

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2020065101601**

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

RE: Barclays Capital Inc. (Respondent)
Member Firm
CRD No. 19714

Pursuant to FINRA Rule 9216, Respondent Barclays Capital Inc. (Barclays) 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 in this AWC.

I.

ACCEPTANCE AND CONSENT

- A. Respondent accepts and consents to the following findings by FINRA without admitting or denying them:

BACKGROUND

Barclays has been a FINRA member firm since October 1987. The firm is headquartered in New York, New York and has 15 branches with approximately 2,850 registered representatives. Barclays conducts a general securities business.¹

OVERVIEW

Between at least January 2020 and April 2021, Barclays violated FINRA Rules 3110(a) and (b) and 2010 by failing to establish and maintain a supervisory system, including written supervisory procedures, reasonably designed to achieve compliance with rules relating to net capital set forth in the Securities Exchange Act of 1934.

Between January 2020 and April 2021, Barclays filed 16 Financial and Operational Combined Uniform Single (“FOCUS”) Reports with inaccurate net capital figures, in violation of Section 17(a) of the Exchange Act, Exchange Act Rule 17a-5, and FINRA Rule 2010.

¹ For more information about the firm, including prior regulatory events, visit BrokerCheck® at www.finra.org/brokercheck.

Between January 2020 and April 2021, Barclays maintained inaccurate books and records relating to net capital, in violation of Section 17(a) of the Exchange Act, Exchange Act Rule 17a-3, and FINRA Rules 4511 and 2010.

FACTS AND VIOLATIVE CONDUCT

This matter originated from an examination of Barclays Capital Inc. conducted by FINRA.

Barclays failed to establish and maintain a supervisory system reasonably designed to achieve compliance with net capital requirements.

FINRA Rule 3110(a) requires members to establish and maintain a system, including written supervisory procedures, that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules. FINRA Rule 3110(b) requires member 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. A violation of FINRA Rules 3110(a) and (b) is also a violation of FINRA Rule 2010.

When a broker-dealer has made a commitment with the issuer of securities to purchase securities regardless of whether it is able to distribute those securities, it has entered into a contractual commitment under Exchange Act Rule 15c3-1 with respect to the offering of such securities. and is engaging in a firm commitment offering. By contrast, if the broker-dealer has not committed to purchasing securities from the issuer and has only agreed to sell an issue on a “best efforts” or agency basis, it is engaging in a best efforts offering and has not entered into a contractual commitment. When Barclays participated in a firm commitment offering, the firm was required to deduct a percentage of the value of the securities on its net long position that it committed to purchase, known as an open contractual commitment charge, from its net capital.

Between at least January 2020 and April 2021, Barclays’ supervisory system, including its written procedures for determining whether the firm would take capital charges for firm commitment offerings, was not reasonably designed to achieve compliance with Exchange Act Rule 15c3-1. The firm’s written procedures did not describe how to identify firm commitment underwritings and distinguish them from best efforts offerings. In practice, the firm erroneously treated offerings as firm commitment offerings only when Barclays, as the underwriter, had agreed with the issuer to buy all of the securities allocated to it at an agreed-upon price, but had not secured investors to buy the securities. If an offering was identified as a firm commitment, its impact on the firm’s net capital amount was monitored and included in the net capital computation. To the extent that Barclays investors had committed to purchasing all of the securities at an agreed-upon price when signing the underwriting agreement, the firm incorrectly treated the offerings as best efforts offerings and therefore excluded the offering from consideration when conducting its net capital computation. Consequently, the firm misclassified certain firm

commitment offerings as best efforts offerings, and failed to take the open contractual commitment charge in its net capital computations.

In April 2021, Barclays updated its written procedures to provide for the accurate identification of firm commitment offerings and for taking related open contractual capital charges.

As a result of the foregoing, Respondent violated FINRA Rules 3110(a) and (b) and 2010.

Barclays filed inaccurate FOCUS reports and maintained inaccurate books and records.

FINRA Rule 4511 requires each FINRA member firm to make and preserve books and records as required under FINRA rules, the Exchange Act, and applicable Exchange Act rules.

Exchange Act Rule 17a-3 requires broker-dealers to make and keep current a record of their computation of aggregate indebtedness and net capital, as of the trial balance date. Exchange Act Rule 17a-5 requires every broker-dealer to prepare and file monthly or quarterly FOCUS reports containing certain accounting and financial information, including the firm's minimum required net capital, net capital, and excess net capital.

Inherent in the obligation to make and preserve books and records is the requirement that they be accurate.

A violation of Exchange Act § 17(a), Exchange Act Rules 17a-3 and 17a-5, or FINRA Rule 4511 is also a violation of FINRA Rule 2010, which requires members to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business.

Between January 2020 and April 2021, Barclays inaccurately calculated its net capital when participating in firm commitment securities offerings. Because Barclays misclassified firm commitment offerings as best efforts offerings when computing its net capital, it failed to take the open contractual commitment charge, which caused its net capital computations to be inaccurate. As a result, the firm's general ledger and record of its net capital computations, and 16 FOCUS reports filed by the firm containing amounts based on those computations, overstated the firm's net capital in amounts ranging from approximately \$44 million to \$949 million.²

As a result of the foregoing, Barclays violated Exchange Act § 17(a), Exchange Act Rules 17a-3 and 17a-5, and FINRA Rules 4511 and 2010.

² Although Barclays incorrectly calculated its net capital, the firm maintained sufficient excess net capital to engage in a securities business and participate in the firm commitment offerings for which it served as an underwriter during the relevant period.

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

- a censure and
- a \$1,000,000 fine.

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 after the execution of this AWC, the monetary sanction imposed in this matter.

The sanctions imposed in this AWC shall be effective on a date set by FINRA.

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 its acceptance or rejection.

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 its subject matter 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 right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party. Nothing in this provision affects Respondent's testimonial obligations in any litigation or other legal proceedings.
- 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.

The undersigned, on behalf of Respondent, certifies that a person duly authorized to act on Respondent'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 Respondent 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 in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce Respondent to submit this AWC.

December 27, 2024

Date

Zack Zacharia

Barclays Capital Inc.
Respondent

Print Name: Zack Zacharia

Title: Chief Compliance Officer, Americas

Accepted by FINRA:

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

December 31, 2024

Date

Carolyn Isaac

Carolyn Isaac
Principal Counsel
FINRA
Department of Enforcement
9509 Key West Ave
Rockville, MD 20850