

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2022074183401**

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

RE: Deloitte Corporate Finance, LLC (Respondent)
Member Firm
CRD No. 111747

Pursuant to FINRA Rule 9216, Respondent Deloitte Corporate Finance, LLC (DCF) 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

DCF has been a FINRA member since 2001 and is headquartered in Chicago, Illinois. The firm employs approximately 110 registered representatives and maintains six branch offices. DCF advises clients on mergers, acquisitions, and capital-raising activities. DCF does not have retail customers, underwrite the issuance of or make any market for debt or equity securities, engage in any trading activities, or accept or hold customer funds.

In December 2014, DCF was censured and fined \$75,000 for failure to retain emails and internal instant messages over a six-year period. The firm failed to retain approximately 60,000 internal instant messages and 850,000 emails due to a technological failure.¹

OVERVIEW

Between July 2017 and February 2022, DCF failed to retain business-related iMessages sent and received by its representatives on 95 firm-owned Apple iPhones, in violation of Section 17(a) of the Securities Exchange Act of 1934 (Exchange Act), Rule 17a-4 of the Exchange Act, and FINRA Rules 4511 and 2010.

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

FACTS AND VIOLATIVE CONDUCT

This matter originated from a filing DCF made pursuant to FINRA Rule 4530 on February 23, 2022.

FINRA Rule 4511 requires firms to make and preserve books and records as required under the FINRA rules, the Exchange Act and the applicable Exchange Act rules. Pursuant to Section 17(a) of the Exchange Act and Exchange Act Rule 17a-4, a firm must “preserve for a period of not less than three years, the first two years in an easily accessible place . . . [o]riginals of all communications received and copies of all communications sent by the member . . . (including inter-office memoranda and communications) relating to their business as such.” Accordingly, firms are required to maintain records of business-related electronic communications, including text messages.

A violation of FINRA Rule 4511 and Exchange Act Rule 17a-4 also constitutes a violation of FINRA Rule 2010, which requires FINRA members to “observe high standards of commercial honor and just and equitable principles of trade” in the conduct of their business.

DCF established a system to prevent the use of iMessages but failed to deploy it successfully on all firm-owned iPhones.

Starting in July 2017, DCF permitted firm personnel to utilize text messages for work-related purposes on firm-owned mobile phones. By default, Apple iPhones automatically create end-to-end encrypted iPhone-to-iPhone messages, called iMessages, which DCF’s third-party archiving system does not have the technological capability to capture. Given that DCF knew it could not archive iMessages, DCF sought to disable or block the iMessage function for the iPhones it had previously issued (and for those going forward) so that text messages would be sent as SMS or MMS messages, and thereafter archived by the firm’s third-party service.

In June 2018, when attempting to apply the disabling control to new employees’ iPhones, DCF personnel noticed that the disabling control was not disabling iMessages on new iPhones, possibly because of an issue with a new version of iPhone’s operating system. In July 2018, the DCF individual who was coordinating the deployment of the iMessage disabling control left the firm and that person’s responsibilities were not fully transitioned to a new person. Accordingly, the original blocking control ceased working, or was never applied, on an increasing number of firm-owned iPhones.

In January 2022, a DCF registered representative referenced sending and receiving specific text messages that the firm could not find in its archiving system. Upon investigation, DCF learned that the referenced text messages were iMessages, not SMS or MMS messages, and thus were not being archived by the firm’s third-party system.

DCF thereafter collected firm-owned iPhones from its registered representatives and uploaded 676,000 iMessages² from those iPhones into the firm's archiving system to perform a supervisory review. Only four of the iPhones that DCF collected had the iMessage function disabled, meaning that 95 firm-owned iPhones that were collected were not compliant with DCF's original iMessage blocking control. While conducting the supervisory review, DCF also worked in concert with vendors to deploy a more robust blocking control to disable the iMessage feature on firm-owned iPhones. As a result of the more robust blocking control, text messages are now sent as SMS or MMS messages, which are captured by DCF's third-party service.

Therefore, DCF violated Section 17(a) of the Exchange Act, Rule 17a-4 of the Exchange Act, and FINRA Rules 4511 and 2010.

CREDIT FOR EXTRAORDINARY COOPERATION

In resolving this matter, FINRA has recognized DCF's extraordinary cooperation. The firm discovered the iMessage issue through its own compliance reviews. The firm engaged computer forensic and e-discovery personnel from DCF affiliates to: (1) assess the nature and extent of the iMessage retention problem; (2) collect all available iMessages from DCF iPhones and add them to DCF's archiving system for supervisory review; (3) investigate why the original blocking control stopped working; and (4) develop a more robust blocking control for iMessages on firm-owned iPhones. DCF conducted a comprehensive internal review involving retrieval, review and analysis of multiple data sources and system logs, input from firm IT personnel and the archiving vendor. The firm also provided substantial assistance to FINRA's investigation, which shortened the time needed to investigate this matter. Throughout its review, DCF provided unprompted, detailed, current information to FINRA about the status of its review, findings, and its planned remedial steps.

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

- a censure;
- a \$200,000 fine; and
- An undertaking that, within 60 days of the date of the notice of acceptance of this AWC, a member of Respondent's senior management who is a registered principal of the firm shall certify in writing that, as of the date of the certification, the firm has remediated the issues identified in this AWC and implemented a supervisory system, including written supervisory procedures, reasonably designed to achieve compliance with FINRA Rule 4511 regarding the issues identified in this AWC. The certification shall include a narrative description and supporting exhibits sufficient to demonstrate Respondent's remediation and implementation. FINRA staff may request further evidence of Respondent's

² Since DCF is a firm that provides investment banking services to institutional clients, none of the iMessages related to retail customers.

remediation and implementation, and Respondent agrees to provide such evidence. Respondent shall submit the certification to Sean W. Firley, Senior Counsel, 5200 Town Center Circle, Tower 1, Suite 200, Boca Raton, FL 33486 and to sean.firley@finra.org, with a copy to EnforcementNotice@finra.org. Upon written request showing good cause, FINRA staff may extend this deadline.

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.

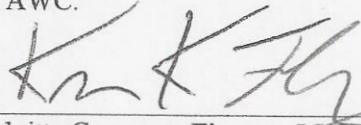
OTHER MATTERS

Respondent understands that:

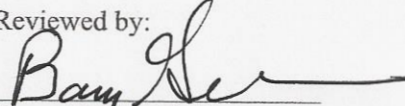
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not 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.

1-6-23
Date


Deloitte Corporate Finance, LLC
Respondent

Print Name: KEVAN K FLANIGAN
Title: CCO

Reviewed by:

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Accepted by FINRA:

January 9, 2023
Date

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


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