

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20140399435-02**

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

RE: Aegis Capital Corp., Respondent
Broker-Dealer
CRD No. 15007

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Aegis Capital Corp., (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 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

The firm has been a FINRA member since July 20, 1984 and its registration remains in effect. The firm has no relevant disciplinary history.

SUMMARY

In connection with matter 20140399435, the Trading and Financial Compliance Examination ("TFCE") staff ("staff") reviewed the firm's compliance with FINRA rules and federal securities laws for trade dates May 12 through May 16, 2014 (the "review period"). The staff found deficiencies in: Order Audit Trail System ("OATS") reporting, providing disclosures prior to trading ahead of customer orders, extended hours trading risk disclosures, customer confirmations, books and records, borrowing or locating securities for short sales, and supervision.

FACTS AND VIOLATIVE CONDUCT

1. During the review period, the firm transmitted to OATS 209 Reportable Order Events ("ROEs") that contained inaccurate, incomplete, or improperly formatted data. Specifically, in 181 instances, the firm submitted incorrect order receipt times, and in 28 instances, the firm failed to submit Desk Reports to OATS. These ROEs represented 58 percent of the ROEs (355) that the staff reviewed. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 7450.
2. During the review period, the firm failed to provide the Trading Ahead Opt-In/Opt-Out disclosure prior to accepting held orders from institutional customers in 19 instances. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 5320.01
3. During the review period, in eight instances, the firm failed to provide an extended hours risk disclosure to a customer prior to accepting and executing an order outside of normal market hours. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 2265.
4. The firm failed to disclose information on the memorandum of customer orders. Specifically, the firm failed: (1) on nine occasions, to disclose that it was a registered market maker in a security; (2) on four occasions, to disclose that the price received was an average price transaction and incorrectly disclosed the execution capacity as Agency or 1 on the confirmation; and, (3) on three occasions, incorrectly disclosed the execution capacity as Agency on the confirmation. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 10b-10.
5. During the review period, in 74 instances, the firm's manual order tickets failed to document the correct time of order receipt. These inaccurate order tickets represented 14 percent of the order tickets the staff reviewed. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 4511 and SEC Rule 17a-3.
6. During the review period, the firm, on 15 occasions, accepted a short sale order in an equity security from another person, or effected a short sale in an equity security for its own account, without (1) borrowing the security, or entering into a bona-fide arrangement to borrow the security; or (2) having reasonable grounds to believe that the security could be borrowed so that it could be delivered on the date delivery; and (3) documenting compliance with SEC Rule 203(b)(1) of Regulation SHO. These 15 short sale orders represented 30 percent of the short sale orders the staff reviewed. The conduct described in this paragraph constitutes separate and distinct violations of SEC Rule 203(b)(1) of Regulation SHO.
7. The firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to certain applicable securities laws and regulations, and/or the Rules of FINRA. At a minimum, adequate written supervisory procedures addressing quality of markets topics should describe the following:
 - (a) Specific identification of the individual(s) responsible for supervision;
 - (b) The supervisory steps and reviews to be taken by the appropriate supervisor;

- (c) The frequency of such reviews; and,
- (d) How such reviews shall be documented.

The Firm's written supervisory procedures failed to provide for the above-cited minimum requirements for adequate supervisory procedures in the following subject areas: Supervisory System, Procedures & Qualifications: Qualifications of Supervisory Personnel; and Sales Transactions: Order Marking, Locate Requirements, SEC Rule 204 Close-Out and Pre-Borrow Requirements, Bona Fide Market Making, Naked Short Selling Antifraud Rule, Trade Reporting Facility Reporting Requirements, and SEC Rule 201 Compliance.

The conduct identified above constitutes separate and distinct violations of FINRA Rule 2010 and NASD Rule 3010.

- 8. During the review period, the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to SEC Rules 611(a) and 611(c) of Regulation NMS. Specifically, the firm did not have written supervisory procedures in place to ensure compliance with SEC Rule 611(a) and SEC Rule 611(c). The conduct described in this paragraph constitutes a violation of SEC Rules 611(a) and 611(c) of Regulation NMS.

B. Respondent consents to a censure and a \$97,500 fine comprised of:

- \$15,000 fine for violations of FINRA Rule 7450 for OATS Reporting;
- \$22,500 fine for violations of FINRA Rule 5320 for failing to provide the Trading Ahead Opt-In/Opt-Out disclosures;
- \$12,500 fine for violations of FINRA Rule 2265 for failing to provide extended hours disclosures;
- \$5,000 fine for violations of SEC Rule 10b-10 for inaccurate customer confirmations;
- \$10,000 fine for violations of SEC Rule 17a-3 and FINRA Rule 4511 for inaccurate books and records;
- \$10,000 fine for violations of SEC Rule 203(b) locate requirements;
- \$22,500 fine for deficient supervisory procedures in violation of FINRA Rule 2010 and NASD Rule 3010, and SEC Rule 611(a) and (c); and

Within 60 business days of acceptance of this AWC by the National Adjudicatory Council ("NAC"), a registered principal of the Respondent shall submit to the **COMPLIANCE ASSISTANT, LEGAL SECTION, MARKET REGULATION DEPARTMENT, 9509 KEY WEST AVENUE, ROCKVILLE, MD 20850**, a signed, dated letter, or an e-mail from a work-related account of the registered principal to MarketRegulationComp@finra.org, providing the following information: (1) a reference to this matter; (2) a representation that the firm has revised its written supervisory procedures to address the deficiencies described in paragraphs seven and eight; and, (3) the date the revised procedures were implemented.

Respondent agrees to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. It 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(s) 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 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 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 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. 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 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. Respondent 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.**

July 12, 2016
Date

Aegis Capital Corp.
By: Nils A. Ericson
Name: Nils A. Ericson
Title: CCO

Counsel for Respondent

7-22-16
Date


Justin Chretien
Chief Counsel
FINRA Department of Market Regulation