

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20150474206 01**

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

RE: Daiwa Capital Markets America Inc., Respondent
Member Firm
BD No. 1576

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Daiwa Capital Markets America, Inc., 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

Daiwa Capital Markets America Inc., ("Daiwa" or the "Firm") is an executing broker-dealer for primarily institutional customers. The Firm employs approximately 175 registered representatives ("RRs") and maintains two branch offices. Its main branch office is in New York, New York.

RELEVANT DISCIPLINARY HISTORY

Daiwa does not have relevant disciplinary history with the Securities and Exchange Commission, any state securities agency, FINRA or any other self-regulatory organization.

OVERVIEW

Between December 2013 and March 2015 (the "Initial Period") and between September 2015 and June 2016 (the "Secondary Period"), the Firm failed to deliver quarterly account statement to some customers who requested electronic

only delivery of account statements. During the Initial Period, the Firm failed to deliver quarterly account statements to 93 direct customer accounts and 1,406 sub-accounts. During the Secondary Period, the Firm failed to deliver quarterly account statements to 57 direct customer accounts and 515 sub-accounts. Accordingly, the Firm violated NASD Rule 2340 and FINRA Rule 2010.

After learning of the failure to deliver electronic account statements during the Initial Period, the Firm failed, during the period of June 9, 2015 to June 2016, to establish and maintain adequate supervisory systems to review whether it delivered quarterly account statements to customers who chose email-only delivery of account statements. As a result, the Firm failed to deliver account statements to customers in the Secondary Period. Accordingly, the Firm violated FINRA Rules 3110(a) and 2010.

FACTS AND VIOLATIVE CONDUCT

I. Background

a. Initial Period

During all times relevant here, Firm customers could opt to receive account statements through exclusively electronic means. The Firm employed quarterly instead of monthly account statements. During the Initial Period, approximately 93 customer accounts and 1,406 sub-accounts of those 93 accounts chose to receive account statements via email only.

On June 8, 2015, the Firm learned that on November 1, 2013, it had inadvertently turned off its system that delivered, via email, customer account statements to those customers who chose electronic delivery only. The Firm turned off that system in the course of upgrading a separate electronic system, and when that upgrade was complete, the Firm neglected to re-employ the electronic account statement delivery system. As a result, between December 2013 and March 2015, the Firm failed to deliver quarterly account statements to approximately 93 direct customer accounts and 1,406 sub-accounts of the 93 direct customer accounts. That was approximately 8% of the Firm's total accounts and 100% of the customers who had chosen to receive account statements solely via email.

b. Failure to Implement a Supervisory System to Ensure Delivery of Quarterly Account Statements

By June of 2015, the Firm knew that it had failed to deliver quarterly account statements to customers during the Initial Period. While it promptly fixed the issue that led to that problem by turning on the electronic account delivery system, it failed to then implement a system to ensure that subsequently, quarterly account statements were being delivered to customers.

In July 2015, shortly after the problems in the Initial Period surfaced, the Firm began a project to manually re-enter all customer email addresses into its electronic account statement delivery system (the "Project"). Inaccurate or missing email addresses were not the cause of the failure to deliver in the Initial Period, so the Project introduced a new risk to the Firm's account statement delivery system.

The Firm should have implemented a process to monitor that new risk, but it did not do so. The Firm did not implement any process or procedure to determine if employees entered all required customer email addresses into the Firm's systems and entered them accurately. The Firm did not generate any reports to check for missing email addresses in the electronic account statement delivery system. During the Project, the Firm conducted occasional random spot-checks of its manual entry of email addresses and delivery of account statements. The Firm failed, however, to establish specific parameters for these spot-checks. The Firm failed to establish the breadth and scope of the spot-checks, including failing to establish the number of accounts or sub-accounts or electronically delivered statements to be reviewed during the Firm's spot-checks. Indeed, the Firm did not find during these spot-checks that it failed to deliver account statements. The Firm is not now able to determine how many spot-checks it conducted, who conducted them or what they reviewed. The Firm also did not implement any process or procedure once the Project was complete to ensure that account statements were actually delivered to customers.

As a result of its supervisory failure, the Firm did not detect that during the Project, employees had failed to populate email addresses in its electronic account statement delivery system for certain accounts and sub-accounts or that those failures led to non-delivery of quarterly account statements during the Secondary Period.

c. Secondary Period

In May 2016, the Firm learned from its outside auditor that one customer had not received quarterly account statements. The Firm investigated and found that data-entry failures during the Project led its electronic system to fail to deliver quarterly account statements. More specifically, between September 2015 and June 2016, the Firm failed to deliver quarterly account statements to 57 direct customer accounts and 515 sub-accounts of the 57 direct customer accounts. That was approximately 5% of the Firm's total accounts and 33% of the customers who had chosen to receive account statements via email only.

II. Failure to Deliver Account Statements

NASD Rule 2340 requires in pertinent part that:

... each general securities member shall, with a frequency of not less than once every calendar quarter, send a statement of account ('account statement') containing a description of any securities positions, money balances, or account activity to each customer whose account had a security position, money balance, or account activity during the period since the last such statement was sent to the customer.

FINRA Rule 2010 requires members and associated persons to "observe high standards of commercial honor and just and equitable principles of trade." A violation of NASD Rule 2340 is also a violation of FINRA Rule 2010.

As discussed above, during the Initial Period and the Secondary Period, the Firm failed to deliver quarterly account statements to customers who opted for electronic-only delivery of account statements.

By reason of the foregoing Daiwa, violated NASD Rule 2340 and FINRA Rule 2010.

III. Failure to Implement Supervisory Systems to Ensure Delivery of Account Statements

FINRA Rule 3110(a) requires in pertinent part that:

"Each 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."

As discussed above, during the period of June 9, 2015 through June 2016, the Firm failed to establish and maintain an adequate supervisory system to review for delivery of quarterly account statements to customers who chose electronic delivery of account statements.

By reason of the foregoing Daiwa, violated FINRA Rules 3011(a) and 2010.

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

- a censure, and
- a \$100,000 fine.

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 sanction 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 me; 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. 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.**

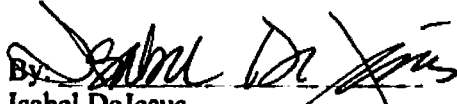
D. The Firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The Firm understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does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

April 5th, 2017
Date

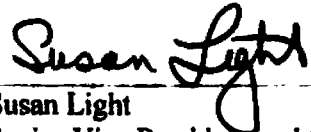
Daiwa Capital Markets Americas Inc.,
Respondent

By: 
Isabel DeJesus
Managing Director, Chief Compliance Officer

Accepted by FINRA:

April 12, 2017
Date

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


Susan Light
Senior Vice President and Chief Counsel
FINRA Department of Enforcement
One Brookfield Place
200 Liberty Street
New York, New York 10281-1003
Tel: (646) 315-7333