

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20130369350 01**

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

RE: Deloitte Corporate Finance LLC
CRD No. 111747

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Deloitte Corporate Finance LLC ("DCF" 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. DCF 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

DCF has been a member of FINRA since August 15, 2001. Its principal place of business is Detroit, Michigan. DCF employs approximately 120 registered representatives and maintains nine branch offices. DCF serves institutional customers and derives most of its revenue from merger and acquisition advisory activities.

RELEVANT DISCIPLINARY HISTORY

DCF has no relevant disciplinary history.

OVERVIEW

In April 2013, DCF discovered a technological failure that caused the firm to fail to retain certain emails and internal instant messages ("IMs"), over an extended period of time. DCF failed to retain approximately 60,300 internal IMs and approximately 850,000 emails between September 2005 and April 2013. The

Firm also determined, during its internal investigation of the technological failure, that it failed to retain approximately 2,067 IMs sent during a ten-day period in August 2013. Through this conduct, DCF violated NASD Conduct Rules 3110 and 2110, FINRA Rules 4511 and 2010, and Securities Exchange Act Rule 17a-4.

FACTS AND VIOLATIVE CONDUCT

NASD Conduct Rule 3110 requires that “each member shall make and preserve books, accounts, records, memoranda, and correspondence in conformity with all applicable laws, rules, regulations and statements of policy promulgated thereunder and with the Rules of this Association and as prescribed by SEC Rule 17 a-3. The record keeping format, medium, and retention period shall comply with SEC Rule 17a-4.”

NASD Conduct Rule 3110 was replaced by FINRA Rule 4511, which became effective on December 5, 2011, and similarly requires that “members shall make and preserve books and records as required under the FINRA rules, the Exchange Act and the applicable Exchange Act rules.”

In NTM 03-33, *Instant Messaging-Clarification for Members Regarding Supervisory Obligations and Recordkeeping Requirements for Instant Messaging* (July 2003), FINRA clarified that recordkeeping requirements of Rule 3110 applied to instant messages. The NTM stated that “[m]embers that permit instant messaging must use a platform that enables the member to monitor, archive and retrieve message traffic.”

SEC Rule 17a-4(b)(4) requires each member, broker or dealer to “preserve for a period of not less than 3 years, the first two years in an accessible place.... [o]riginals of all communications received and copies of all communications sent by such member, broker or dealer (including inter-office memoranda and communications) relating to his business as such.” Internal electronic mail communications relating to a broker-dealer’s business fall within the purview of Rule 17a-4. Since 1997, Rule 17a-4 has required that if a firm uses electronic storage media, it must, among other things, preserve the records exclusively in a non-rewriteable, non-erasable format.

Beginning in or about November 2011, DCF upgraded its IM software, and representatives of the firm started using the new software although at that time, the new IM software was not compatible with DCF’s existing IM archiving system. As a result, IM conversations between two or more internal personnel were not captured and retained, if each had used the new IM software.

In or about April 2013, DCF discovered the error when technology services personnel were preparing to upgrade and replace DCF’s existing system for archiving and reviewing IMs. DCF subsequently took steps to assess the impact of the IM issue, and ultimately learned of additional problems involving failures

to capture internal IMs, as well as problems with the retention of email communications, dating from September 2005. These additional problems were also caused mainly by glitches or delays in adding certain individuals to the Firm's archiving system. Altogether, between September 2005 and April 2013, approximately 850,000 emails and approximately 60,300 internal IMs were not captured and could not be recovered by the Firm. DCF also learned that additional internal IMs had been captured by the archiving system, but not reviewed by the Firm.

In August 2013, after DCF began using a new external archiving service, a software error occurred in a data center that was handling IM traffic for most personnel who were subject to archiving. As a result of the software error, IMs were not sent out to the new external archiving service for individuals who were assigned to the data center. As a result, approximately 2,067 internal IMs during that ten day period in August 2013 were not captured and could not be recovered.

By reason of the foregoing, DCF violated SEC Rule 17a-4 and NASD Conduct Rule 3110(a) (records not maintained and kept current prior to December 5, 2011) and FINRA Rules 4511 (for those records not maintained and kept current on or after December 5, 2011, NASD Conduct Rule 2110 (for conduct before December 15, 2008) and FINRA Rule 2010 (for conduct on and after December 15, 2008).

OTHER FACTORS

In determining appropriate sanctions, FINRA considered that DCF self-reported the IM and email retention problems, retained computer forensic consultants from one of its affiliates to investigate the causes of the retention failure, reported the consultant's findings to FINRA staff, corrected the technological deficiencies and implemented changes to its policies, processes and procedures concerning its review and archiving of email and instant messages.

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

A censure and a \$75,000 fine.

DCF agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment(s) are due and payable. The Firm has submitted an Election of Payment form showing the method by which the Firm proposes to pay the fine imposed.

DCF specifically and voluntarily waives any right to claim that the Firm 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

DCF 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, DCF 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.

DCF 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

DCF 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 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. 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 its: (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 have 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.

12/04/2014
Date (mm/dd/yyyy)

Respondent: Deloitte Corporate Finance LLC

By: [Signature]

Reviewed by:
[Signature]
Barry Goldsmith
Counsel for Respondent
Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166-0193
(212)351-2440; (212)351-5340 (fax)

Accepted by FINRA:

12-23-14
Date

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

Dale Glanzman
Dale A. Glanzman
Senior Regional Counsel
FINRA Department of Enforcement
55 West Monroe Street, Suite 2700
Chicago, IL 60603
(312)899-4312; (312)899-4600 (fax)

By: Mark Kuerner
Regional Chief Counsel
Midwest Region

Attachment: Election of Payment Form