

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2009016279101**

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

RE: WFG Investments, Inc., Respondent
CRD No. 22704

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, WFG Investments, Inc. ("WFG" or "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 it 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

WFG has been a FINRA member since August 1988. The firm currently employs 327 registered persons at 109 registered branch locations. WFG is currently, and was during all times relevant hereto, registered as a broker/dealer with the U.S. Securities and Exchange Commission.

RELEVANT DISCIPLINARY HISTORY

WFG has been the subject of the following prior relevant FINRA formal disciplinary actions:

In December 2009, FINRA issued a Letter of Acceptance, Waiver and Consent (No. 2006006831701) in which WFG was censured and fined \$37,500 for violations of NASD Rules 2110, 3010, 4632(a)(5)(g), 6130(d) and 6955(a); and of MSRB Rules G-14 and G-27, in connection with trade reporting errors and/or

deficiencies. The firm was also required to revise its written supervisory procedures regarding trade reporting.

In May 2008, FINRA issued a Letter of Acceptance, Waiver and Consent (No. 2006004279401) in which WFG was fined \$27,500 and ordered to pay restitution in the amount of \$10,029.96 for violations of MSRB Rules G-8(a), G-17, G-27(a), G-27(c) and G-30(a). The firm consented to findings that had it purchased municipal securities for its own account from a customer and/or sold municipal securities from its own account at an aggregate price that was not fair or reasonable; failed to show the correct terms and conditions of certain orders; and failed to enforce its written supervisory procedures.

In May 2008, FINRA issued a Letter of Acceptance, Waiver and Consent (No. E062003014601) in which WFG was censured and fined \$25,000, jointly and severally with an individual, for violations of NASD Rules 2210, 2711, 3011 and 2110, and MSRB Rule G-41. The firm consented to findings that it issued 53 research reports that did not contain all the required disclosures; failed to specify in writing the requirement to provide Anti-Money Laundering (AML) training to its personnel; failed to perform independent testing with respect to its AML program, and failed to list an AML officer.

In May 2008, FINRA issued a Letter of Acceptance, Waiver and Consent (No. 2007007171001) in which WFG was censured and fined \$7,500 for violations of SEC Rule 15c2-4 and NASD Rule 2110. The firm consented to findings that it acted as the agent in a contingent private placement offering but failed to establish an escrow account for investors' funds during the contingency period of the offering.

In April 2007, the Texas State Securities Board issued an Order (No. IC06-CAF-04) in which WFG was reprimanded and fined \$65,000 for violations of Sections 115.1(b)(1), 155.2(c), 155.9(a)(6), 115.10(a) and 155.5(b)(6) of the Board's Rules. Specifically, the firm failed to register each branch office in Texas; conducted sales-related activity at unregistered branch offices; failed to update its Form BD; failed to timely update an agent's Form U4; improperly allowed two agents to act as principals for each other; and failed to list the identity of an agent who had accepted a customer's order.

In September 2005, FINRA issued a Letter of Acceptance, Waiver and Consent (No. 2005000188401) in which WFG was censured and fined \$10,000 for violations of NASD Rules 6230(a), 6230(c)(8), 2110 and 3010. The firm consented to the entry of findings that it failed to report the correct time of trade execution and failed to report transactions for certain TRACE-eligible securities. The firm's supervisory system did not adequately provide for supervision concerning trade reporting in connection with TRACE. The firm was also ordered to revise its written supervisory procedures.

In November 2002, FINRA issued a Letter of Acceptance, Waiver and Consent (No. CMS020220) in which WFG was censured, fined \$17,500, and ordered to undertake to revise its written supervisory procedures in connection with violations of NASD Rules 2110, 3010 and 6955(a). The firm consented to findings that it failed to timely submit required information to OATS and had related supervisory deficiencies.

OVERVIEW

This matter involves violations of SEC Rule 15c2-4 in that WFG failed to ensure that all investor funds received in connection with a contingent offering were deposited into an escrow account during the contingency period; violations of NASD Rule 2440 in that WFG charged excessive markups on corporate bond transactions in three instances; violations of NASD Rule 6230 in that WFG failed to accurately report to TRACE execution times for 33 out of 60 transactions; violations of MSRB Rule G-8 and SEC Rule 17a-3(a) in that in connection with five out of 36 municipal securities transactions, and 13 out of 44 corporate bond transactions, WFG failed to record the time of receipt on the order tickets; violations of the books and records provisions in that WFG failed to maintain copies of all customer subscription agreements in connection with a securities offering; and violations of NASD Rule 3010 in that WFG had inadequate supervisory systems and procedures to supervise all aspects of its securities business.

FACTS AND VIOLATIVE CONDUCT

a. Contingent Offering Violations - SEC Rule 15c2-4 and NASD Rule 2110

In connection with a contingent securities offering conducted in June 2008, WFG failed to ensure, during the contingency period of the offering, that all investor funds were deposited into the escrow account created for the offering. Specifically, two customer checks totaling over \$400,000 were deposited into the bank account of a company affiliated with the issuer instead of into the escrow account. The funds were subsequently deposited into the escrow account.

As a result of the foregoing conduct, WFG Investments, Inc. violated SEC Rule 15c2-4 and NASD Rule 2110.

2. Excessive Markups - Violations of NASD Rules 2440 and 2110

During October 2008, WFG charged excessive markups on three riskless principal corporate bond transactions in the accounts of three customers. In each instance, WFG purchased the bonds, added a markup and immediately, on the same day of purchase, sold the bonds to the customers. WFG's markups on the transactions were not fair and reasonable taking into consideration all relevant

circumstances, including the fact that the price was not reasonably related to the amount that WFG had contemporaneously paid for the bonds and the fact that the firm did not provide any evidence to overcome the presumption that its contemporaneous cost constituted the best measure of the prevailing market price of the bonds sold to the customers. The markups on the transactions ranged from 5.43% to 8.82%.

As a result of the foregoing conduct, WFG Investments, Inc. violated NASD Rules 2440 and 2110.

3. TRACE Trade Reporting - Violations of NASD Rules 2110 and 6230

In at least 33 out of 60 instances during the period from September 2008 to December 2008, WFG failed to accurately report the time of execution of certain transactions to TRACE.

As a result of the foregoing conduct, WFG Investments, Inc. violated NASD Rules 2110 and 6230.

4. Books and Records - Violations of SEC Rules 17a-3(a) and 17a-4(b) and MSRB Rule G-8

a. During the period from September 2008 to December 2008, WFG created and maintained incomplete and inaccurate order tickets. Specifically:

- 5 out of 36 order tickets for municipal bonds transactions did not capture and record the time of receipt; and
- 13 out of 44 order tickets for corporate bond transactions did not capture and record the time of receipt.

b. In connection with a private placement securities offering, WFG failed to maintain copies of all customer subscription agreements and proof that the firm had reviewed and approved each subscription.

As a result of the foregoing conduct, WFG Investments, Inc. violated SEC Rules 17a-3(a) and 17a-4(b) and MSRB Rule G-8.

5. Supervisory Deficiencies - Violations of NASD Rule 3010(b) and MSRB G-27(e)

a. During the period from September 2008 to December 2008, WFG failed to enforce its written supervisory procedures regarding private placement offerings. The firm's procedures state that the designated principal will ensure that each private placement offering in which the firm participates is conducted in accordance with applicable securities regulations and that all appropriate documents related to the private placement are maintained. In

connection with a contingent private placement offering, WFG failed to document all checks received from customers and forwarded to the escrow account; and failed to supervise the escrow account during the contingency period of the offering.

- b. During the period from September 2008 to December 2008, WFG's supervisory system and written supervisory procedures were not reasonably designed to ensure that prices at which it sold debt securities to customers in principal transactions were fair and reasonable, nor designed to achieve compliance with all applicable laws, rules and regulations pertaining to effecting principal transactions with customers. WFG's procedures did not address or discuss IM-2440-1 or IM-2440-2, and did not contain requirements for weighing or applying the various factors set forth in those provisions in reviewing and evaluating the fairness of prices in principal transactions with customers.

As a result of the foregoing conduct, WFG Investments, Inc. violated NASD Rule 3010(b) and MSRB G-27(c).

- B. Respondent also consents to the imposition of the following sanctions:

A censure and a monetary fine in the amount of \$40,000 (\$10,000 of which pertains to the violations of MSRB Rules G-8 and G-27).

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

Respondent specifically and voluntarily waive 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

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

- A. To have a Complaint issued specifying the allegations against it;

- 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, Respondent 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.

Respondent 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

Respondent 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 Respondent; and
- C. If accepted:
 - 1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against it;

2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about Respondent'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. Respondent 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. Respondent 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 Respondent's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

D. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent 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 Respondent, 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 Respondent 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 Respondent to submit it.

WFG Investments, Inc.

05/22/12
Date

By:

(Signature)

Name:

(Print Name)

Title:

Reviewed by:

Dan R. Waller

Counsel for Respondent

Accepted by FINRA:

06/14/2012
Date

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

Karen E. Whitaker

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