

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2018057742601**

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

RE: BNY Mellon Capital Markets, LLC, Respondent
Member Firm
CRD No. 17454

Pursuant to FINRA Rule 9216 of FINRA’s Code of Procedure, Respondent BNY Mellon Capital Markets, LLC (“BNY” 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. BNY 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

BNY became a member of FINRA in August 1986, and became a member of the Municipal Securities Rulemaking Board (“MSRB”) in April 1995. The Firm is headquartered in New York, New York. As of May 2020, the Firm had 10 branch offices and 203 registered individuals.

RELEVANT DISCIPLINARY HISTORY

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

OVERVIEW

From April 1, 2011 through March 15, 2018 (the “review period”), BNY failed to submit accurate minimum denomination and maximum interest rates to the MSRB’s Short-Term Obligation Rate Transparency (“SHORT”) System in 54,270 instances, as was required by MSRB Rule G-34.

FACTS AND VIOLATIVE CONDUCT

MSRB Reporting Violations

1. MSRB Rule G-34 requires each remarketing agent to submit variable rate demand obligations (“VRDO”) interest rate reset information, including minimum denomination and maximum interest rate, to the SHORT System no later than 6:30 P.M. Eastern Time on the date on which an auction or an interest rate reset occurs if such date is a Real-Time Transaction Reporting System (“RTRS”) Business Day as defined in Rule G-14 RTRS Procedures section (d)(ii). The minimum denomination of a municipal bond is the lowest denomination of an issue that can be purchased as authorized by the bond documents. The maximum interest rate is the highest permissible rate for a municipal security as set by the governing documents, usually the Official Statement. In the event that an auction or interest rate reset occurs on a non-RTRS Business Day, the information shall be reported by no later than 6:30 P.M. Eastern Time on the next RTRS Business Day.
 2. During the review period, the Firm, as a remarketing agent for VRDOs, submitted information regarding the result of an interest rate reset to the MSRB’s SHORT System, but failed to report the minimum denomination in 1,449 submissions (approximately 2.7% error rate) and the maximum interest rate in 52,821 submissions (approximately 99% error rate). The reporting failures occurred because the Firm’s reporting system, which transmits data to the MSRB’s Electronic Municipal Market Access (“EMMA”) system for SHORT reporting, did not require the entry of the minimum denomination and maximum interest rate fields. BNY traders mistakenly left the minimum denomination and maximum interest rate fields blank and, for a portion of the review period, populated an incorrect field with the maximum interest rate information.
 3. By virtue of the foregoing, the Firm violated MSRB Rule G-34.
- B. Respondent also consents to the imposition of the following sanctions:
- Censure; and
 - A fine of \$35,000 for the MSRB Rule G-34 violations.

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

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.

June 24, 2020

Date

BNY Mellon Capital Markets, LLC
Respondent

By: Joseph Mancino

Print Name: Joseph Mancino

Title: President and Chief Administrative Officer

Accepted by FINRA:

June 25, 2020

Date

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

Jack Macken

Jack Macken
Senior Counsel
FINRA
Department of Enforcement
15200 Omega Drive, Suite 300
Rockville, MD 20850