

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20140431278-01**

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

RE: Gates Capital Corporation, Respondent
Broker/Dealer
CRD No. 29582

Pursuant to FINRA Rule 9216 of FINRA Code of Procedure, Gates Capital Corporation ("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.** The firm 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 member of FINRA since March 25, 1992, and its registration remains in effect. The firm has the following relevant disciplinary history:

On June 7, 2011 FINRA accepted an AWC in which the firm was censured and fined a total of \$17,500 for late and inaccurate reporting of municipal securities transactions, in violation of Municipal Securities Rulemaking Board ("MSRB") Rule G-14, maintaining inaccurate books and records, in violation of MSRB Rule G-8, and related supervisory deficiencies, in violation of MSRB Rule G-27, during the review period October 1, 2009 through December 31, 2009.

SUMMARY

In Review No. 20140431278, FINRA's Department of Market Regulation ("Market Regulation") conducted a review regarding compliance by the firm with MSRB reporting requirements, during the period July 1, 2014 through September 30, 2014 ("the review period").

As a result of this review, Market Regulation found that the firm committed the following municipal securities late/inaccurate reporting, and related books and records and supervision violations:

FACTS AND VIOLATIVE CONDUCT BY RESPONDENT

1. During the review period, the firm failed to report information regarding 40 purchase and sale transactions effected in municipal securities to the Real-time Transaction Reporting System ("RTRS") in the manner prescribed by the MSRB Rule G-14 RTRS Procedures and the RTRS Users Manual. Specifically, the firm failed to report information about such transactions within 15 minutes of Time of Trade to an RTRS Portal. These transactions constituted 2.28 percent of the transactions that the firm reported to the RTRS during the review period. The conduct described in this paragraph constitutes separate and distinct violations of MSRB Rule G-14.
2. During the review period, the firm failed to report the correct Time of Trade to the RTRS in 40 reports of transactions in municipal securities. These transactions constituted 2.28 percent of the transactions that the firm reported to the RTRS during the review period. The conduct described in this paragraph constitutes separate and distinct violations of MSRB Rule G-14(b)(ii).
3. During the review period, the firm failed to show the correct time of execution on the memorandum of 36 brokerage orders. The conduct described in this paragraph constitutes separate and distinct violations of MSRB Rule G-8.
4. During the review period, the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and MSRB rules concerning municipal securities reporting. Specifically, the firm's written supervisory procedures did not reflect the actual procedures that the firm had for: (1) the step(s) that the designated person(s) should take to ensure compliance therewith; and (2) how enforcement of such written supervisory procedures should be documented at the firm. The conduct described in this paragraph constitutes a violation of MSRB Rule G-27.

B. The firm also consents to the imposition of the following sanctions:

A censure, a fine of \$22,500 (\$15,000 for the reporting violations; \$5,000 for the supervision violations; and \$2,500 for the books and records violations); and an undertaking to revise the firm's written supervisory procedures with respect to the areas described above in paragraph I.A.4. Within 30 business days of acceptance of this AWC by the National

Adjudicatory Council ("NAC"), a registered principal of the firm 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 above in paragraph I.A.4.; and (3) the date the revised procedures were implemented;.

The firm agrees to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are due and payable. It has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

The firm specifically and voluntarily waives any right to claim that the firm is unable to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

The imposition of a restitution order or any other monetary sanction herein, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

II.

WAIVER OF PROCEDURAL RIGHTS

The firm specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against the firm;
- B. To be notified of the Formal 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, the firm 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.

The firm 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

The firm 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, 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 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. 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.

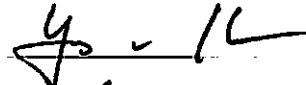
The undersigned, on behalf of the firm, certifies that a person duly authorized to act on its behalf has read and understood all of the provisions to this AWC and has been given a full opportunity to ask questions about it; that it has agreed to the AWC's provisions voluntarily; and that no offer, threat, 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.

Date

6/16/2016

Gates Capital Corporation

By:



Name

Young Kim

Title

CFO

Reviewed by:

N/A
Counsel for Respondent

Accepted by FINRA:

June 20, 2016
Date


James J. Nixon

Chief Litigation Counsel

Market Regulation

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



GATES Capital Corporation
Effective Solutions | Superior Execution

May 27, 2016

Gary E. Jackson
Senior Counsel
Market Regulation Department
9509 Key West Avenue
Rockville, MD 20850

Re: Transmittal of Letter of Acceptance, Waiver and Consent.
FINRA Matter No. 20140431278

Dear Mr. Jackson:

This Corrective Action Statement is submitted by the Respondent. It does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA, or its staff.

The firm have re-educated the entire municipal securities representative regarding MSRB Rule G-14 RTRS Procedures in the firm's weekly meetings and the same subject will be an agenda in the firm's next annual compliance meeting. The firm's written supervisory procedure was updated for more specific person who will be the responsible for any future compliance problem of RTRS Procedures and corrective steps taken to prevent future late trading report. The date the revised procedures were implemented was May 25, 2016. Enclosed please find a copy of the firm's updated supervisory procedure on the RTRS Procedures.

If you have any questions or need additional information, please contact me at (212) 661-8686 or young.kim@gatescapital.com.

Sincerely,

Youngwhi Kim
Chief Financial Officer

Enclosures:

Connect

GATES Capital Corporation

Headquarters
100 Park Avenue, 22nd Floor
New York, NY 10017
CO / FL

212 661 8686
info@gatescapital.com

Member FINRA and SIPC

www.gatescapital.com

The trading department will maintain a record of orders in municipal securities consistent with the requirements of MSRB Rule G-8. The designated supervisor is responsible for daily review of transactions in municipal securities.

17.15.7 Mark-Ups And Mark-Downs

The designated supervisor is responsible for reviewing the reasonableness of mark-ups and mark-downs on customer trades. In determining fair and equitable mark-ups or mark-downs, relevant factors may include:

- the best judgment of Gates as to the fair market value of the securities at the time of the transaction and of any securities exchanged or traded in connection with the transaction
- the expense involved in effecting the transaction
- total dollar amount of the transaction
- availability of the security
- the price or yield of the security
- the maturity of the security
- resulting yield to the customer, as compared to the yield on other securities of comparable quality, maturity, coupon rate, and block size then available in the market
- the nature of the Firm's business
- any other relevant facts at time of execution

MSRB Rule G-30 also includes the factor that Gates is entitled to a profit on the transaction.

Compliance will review mark-ups and mark-downs on at least a spot-check basis. Transactions deemed excessive will be canceled and rebilled to reflect an acceptable mark-up or mark-down.

17.15.8 Commissions On Agency Transactions

The designated supervisor is responsible for reviewing the reasonableness of commissions on agency transactions. Relevant factors in determining the reasonableness of commissions may include:

- the expense of executing and filling the customer's order
- the value of the services rendered by Gates
- the amount of any other compensation received by Gates in connection with the transaction
- factors considered in principal transactions
- any other relevant factors at the time of execution

17.15.9 Reports Of Transactions

[MSRB Rule G-14; MSRB Rule G-14 RTRS Procedures; MSRB RTRS Users Manual; MSRB dealer data web site: <http://www1.msrb.org/dfs1/default.htm>]

Responsibility	• Designated Supervisor - Compliance Officer
Resources	• Trade data • MSRB dealer data and other available reports • MSRB customer report edit register

Frequency	Real time Activity Monitor and monthly review of MSRB RTRS Dealer Data Quality - Summary of Correspondent's trades
Action	- Review MSRB data to determine accuracy of clearing firm's reporting, specifically reviewing for trades successfully submitted vs. those with errors - When patterns of errors are detected, contact the clearing firm to determine what corrective action will be taken
Record	Initials and date reviewed on MSRB reports; notations of action taken where appropriate

Inter-dealer and customer municipal transactions are submitted to the firm's clearing firm for reporting transactions in municipal securities to the MSRB's Real-Time Transaction Reporting System (RTRS).

17.15.9.1 Fictitious Reports

[MSRB Rule G-14(a)]

Reports of transactions must represent bona-fide purchases or sales. No dealer may report a trade that it knows or has reason to know is fictitious or misleading.

17.15.9.2 Step Outs

[MSRB Notice 2005-22, 2004-09 and 2003-20; Notice on Certain Inter-Dealer Transfers of Municipal Securities: Rules G-12(f) and G-14 dated June 4, 2004]

A "step out" is the delivery of securities between dealers that is not the result of a purchase-sale transaction between those dealers, *i.e.*, delivery of securities to satisfy an investment adviser allocation instruction or transfer of assets between two DTCC accounts of a dealer. The firm has the obligation to ensure step outs are designated properly for G-14 and comparison reporting purposes to prevent the inadvertent reporting of a purchase/sale transaction that did not, in fact, occur. Incorrect designation of step outs is a violation of G-12 on comparisons and G-14 on trade reporting.

17.15.9.3 System Outages

[MSRB Notice 2012-49]

If the firm experiences a system outage or other technology-related problem that affects the ability to comply with MSRB transaction reporting rules or other reporting requirements such as current interest rates and documents for certain variable rate securities to the MSRB Short-term Obligation Rate Transparency System or information or documents about new issues filed with EMMA, the outage will be reported online through the firm's MSRB Gateway account.