

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2017055128201**

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

RE: BGC Financial, L.P., Respondent
Member Firm
CRD No. 19801

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent BGC Financial, L.P. ("BGC Financial" or 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 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

BGC Financial became a FINRA member on July 25, 1987. BGC Financial operates as a subsidiary of BGC Partners, L.P. Based in New York City, the firm employs approximately 300 registered representatives across 15 branch offices in the United States.

RELEVANT DISCIPLINARY HISTORY

On July 13, 2015, FINRA accepted an AWC in which the firm was censured and fined \$57,500 for violations of FINRA Rule 6730 from October 1, 2013 through September 30, 2014.

On April 18, 2016, FINRA accepted an AWC in which the firm was censured and fined \$42,500 for violations of FINRA Rules 2010 and 6730 from January 1 through March 31, 2015.

On October 17, 2016, FINRA accepted an AWC in which the firm was censured and fined \$155,000, of which \$130,000 related to violations of FINRA Rule 6730 from April 1 through September 30, 2015.

On April 10, 2017, FINRA accepted an AWC in which the firm was censured and fined \$110,000, of which \$80,000 related to violations of FINRA Rule 6730 from April 1 through June 30, 2016.

OVERVIEW

From November 2, 2015 through September 27, 2017, the firm violated FINRA Rule 6730 when it reported to FINRA's Trade Reporting and Compliance Engine ("TRACE") 506 transactions with an incorrect time of trade execution and reported 1,304 transactions to TRACE that it was not required to report. The firm violated Section 17 of the Securities Exchange Act of 1934 and SEC Rule 17a-3 thereunder ("SEC Rule 17a-3") and FINRA Rules 4511(a) and 2010 when it recorded the incorrect time of trade execution on the memorandum of 77 brokerage orders. The firm also violated FINRA Rules 3110 and 2010 when it failed to establish and maintain a supervisory system, including written supervisory procedures ("WSPs"), that was reasonably designed to achieve compliance with TRACE reporting and record keeping requirements.

FACTS AND VIOLATIVE CONDUCT

The Firm's TRACE Reporting Violations

1. FINRA Rule 6730(c)(8) requires member firms to report the time of execution to TRACE. FINRA Rule 6730(a)(5) requires member firms to report transaction information promptly, accurately, and completely.
2. Between July 1 and September 30, 2016, and April 1 and September 30, 2017, the firm reported to TRACE 506 transactions with an incorrect time of trade execution. These violations were the result of the firm's traders or back office personnel manually recording an incorrect time of trade execution.
3. Between November 2, 2015 and September 27, 2017, the firm reported 1,304 transactions in TRACE-Eligible Securities that it was not required to report. These violations were the result of the firm's system inadvertently reporting internal transfers of securities that were not required to be reported to TRACE.
4. The conduct described in Paragraphs 2 and 3 constitute separate and distinct violations of FINRA Rule 6730.

The Firm's Recordkeeping Violations

5. SEC Rule 17a-3 requires, in part, every broker or dealer who transacts a business in securities through the medium of any such member, and every broker or dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934, to make and preserve a memorandum of each brokerage order, and of any other instruction, given or received for the purchase or sale of securities, whether executed or unexecuted. SEC Rule 17a-3(a)(6)(i) states that each memorandum, to the extent

feasible, should reflect the time of execution. SEC Rule 17a-3 also requires that such records be accurate.

6. FINRA Rule 4511(a) also requires firms to “make and preserve books and records as required under the FINRA rules, the Exchange Act and the applicable Exchange Act rules.”
7. Between July 1 and September 30, 2016 and April 1 and September 30, 2017, due to manual error, the firm recorded the incorrect time of trade execution on the memorandum of 77 brokerage orders.
8. The conduct described in Paragraph 7 constitutes separate and distinct violations of SEC Rule 17a-3 and FINRA Rules 4511(a) and 2010.

The Firm’s Supervision Violations

9. FINRA Rule 3110(a) requires member 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.” FINRA Rule 3110(b) further requires firms “to 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.”
 10. Between November 2, 2015 and September 27, 2017, the firm did not have a supervisory system, including WSPs, that was reasonably designed to achieve compliance with TRACE reporting requirements. The firm’s WSPs required its Trade Support Department to review: (i) the TRACE and Trade Reporting and Quotation Service (“TRAQS”) websites to identify errors; (ii) Trade Report Alerts Logs on the FINRA TRACE and TRAQS website for capacity mismatches with counter-parties; (iii) the Bloomberg Regulatory Monitor screen to identify reports that are rejected by FINRA TRACE and TRAQS systems; (iv) TRACE Reporting Error messages generated real-time in the Bloomberg Messaging System; and (v) TRACE exception reports generated from the firm’s Global Middle Office system. None of the foregoing reviews, however, included a review for mismatching execution times, which resulted in the firm’s failure to detect its reporting of inaccurate execution times. Additionally, the firm did not have a procedure to monitor whether it was reporting information to TRACE that it was not required to report.
 11. The conduct described in Paragraph 10 constitutes a violation of FINRA Rules 3110 and 2010.
- B. Respondent also consents to the imposition of the following sanctions:
- A censure; a fine of \$100,000 (consisting of an \$80,000 fine for the TRACE and

recordkeeping violations, and a \$20,000 fine for the supervision violation); and an undertaking to revise the firm's WSPs. Within 30 business days of this AWC becoming final, a principal of the Respondent shall submit to the COMPLIANCE ASSISTANT, DEPARTMENT OF ENFORCEMENT, 15200 OMEGA DRIVE, SUITE 300, 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 WSPs to address the deficiencies described in Paragraph I.A.10 of this AWC; and (3) the date the revised procedures were implemented.

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 action 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 the Respondent Firm, 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.

July 27, 2020

Date

BGC Financial, L.P.
Respondent

July 27, 2020

Date

By: Michael Sulfaro

Print Name: Michael C. Sulfaro

Title: Chief Compliance Officer

Reviewed by:

Counsel for Respondent

Accepted by FINRA:

August 13, 2020

Date

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

Dean Floyd

Dean A. Floyd
Senior Counsel
FINRA
Department of Enforcement
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Rockville, MD 20850