

**FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20070071174**

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FINRA District 4

**To: Department of Enforcement
FINRA**

**Re: Alerus Securities Corporation
Member
CRD No. 35947**

Pursuant to NASD Rule 9216 of FINRA's Code of Procedure, Alerus Securities Corporation 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 Alerus alleging violations based on the same factual findings described herein.

I. ACCEPTANCE AND CONSENT

- A. Alerus 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

Alerus has been a FINRA member since July 8, 1994. Alerus conducts a securities business from its main office in Grand Forks, North Dakota. Alerus has not been named in a previous FINRA disciplinary action.

Overview

From October 2005 to May 2007, Alerus failed to maintain a Special Reserve Account for the Benefit of Customers, in violation of SEC Rule 15c3-3 and NASD Conduct Rule 2110. Alerus also failed to maintain adequate books and records during this time period, in violation of SEC Rule 17a-3 and NASD Conduct Rules 3110 and 2110.

Facts and Violative Conduct

Customer Protection

SEC Rule 15c3-3 and NASD Conduct Rule 2110

1. Alerus operates an alternative trading system, as defined in SEC Regulation ATS, in which its customers trade shares of cooperatives and limited liability corporations. From October 2005 through May 2007, Alerus directed that the customer funds received for these transactions be deposited into a bank account titled "Alerus Securities" pending the completion of the transactions. These funds were not held in a Special

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Reserve Bank Account for the Exclusive Benefit of Customers (Customer Reserve Account), as defined in SEC Rule 15c3-3(e). As of February 28, 2007, Alerus held \$2,477,104 of customer funds in this account.

2. Alerus was operating under the exemption in SEC Rule 15c3-3(k)(2)(ii), which allowed it do business without maintaining a Customer Reserve Account. By operating under this exemption, Alerus agreed that it would not hold any customer funds and securities and that it would promptly transmit all customer funds and securities to its clearing broker.
3. By holding the customer funds associated with the alternative trading system transactions in the bank account, Alerus failed to comply with the exemption requirements in SEC Rule 15c3-3(k)(2)(ii). Thus, Alerus became fully subject to the requirements of SEC Rule 15c3-3. Because Alerus was operating under the exemption, it did not comply with the requirements of SEC Rule 15c3-3, including the requirement to maintain a Customer Reserve Account pursuant to SEC Rule 15c3-3(e).
4. Through this conduct, Alerus violated SEC Rule 15c3-3 and NASD Conduct Rule 2110.

Recordkeeping

SEC Rule 17a-3 and NASD Conduct Rules 3110 and 2110

5. From October 2005 through May 2007, Alerus failed to create a transaction blotter for: (1) checks received from customers who purchased shares of cooperatives and limited liability corporations through Alerus' alternative trading system, and then forwarded by Alerus to the Alerus Securities bank account; and (2) checks received that were payable to customers who sold shares of cooperatives and limited liability companies through Alerus' alternative trading system, and then forwarded by Alerus to the customers.
6. In addition, Alerus' general ledger and trial balance were inaccurate in that Alerus failed to reflect the cash balance of the "Alerus Securities" bank account holding customer funds. As of February 28, 2008, the reconciled balance in the account was \$2,477,014. This amount should have been reflected as a debit to cash and a credit to customer accounts in Alerus' general ledger and trial balance.
7. Through this conduct, Alerus violated SEC Rule 17a-3(a)(1), (2) and (11) and NASD Conduct Rules 3110 and 2110.

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

A censure and fine of \$15,000.

Alerus agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Alerus has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

Alerus 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

Alerus specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against Alerus;
- B. To be notified of the Formal 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, Alerus 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.

Alerus further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of NASD Rule 9143 or the separation of functions prohibitions of NASD 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

Alerus 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 NASD Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against Alerus; and
- C. If accepted:
 - 1. this AWC will become part of Alerus' permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against Alerus;
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about Alerus' disciplinary record;
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with NASD Rule 8310 and IM-8310-3; and
 - 4. Alerus 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. Alerus 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 Alerus' right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. Alerus may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Alerus 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.

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Alerus Services Corporation
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Alerus certifies that it 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 its 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 Alerus to submit it.

ALERUS SECURITIES CORPORATION

7/2/08
Date

By: B. H. Kraft
Brian H. Kraft, President

Reviewed by:

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Counsel for Alerus Securities Corporation
Terry Fleming, Lindsey Bird Vennum

Accepted by FINRA:

7-18-08
Date

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

James M. Stephens
James M. Stephens, Senior Regional Counsel