

FINRA

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20130375520-01**

2015 MAY 20 AM 11: 22

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 ("KCG Americas" 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 has been a member of FINRA since July 22, 2009, and its registration remains in effect. The conduct described in this AWC occurred at GETCO Execution Services LLC (CRD No. 145021) ("GETCO"). On December 13, 2013, the firm purchased the assets and obligations related to or associated with, among other things, GETCO's Alternative Trading System ("ATS") operations. On December 31, 2013, GETCO's MPID, GFLO, expired and was activated that same day for KCG Americas. For the post-December 31, 2013 period, KCG Americas utilized the MPID GFLO for its business activities. On December 19, 2013, GETCO filed Form BDW terminating its FINRA registration, which was effective February 18, 2014.

RELEVANT DISCIPLINARY HISTORY

KCG Americas does not have any relevant disciplinary history.

GETCO had the following relevant history related to FINRA Rule 7450:

- On November 19, 2010, FINRA accepted an AWC in which GETCO agreed to a censure and a total fine of \$8,000, which included an unspecified fine for violations of FINRA Rule 7450 on March 2, 2009.

SUMMARY

This matter involves a review conducted by the Department of Market Regulation's Order Audit Trail System ("OATS") Operations Team ("Market Regulation") of compliance with OATS reporting requirements during the period from January 1, 2013, through December 1, 2013 (the "review period"). As a result of its review, Market Regulation determined that on numerous occasions, GETCO had submitted reports with incorrect information and failed to have adequate supervisory procedures to ensure compliance with OATS reporting requirements.

FACTS AND VIOLATIVE CONDUCT

1. During the review period, GETCO transmitted to OATS 6,871,672,448 reports that contained inaccurate, incomplete, or improperly formatted data. Specifically, the reports contained inaccurate Receiving Department ID, which erroneously reported transactions as being "Agency" transactions rather than "Alternative Trading System" transactions, and Special Handling Codes, which erroneously reported transactions omitting the "Not Held" designation. These inaccurate reports represented 48.0 percent of all reports (14,318,317,631) that GETCO firm transmitted to OATS during the review period. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 7450.
2. GETCO'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. At a minimum, adequate written supervisory procedures addressing quality of markets topics should describe the following:
 - (a) specific identification of the individual(s) responsible for supervision;
 - (b) the supervisory steps and reviews to be taken by the appropriate supervisor;
 - (c) the frequency of such reviews; and
 - (d) how such reviews shall be documented.

GETCO's written supervisory procedures failed to provide for the minimum requirements for adequate written supervisory procedures, in the following subject area: OATS reporting [categories (b), (c), and (d)]. The conduct described in this paragraph constitutes violations of NASD Rule 3010 and FINRA Rule 2010.

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

A censure and a fine of \$380,000 (\$280,000 for the Rule 7450 violations and \$100,000 for the supervision violations).

The firm agrees to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments 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 sanctions 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 National Adjudicatory Council ("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 General Counsel, 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 response to public inquiries about the firm’s disciplinary record;
 - 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

