

FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20100235672-01

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

RE: Barclays Capital, Inc., Respondent
Broker-Dealer
CRD No. 19714

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Barclays Capital, Inc. ("BCAP" or the "Firm") 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. The Firm 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

The Firm became a member of FINRA on October 18, 1987 and its registration remains in effect. The Firm does not have a relevant disciplinary history.

SUMMARY

In Matter No. 20100235672, the Department of Market Regulation's Options Regulation Staff ("Staff") reviewed the Firm's compliance with the rules related to reporting conventional options positions¹ to the Large Options Position Reporting ("LOPR") system for the period of January 1, 2010 through through April 15, 2011. Staff also conducted a position limit and reporting of Options Contract Equivalent of the Net Delta ("OCEND") position review of the Firm

¹ A conventional option is any option contract not issued, or subject to issuance, by The Options Clearing Corporation. See FINRA Rule 2360(a)(9). Conventional option transactions are bilaterally negotiated trades whose positions are reported to FINRA.

In Matter No. 20110259373, Staff reviewed the Firm's compliance with the rules related to reporting conventional options positions to the LOPR system for the period of January 1, 2011 through May 18, 2012.

In Matter No. 20120320481, Staff reviewed the Firm's compliance with the rules related to reporting conventional options positions to the LOPR system for the period of April 1, 2012 through March 31, 2013.

FACTS AND VIOLATIVE CONDUCT

Reporting of Options Positions

LOPR data is used extensively by self-regulatory organizations ("SROs") to identify holders of large options positions who may be attempting to manipulate the market or otherwise violate securities rules and regulations.

The accuracy of LOPR data is essential for the analysis of potential violations related to, *inter alia*, insider trading, position limits, exercise limits, front-running, capping and pegging, mini-manipulation, and marking-the-close.

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During the period of January 1, 2010 through April 15, 2011, the Firm incorrectly reported 486,831 large conventional non-index option positions to the LOPR system as index options. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 2360(b)(5).

During the period of February 3, 2010 through November 15, 2010, the Firm exceeded the applicable position limit in four options for a combined total of 86 business days. Further, on September 5, 2012, the Firm exceeded the applicable position limit in one option. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 2360(b)(3).

During the period of October 14, 2010 through November 15, 2010, the Firm failed to report its OCEND position to The Options Clearing Corporation ("OCC") in one symbol for 23 business days. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 2360(b)(3)(A)(vii)(b)(4)(B).

20110259373

During the periods of (1) January 28, 2011 through March 10, 2011,² (2) April 14, 2011, (3) March 11, 2011 through March 16, 2011, and (4) January 13, 2010 through August 9, 2012, the Firm failed to report or submitted inaccurate reports to the LOPR system in an estimated

² The Firm self-reported to Staff the violations it detected during this time period.

233,760 instances.³ The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 2360(b)(5).

During the period of January 19, 2010 through May 18, 2012, the Firm failed to report positions to the LOPR system if the contra-parties were non-U.S. affiliates of U.S. broker-dealers in an estimated 1.466 million instances. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 2360(b)(5).

20120320481

During the periods of (1) June 15, 2012, (2) August 31, 2012 through September 20, 2012, (3) October 4, 2012 through October 8, 2012, (4) October 23, 2012 through December 21, 2012, and (5) December 21, 2012 through March 13, 2013, the Firm inaccurately reported positions to the LOPR system in 1,148 instances.

Additionally, during the period of May 23, 2012 through February 13, 2013, the Firm failed to deconstruct and report to the LOPR system a structured product consisting of eight underlying positions for each side of the transaction in a total of 2,960 instances. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 2360(b)(5).

Supervision

During the time period between January 1, 2010 through May 2012, the Firm failed to implement and maintain an adequate system of follow-up and review designed to reasonably achieve compliance with LOPR requirements and its adherence to applicable position limits. The conduct described in this paragraph constitutes a violation of NASD Rule 3010 and FINRA Rule 2010.

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

A censure and fine of \$750,000.

The Firm agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. It 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(s) imposed in this matter.

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

³ An "instance" is a single failure to report, or inaccurately report, a given option position. The number of instances is determined by multiplying a given reportable position by the number of trade dates the position had not been reported or was reported incorrectly.

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: (i) testimonial obligations; or (ii) 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 it has agreed to the AWC's 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.

Dec 12, 2013
Date

Respondent
Barclays Capital, Inc.

By: Judith Romaine

Name: Judith Romaine

Title: Director

Reviewed by:

James D. Van De Graaff
James Van De Graaff
Counsel for Respondent
Katten Munchin Rosenman LLP
525 W. Monroe Street
Chicago, Illinois 60661-3693
312.902.5227

Accepted by FINRA:

1-7-14
Date

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

[Signature]

David E. Rosenstein
Senior Vice President, Legal Section
Department of Market Regulation