

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2008013035001**

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REGISTRATION & DISCLOSURE

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

RE: Bornhoft Group Securities Corporation ("BGSC")
Member Firm
CRD No. 21946

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

I.

ACCEPTANCE AND CONSENT

- A. Bornhoft Group Securities Corporation ("BGSC") 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

BGSC, a registered broker-dealer and a member of FINRA since 1988, is headquartered in Denver, Colorado. During the period from June 2004 through September 2008 (the "Relevant Period"), BGSC had one active branch office and five registered representatives. The Firm has no relevant disciplinary history.

OVERVIEW

During the Relevant Period, BGSC filed and participated in four public offerings of units of The Frontier Fund ("The Fund" or "The Frontier Fund"), a commodity pool. In connection with the distribution of each offering, BGSC failed to file with FINRA's Corporate Financing Department ("Corporate Financing") certain information and documents concerning wholesaling arrangements and the fees and expenses related to the distribution of those offerings, as required by NASD Rule 2710. BGSC also failed to file with Corporate Financing an estimate of the maximum amount of wholesaling fees and

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expense reimbursements received and to be received as required by NASD Rule 2710. Lastly, BGSC failed to ensure that the wholesaling fees were disclosed in the appropriate section of The Frontier Fund's prospectuses, as required by NASD Rule 2710. During the Relevant Period, The Frontier Fund's wholesaling fees and expenses that were not properly disclosed to Corporate Financing and in The Fund's prospectuses totaled at least \$6.5 million.

FACTS AND VIOLATIVE CONDUCT

The Frontier Fund

1. As described in the prospectus, The Frontier Fund is a multi-advisor commodity pool. In 2004, The Frontier Fund had its first public offering followed by three other public offerings during the Relevant Period. Each of the four offerings was filed with and cleared by Corporate Financing.
2. The first public offering of The Frontier Fund was declared effective on June 28, 2004, whereby 2,960,000 units were registered for sale at the initial offering price of \$100 per unit. Thereafter, during the Relevant Period, the three subsequent offerings were registered, and when those offerings were declared effective, they sold an additional aggregate of 46,860,000 units. In total, The Frontier Fund raised over \$513 million in these four public offerings.

BGSC's Wholesaling Program

3. During the Relevant Period, BGSC participated in the distribution of shares of The Frontier Fund to public investors. The sole owner of BGSC also owned 90% of The Bornhoft Group, which owned 20% of The Frontier Fund's Managing Owner. As set forth in the prospectus, the Managing Owner is The Fund's Commodity Pool Operator and administers the business and affairs of The Fund.
4. BGSC registered five individuals who acted as wholesalers (the "Wholesalers") to effect the distribution of such shares.
5. These Wholesalers were also employees of Solon Capital, LLC ("Solon"), an entity not registered with FINRA. Solon, whose beneficial owners were also 80% beneficial owners of the Managing Owner, entered into a wholesaling agreement with the Managing Owner and was responsible for soliciting retail broker-dealers to act as selling agents (the "Selling Agents Firms") of The Fund. During the Relevant Period, there were approximately 60 Selling Agent Firms.
6. The Wholesalers met with the retail brokers at the Selling Agent Firms in an effort to increase sales of The Fund. Each Wholesaler was responsible for a specific region to market and distribute The Frontier Fund's shares by meeting with the retail registered representatives of the Selling Agent firms.

7. The wholesaling fees and expenses were paid by The Fund's Managing Owner. As part of the wholesaling arrangement, Solon paid the Wholesalers a salary and a bonus. The bonus was determined by an assessment of sales in each wholesaler's territory, and by factoring in the total Assets Under Management ("AUM") from the wholesaler's specific geographic area.
8. The Fund also effected sales during the Relevant Period through a wholesaling agreement with SIDCO, a broker-dealer registered with FINRA. The agreement was executed between SIDCO, BGSC and Solon. Pursuant to this agreement, SIDCO wholesalers contacted brokers at the Selling Agent Firms in an effort to market and sell The Frontier Fund.
9. On January 1, 2008, the Wholesalers that were registered with BGSC and employed by Solon became employees of Equinox Distributors Inc. ("EDI"). On that date, EDI, a non-registered entity wholly owned by the Managing Owner, entered into a new wholesaling agreement (the "EDI Wholesaling Agreement") to provide wholesaling services on behalf of The Frontier Fund. While the wholesaling agreement between Solon and the Managing Owner was consequently terminated, the Wholesalers continued to be registered with BGSC.
10. On December 3, 2008, BGSC filed a fifth offering with Corporate Financing which included the EDI wholesaling agreement. Subsequently, during the review of the offering by Corporate Financing, the EDI wholesaling agreement was terminated and a new wholesaling agreement was entered into with BGSC on April 21, 2009. A "no objections" opinion was issued by Corporate Financing on May 26, 2009. All wholesaling activities are now conducted through BGSC, which is registered under Section 15(a) of the Securities Exchange Act of 1934.
11. NASD Rule 2710 (currently, FINRA Rule 5110) requires that the underwriting terms and arrangements between issuers and members participating in a public offering shall not be unfair or unreasonable. The Rule requires a member that proposes to participate in a public offering of securities to file all underwriting compensation with Corporate Financing, including documents and information related to the underwriting arrangements.¹ As noted in Rule 2710(c)(3)(A)(ii) and 2710(c)(3)(A)(v) and Notices to Members 82-51, 85-29, and 04-07, wholesaling fees and the reimbursement of wholesaling expenses, regardless of the source, are considered to be underwriting compensation. Prior to participation in the offering, the member is required to receive a "no objections" opinion confirming that Corporate Financing has no objections to the proposed underwriting terms and arrangements after its review of the underwriting compensation.
12. Pursuant to Rule 2710(b)(6)(A)(ii), the member is also required to file with Corporate Financing a maximum estimate of all underwriting compensation received and to be received in connection with the offering. As noted, underwriting compensation includes

¹ See NASD Rule 2710(b).

wholesaling fees and wholesaling expenses and the reimbursement of such.

13. NASD Rule 2710 also requires the member to properly disclose all underwriting compensation, including wholesaling fees and expenses, in the prospectus. NASD Rule 2710 and SEC Regulation S-K, Item 508, require this disclosure to be in the "Plan of Distribution" section of the prospectus.

BGSC's Failure to Disclose Underwriting Compensation to Corporate Finance and BGSC's Failure to Appropriately Disclose Underwriting Compensation in The Frontier Funds' Prospectuses

14. BGSC made four filings with Corporate Financing through COBRADesk, FINRA's on-line filing system. COBRADesk specifically requires information regarding underwriting compensation and includes a specific section entitled "Wholesaling." COBRADesk also requires that the filer submit documents relating to the offering, including wholesaling agreements.
15. For four consecutive offerings during the Relevant Period, BGSC failed to: (i) submit any information in the "Wholesaling" section in COBRADesk, (ii) file the wholesaling agreements, (iii) otherwise alert Corporate Financing staff that a wholesaling arrangement was in place in connection with the distribution of The Fund's shares, and (iv) disclose the wholesaling fees and expenses (including commissions, salaries, and expense reimbursements) that were being paid in connection with the sales of The Frontier Fund.
16. BGSC also failed to provide an estimate of the maximum amount of underwriting compensation, including wholesaling fees and expenses, in connection with The Frontier Fund.
17. BGSC repeatedly failed to file any information about the wholesaling arrangements with Corporate Financing and received "no objections" letters from the staff without fully disclosing all materially relevant information to Corporate Financing.
18. Although the wholesaling fees were disclosed, in part, in the notes to the financial statements in the 2005, 2006, and 2007 prospectuses, BGSC, in connection with all four offerings, also failed to provide appropriate disclosure regarding the wholesaling fees, expenses and reimbursements in the "Plan of Distribution" section of The Frontier Funds' prospectuses.
19. As a result of BGSC's failure to fully disclose to Corporate Financing The Frontier Fund's wholesaling program during the Relevant Period, Corporate Financing issued the Firm "no-objections" opinions without assessing the wholesaling arrangements. BGSC thereafter sold The Fund to investors, notwithstanding that Corporate Financing was unaware of its wholesaling program.
20. The wholesaling fees, expenses and reimbursement of such that BGSC failed to

appropriately disclose totaled, at a minimum, \$6.5 million during the Relevant Period. BGSC also failed to disclose the existence of the numerous wholesaling entities that were involved in The Frontier Fund's wholesaling program.

21. In light of the above, BGSC violated NASD Rules 2710(b)(5)(A)(ii), 2710(b)(6)(A)(ii), 2710(c)(2)(C) and 2110.

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

Censure and \$100,000 fine.

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

BGSC specifically and voluntarily waives any right to claim that the Firm 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

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

- A. To have a Complaint issued specifying the allegations against me;
- 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, BGSC 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

BGSC 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

BGSC 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 BGSC; and
- C. If accepted:
 - 1. this AWC will become part of BGSC's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against BGSC;
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about my 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. BGSC 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. BGSC 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 BGSC's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

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; agrees 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 the Firm to submit it.

12/30/09
Date

Bornhoft Group Securities Corporation

By: Res W E. Bornhoft

Reviewed by:

Stewart D. Aaron, Esq.
Stewart D. Aaron, Esq.
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Accepted by FINRA:

1/13/2010
Date

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

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