

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2022074783101**

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

RE: D. Boral Capital (Respondent)
Member Firm
CRD No. 103792

Pursuant to FINRA Rule 9216, Respondent D. Boral Capital 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

D. Boral Capital has been a FINRA member since 2000. The firm is based in New York, NY, has two branch offices and employs 35 registered representatives. The firm operates a full-service brokerage business primarily with institutional clients.¹

OVERVIEW

Between July 2020 and May 2024, D. Boral Capital conducted a securities business on 96 days while failing to maintain the firm's minimum required net capital. As a result, the firm violated Securities Exchange Act Section 15(c)(3), Exchange Act Rule 15c3-1, and FINRA Rules 4110(b)(1) and 2010.

From July 2020 through May 2024, the firm failed to establish and maintain written supervisory procedures reasonably designed to achieve compliance with net capital requirements. As a result, the firm violated FINRA Rules 3110 and 2010.

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

From April 2022 through November 2023, in connection with its participation in public offerings, the firm failed to file or timely file certain required corporate offering filings. As a result, the firm violated FINRA Rules 5110 and 2010.

For these violations, the firm is censured and fined \$125,000.

FACTS AND VIOLATIVE CONDUCT

These matters originated from FINRA's Risk Monitoring program.

The firm conducted a securities business while failing to maintain its minimum required net capital on 96 days between July 2020 and May 2024.

Exchange Act § 15(c)(3) and Exchange Act Rule 15c3-1 require broker-dealers to maintain certain minimum levels of net capital. FINRA Rule 4110(b)(1) requires a member to suspend all business operations during any period in which it is not in compliance with applicable net capital requirements as set forth in Exchange Act Rule 15c3-1. Violations of Exchange Act § 15(c)(3), Exchange Act Rule 15c3-1, and FINRA Rule 4110(b)(1) also constitute violations of FINRA Rule 2010, which requires members, in the conduct of their business, to "observe high standards of commercial honor and just and equitable principles of trade."

From July 2020 through August 2023, the firm participated in firm commitment offerings as a member of underwriting syndicates. 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 underwriting. When D. Boral 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.

Exchange Act Rule interpretations at Section 15c3-1(c)(2)(viii)(C) provides that a member of an underwriting syndicate in a firm commitment underwriting (the backstop recipient) is not required to take an open contractual commitment charge arising from its underwriting commitment (and, therefore, need not deduct value from its net capital) if that member enters into a written agreement, called a backstop agreement, with another member of the underwriting syndicate for that firm commitment offering (the backstop provider).

Between July 2020 and May 2024, the firm failed to maintain the minimum required net capital on 62 days in connection with 62 firm commitment underwritings. The firm attempted to use agreements to comply with its net capital responsibilities for these offerings, but the agreements did not meet the requirements set out in the interpretations. For 25 offerings, the firm entered into backstop agreements with broker-dealer counterparties that were not a member of the underwriting syndicate, which did not comply with the requirement set out in the interpretations that a backstop provider be a

member of the underwriting syndicate. For 37 of the offerings, the firm entered into “Agreement[s] Among Underwriters” that did not include any of the requirements set out in the interpretations, such as requiring the counterparty to deduct in its net capital computation any applicable open contractual commitment charges or unequivocally requiring the backstop provider to purchase unsold securities allocated to the backstop recipient. As a result, the firm retained its open contractual commitment and corresponding net capital obligations for these 62 firm commitment underwritings, and the firm had net capital deficiencies on 62 days ranging from \$37,000 to \$62 million.

Additionally, between November 2023 and May 2024, the firm failed to maintain its required minimum net capital on 34 additional days. These deficiencies resulted primarily from two causes: (1) a firm principal making capital withdrawals and (2) the misclassification of certain payments received by the firm as income, rather than deferred income. The firm conducted a securities business on each of the days that it was net capital deficient by engaging in investment banking related activities. The net capital deficiencies caused by these issues on these 34 days ranged from approximately \$222,000 to \$765,000.

Therefore, the firm violated Exchange Act § 15(c)(3), Exchange Act Rule 15c3-1, and FINRA Rules 4110(b)(1) and 2010.

The firm failed to establish and maintain written supervisory procedures reasonably designed to achieve compliance with net capital requirements between July 2020 and May 2024.

FINRA Rule 3110(b) requires each member to establish, maintain, and enforce written supervisory procedures (WSPs) 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 Rule 3110 constitutes a violation of FINRA Rule 2010.

From July 2020 through May 2024, the firm’s business included participation in firm commitment underwritings, and it participated in more than 100 such offerings during this period. The firm’s WSPs regarding its Financial and Operational Procedures did not specify how to perform net capital computations in connection with the firm’s participation in firm commitment underwritings. Further, though the firm sought to use agreements with other broker-dealers as a means of complying with the net capital requirements for such offerings, the firm did not maintain any WSPs pertaining to the use of such agreements or provide any guidance regarding the requirements of a valid backstop agreement.

Additionally, the firm failed to establish or maintain any WSPs related to capital withdrawals by owners of the firm to ensure that such withdrawals did not cause the firm to have insufficient net capital.

By failing to establish and maintain WSPs reasonably designed to achieve compliance with net capital requirements, the firm violated FINRA Rules 3110 and 2010.

The firm failed to file documents with FINRA in connection with its participation in public offerings and failed to make other filings on a timely basis.

FINRA Rule 5110(a)(3)(A)(i) requires that a firm that anticipates participating in a public offering of securities that is subject to the rule file with FINRA the documents and information with respect to the offering specified in subparagraphs (a)(4) of the rule no later than three business days after any such documents are filed with, or submitted to, the SEC, unless the documents and information are filed by a member that is responsible for managing the offering or by another member that is in the syndicate or selling group.

A violation of FINRA Rule 5110 also violates FINRA Rule 2010.

From April 2022 through November 2023, the firm failed to make 159 filings required by FINRA Rule 5110(a)(4), including 60 registration statements and amendments, 48 offering memoranda, amendments and supplements, 36 notices of effectiveness, and 15 requests for withdrawal. During the same period, the firm failed to make 41 filings required by FINRA Rule 5110(a)(4) in the time required by subparagraph (a)(3), consisting of 34 registration statements and amendments, three offering memoranda, and four notices of effectiveness.

By failing to file or timely file documents in connection with its participation in public offerings, the firm violated FINRA Rules 5110 and 2010.

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

- a censure and
- a \$125,000 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:

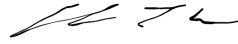
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not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

July 10, 2025

Date



D. Boral Capital
Respondent

Print Name: Ryan Whalen

Title: General Counsel

Reviewed by:



Stephen Cohen
Counsel for Respondent
Loeb & Loeb LLP
345 Park Avenue
New York, NY 10154

Accepted by FINRA:

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

August 5, 2025

Date



Jason Mogel
Senior Counsel
FINRA
Department of Enforcement
99 High Street
Boston, MA 02110