

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013038353001**

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

RE: Banca IMI Securities Corp., Respondent
CRD No. 19418

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Banca IMI Securities Corp. ("Banca IMI" 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. Banca IMI 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

Banca IMI has been a member of FINRA since May 29, 1987. Banca IMI provides investment banking and brokerage services to institutional investors and is headquartered in New York City, where it employs approximately 36 registered persons.

OVERVIEW

From April 2012 to September 2013 (the "Relevant Period"), Banca IMI failed to create or implement an adequate supervisory system, or adopt and maintain adequate written supervisory procedures, reasonably designed to supervise certain charitable and business expenses incurred and approved by JC, its then-Chief Executive Officer ("CEO") in order to, among other things, safeguard against potential or actual conflicts of interest. As a result, during the Relevant Period, JC spent nearly \$900,000 of the Firm's funds to, among other things, purchase certain works of art created and sold by his relatives and fund charitable donations to entities with which JC had a personal connection or interest.

In addition, from April 1, 2013 to May 16, 2014, Banca IMI employed JD, a registered representative, as Chief Administrative Officer without the appropriate registration. As the Firm's Chief Administrative Officer, JD was responsible for

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supervising the Firm's operations support function, which included the Firm's back office, control unit and information technology departments, and its administration support function, which included the Firm's credit and compliance departments. Although the Firm registered JD as a general securities principal, JD did not obtain his Series 24 license until March 31, 2014, nearly one year after joining Banca IMI in a supervisory capacity.

The Firm's failure to establish and maintain adequate written procedures to supervise the activities of its registered principals, including JC, violated NASD Rule 3010(a) and FINRA Rule 2010.¹ The Firm's failure to adequately supervise JC's business expenditures violated NASD Rule 3010(b) and FINRA Rule 2010. In failing to ensure that JD qualified as a general securities principal within 90 calendar days of his association with the Firm, and permitting him to function as a principal without having successfully passed the appropriate qualification examination, Banca IMI violated NASD Rules 3010(b) and 1021, and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

NASD Rule 3010(a) requires FINRA member firms 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 [FINRA] Rules. Final responsibility for proper supervision shall rest with the member."

NASD Rule 3010(b) further requires FINRA member firms to "establish, maintain and enforce written procedures to supervise the types of businesses in which it engages and to supervise the activities of ... [its] registered principals, and other associated persons that are reasonably designed to achieve compliance with the applicable Rules of [FINRA]."

NASD Rule 1021(d)(1) provides a registered individual a period of 90 calendar days to pass the appropriate qualification examination. Rule 1021(d)(1) further provides that "[i]n no event may a person function as a Principal beyond the initial 90 calendar day period following the change in his duties without having successfully passed the appropriate Qualification Examination." According to NASD Rule 1021(b), any person actively engaged in the management of a member firm's securities business, including the supervision of its business and persons holding the title of "Officer", functions as a principal.

FINRA Rule 2010 requires that FINRA member firms observe high standards of commercial honor and just and equitable principals of trade. A violation of NASD Rules 3010 or 1021 constitutes a violation of FINRA Rule 2010.

A. Banca IMI Failed to Implement Adequate Written Supervisory Procedures, and to Adequately Supervise the CEO's Expenditures in violation of NASD Rule 3010 and FINRA Rule 2010

¹ NASD Rule 3010 applies here, since the conduct at issue occurred before December 1, 2014.

Banca IMI's delegation of supervisory responsibilities is set forth in a document titled "Powers and Authorities." Specifically, the Powers and Authorities "provide rules and applicable limits designed to regulate the activity of the [Firm] and define powers delegated to its Officers and trading and sales personnel."

During the Relevant Period, the Powers and Authorities delegated to JC, as CEO, the authority to authorize expenditures relating to the Firm's contractual commitments, expenses and obligations to third parties other than in connection with trading and sales. Expenses were classified as either "ordinary" or "extraordinary," with ordinary expenses including "all those acts that are necessary in the ordinary course of business." Pursuant to the Powers and Authorities, JC, as CEO, could approve any ordinary expense or commitment less than or equal to \$200,000. The Powers and Authorities also delegated to JC, as CEO, the authority to approve extraordinary expenses, *i.e.*, commitments less than or equal to \$500,000, but only with the prior approval of the Managing Director of Banca IMI SpA, the Firm's parent company.

During the Relevant Period, the Firm's procedures were not reasonably designed to achieve compliance with the applicable securities laws and regulations and FINRA Rules. The Powers and Authorities categorized expenses solely by the total dollar amount incurred and did not provide examples of the types of expenditures that might be deemed extraordinary and outside Banca IMI's ordinary course of business. The Firm's procedures also failed to designate a person or persons responsible for ensuring that expenses were categorized and approved by the requisite individuals, or to set an annual budget for extraordinary expenses incurred by the Firm.

Banca IMI's failure to implement appropriate controls and procedures, as well as any supervisory review of JC's delegated authority with respect to expenses, permitted its former CEO to spend, among other things, approximately \$186,000 on certain works of art created and sold by his relatives, and to make approximately \$518,000 in charitable donations, including gifts to at least four entities with which JC had a personal connection or interest.

By failing to establish and maintain adequate written procedures to supervise the activities of its registered principals, including JC, Banca IMI violated NASD Rule 3010(a) and FINRA Rule 2010. In failing to adequately supervise JC's business expenditures, Banca IMI also violated NASD Rule 3010(b) and FINRA Rule 2010.

B. Banca IMI Failed to Change JD's Supervisory Responsibilities following his Failure to Qualify as a Principal, in violation of NASD Rules 3010(b) and 1021 and FINRA Rule 2010

On April 1, 2013, Banca IMI hired JD, a registered representative, as its Chief Administrative Officer, a position JD held from April 1, 2013 to May 16, 2014. At the time he joined the Firm, JD held a Series 7 (December 1998) and a Series 63 (February 1999).

As Chief Administrative Officer, JD was responsible for supervising the Firm's operations support functions, which included the Firm's back office, control unit and information technology departments, as well as the Firm's credit and compliance departments. As a result, Banca IMI's Chief Compliance Officer reported directly to

JD. As Chief Administrative Officer, JD was also vested with authority to approve travel & entertainment expenses for any employee in his area of authority, to carry out any powers the CEO delegated to him, and to engage in any of the powers of his subordinated officers subject to governing regulatory qualifications.

Consistent with his title and responsibilities, Banca IMI registered JD as a general securities principal. However, JD did not obtain his Series 24 license until March 31, 2014, nearly one year after joining Banca IMI in a supervisory capacity.

By failing to ensure that JD qualified as a general securities principal within the period of 90 calendar days from JD's association with the Firm, and permitting JD to function as a principal without having successfully passed the appropriate qualification examination, Banca IMI violated NASD Rules 3010(b) and 1021, and FINRA Rule 2010.

B. Banca IMI consents to the imposition of the following sanctions:

1. A censure; and
2. a fine in the amount of \$250,000.

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

Banca IMI specifically and voluntarily waives any right to claim that the Firm 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.

II.

WAIVER OF PROCEDURAL RIGHTS

Banca IMI 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, Banca IMI 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.

Banca IMI 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

Banca IMI 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 accordance with FINRA Rule 8313;
 - 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. Banca IMI understands that the Firm 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.

11-9-2015
Date (mm/dd/yyyy)

T. Kelly Millot
Banca IMI Securities Corp., Respondent

By: Name: T. Kelly Millot
Title: CEO
Banca IMI Securities Corp.
1 William Street
New York, New York 10004

Reviewed by:

11-9-2015
Date (mm/dd/yyyy)

Douglas M. Jacoby
Counsel for Respondent
Douglas M. Jacoby, General Counsel
Banca IMI Securities Corp.
One William Street - 9th Floor
New York, NY 10004

Accepted by FINRA:

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

12/1/15
Date (mm/dd/yyyy)

Susan Light
Susan Light
Senior Vice President & Chief Counsel
FINRA Department of Enforcement
One Brookfield Place
200 Liberty Street, 11th Floor
New York, New York 10281