

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT**

NO. 20140417499-01

TO: Department of Market Regulation
Financial Industry Regulatory Authority ("FINRA")

RE: Barclays Capital Inc., Respondent
Broker-Dealer
CRD No. 19714

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Barclays Capital Inc. (the "firm" or "Respondent") 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, FINRA will not bring any future actions against Respondent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent 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 FINRA, or to which FINRA 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 FINRA:

BACKGROUND

The firm became a member of FINRA on October 19, 1987, and its registration remains in effect.

RELEVANT DISCIPLINARY HISTORY

On June 7, 2013, FINRA accepted an AWC in which the firm was censured and fined \$550,000, of which \$442,500 was for Order Audit Trail System ("OATS") reporting violations that occurred during the period September 1, 2008 through December 31, 2011 and \$100,000 was for an OATS supervision violation that occurred during the period September 1, 2008 through July 26, 2011.

On November 1, 2013, FINRA accepted an AWC in which the firm was censured and fined \$115,000, of which \$15,000 was for violations of SEC Rules 17a-3 and 17a-4, NASD Rule 3110 and FINRA Rule 4511 during the periods January 1, 2011 through March 31, 2011 and October 1, 2011 through February 3, 2012.

On December 26, 2013, FINRA accepted an AWC in which the firm was censured and fined \$3,750,000 for, among other things, violations of SEC Rule 17a-4, NASD Rule 3110 and FINRA Rule 4511 from at least 2002 through April 2012.

On June 20, 2014, in NYSE Arca, Inc. Proceeding No. 20110275670-02, a FINRA Hearing Officer considered an Offer of Settlement and Consent between the firm and FINRA, on behalf of NYSE Arca, Inc., and imposed a censure and fine of \$700,000 for, among other things, violations of SEC Rules 17a-3 and 17a-4 during the period approximately September 2008 through December 2012.

On April 27, 2015, FINRA accepted an AWC in which the firm was censured and fined \$40,000, of which \$25,000 was for OATS reporting violations that occurred on trade date August 6, 2012.

SUMMARY

Matter 20130356147 is the result of a Trading and Market Making Surveillance ("TMMS") examination of the firm's trading activity for compliance with various regulatory requirements on trade date September 19, 2013.¹ Matters 20140417499, 20140420428 and 20150457102 each resulted from reviews conducted by the OATS Section of FINRA's Department of Market Regulation (the "OATS Section") of the firm's compliance with OATS reporting requirements during the periods March 1, 2013 through June 30, 2013, April 19, 2010 through July 16, 2014, and January 1, 2010 through April 30, 2015, respectively.

OVERVIEW

In connection with the above reviews, the staff of FINRA's Department of Market Regulation (the "staff") identified 15 systems issues at the firm that gave rise to approximately 3.6 billion OATS reporting violations from September 2008 through the present. The 15 systems issues impacted up to 3% of all reportable order events ("ROEs") the firm was required to transmit to OATS during the relevant period. Specifically, the systems issues caused the firm to report to OATS approximately 3.3 billion inaccurate or incomplete ROEs and to fail to report to OATS approximately 332 million ROEs.

The firm estimated that it submitted 3.3 billion inaccurate or incomplete ROEs, including: 2.3 billion omitted special handling codes, over 1 billion inaccurate timestamps, 7.1 million inaccurate execution quantities, over 272,000 duplicate or erroneous reports, and almost 7,000 inaccurate member type codes.

The firm estimated that it failed to report 332 million ROEs to OATS, including: 290 million cancel reports, 34.8 million route reports, approximately 7.1 million desk reports.

¹ Additional issues identified in this examination have been resolved separately.

and over 92,000 execution reports. In addition, the firm failed to report approximately 6,400 orders to OATS.

Because FINRA uses OATS data as an integral part of its automated market surveillance program to detect customer harm, manipulative activity and other potential violations of FINRA rules and the federal securities laws, a failure to transmit ROEs or the transmission of inaccurate or incomplete ROEs can hamper FINRA's ability to detect potentially violative conduct and/or create false positive alerts requiring the expenditure of unnecessary resources to resolve the alerts. Moreover, these failures also caused the Audit Trail to be inaccurate.

In addition, during the period September 2008 through April 2015, the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with OATS reporting requirements.

FACTS AND VIOLATIVE CONDUCT

1. During the period September 2008 through September 2014, the firm failed to program one of its trading systems to report the "not held" special handling code to OATS for all orders designated "not held" by the firm. As a result, the firm transmitted to OATS approximately 2.3 billion ROEs that failed to append the "not held" special handling code.
2. During the period September 2008 through December 2014, a firm order management system generated approximately 195,000 desk reports when route reports were required for orders transmitted between two of the firm's market participant identifiers ("MPIDs").
3. During the period September 2008 through August 2014, due to a configuration issue, the firm transmitted to OATS approximately 71,920 duplicate cancel/replace reports.
4. During the period September 2008 through September 2014, the Credit Desk used a firm order management system ("OMS") that was not connected to the firm's Data Warehouse (the "OMS failure"). The Data Warehouse generated OATS reports and served as the firm's central repository for equities orders and executions. As a result of the OMS failure, the firm failed to submit approximately 6,400 orders to OATS, and failed to show the correct time of receipt, entry and execution, and/or all the terms and conditions on the memorandum of 6,400 brokerage orders.
5. During the period September 2008 through December 2013, the Structured Capital Markets Desk used a third-party vendor system that did not generate accurate and complete OATS reports on behalf of the firm. As a result, the firm: (a) transmitted to OATS approximately 5,450 erroneous new order reports; (b) failed to transmit to OATS approximately 5,450 route reports; (c) transmitted to OATS approximately 5,450 new order reports containing inaccurate member type codes and order entry times; and (d) failed to show the correct time of order receipt, entry and/or execution on the memorandum of approximately 5,450 brokerage orders.

6. During the period January 2010 through April 2015, due to a programming issue affecting the OATS reporting of immediate-or-cancel orders, the firm failed to transmit approximately 27.7 million route reports to OATS.
7. During the period April 2010 through the present, a programming error in the firm's algorithmic trading platform caused the firm to transmit to OATS approximately 1 billion ROEs that contained inaccurate route times.
8. During the period July 2010 through June 2014, a programming error in the firm's Convertible Bond Trading system caused the firm to transmit to OATS approximately 7,238 ROEs that contained an inaccurate execution time.
9. During the period 2011 through the present, due to a programming issue affecting the firm's algorithmic trading platform, the firm failed to transmit route reports to OATS for orders in which exchanges issued "Too Late to Cancel" messages. During the period 2011 through February 2016, the firm failed to transmit approximately 2.5 million route reports to OATS as a result of this issue.
10. Beginning in October 2011, the firm's Automated Volatility Trading ("AVT") Desk implemented a technological change that resulted in certain order cancellations no longer being reported to the firm's Data Warehouse. As a result, during the period October 2011 through July 2014, the firm failed to transmit approximately 290 million cancel reports to OATS.
11. During the period April 2012 through August 2014, due to a programming error in the firm's Program Sales order management system, the firm: (a) failed to submit to OATS approximately 7.1 million desk reports, and (b) transmitted to OATS approximately 7.1 million execution reports that contained an inaccurate execution quantity.
12. During the period April 2012 through November 2013, due to a programming error in a third-party vendor system, the firm transmitted to OATS 3,930,413 ROEs that contained inaccurate route times.
13. During the period June 2012 through June 2014, due to a coding error affecting the Synthetic Desk, the firm transmitted to OATS approximately 1,461 ROEs containing inaccurate member type codes.
14. During the period June 2012 through July 2014, a programming error in one of its trading systems caused the firm to fail to transmit to OATS approximately 92,426 execution reports.
15. During the period January 2013 through July 2014, the firm added certain market centers to a smart order router used by its Liquid Markets and Program Sales Desks, but failed to set up those market centers for OATS reporting. As a result, the firm failed to transmit approximately 4,650,224 route reports to OATS.
16. The conduct described above in paragraphs 1 through 15 constitutes separate and

distinct violations of NASD Rule 6955 (for conduct that occurred prior to December 15, 2008) and FINRA Rule 7450 (for conduct that occurred on and after December 15, 2008).

17. The conduct described in paragraphs 4 and 5 also constitutes separate and distinct violations of SEC Rule 17a-3, NASD Rule 3110 (for conduct that occurred prior to December 5, 2011), FINRA Rule 4511 (for conduct that occurred on and after December 5, 2011), NASD Rule 2110 (for conduct that occurred prior to December 15, 2008), and FINRA Rule 2010 (for conduct that occurred on and after December 15, 2008).
18. During the period September 2008 through April 2015, the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and the Rules of FINRA, concerning OATS reporting.
19. During the period July 27, 2011 through April 30, 2015, the firm failed to establish supervisory procedures that were reasonably designed to ensure that the firm's submissions to OATS were accurate and complete in comparison to its trade records.
20. The conduct described in paragraphs 18 and 19 above constitutes violations of NASD Rule 3010 (for conduct that occurred prior to December 1, 2014), FINRA Rule 3110 (for conduct that occurred on and after December 1, 2014), NASD Rule 2110 (for conduct that occurred prior to December 15, 2008), and FINRA Rule 2010 (for conduct that occurred on and after December 15, 2008).

OTHER FACTORS

In determining to resolve this matter in the manner set forth herein, and in determining the appropriate monetary sanction, the staff took into consideration the firm's self-reporting of the OATS violations described in paragraphs 6, 7, 9, 10, 12 and 15 above and remedial steps taken by the firm, including enhancements to some of its supervisory systems.²

B. Respondent also consents to the imposition of the following sanctions:

1. A censure, fine of \$1.3 million (comprised of a \$950,000 fine for the OATS and recordkeeping violations and a \$350,000 fine for the supervision violation), and an undertaking to revise the firm's supervisory system, including, but not limited to, its written supervisory procedures, with respect to the areas described in section I.A. Within 120 business days of acceptance of this AWC by the NAC, 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

² See Principal Consideration No. 12 of the FINRA Sanction Guidelines and Regulatory Notice 08-70.

MarketRegulationComp@finra.org, providing the following information: (1) a reference to this matter; (2) a representation that the firm has revised its supervisory system, including, but not limited to, its written supervisory procedures, to address the deficiencies described in section I.A; and (3) the date the revised system and procedures were implemented.

2. An undertaking to provide a written report to FINRA, within 180 days after the date of the Notice of Acceptance of this AWC, regarding the implementation and performance (to date) of the firm's revisions to its supervisory system with respect to the areas described in section I.A; the steps taken by supervisory personnel to review for compliance with OATS reporting requirements and the results of such supervisory reviews; training; and modifications or recommendations for further improvements to the firm's system. For good cause shown and upon receipt of a timely application from the firm, FINRA staff may extend the deadline set forth in this undertaking.

The firm agrees to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. It has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

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 FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against the firm;
- B. To be notified of the 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 NAC 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 Legal Officer, the NAC, or any member of the NAC, 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 FINRA Rule 9143 or the separation of functions prohibitions of FINRA 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 the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA 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 FINRA or any other regulator against the firm;
 - 2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
 - 4. 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 FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the firm's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA 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 FINRA, nor does it reflect the views of FINRA 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.

June 28, 2016
Date

Respondent
Barclays Capital Inc.

By: Penny Rosenberg
Name: Penny Rosenberg
Title: Director

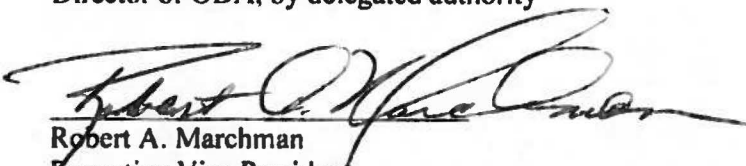
Reviewed by:

Attorney Name
Counsel for Respondent
Firm Name
Address
City/State/Zip
Phone Number

Accepted by FINRA:

8-3-2016
Date

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


Robert A. Marchman
Executive Vice President
Department of Market Regulation

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;
- ☐ Credit card authorization for the full amount;³ or
- ☐ The installment payment plan (only if approved by FINRA staff and the Office of Disciplinary Affairs).⁴

Respectfully submitted,
Respondent
Barclays Capital Inc.

June 28, 2016

Date

By: Penny Rosenberg
Name: Penny Rosenberg
Title: Director

³ Only Mastercard, Visa and American Express are accepted for payment by credit card. If this option is chosen, the appropriate forms will be mailed to you, with an invoice, by FINRA's Finance Department. Do not include your credit card number on this form. This option is not available for fines over \$50,000.

⁴ The installment payment plan is only available for fines of \$5,000 or more. Certain interest payments, minimum initial and monthly payments, and other requirements apply. You must discuss these terms with FINRA staff prior to requesting this method of payment.