Division) to reach an agreement regarding possible modifications to the Undertakings herein sufficient to resolve such inconsistent obligations. In the interim, Respondent and Vitol S.A. will abide by the obligations imposed by the laws, rules, regulations, and regulatory mandates. Nothing in these Undertakings shall limit, restrict, or narrow any obligations pursuant to the Act or the Regulations, including, but not limited to, Regulations 1.31 and 1.35, 17 C.F.R. §§ 1.31, 1.35 (2020), in effect now or in the future.

5. Partial Satisfaction

Respondent understands and agrees that any acceptance by the Commission of any partial payment of its 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.

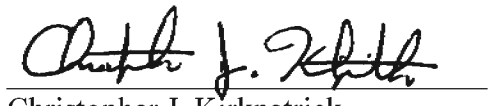
6. Change of Address/Phone

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 calendar days of the change.

* * *

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

By the Commission.



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

Dated: December 3, 2020