

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2015046020002**

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

RE: EFG Capital International Corp. ("EFG" or "Firm"), Respondent
CRD No. 40118

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, 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 me 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

EFG has been a FINRA regulated broker-dealer since 1996. The Firm's principal place of business is in Miami, Florida. The Firm has approximately 130 registered representatives and five branch offices, three of which are in South America. EFG's primary business is retailing foreign sovereign debt, listed U.S. equity securities, structured notes and mutual funds. Approximately 80 percent of the Firm's customers are high net worth individuals, with the remainder being non-U.S. financial institutions such as broker-dealers, investment advisors, and local banks. Over 90 percent of the Firm's customers are non-U.S. persons from Latin America. The Firm is indirectly owned by EFG International AG, which is headquartered in Switzerland and listed on the Swiss Stock Exchange. EFG has a net capital requirement of over \$1 million.

RELEVANT DISCIPLINARY HISTORY

EFG has no relevant disciplinary history in the securities industry.

OVERVIEW

From April 2010 through July 2015 (the “Relevant Period”), EFG failed to establish and implement an adequate supervisory system, including written supervisory procedures (“WSPs”), or anti-money laundering (“AML”) program related to two material areas of its international business model. EFG did not adequately assess, supervise or mitigate the business risks associated with: (1) its payment of transaction-based compensation to non-registered individuals or entities; and (2) potentially suspicious outgoing wire transfer activity occurring in accounts of dual customers of the Firm and its Swiss bank affiliate.

As part of its international business model, EFG entered into transaction referral agreements under which a foreign individual or entity, called a “foreign introducer,” referred specific transactions to the Firm in exchange for a percentage of the Firm’s mark-up or commission on the referred transactions. However, EFG’s supervisory system was unreasonable because it failed to assess whether it had sufficient information about the foreign introducer, or its ability to legally satisfy its obligations under an agreement, to conclude that the Firm’s payment of transaction-based compensation to the foreign introducer was permissible under U.S. law. As a result, EFG violated NASD Rules 3010(a) and (b) (for conduct from May 1, 2014 through November 30, 2014) and FINRA Rules 3110(a) and (b) (for conduct from December 1, 2014 through March 24, 2015) and 2010.

Additionally, the Firm’s AML system and procedures did not identify whether the Foreign Introducers with which it did business were high-risk entities or engaged in high-risk activities, and did not adequately review the foreign introducer’s referred transactions or wire transactions for red flags and patterns of suspicious activity. Separately, many of the Firm’s high net worth customers were dual customers of EFG and its Swiss bank affiliate, where all of these customers’ money movement activity occurred and the activity was subjected to automated monitoring for Swiss AML purposes. EFG typically had operational involvement in outgoing money movements entered into by these customers, and reviewed such transactions at the time they were made for potential AML red flags. However, the Firm’s overall AML program was insufficient to identify and investigate potentially suspicious patterns of outgoing wire transfer activity in the Swiss bank accounts of EFG’s dual customers that should have raised AML red flags requiring further investigation by EFG and potentially the filing of suspicious activity reports (“SARs”). As such, EFG violated FINRA Rules 3310(a) and 2010.

FACTS AND VIOLATIVE CONDUCT

1. Failure to Supervise.

In May 2014, EFG entered into a transaction referral agreement with RCP, a Panamanian personal investment company with nominee officers and directors that was controlled by ADCR, a Mexican national (the “2014 RCP Agreement” or “Agreement”). Under that Agreement, during the Relevant Period, RCP referred to EFG 32 separate transactions in illiquid, thinly-traded structured notes and corporate bonds denominated in Mexican pesos. In return, EFG paid RCP approximately \$13 million, 80 percent of the mark-up EFG earned on the referred transactions.

EFG failed to establish and maintain a reasonable supervisory system, including written procedures, related to its review and approval of transaction referral agreements requiring the payment of transaction-based compensation to non-registered individuals or entities. EFG’s supervisory system for review and approval of these referral agreements was unreasonable because there was no specific process to: (1) independently verify information provided by the foreign introducer, (2) ensure that the foreign introducer was capable of, or actually complying with, representations and warranties it made under the agreement, and (3) evaluate factors necessary to determine whether transaction-based compensation was permissible for each foreign introducer. For example, the Firm did not fully evaluate what actions the foreign introducer would perform under a specific agreement, whether the foreign introducer was statutorily disqualified, whether each foreign introducer needed to register in the U.S., or whether it was permissible for each foreign introducer to receive transaction-based compensation from EFG under the laws of the country in which the foreign introducer lived or worked.

EFG also failed to establish, maintain and enforce written procedures to supervise its transaction referral agreement business. The Firm’s WSPs did not address Firm dealings with foreign introducers or transaction referral agreements. EFG’s WSPs mentioned only that there were exceptions to prohibitions against sharing commissions with non-registered individuals, but did not describe those exceptions or the steps that EFG would take to verify that those exceptions were met for any particular agreement. The WSPs failed to identify who was responsible for reviewing commission sharing agreements involving foreign introducers and failed to provide guidance on what the individuals were required to review and approve or what factors the individuals should consider when conducting their reviews.

EFG also failed to follow its own WSPs regarding the 2014 RCP Agreement. The 2014 RCP Agreement was not sent to, reviewed or approved by the Firm’s compliance department until after it was executed, transactions were referred, and transaction-based compensation paid to RCP under the Agreement. Additionally,

at the time it was entered into, the Firm did not have a sufficient understanding of the services to be provided under the Agreement or the anticipated counterparties in the referred transactions to determine whether the payment of transaction-based compensation was permissible. Moreover, although the Firm spoke with the registered representative regarding the agreement, and reviewed certain of the relevant registered representative's communications, the Firm failed to identify several red flags related to the ownership of RCP; the permissibility of the transactions under U.S. and/or Mexican law; and emails received by the Firm's registered representative suggesting the involvement of a third-party unknown to the Firm in the referred transactions and the sharing of transaction-based compensation RCP received with others, which was not permissible under the terms of the Agreement. Additionally, the Firm failed to follow-up on red flags regarding the unexpectedly large number and size of the referred transactions.

NASD Rule 3010(a) and FINRA Rule 3110(a) require Firms to 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. Whether a particular supervisory system or set of procedures is reasonable depends on the facts and circumstances of each case.

NASD Rule 3010(b) and FINRA Rule 3110(b) require firms to establish, maintain and enforce written procedures to supervise the types of business in which the firm engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations and applicable NASD and FINRA Rules.

Violation of NASD Rule 3010 or FINRA Rule 3110 is conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, and therefore also violates FINRA Rule 2010.

By failing to establish a reasonable supervisory system, including written procedures, related to transaction referral agreements and the payment of transaction-based compensation to foreign introducers, and by failing to supervise the 2014 RCP Agreement, EFG violated NASD Rules 3010(a) and (b) (for conduct from May 1, 2014 through November 30, 2014) and FINRA Rules 3110(a) and (b) (for conduct from December 1, 2014 through March 24, 2015) and 2010.

2. Failure to Develop and Implement a Written AML Program.

The Firm's AML program, including its policies and procedures, was not reasonably tailored to the Firm's business of entering into transaction referral agreements and paying transaction-based compensation to foreign introducers. Although EFG had policies and procedures to review customer activity, its AML system was not tailored to: (1) identify whether foreign introducers were high-risk

entities or individuals or whether the transactions referred by foreign introducers was high-risk activity or should be subjected to additional reviews, (2) review the referred transactions for patterns of suspicious activity, and (3) review wire transactions by a foreign introducer for patterns of suspicious activity, such as to determine whether the foreign introducer's wire activity was consistent with other information the Firm knew about the foreign introducer.

As a result, the Firm failed to identify and investigate AML red flags specifically associated with transaction referral agreements or foreign introducers. For example, the 2014 RCP Agreement raised numerous red flags, such as why transactions between two Mexican broker-dealers needed to be executed by a U.S. firm that charged a 3% mark-up on each transaction. The Firm also failed to identify or investigate potentially suspicious outgoing wire activity in an account that RCP maintained at EFG's Swiss bank affiliate, which resulted in the transfer of the majority of the referral fee RCP received to other accounts controlled by ADCR, including to accounts in well-known banking secrecy havens.

3. EFG's Swiss Platform Customers

During the Relevant Period, EFG's customers who were non-U.S. persons could choose to custody their EFG account assets at EFG's Swiss bank affiliate (hereinafter "dual customers"). Under this arrangement, all cash and securities in the dual customers' accounts were held in parallel accounts at EFG's Swiss bank affiliate and all incoming and outgoing wire transfers occurred in the custodial bank accounts. While the wire transfer activity occurred in bank accounts at the Swiss affiliate, EFG had operational involvement in dual customers' outgoing wire transactions including, among other things, verifying the source of funds, conducting World Check searches for wires with an intended third party beneficiary and releasing the outgoing wire information to its affiliate for processing.¹ EFG also reviewed these outgoing wire transfers individually for AML purposes, and those reviews periodically triggered AML investigations and SAR filings by EFG.

Despite reviewing outgoing wire transfers for dual customers on an individual basis, certain dual customer accounts engaged in patterns of potentially suspicious outgoing wire transfer activity in the Swiss bank accounts that should have raised AML red flags with EFG requiring further investigation and potentially the filing of SARs.² Among the AML red flags that were triggered were transactions lacking business sense or investment strategy, customers with questionable backgrounds, and wire transfers with no apparent purpose to countries deemed to be money laundering risks or secrecy havens.

¹ EFG had no involvement in incoming wire transfers to the dual customers' Swiss bank accounts.

² Although EFG's Swiss bank affiliate conducted automated monitoring of money movements in the bank accounts of dual customers, that monitoring was for Swiss AML purposes and was not designed to satisfy EFG's AML obligations in the United States.

Many of the dual customers were also foreign financial institutions (“FFI”). EFG failed to conduct adequate due diligence on FFI accounts. During the Relevant Period, the Firm did not adequately assess, at account opening or thereafter, the money laundering risks posed by the FFI accounts, as required by 31 C.F.R. § 1010.610(a)(2), and failed to perform periodic reviews of account activity sufficient to determine consistency with information previously obtained about the type, purpose, and anticipated activity of the accounts, as required by 31 C.F.R. § 1010.610(a)(3). For example, dual customer PCM was a Panamanian broker-dealer. According to PCM’s account opening documentation, its total net worth was between \$250,000 and \$999,999 and its liquid assets were \$187,482. PCM’s account was funded with a \$1 million deposit from an account at a non-affiliated bank, the account expected \$5 million in fund deposits and the expected activity was “Securities Trading - Fixed Income and Metals, Fiduciary Deposits.” The account opening documentation did not state that PCM would engage in third-party correspondent banking activity on behalf of its underlying customers.

PCM’s account at the custodial bank raised AML red flags in that the account sent wire transfers totaling \$978 million. This amount of outgoing wire transfers was well in excess of PCM’s net worth and liquid assets. The account also received approximately \$500 million worth of gold bars, and approximately \$240 million worth of U.S. Treasury Bills that were immediately liquidated from its custodial bank and EFG accounts. The outgoing wire transfers included \$127 million worth of wire transfers sent to third parties, most of which were PCM’s customers.

Further, PCM’s account activity was not consistent with the information contained in the account opening documentation. Specifically, the volume of wire transfers vastly exceeded the \$5 million expected amount of fund deposits. During the dual customer review period, PCM sent \$127 million worth of third-party wires. The third-party wire recipients were largely customers of PCM and many of the transfers were to effectuate the sale of physical gold in connection with currency exchange transactions, where PCM’s customers sought to exchange Venezuelan currency for U.S. dollars. Despite the fact that the customers of PCM were utilizing accounts at EFG and the custodial bank to conduct currency exchanges, the Firm did not sufficiently investigate the risk posed by the nature of the activity.

FINRA Rule 3310 requires FINRA regulated broker-dealers to develop and implement a written AML program reasonably designed to achieve and monitor compliance with the requirements of the Bank Secrecy Act and the regulations promulgated thereunder. Failing to develop and implement such a program is inconsistent with high standards of commercial honor and just and equitable trade and, therefore, also violates FINRA Rule 2010.

By failing to establish an AML system, and policies and procedures, that were reasonably tailored to the Firm’s business of entering into transaction referral agreements and paying transaction-based compensation to the foreign introducers,

and reasonably tailored to outgoing wire transfers within the Firm's dual customer business, EFG violated FINRA Rules 3310(a) and 2010.

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

1. A censure;
2. A fine of \$800,000; and
3. An undertaking requiring EFG, within 90 days of the issuance of a Notice of Acceptance of this AWC, to adopt and implement supervisory systems and written procedures reasonably designed to achieve compliance with the requirements of FINRA Rule 3110 as it relates to (i) review and approval of transaction referral agreements to ensure that the Firm's transaction referral agreements comply with the federal securities laws and FINRA and NASD Rules relating to the payment of transaction-based compensation to non-registered individuals or entities, including but not limited to FINRA Rule 2040, and the Securities Exchange Act of 1934 § 15(a)(1) and related Exchange Act Rules, and (ii) activity in dual customer accounts where EFG has operational involvement. EFG shall, within the time period specified, notify the Department of Enforcement in writing when it has adopted and implemented the supervisory systems and written procedures described above. The Department of Enforcement may, upon a showing of good cause and in its sole discretion, extend the time for compliance with this provision.

The Firm 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 it proposes to pay the fine imposed.

The Firm specifically and voluntarily waives any right to claim that it 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

The Firm 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, 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 ("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 it;
 - 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 or any individual'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.

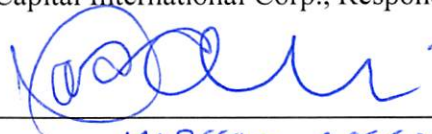
- D. The Firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The Firm understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does 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 understand 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.

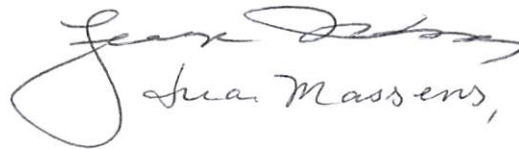
EFG Capital International Corp., Respondent

02/02/2018
Date (mm/dd/yyyy)

By:


MARCELO COSCARELLI, CEG

Reviewed by:


Juan Massens, CCO

Ivan P. Harris
Counsel for Respondent
Morgan, Lewis & Bockius LLP
200 South Biscayne Blvd., Suite 5300
Miami, Florida 33131-2339
Phone: 305-415-3000

Accepted by FINRA:

Signed on behalf of the

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 or any individual'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.

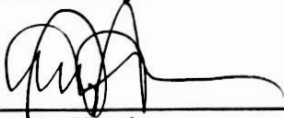
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EFG Capital International Corp., Respondent

By: _____

Date (mm/dd/yyyy)

Reviewed by:



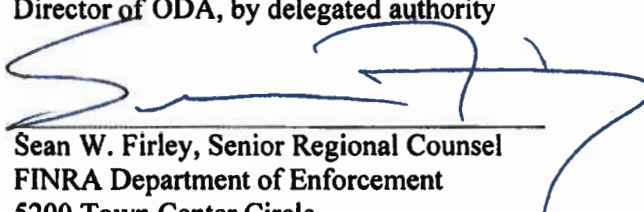
Ivan P. Harris
Counsel for Respondent
Morgan, Lewis & Bockius LLP
200 South Biscayne Blvd., Suite 5300
Miami, Florida 33131-2339
Phone: 305-415-3000

Accepted by FINRA:

Signed on behalf of the

5/22/18
Date

Director of ODA, by delegated authority



Sean W. Firley, Senior Regional Counsel
FINRA Department of Enforcement
5200 Town Center Circle
Tower 1, Suite 200
Boca Raton, FL 33486
561-443-8120 (phone); 561-443-7998 (fax)
sean.firley@finra.org

Christina Stanland, Senior Regional Counsel
FINRA Department of Enforcement
Brookfield Place
200 Liberty Street, 11th Floor
New York, NY 10281
646-315-8617 (phone); 202-689-3474 (fax)
christina.stanland@finra.org