FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20140392161 01

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

RE: Capital City Securities, LLC
Firm CRD Number: 146001

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Capital City Securities, LLC ("Capital City" or the "Firm" 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 the Firm 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

Capital City has been a FINRA member since May 2008. The Firm is also a member of the Municipal Securities Rulemaking Board. It has approximately 7 branch offices and about 20 registered representatives.

DISCIPLINARY HISTORY

The Firm has no disciplinary history.

OVERVIEW

From July 2011 to November 2014 (the "Relevant Period"), Capital City failed to establish, maintain, and enforce a reasonable supervisory system designed to ensure the review of its representatives' sales of leveraged and inverse exchange-traded funds ("Non-Traditional ETFs"), in violation of NASD Rule 3010 and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

Exchange-traded funds ("ETFs") are typically registered unit investment trusts or open-end investment companies whose shares represent an interest in a portfolio of securities that track an underlying benchmark or index. Unlike unit investment trusts or mutual funds, ETFs typically trade throughout the day on an exchange.

Non-Traditional ETFs differ from traditional ETFs in that they seek to deliver multiples of the performance of the underlying index or benchmark, the inverse of that performance, or both. In addition, Non-Traditional ETFs are designed to achieve their stated objectives only over the course of one trading session. Between one trading session and the next, the fund manager must rebalance the fund's holdings in order to meet its objective. For most Non-Traditional ETFs, this happens on a daily basis, and is known as the "daily reset."

In June 2009, FINRA advised its membership in FINRA Regulatory Notice 09-31 concerning Non-Traditional ETFs that, "[d]ue to the effect of compounding, their performance over longer periods of time can differ significantly from the performance . . . of their underlying index or benchmark during the same period of time."[1] The regulatory notice further advised broker-dealers that Non-Traditional ETFs "are typically not suitable for retail investors who plan to hold them for more than one trading session, particularly in volatile markets."

During the Relevant Period, at least ten of the Firm's representatives sold Non-Traditional ETFs to their customers, involving at least 500 transactions. During that same period, Capital City failed to reasonably supervise these sales. Specifically, the Firm did not have written procedures reasonably tailored to address the unique features and risks associated with Non-Traditional ETFs. Further, the Firm did not have any exception reports or surveillance tools to monitor holding periods for Non-Traditional ETFs. As a consequence, many of the firm's customers held these products for long periods of time, despite the increased risk presented when holding Non-Traditional ETFs over longer periods, as discussed above.

Based on the above, Capital City failed to establish and maintain a reasonable supervisory system, reasonably designed to ensure that the Firm's sales of Non-Traditional ETFs complied with applicable securities laws and NASD and FINRA rules, in violation of NASD Rule 3010 and FINRA Rule 2010.[2]

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[1] See FINRA Reg. Notice 09-31.

[2] Capital City no longer allows its representatives to recommend Non-Traditional ETFs.

B. Capital City also consents to the imposition of the following sanctions:

- A censure, and
- A $15,000 fine.[3]

Capital City agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is 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.

Capital City 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

Capital City 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, Capital City 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.

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[3] Pursuant to the General Principles Applicable to all Sanction Determinations contained in the Sanction Guidelines, FINRA imposed a lower fine in this matter after it considered, among other things, the firm's revenue and financial resources. See Notice to Members 06-55.

Capital City 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

Capital City 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;

C. If accepted:

1. this AWC will become part of CFD'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. Capital City 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; and

D. Capital City 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 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.

Capital City Securities, LLC

11/27/2017
Date

By: Todd E. Crawford

Reviewed by:

Dennis J. Concilla, Esq.
Carlile Patchen & Murphy LLP
Counsel for Respondent
366 East Broad Street
Columbus, Ohio 43215
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Accepted by FINRA:

12-5-17
Date

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

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