

**THE NASDAQ STOCK MARKET LLC  
NOTICE OF ACCEPTANCE OF AWC**

**Certified, Return Receipt Requested**

**TO: Barclays Capital Inc.  
Ms. Penny Rosenberg  
Director  
745 7th Avenue  
New York, NY 10019**

**FROM: The NASDAQ Stock Market LLC ("Nasdaq")  
c/o Financial Industry Regulatory Authority ("FINRA")  
Department of Market Regulation  
9509 Key West Avenue  
Rockville, MD 20850**

**DATE: April 5, 2017**

**RE: Notice of Acceptance of Letter of Acceptance, Waiver and Consent No. 20130365748-01**

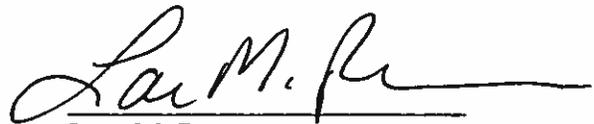
**Please be advised** that your above-referenced Letter of Acceptance, Waiver and Consent ("AWC") has been accepted on **April 5, 2017** by the Nasdaq Review Council's Review Subcommittee, or by the Office of Disciplinary Affairs on behalf of the Nasdaq Review Council, pursuant to Nasdaq Rule 9216. A copy of the AWC is enclosed herewith.

You are again reminded of your obligation, if currently registered, immediately to update your Uniform Application for Broker-Dealer Registration ("Form BD") to reflect the conclusion of this disciplinary action. Additionally, you must also notify FINRA (or NASDAQ if you are not a member of FINRA) in writing of any change of address or other changes required to be made to your Form BD.

You will be notified by the Registration and Disclosure Department regarding sanctions if a suspension has been imposed and by NASDAQ's Finance Department regarding the payment of any fine if a fine has been imposed.

Barclays Capital Inc.  
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If you have any questions concerning this matter, please contact John Hewson, Counsel,  
at (646) 430-7041.

A handwritten signature in black ink, appearing to read "Lara M. Posner", written over a horizontal line.

Lara M. Posner  
Chief Counsel, Legal Section  
Department of Market Regulation, FINRA

Signed on behalf of NASDAQ

Enclosure

FINRA District 10 – New York  
Michael Solomon  
Senior Vice President and Regional Director  
(Via email)

**THE NASDAQ STOCK MARKET LLC**  
**LETTER OF ACCEPTANCE, WAIVER AND CONSENT**  
**NO. 20130365748-01**

TO: The NASDAQ Stock Market LLC  
c/o Department of Market Regulation  
Financial Industry Regulatory Authority (“FINRA”)

RE: Barclays Capital Inc., Respondent  
Broker-Dealer  
CRD No. 19714

Pursuant to Rule 9216 of The NASDAQ Stock Market LLC (“Nasdaq”) Code of Procedure, Barclays Capital Inc. (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, Nasdaq will not bring any future actions against the firm alleging violations based on the same factual findings described herein.

**I.**

**ACCEPTANCE AND CONSENT**

- A. The firm 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 Nasdaq, or to which Nasdaq 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 Nasdaq:

**BACKGROUND**

The firm became a member of FINRA on October 19, 1987 and Nasdaq on July 12, 2006. The firm’s registrations remain in effect. The firm does not have any relevant disciplinary history.

**SUMMARY**

In Review Nos. 20140407384 and 20150481365, FINRA’s Department of Market Regulation (“Market Regulation”) reviewed the firm’s compliance with Rule 15c3-5 of the Securities Exchange Act of 1934 (“Rule 15c3-5”) and related requirements pertaining to Nasdaq supervision rules with respect to trading by the firm on Nasdaq on March 22, 2014 and on December 8, 2015 (the “review period”). These matters were prompted by Nasdaq’s decision to cancel clearly erroneous events in securities “ABCD” and “EFGH” on March 22, 2014 and December 8, 2015, respectively. As a result of its review, Market Regulation found the firm had inadequate risk management controls and supervisory procedures pertaining to market access in violation of Rule 15c3-5 and Nasdaq Rules 3010 and 2010A during the review period.

## FACTS AND VIOLATIVE CONDUCT

1. Rule 15c3-5 is designed to reduce the risks faced by broker-dealers, as well as the markets and the financial system as a whole, as a result of various market access arrangements, by requiring effective financial and regulatory risk management controls reasonably designed to limit financial exposure and ensure compliance with applicable regulatory requirements to be implemented on a market-wide basis.
2. Rule 15c3-5(b) requires, among other things, a broker or dealer with market access, or that provides a customer or any other person with access to an exchange or alternative trading system through use of its market participant, to “establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of this business activity.”
3. Rule 15c3-5(c)(1)(ii) provides that the risk management controls and supervisory procedures required by Rule 15c3-5(b) must be reasonably designed to systematically limit the financial exposure of the broker or dealer that could arise as a result of market access, including being reasonably designed to “[p]revent the entry of erroneous orders, by rejecting orders that exceed appropriate price or size parameters, on an order-by-order basis or over a short period of time, or that indicate duplicative orders.”
4. The firm’s controls were inadequate, as evidenced by the examples below, in that: (a) a soft block price control in the order management system could be inadvertently overridden without additional safeguards; and (b) the firm lacked price controls within a smart order router to prevent the entry of an erroneous order.
5. On May 22, 2014, a firm trader entered an order into the firm’s order management system after the close at 16:01:27 to sell short 111 shares of ABCD with a limit of \$15.27, even though ABCD had closed at \$31.23. The trader received a pop-up alert informing the trader that the price was 5% below the last sale, but he inadvertently overrode it. The order resulted in an execution of 100 shares at \$29.76 and 11 shares at \$15.27 (51% below the last sale).
6. On December 8, 2015, a firm registered representative entered a client order in EFGH into the Firm’s algorithmic trading platform before the market open. The trading platform’s smart order router then routed the EFGH order to Nasdaq using a pegging logic to enter an order to sell 300 shares of EFGH at 9:30:00.495 at the midpoint, based on Nasdaq’s published NBBO of \$8.67 x \$90.00, with a limit price of \$0.0001 as compared to the previous day’s close of \$86.69. As a result, the firm sold 100 shares of EFGH at \$84.69, 100 shares at \$84.34, and 100 shares at \$49.335 (43% below the previous close). The \$49.335 trade was cancelled by Nasdaq. Although the trading platform had price and size controls in place at the time the EFGH order was entered, the order was routed with the smart order router using the pegged logic and the order management controls were bypassed. The smart order router did not apply price controls for orders with pegged instructions.

7. For the foregoing reasons, the firm's risk management controls and supervisory procedures during the review period were not reasonably designed to comply with Rule 15c3-5. Accordingly, the firm violated SEC Rule 15c3-5(b) and 15c3-5(c)(1)(ii), and Nasdaq Rules 3010 and 2010A.
- B. The firm also consents to the imposition of the following sanctions:
1. A censure,
  2. A total fine of \$105,000 (of which \$20,000 shall be paid to Nasdaq for the violations of Rule 15c3-5 and Nasdaq Rules 3010 and 2010A);<sup>1</sup> and
  3. Acceptance of this AWC is conditioned upon acceptance of a similar agreement in a related matter between the firm and Bats EDGA Exchange, Inc. and Bats BZX Exchange, Inc. The aggregate settlement amount across all markets is \$105,000.

The firm agrees to pay the monetary sanction(s) in accordance with its executed Election of Payment Form.

The firm specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

## II.

### WAIVER OF PROCEDURAL RIGHTS

The firm specifically and voluntarily waives the following rights granted under Nasdaq's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against the firm;
- B. To be notified of the Formal 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 Nasdaq Review Council and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, the firm specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Regulatory Officer, the Nasdaq Review Council, or any member of the Nasdaq Review Council, in connection with such person's or body's participation in discussions regarding the

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<sup>1</sup> The balance of the sanction will be paid to Bats EDGA Exchange, Inc. and Bats BZX Exchange, Inc.

terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

The firm further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of Rule 9143 or the separation of functions prohibitions of 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**

The firm 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 FINRA's Department of Market Regulation and the Nasdaq Review Council, the Review Subcommittee, or the Office of Disciplinary Affairs ("ODA"), pursuant to Nasdaq Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the firm; and
- C. If accepted:
  - 1. this AWC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by Nasdaq or any other regulator against the firm;
  - 2. Nasdaq may release this AWC or make a public announcement concerning this agreement and the subject matter thereof in accordance with Nasdaq Rule 8310 and IM-8310-3; and
  - 3. The firm 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. The firm may not take any position in any proceeding brought by or on behalf of Nasdaq, or to which Nasdaq is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the firm's right to take legal or factual positions in litigation or other legal proceedings in which Nasdaq is not a party.
- D. The firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The firm 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 Nasdaq, nor does it reflect the views of Nasdaq or its staff.

The undersigned, on behalf of the 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 the firm to submit it.

3/17/17  
Date

Barclays Capital Inc.  
Respondent

By: Penny Rosenberg  
Name: Penny Rosenberg  
Title: Director

Reviewed by:

\_\_\_\_\_  
Counsel for Respondent  
Firm Name  
Address  
City/State/Zip  
Phone Number

Accepted by Nasdaq:

4/5/2017  
Date

Lara Posner

Lara Posner  
Chief Counsel, Legal Section  
Department of Market Regulation

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

### ELECTION OF PAYMENT FORM

The firm intends to pay the fine proposed in the attached Letter of Acceptance, Waiver and Consent by the following method (check one):

- A firm check or bank check for the full amount;
- Wire transfer;
- The installment payment plan.<sup>2</sup>
  - Monthly
  - Quarterly

Respectfully submitted,

Respondent

Barclays Capital Inc.

3/17/17

Date

By: Penny Rosenberg  
Name: Penny Rosenberg  
Title: Director

### Billing and Payment Contact

Please enter the billing contact information below. Nasdaq MarketWatch will contact you with billing options and payment instructions. **Please DO NOT submit payment until Nasdaq has sent you an invoice.**

Billing Contact Name: Penny Rosenberg  
Billing Contact Address: 745 7th Ave NY NY  
Billing Contact Email: penny.rosenberg@barclays.com  
Billing Contact Phone Number: 212-526-8105

<sup>2</sup> The installment payment plan is only available for a fine of \$50,000 or more. Certain requirements apply.