

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2012030486001**

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

RE: Blackwall Capital Markets, Inc. ("Blackwall" or the "Firm"), Respondent
BD No. 144403

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 Respondent 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

Blackwall has been a FINRA member since October 2007. The Firm is currently known as PHX Financial, Inc. The Firm engages in a general securities business. Blackwall currently employs 67 registered representatives. Its main office is in New York City and it operates one other branch office. The Firm is a member of the MSRB.

RELEVANT DISCIPLINARY HISTORY

Respondent does not have any relevant disciplinary history with the Securities and Exchange Commission, FINRA, any other self-regulatory organization, or any state securities regulator.

OVERVIEW

This matter concerns Blackwall's failure to retain certain Firm-related e-mails and text messages and its failure to establish adequate written supervisory procedures ("WSPs") governing the retention of electronic communications. In addition,

Blackwall failed to implement its Customer Identification Program ("CIP") as required under the Bank Secrecy Act (the "BSA") (codified at 31 U.S.C. § 5311, *et seq.*) and its implementing regulations and failed to conduct timely searches of account or transactional information based on requests made by the U.S. Treasury's Financial Crimes Enforcement Network ("FinCEN"), as required under the BSA and its implementing regulations.

FACTS AND VIOLATIVE CONDUCT

Personal-Account E-Mails and Texts Concerning Firm-Related Business

Rule 17a-4, promulgated under the Securities Exchange Act of 1934 (the "SEA"), requires that brokerage firms preserve, for a period of not less than three years, electronic communications relating to the firm's business as a broker-dealer. FINRA Rule 4511 requires, among other things, that FINRA members comply with SEA Rule 17a-4.

NASD Conduct Rule 3010(a) requires each member to "establish and maintain a system to supervise the activities of each registered representative, registered principal, and other associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable NASD" and FINRA Rules. NASD Rule 3010(b) further requires each member to "establish, maintain, and enforce written procedures to supervise the types of business in which it engages and to supervise the activities of registered representatives, registered principals, and other associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with the applicable Rules of NASD" and FINRA.

During the Relevant Period, the Firm had WSPs concerning the use of personal-account e-mails and text messaging, as well as procedures concerning the retention and supervision of Firm-related e-mails. But those WSPs were deficient with respect to the retention of electronic communications because the Firm failed to have procedures in place requiring the retention of all e-mails, including those sent to or received at personal accounts, and all text messages.

During the period April through November 2012, Firm personnel used personal-account e-mail addresses and text messages, which were outside of the Firm's systems, to communicate about Firm-related business. Those personal-account e-mails and text messages were outside of the Firm's retention system and the Firm was not copied on those electronic communications. Thus, the Firm failed to retain electronic communications that concerned Firm-related business.

As a result of the foregoing conduct, the Firm violated SEA Rule 17a-4, NASD Conduct Rule 3010, and FINRA Rules 4511 and 2010.

AML Compliance Policy

FINRA Rule 3310(b) requires that member firms establish and implement policies, procedures, and internal controls reasonably designed to achieve compliance with the BSA and the implementing regulations thereunder. MSRB Rule G-41 requires MSRB members that are also FINRA members to comply with FINRA Rule 3310(b).

In addition, 31 C.F.R. § 103.122, an implementing regulation under the BSA, requires, among other things, that member firms establish, document, and maintain a written CIP that includes risk-based procedures for verifying customer identity, using documentary and non-documentary methods or a combination thereof. On March 1, 2011, FinCEN transferred its regulations from 31 C.F.R. Part 103 to 31 C.F.R. Chapter X. As part of the transfer, 31 C.F.R. § 103.122 was recodified at 31 C.F.R. § 1023.220.

During the period September 13, 2010 through September 27, 2012 (the "Relevant Period"), the Firm's AML Compliance Program contained procedures regarding compliance with 31 C.F.R. § 103.122 and 31 C.F.R. § 1023.220. But despite those procedures, during the Relevant Period, the Firm failed to verify the identities of 12 new customers who opened new accounts, which left the Firm unable to form a reasonable belief that it knew the true identities of each of these customers.

Additionally, 31 C.F.R. § 1010.520, an implementing regulation under the BSA, requires, among other things, that a member firm receiving an information request from FinCEN under this section shall search its records within 14 days to determine whether it maintains or has maintained any account for, or has engaged in any transaction with, each individual, entity, or organization named in FinCEN's request. Between January 10, 2012 and August 28, 2012, FinCEN made 15 such information requests to the Firm. Despite this, the Firm did not search its records in response to these 15 information requests until September 25, 2012.

As a result of the foregoing conduct, the Firm violated FINRA Rules 3310(b) and 2010, and MSRB Rule G-41.

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

- A fine totaling \$40,000 (\$5,000 of which pertains to the violations of MSRB Rule G-41); and
- A censure.

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 waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction 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 Chief Legal Officer, 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: (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. 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 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.

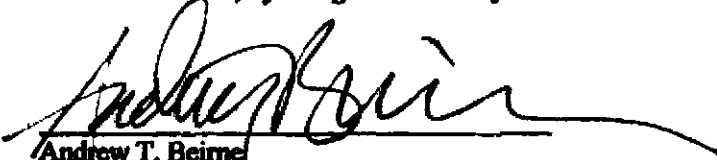
2/12/10/2014
Date (mm/dd/yyyy)


Respondent, Blackwall Capital Markets, Inc.
By: Karen Chen, CEO
[Name and Title]

Accepted by FINRA:

February 25, 2015
Date

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


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