

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2010021107701**

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

RE: vFinance Investments, Inc., Respondent
Member
CRD No. 44962

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, vFinance Investments, Inc. 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. vFinance 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

vFinance is a FINRA member and has been such since September 1998. The firm maintains its principal place of business in Boca Raton, Florida and also operates out of 25 other branch offices. vFinance currently employs approximately 112 registered persons and 67 non-registered persons. The firm conducts a general retail securities business.

RELEVANT DISCIPLINARY HISTORY

In December 2011, pursuant to an Order issued by the Florida Department of Financial Services, vFinance was charged an administrative penalty of \$5,000 for providing incorrect information on its application to conduct insurance business.

In July 2010, pursuant to an Order Imposing Remedial Sanctions issued by the SEC, vFinance was censured, ordered to cease and desist from committing future violations of Section 17(a) of the Securities Exchange Act of 1934 and Rules 17a-4(b) and 17a-4(j) thereunder, and ordered to pay a civil monetary penalty of

\$100,000 for its failure to produce records promptly and failure to properly preserve all of its business-related electronic communications.

In May 2010, pursuant to a Consent Order with the Insurance Commissioner of the State of Oklahoma, vFinance was fined \$1,000 for providing incorrect information on its license application.

In March 2010, pursuant to an AWC with FINRA, vFinance was censured and fined \$12,500 for trading reporting errors, in violation of FINRA Rule 7450.

In November 2009, pursuant to an AWC with FINRA, vFinance was censured and fined \$10,000 for violations of SEC Rules 200(g) and 203(b)(3) of Regulation SHO.

In March 2009, pursuant to an AWC with FINRA, vFinance was censured and fined \$27,500 for its failure to accurately calculate breakpoints for certain mutual fund transactions, in violation of NASD Conduct Rule 2110.

In August 2008, pursuant to an AWC with FINRA, vFinance was censured, fined \$22,000, and ordered to pay \$1,814.68, plus interest, in restitution to investors for violations of Rule 10b-10 of the Exchange Act and NASD Rules 2110, 2320, and 6955(a).

In April 2008, pursuant to an Offer of Settlement with, and a related Order issued by, the SEC, vFinance was censured, ordered to pay \$19,787 in disgorgement, plus interest, and ordered to revise its procedures regarding compliance with Section 5 of the Securities Act of 1933 in accordance with the recommendations of an outside consultant for selling certain securities that were not registered with the SEC or exempt from registration and for related supervisory violations.

OVERVIEW

vFinance conducted a securities business while net capital deficient, failed to file the requisite net capital and early warning notifications, filed inaccurate FOCUS Reports and an inaccurate Annual Audit, and maintained inaccurate books and records. As a result of the foregoing, the firm violated Sections 15(c) and 17(a) of the Securities Exchange Act of 1934, SEC Rules 15c3-1, 17a-3, 17a-5, and 17a-11, NASD Conduct Rule 3110(a), and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

On at least the last business day of each month from December 2009 through May 2010, vFinance conducted a securities business while it failed to maintain its required minimum net capital. The firm's excess net capital on those dates ranged from (\$71,606) to (\$447,780). The net capital deficiencies, as well as related books and records violations, stemmed predominantly from vFinance's improper

entries of debt forgiveness between affiliated companies between October 2009 and July 2010. At the end of each month, vFinance wrote off a payable to or a receivable from an affiliate against its additional paid-in capital account for intercompany debt forgiveness. As a result of this practice, when a payable to an affiliate was forgiven, vFinance recorded an increase in its capital position. However, the payable was not actually forgiven by the affiliate, as evidenced by the lack of corporate minutes concerning the transaction and subsequent payments to the forgiving affiliate. In sum, vFinance booked transactions for which there was no economic substance or support. Therefore, the firm's capital position did not increase as a result of the alleged forgiveness. In addition, from June 2009 through May 2010, vFinance double-counted certain commissions and profits and losses in proprietary trading accounts, resulting in overstatements of its income and net capital positions. By conducting a securities business while net capital deficient, vFinance violated Section 15(c) of the Exchange Act, SEC Rule 15c3-1, and FINRA Rule 2010.

Between October 2009 and July 2010, vFinance also improperly treated certain contributions from a related company as capital contributions. Because the contributions were maintained by vFinance for less than one year, they should have been treated as reductions to intercompany receivables. Further, for the fourth quarter of 2009 and the first and second quarters of 2010, vFinance transferred all of its net income for each quarter, net of the unrealized gains and losses in its inventory accounts, to its parent company. vFinance improperly characterized these payments as management fees expenses. However, the payments were in excess of the actual management fees incurred by vFinance and also were unsupported by documents memorializing such expenses. Therefore, they should not have been characterized as expenses. In connection with the foregoing misclassifications and double-counting errors, vFinance failed to file the requisite notifications of its net capital deficiencies at certain times between December 2009 and May 2010, failed to file early warning notifications at certain times in August, October, and November 2009, filed inaccurate monthly FOCUS Reports for June 2009 through July 2010 and an inaccurate Annual Audit for 2009, and maintained inaccurate books and records from June 2009 through July 2010. As a result of the foregoing, vFinance violated Section 17(a) of the Exchange Act, SEC Rules 17a-3, 17a-5, and 17a-11, NASD Conduct Rule 3110(a), and FINRA Rule 2010.

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

A censure and a \$25,000 fine.

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

vFinance 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

vFinance 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, vFinance 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.

vFinance 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

vFinance 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 it; and
- C. If accepted:
1. this AWC will become part of vFinance'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 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. vFinance 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. vFinance 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 its right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. vFinance may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. vFinance 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 vFinance, 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 vFinance 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.

vFinance Investments, Inc.

08/13/2012

Date (mm/dd/yyyy)

By: _____

William L. Groeneveld, President

Accepted by FINRA:

8/22/12
Date

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

Michael A. Gross

Michael A. Gross, Esq.
Senior Regional Counsel
Authorized House Counsel
Member of Ohio Bar Only
FINRA – Department of Enforcement
2500 N. Military Trail, Suite 302
Boca Raton, FL 33431-6324
Phone: (561) 443-8125
Fax: (561) 443-7998