

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2011029025001**

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

RE: Fidelity Brokerage Services LLC (BD No. 7784),
Respondent

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Fidelity Brokerage Services LLC ("FBS" 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

FBS has been a member of FINRA since 1979. Its principal place of business is Smithfield, Rhode Island. FBS is wholly owned by Fidelity Global Brokerage Group, Inc. FBS currently has approximately 11,000 registered representatives working from approximately 250 branches.

RELEVANT DISCIPLINARY HISTORY

In November 2012, FBS entered into an AWC with FINRA (Case No. 2008013629801) in which it consented, without admitting or denying, to findings that it purchased municipal securities for its own account from a customer and/or sold municipal securities to a customer from its own account at aggregate prices that were not fair and reasonable in violation of MSRB Rules G-17 and G-30(a). FBS was fined \$65,000 and censured.

In November 2010, FBS entered into an AWC with FINRA (Case No. 2008015470101) in which it consented, without admitting or denying, to findings that it failed to disclose to customers, in connection with municipal securities

transactions, all material facts at or before the time of purchase. Specifically, the firm failed to disclose to customers the underlying credit rating of insured municipal bonds at or prior to the time of purchase. This conduct violated MSRB Rule G-17. FBS was censured and fined \$35,000.

In September of 2008, FBS entered into an AWC with FINRA (Case No. 2006006805001) in which it consented, without admitting or denying, to findings that it failed to timely report to regulators purchase and sale information regarding municipal bond transactions. This conduct violated MSRB Rule G-14. FBS was censured and fined \$7,500.

FBS has no other relevant formal disciplinary history over the past five years with the Securities and Exchange Commission, any self-regulatory organization or any state securities regulator.

OVERVIEW

FBS failed to make required disclosures concerning certain callability features and material events regarding certain municipal securities. In addition, FBS had inadequate supervisory systems and procedures concerning municipal securities data received from third party vendors. As a result of the foregoing, FBS violated MSRB Rules G-17 and G-27.

FACTS AND VIOLATIVE CONDUCT

1. From at least January 2007 through September 2011, FBS received three data feeds from a third party vendor related to extraordinary redemption features of municipal securities. FBS mistakenly uploaded only one of the three data feeds onto its systems. As a result, the Special Optional Redemption features and Special Mandatory Redemption features of municipal securities were not identified on FBS systems, including systems available to its registered representatives. As a result, approximately 706 municipal securities were not identified as "callable" by FBS notwithstanding its duty, under MSRB Rule G-17 to disclose this information. Based on the foregoing, FBS violated MSRB Rule G-17.
2. FBS used the same third party vendor to provide data feeds for material events disclosures related to municipal securities. That data was then provided by FBS to its representatives for use during their interactions with customers, and to customers directly through a website. From about July 2009 through May 2011, the third party vendor that FBS used provided it with an incomplete data feed of certain material events disclosures. As a result, approximately 242,000 municipal securities listed on FBS's systems contained incomplete material events disclosures. During this time period, FBS executed approximately 21,921 transactions in the relevant municipal securities. By reason of the foregoing, FBS violated MSRB Rule G-17.

3. From January 2007 through September 2011, FBS failed to establish adequate systems, including written supervisory procedures, concerning the testing, and inputting, of municipal securities data it received from third parties reasonably designed to ensure compliance with MSRB Rules. FBS's procedures had no formal process in place to review the accuracy of municipal securities data received from third party vendors. FBS also lacked adequate supervisory procedures reasonably designed to ensure that the third party data it received was properly inputted into its systems. By reason of the foregoing, FBS violated MSRB Rule G-27.

OTHER FACTORS

FINRA acknowledges that FBS self-reported the issues described herein and undertook an internal review of its supervisory policies, procedures, and systems relating to these issues. The sanctions below reflect the credit that FBS has been given for self-reporting these issues and providing information obtained as a result of its internal investigation to FINRA.

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

- a Censure, and
- a \$60,000 fine.

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

FBS 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

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 prejudice 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 it;
- 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: (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; and

- 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.

Fidelity Brokerage Services LLC

11/11/13
Date (mm/dd/yyyy)

By: [Signature]
Name: Norman L. Ashkenasy
Title: Chief Compliance Officer

Reviewed by:

[Signature]
Ben A. Indek, Esq.
Counsel for Respondent
Morgan, Lewis & Bockius LLP
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New York, NY 10178-0600
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Accepted by FINRA:

11/13/2013
Date

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



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