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**FINANCIAL INDUSTRY REGULATORY AUTHORITY**
**LETTER OF ACCEPTANCE, WAIVER AND CONSENT**
**NO. 20060040565-01**

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. ("BCAP" 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

BCAP has been a member of FINRA since October 19, 1987 and its registration remains in effect. The firm has no relevant disciplinary history.

### SUMMARY

In connection with matter 20060040565, the staff of the Department of Market Regulation of FINRA (the "staff") conducted a review of BCAP's compliance with rules and regulations relating to the reporting of the firm's short interest positions during the period from December 2003 through June 2006.

In connection with matter 20070099579, the staff conducted a review of the firm's compliance with rules and regulations relating to the reporting of corporate bond transactions to the Trade Reporting and Compliance Engine ("TRACE") during the period April 1, 2007 through June 30, 2007 (the "second quarter of 2007").

In connection with matter 20080136096, the staff conducted a review of the firm's compliance with rules and regulations relating to the reporting of corporate bond transactions to TRACE during the period January 1, 2008 through March 31, 2008 (the "first quarter of 2008").

## FACTS AND VIOLATIVE CONDUCT

1. During the period December 2003 through June 2006, BCAP failed to report to NASD 119 short interest positions in 13 different securities totaling 27,423,236 shares. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 3360.

2. During the second quarter of 2007, BCAP failed to report to TRACE 579 transactions in TRACE-eligible securities within 15 minutes of the time of execution. These late transactions constituted approximately 17 percent of the 3,389 inter-dealer reports that the firm submitted to TRACE during the second quarter of 2007. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 6230(a) and a pattern or practice of late reporting without exceptional circumstances in violation of NASD Rule 2110.

3. During the second quarter of 2007, BCAP failed to report to TRACE the correct time of trade execution for 579 transactions in TRACE-eligible securities. These inaccurate reports constituted approximately 17 percent of the 3,389 inter-dealer reports that the firm submitted to TRACE during the second quarter of 2007. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 6230(c)(8).

4. BCAP failed to show the correct time of execution on the memorandum of 579 brokerage orders. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 17a-3 and NASD Rule 3110.

5. During the first quarter of 2008, BCAP failed to report to TRACE 723 transactions in TRACE-eligible securities within 15 minutes of the time of execution. These late transactions constituted approximately six percent of the transactions in TRACE-eligible securities that the firm reported to TRACE during the first quarter of 2008. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 6230(a) and a pattern or practice of late reporting without exceptional circumstances in violation of NASD Rule 2110.

## OTHER FACTORS

BCAP self-reported its short interest reporting failures to the staff. The sanctions reflect a lower fine as a result of the firm's self-reporting.

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

**A censure and fines totaling $50,000** ($35,000 for the firm's short-interest reporting violations, $12,500 for the firm's TRACE-reporting violations and $2,500 for the firm's recordkeeping 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. The firm has submitted an Election of Payment form showing the method by which it proposes to pay the fines 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 records;

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 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.

9/18/09
Date

Respondent
Barclays Capital Inc.

By: Erin Mansfield

Name: Erin Mansfield

Title: Chief Compliance Officer

Reviewed by:

Counsel for Respondent
RICHARD O. SMITH

Accepted by FINRA:

10/2/09
Date

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

Thomas R. Gira
Executive Vice President
Department of Market Regulation