

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20130362781-01**

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

RE: KCG Americas LLC, Respondent
Broker-Dealer
CRD No. 149823

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, KCG Americas LLC, (*f/k/a* Knight Capital Americas, LLC) ("NITC" or 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, FINRA 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 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, under several different names, has been a member of FINRA since July 22, 2009, and its registration remains in effect. The Firm has no relevant disciplinary history.

SUMMARY

In Review No. 20130362781, the Short Sales Team of the Department of Market Regulation ("staff") reviewed the firm's compliance with rules related to close-out and borrow requirements for short sales during the period of October 1, 2012 through December 31, 2012.

In Review No. 20130392124, staff reviewed the firm's compliance with rules related to close-out and borrow requirements for short sales during the period of July 1, 2013 through September 30, 2013, which was expanded to the period of June 11, 2013 through September 30, 2013.

In Review Nos. 20150439449, 20150471030 and 20160508875, staff reviewed the firm's compliance with rules related to close-out and borrow requirements for short sales during the period of July 1, 2014 through September 30, 2014, which was expanded to the period of June 10, 2014 through September 30, 2014, and during the period of April 1, 2015 through June 30, 2015, which was expanded to April 1, 2015 through July 9, 2015.

Based on its reviews, the staff found that the firm violated Rules 204(a) and 204(b) of Regulation SHO, NASD Rule 3010, and FINRA Rules 3110 and 2010.

FACTS AND VIOLATIVE CONDUCT

Matter No. 20130362781

1. On November 23, 2012, in one instance, the firm had a fail-to-deliver position at a registered clearing agency in an equity security that resulted from a short sale transaction, and did not close-out the position by purchasing or borrowing securities of like kind and quantity within the time frame and manner prescribed by Rule 204(a) of Regulation SHO. The conduct described in this paragraph constitutes separate and distinct violations of Rule 204(a) of Regulation SHO.
2. Beginning on November 14, 2012 and continuing through November 23, 2012, in twelve instances, the firm had a fail-to-deliver position at a registered clearing agency in an equity security that resulted from the sale of a security that the seller was deemed to own pursuant to §242.200 and intended to deliver once all restrictions on delivery had been removed, and did not close out the fail-to-deliver position by purchasing securities of like kind and quantity within the time frame prescribed by Rule 204(a)(2) of Regulation SHO. The conduct described in this paragraph constitutes separate and distinct violations of Rule 204(a)(2) of Regulation SHO.
3. Beginning on November 14, 2012 and continuing through December 5, 2012, in 72 instances, the firm effected a short sale for its own account¹ without first borrowing the security, or entering into a bona fide arrangement to borrow the security, while it had a fail-to-deliver position at a registered clearing agency that had not been closed out in accordance with the requirements of Rule 204(a) of Regulation SHO. The conduct described in this paragraph constitutes separate and distinct violations of Rule 204(b) of Regulation SHO.

Matter No. 20130392124

4. Beginning on June 11, 2013 and continuing through August 27, 2013, in 20 instances, the firm had a fail-to-deliver position at a registered clearing agency in an equity security that was attributable to market making activities, and did not close out the fail-to-deliver position by purchasing or borrowing securities of like kind and

¹ These short sales were effected to facilitate a customer(s) long sale order on a riskless principal basis.

quantity within the time frame prescribed by Rule 204(a)(3) of Regulation SHO. The conduct described in this paragraph constitutes separate and distinct violations of Rule 204(a)(3) of Regulation SHO.

5. Beginning on June 11, 2013 and continuing through July 22, 2013, in 3,477 instances, the firm effected a short sale for its own account² without first borrowing the security, or entering into a bona fide arrangement to borrow the security, while it had a fail-to-deliver position at a registered clearing agency that had not been closed out in accordance with the requirements of Rule 204(a) of Regulation SHO. The conduct described in this paragraph constitutes separate and distinct violations of Rule 204(b) of Regulation SHO.

Matter Nos. 20150439449, 20150471030 and 20160508875

6. On July 11, 2014, in one instance, and on June 5, 2015, in one instance, the firm had a fail-to-deliver position at a registered clearing agency in an equity security that resulted from a short sale transaction, and did not close-out the position by purchasing or borrowing securities of like kind and quantity within the time frame and manner prescribed by Rule 204(a) of Regulation SHO. The conduct described in this paragraph constitutes separate and distinct violations of Rule 204(a) of Regulation SHO.
7. On August 28, 2014, in one instance, the firm had a fail-to-deliver position at a registered clearing agency in an equity security that resulted from a long sale transaction, and did not close-out the position by purchasing or borrowing securities of like kind and quantity within the time frame and manner prescribed by Rule 204(a) of Regulation SHO. The conduct described in this paragraph constitutes separate and distinct violations of Rule 204(a)(1) of Regulation SHO.
8. Beginning on June 10, 2014 and continuing through August 22, 2014, in eleven instances, the firm had a fail-to-deliver position at a registered clearing agency in in an equity security that was attributable to market making activities, and did not close out the fail-to-deliver position by purchasing or borrowing securities of like kind and quantity within the time frame prescribed by Rule 204(a)(3) of Regulation SHO. The conduct described in this paragraph constitutes separate and distinct violations of Rule 204(a)(3) of Regulation SHO.
9. Beginning on April 9, 2015 and continuing through July 9, 2015, in twenty instances, the firm had a fail-to-deliver position at a registered clearing agency in in an equity security that was attributable to market making activities, and did not close out the fail-to-deliver position by purchasing or borrowing securities of like kind and quantity within the time frame prescribed by Rule 204(a)(3) of Regulation SHO. The

² These short sales were effected to facilitate a customer(s) long sale order on a riskless principal basis.

conduct described in this paragraph constitutes separate and distinct violations of Rule 204(a)(3) of Regulation SHO.

Matter Nos. 20130392124, 20130362781, 20150439449, 20150471030, and 20160508875

10. During the periods of reviews involved in these matters, the firm failed to establish and maintain a supervisory system that was reasonably designed to achieve compliance with respect to the applicable securities laws and regulations concerning Regulation SHO. In addition, the firm's supervisory system did not include sufficient written supervisory procedures providing for a statement of the supervisory step(s) to be taken by the identified person(s) responsible for supervision with respect to the applicable rules. The conduct in this paragraph constitutes a violation of NASD Rule 3010 (for conduct prior to December 1, 2014), and FINRA Rule 3110 (for conduct on and after December 1, 2014) and FINRA Rule 2010.

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

1. A censure;
2. A fine of \$105,000 (consisting of a \$80,000 fine for the violations of Regulation SHO Rule 204, and \$25,000 for the violation of NASD Rule 3010 and FINRA Rules 3110 and 2010); and
3. An undertaking requiring the firm to address the Regulation SHO deficiencies described above to ensure that the firm has implemented procedures that are reasonably designed to achieve compliance with the rules and regulations cited herein.
 - a. The firm shall submit to the COMPLIANCE ASSISTANT, LEGAL SECTION, MARKET REGULATION DEPARTMENT, 9509 KEY WEST AVENUE, ROCKVILLE, MD 20850, no later than 60 days after the AWC becomes final, 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 supervisory systems and procedures to address the deficiencies described above; and (3) the dates that this was completed.

The firm agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is 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 imposed in this matter.

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

II.

WAIVER OF PROCEDURAL RIGHTS

Respondent 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 National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Respondent specifically and voluntarily waives any right to claim bias or prejudice 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.

Respondent 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

Respondent 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 Respondent; 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. Respondent 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. Respondent 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. Respondent 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.

Oct 31, 2016
Date

Respondent

KCG Americas LLC.

By: Matthew Leine

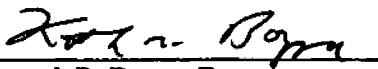
Name: Matthew Leine

Title: Deputy General Counsel

Accepted by FINRA:

11/22/16
Date

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


Kenneth R. Bozza, Esq.
Chief Counsel, Legal Section
Department of Market Regulation