

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2008014187702**

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

RE: Banc of America Investment Services, Inc. ("BAIS" or the "Firm"), Respondent,
FINRA Regulated Firm, CRD No. 16361

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent 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. Respondent 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

BAIS became a FINRA member on December 23, 1985. During all periods mentioned herein, BAIS was a registered broker-dealer with the United States Securities and Exchange Commission and a member of FINRA. On January 4, 2010, the Firm terminated its registration with FINRA after its merger with Merrill Lynch, Pierce, Fenner & Smith Incorporated (CRD No. 7691) ("Merrill Lynch").

BAIS offered investment products, accounts, and services for investors. At the time of the merger with Merrill Lynch, BAIS had approximately 2,000 registered representatives and approximately \$125 billion in customer assets.

RELEVANT DISCIPLINARY HISTORY

On January 3, 2005, the Firm consented to a sanction of a censure and a \$5,000 fine for violating Exchange Act Rule 10b-10 by, among other things, failing to provide written notification on 30 trade confirmations that it was a market maker in a particular security.

OVERVIEW

Between May 2003 and June 2006 (the "Relevant Period"), BAIS failed to send contemporaneous trade confirmations to customers enrolled in one of its investment programs. Specifically, the Firm failed to send immediate trade confirmations to approximately 2,702 customer accounts in the Advised version (non-discretionary) of its Consulting Services Fund Strategies ("Fund Strategies") program, which affected approximately 23,450 transactions and approximately \$323,475,815 dollars in assets.

Accordingly, the Firm violated Exchange Act Rule 10b-10(a) and NASD Rules 2230 and 2110 by failing to deliver required trade confirmations to certain customers.

FACTS AND VIOLATIVE CONDUCT

Exchange Act Rule 10b-10(a) provides in pertinent part, any broker or dealer who effects a transaction in the account of a customer in any security must provide written notification of the date and time of the transaction and identify the price, and the number of shares of the security. The preliminary note to the rule indicates that this information must be provided to customers "at or before the completion of such transaction."

During the Relevant Period, the Fund Strategies program was an investment advisory mutual fund asset allocation program with two versions: (1) Fund Strategies-Advised, the non-discretionary version; and (2) Fund Strategies-Managed, the discretionary version. BAIS was the investment adviser and sponsor of the Fund Strategies program. During this time, BAIS improperly allowed its Fund Strategies-Advised customers to forego the receipt of immediate trade confirmations and instead, receive trade confirmations on a quarterly basis. For those accounts where the customers opted on the account application to receive periodic account statement delivery, the Firm sent the customers individual trade confirmations on a quarterly basis, instead of sending immediate trade confirmations pursuant to Rule 10b-10(a).

During the Relevant Period, 2,702 Fund Strategies-Advised accounts elected to receive trade confirmations on a quarterly basis in lieu of immediate trade confirmations. As a result, during the Relevant Period, the Firm did not deliver immediate trade confirmations for approximately 23,450 transactions valued at \$323,475,815.

As a result of the foregoing conduct, Respondent violated Exchange Act Rule 10b-10(a) and NASD Rules 2230 and 2110 by failing to deliver immediate trade confirmations to certain customers.

B. The Firm consents to the imposition of the following sanctions:

Censure and a \$50,000 fine.

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

The Firm 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 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.

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 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 the Firm 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 the Firm to submit it.

May 25, 2012
Date (mm/dd/yyyy)

Respondent
Banc of America Investment Services, Inc.

By: Mark L. Keene
Mark L. Keene
Associate General Counsel

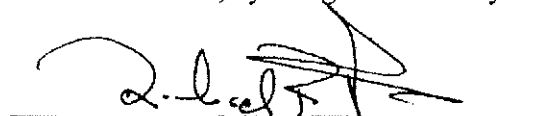
Reviewed by:


William Goydan, Esq.
Counsel for Respondent
Wolff & Samson PC
One Boland Drive
West Orange, NJ 07052

Accepted by FINRA:

6-28-12
Date

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


Richard Best
Chief Counsel
FINRA Department of Enforcement
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