

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2015044231302**

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

RE: BNP Paribas Securities Corp., Respondent
Member Firm
CRD No. 15794

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent BNP Paribas Securities 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 became a member of FINRA in December 1984. It is headquartered in New York, New York, and has approximately 1,067 registered representatives among its 12 branch offices. The firm engages in market making transactions and brokerage activities for its customers, who are primarily institutions, other broker-dealers, and affiliates.

RELEVANT DISCIPLINARY HISTORY

On April 8, 2015, FINRA accepted an AWC containing a censure and a total fine of \$15,000, of which \$10,000 was for FINRA Rule 7450 violations in connection with OATS reporting failures between September 11, 2012 and September 12, 2012.

OVERVIEW

This matter resulted from routine examinations of the firm's Global Execution Services desk ("GES Desk") by the staff of the Trading and Financial Compliance Examination ("TFCE") staff (the "staff") of the Department of Market Regulation ("Market Regulation").

In the period September 22-23, 2015 (the “2015 exam period”), the firm submitted inaccurate, incomplete, or improperly formatted information to OATS, in violation of FINRA Rules 7450 and 2010.

In the period January 1, 2015 through September 30, 2015, the firm failed to make publicly available all information required in order to comply with Rule 606 of Regulation NMS and FINRA Rule 2010.

During the period January 1, 2015 through August 18, 2017, the firm failed to establish and maintain a supervisory system, including written supervisory procedures (“WSPs”), reasonably designed to achieve compliance with FINRA Rules concerning the accuracy of its OATS reporting, in violation of FINRA Rules 3110 and 2010.

During the period September 22, 2015 through August 18, 2017, the firm’s WSPs in several areas were not reasonably designed to achieve compliance with applicable securities laws and regulations, and the Rules of FINRA and the Securities Exchange Commission (“SEC”) in violation of FINRA Rules 3110(b) and 2010.

FACTS AND VIOLATIVE CONDUCT

OATS Reporting

1. FINRA Rule 7450(a) states, in relevant part, that “[a]ll applicable order information required to be recorded under Rule 7440 shall be transmitted to the Order Audit Trail System by each Reporting Member or by a Reporting Agent....”
2. FINRA Rule 7440 provides that order information, including, among other things, special handling codes must be recorded under the Rule.
3. FINRA Rule 2010 provides, “[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.” A violation of FINRA Rules constitutes a violation of Rule 2010.
4. OATS reports must include a correct special handling code when appropriate, including a code to identify orders that are “Not Held” (an order in which the broker has both time and price discretion). Failing to include a required special handling code leads to inaccuracies in the audit trail. Moreover, an incorrect special handling code could affect FINRA’s ability to surveil for and detect potential violations of FINRA or exchange rules, or of federal securities laws. For instance, failure to include a required “Not Held” code may cause false positive exceptions in FINRA’s surveillance for trading ahead or best execution.
5. The staff sampled 50 orders for OATS compliance during the 2015 exam period and identified 46 instances in which the firm transmitted inaccurate, incomplete, or improperly formatted data to OATS. Each of the 46 instances failed to contain the “Not Held” special handling code for an order that originated with a foreign affiliate of the firm. The firm identified a software error, dating back to 2012, which affected only orders received electronically from that foreign affiliate. That software error caused 45 of the firm’s 46 failures to report the “Not Held”

special handling code; the one other instance resulted from human error.¹ The firm learned about the issue through a regulatory inquiry from FINRA, and it fixed the software error as of July 2016.

6. By virtue of the forgoing, the Respondent violated FINRA Rules 7450 and 2010.

Rule 606 of Regulation NMS

7. Rule 606 of Regulation NMS requires every broker or dealer to make publicly available each calendar quarter a report containing information on its routing of non-directed orders in national market system ("NMS") securities. Under Rule 606(a)(1)(i), the firm must report "[t]he percentage of total orders for the section that were non-directed orders, and the percentages of total non-directed orders for the section that were market orders, marketable limit orders, non-marketable limit orders, and other orders." In addition, Rule 606(a)(1)(iv) provides, in relevant part, that the firm's report must include "[a] discussion of the material aspects of the broker's or dealer's relationship with each venue identified pursuant to paragraph (a)(1)(ii) of this section, including a description of any arrangement for payment for order flow and any profit-sharing relationship and a description of any terms of such arrangements, written or oral, that may influence a broker's or dealer's routing decision."
8. From January 1, 2015 through September 2015, the firm failed to report the material aspects of the firm's relationship with certain venues to which it routed non-directed orders for execution, including any arrangements for payment for order flow and any profit-sharing relationship. Additionally, during that same period, the firm failed to publish accurate percentages of the non-directed "other" orders that it routed.
9. By virtue of the foregoing, Respondent violated Rule 606 of Regulation NMS and FINRA Rule 2010.

Supervision

10. FINRA Rule 3110(a) provides, "[e]ach member shall establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules."
11. FINRA Rule 3110(b) provides, "[e]ach member shall establish, maintain, and enforce written procedures to supervise the types of business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules."
12. From January 2015 through August 18, 2017, the firm's supervisory system, including its WSPs, were not reasonably designed to achieve compliance with

¹ Five of the 50 orders in the sample were manually received by the firm from its foreign affiliate, and so were not affected by the software error. Four of those five manually received orders contained the "Not Held" special handling code in the firm's transmissions to OATS, while, as noted, one did not because of human error.

FINRA Rules concerning the accuracy of OATS reporting. Specifically, the firm's supervisory procedures for reviewing the accuracy of its OATS reporting involved reviewing the OATS website and FINRA's OATS Compliance Monthly Report Cards. But the OATS website and the Monthly Report Cards do not encompass all aspects of OATS reporting and would not reflect a failure to report a special handling code.

13. By virtue of the foregoing, Respondent violated FINRA Rules 3110(a) and (b) and 2010.
14. From September 22, 2015 through August 18, 2017, the firm's WSPs for its GES Desk were not reasonably designed to achieve compliance with respect to rules applicable to trade reporting and market-making activity. Notice to Members 98-96 details that a firm's WSPs should describe the following: (1) the specific identification of the individual(s) responsible for supervision; (2) the supervisory steps and reviews to be taken by the appropriate supervisor; (3) the frequency of such reviews; and, (4) how such reviews shall be documented. Specifically, the firm's WSPs for its GES Desk failed to include one or more of those descriptions with respect to, among other things, order handling, trade reporting, and other trading rules.
15. By virtue of the foregoing, Respondent violated FINRA Rules 3110(b) and 2010.

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

- Censure; and
- A fine of \$90,000 (of which, \$30,000 is for OATS violations, \$15,000 is for Rule 606 violations, and \$45,000 is for supervision violations).

Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Respondent 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 an inability 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

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 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, 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 Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against Respondent;
 - 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 Respondent'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. Respondent 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 Respondent, 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 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 it to submit it.

1/16/2020
Date

BNP Paribas Securities Corp.
Respondent

By: 

Print Name: Stephan B. Nawrocki
Managing Director

Title: _____

Reviewed by:

[Attorney Name]
Counsel for Respondent

Accepted by FINRA:

02.05.2020
Date

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


Monika V. Mohan
Counsel
FINRA
Department of Enforcement
200 Liberty Street
New York, NY 10281-1003