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January 27, 2016

BY ELECTRONIC MAIL AND FEDERAL EXPRESS

Eun Ah Choi
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: In the Matter of Barclays Capital Inc.

Dear Ms. Choi:

This letter is submitted on behalf of our client, Barclays Capital Inc. (“BCI”) and its affiliates (together, “Barclays”). Barclays hereby requests, pursuant to Rule 506(d)(2)(ii) of Regulation D promulgated under the Securities Act of 1933, as amended (the “Securities Act”), a waiver of any disqualification from relying on the exemption provided by Rule 506 of Regulation D (“Rule 506”) that may be applicable as a result of a cease-and-desist order pursuant to Section 8A of the Securities Act and Sections 15(b) and 21C of the Securities Exchange Act of 1934, as amended (the “Exchange Act”) to be entered against BCI (the “Order”), which is described below.

Barclays PLC is the ultimate holding company of Barclays Bank PLC (“Barclays Bank”) and its subsidiaries (collectively, the “Barclays Group”), whose principal activities are in financial services. Barclays Bank is the main operating company of the Barclays Group. The Barclays Group is engaged in personal banking, credit cards, corporate and investment banking, and wealth and investment management with an extensive international presence in Europe, the Americas, Africa and Asia. The whole of the issued ordinary share capital of Barclays Bank is beneficially owned by Barclays PLC, which is the ultimate holding company of the Barclays Group. BCI is a wholly-

owned indirect subsidiary of Barclays Group US Inc., itself a subsidiary of Barclays PLC, and is organized under Connecticut law and is Barclays' U.S. registered broker-dealer.¹

BACKGROUND

BCI expects to enter into a settlement with the Securities and Exchange Commission (the "Commission" or "SEC") in January 2016, which is expected to result in the Commission issuing the Order. BCI will consent to the entry of the Order, which will find that BCI willfully violated Section 17(a)(2) of the Securities Act, Section 15(c)(3) of the Exchange Act and Rules 15c3-5(c)(1)(i) and Rule 15c3-5(b) thereunder and Rules 301(b)(2) and Rule 301(b)(10) of Regulation ATS as a result of BCI's operation and marketing of Barclays LX ("LX"), an alternative trading system ("ATS") commonly referred to as a "dark pool." The Order will find that, from December 2011 through June 2014, in certain marketing materials and presentations, BCI made materially misleading statements and omitted to state certain material facts necessary to make statements made not misleading concerning (i) the operation of an LX product feature called Liquidity Profiling, which BCI described as a "powerful tool to proactively monitor LX" and as a "sophisticated surveillance framework that protects clients from predatory trading" and (ii) the market data feeds it used in LX. In addition, the Order will find that BCI violated the federal securities laws and regulations related to its market access and its operation of LX, including by failing to establish adequate safeguards and procedures to protect subscribers' confidential trading information and to adopt and implement adequate procedures to ensure that such safeguards and procedures are followed.

Pursuant to the Order, BCI must (i) cease and desist from committing or causing any violations and any future violations of Section 17(a)(2) of the Securities Act, Section 15(c)(3) and Rule 15c3-5 thereunder, and Rules 301(b)(2) and 301(b)(10) of Regulation ATS, (ii) pay a civil money penalty of \$35 million and (iii) comply with certain undertakings, including those described under "Remedial Steps" below.²

DISCUSSION

Barclays understands that the entry of the Order will disqualify it, affiliated entities, and other issuers from relying on the exemption provided by Rule 506. Barclays

¹ BCI is also registered as an Investment Advisor and Futures Commission Merchant.

² In a related matter, Barclays PLC and BCI entered into a settlement agreement with the Attorney General of the State of New York ("NYAG"). Pursuant to the terms of the settlement agreement, Barclays PLC and BCI admitted to a Statement of Facts identical to the Order and that they violated the federal securities laws. Barclays also agreed to pay a monetary penalty of \$35 million and certain remedial undertakings.

is concerned that, should it or any of its affiliated entities be deemed to be an issuer, predecessor of the issuer, affiliated issuer, general partner or managing member of an issuer, promoter, or underwriter of securities, or acting in any other capacity described in Rule 506 for the purposes of Securities Act Rule 506(d)(1)(iv)(B), Barclays, its affiliated issuers, and other issuers with which Barclays or an affiliate of Barclays is associated in one of the above-listed capacities and which rely upon or may rely upon this offering exemption when issuing securities would be prohibited from doing so. The Commission has the authority to waive the Rule 506 disqualifications upon a showing of good cause that such disqualifications are not necessary under the circumstances. *See* 17 C.F.R. § 230.506(d)(2)(ii).

REASONS FOR GRANTING A WAIVER

Barclays respectfully requests that the Commission waive any disqualification that the Order may have under Rule 506 of Regulation D. Barclays believes that the facts support a conclusion that the granting of a waiver would be consistent with the guidelines for relief published by the Division of Corporation Finance.³ Applying the Rule 506 disqualification to Barclays and its affiliates would be disproportionately and unduly severe, for the reasons described below.

Nature of Violations: Responsibility for the Violations

As noted above, the Order will find that, in its operation and marketing of LX, BCI made materially misleading statements and omitted to state certain material facts necessary to make statements made not misleading concerning (i) the operation of an LX product feature called Liquidity Profiling, which BCI described as a “powerful tool to proactively monitor LX” and as a “sophisticated surveillance framework that protects clients from predatory trading” and (ii) the market data feeds it used in LX. In addition, the Order will find that BCI violated the federal securities laws and regulations related to its market access and its operation of LX, including by failing to establish adequate safeguards and procedures to protect subscribers’ confidential trading information and to adopt and implement adequate procedures to ensure that such safeguards and procedures are followed. These violations pertained to offers and sales of securities on LX and did not involve direct offers or sales of securities by Barclays. In addition, these violations are not criminal in nature and are not scienter-based. The employees primarily responsible for the violations of law that will be the subject of the Order were personnel within BCI’s Electronic Trading business unit. None of these individuals was an officer

³ *See* SEC, Division of Corporation Finance, Waivers of Disqualification under Regulation A and Rules 505 and 506 of Regulation D, March 13, 2015, at <https://www.sec.gov/divisions/corpfin/guidance/disqualification-waivers.shtml>.

or held a position on the Board of Directors of Barclays PLC or any of its subsidiaries. There will be no findings that the conduct described in the Order occurred at the direction of senior management of Barclays. Moreover, there is no indication that the wrongdoing reflected “a tone at the top” that condoned or chose to ignore the conduct. Rather, Barclays has accepted responsibility for the conduct of its employees as described in the Order.

Importantly, the Order will not (i) describe fraud in connection with offerings by Barclays PLC, Barclays Bank or any of their subsidiaries of their securities, (ii) state that members of the Board of Directors, the Executive Committee, the Disclosure Committee or the Financial Reporting and Control unit within the Global Finance Department of Barclays PLC knew about the violations or (iii) state that members of the Board of Directors, the Executive Committee, the Disclosure Committee or the Financial Reporting and Control unit within the Global Finance Department of Barclays PLC ignored any warning signs or “red flags” regarding the violations. As a result, Barclays believes that a disqualification under Rule 506 is not necessary for the public interest or the protection of existing and potential investors.

Duration of the Violations

The conduct occurred during a period of approximately two and a half years from December 2011 through June 2014. However, as mentioned above, the conduct was generally isolated to the actions of the BCI personnel in the Electronic Trading business unit, and remedial action, as described below, has been implemented to ensure that the conduct does not reoccur.

Remedial Steps

BCI has implemented and will continue to implement policies and procedures designed to prevent the recurrence of the conduct that will be the subject of the Order, including:

1. ***BCI's Protection of Confidential Client Information.*** In response to the findings of a regularly scheduled December 2013 internal audit of LX operations, BCI introduced a pre-approval and electronic credentialing process to further restrict access to confidential trading information of LX subscribers to only those employees of the ATS who operated the system or were responsible for its compliance in accordance with Regulation ATS. BCI also reviews the group of employees with access to confidential trading information of LX subscribers on a monthly basis;
2. ***BCI's Liquidity Profiling.*** In further response to the findings of the internal audit and regulatory investigations, BCI updated certain of its processes

concerning Liquidity Profiling reviews. Among other changes, Liquidity Profiling reviews of subscribers that route directly to LX are now conducted on a monthly basis. In addition, the processes of overriding the Liquidity Profiling tool's categorization of subscribers ("Overrides") no longer move subscribers from more aggressive to more passive categories; they can only move subscribers from more passive to more aggressive categories;

3. ***BCI's Use of Market Data Feeds.*** As of October 2014, LX began utilizing third party vendor, Exegy, for the purposes of determining the current National Best Bid and Offer ("NBBO"). Exegy calculates the current NBBO based on direct data feeds from all protected venues under Regulation NMS;
4. ***BCI's Pre-Set Credit and Capital Thresholds.*** BCI has taken steps to improve its Market Access compliance, including, among other changes, by disabling use of the OMNI account; and
5. ***BCI's Amendments to Form ATS.*** BCI has filed an amended Form ATS with the Commission, which provides updated, detailed information on the functionality of LX, including the Override process.

Moreover, the Order will require BCI to undertake the following remedial measures:

1. With the assistance of a third-party consultant (the "third-party consultant"), conduct a review of its policies, procedures, practices and compliance related to the following and have the third-party consultant prepare a written report (the "Report") that includes an evaluation of the following:
 - (a) The process by which BCI creates, approves, and disseminates (including how, to whom, and the tracking of such) marketing material, including written presentations and other sales materials concerning LX;
 - (b) BCI's risk management controls and supervisory procedures pertaining to BCI's financial exposure that could arise as a result of its market access, including, but not limited to, its credit and capital thresholds and the prevention of both the entry of orders that would exceed such thresholds;
 - (c) BCI's reporting on its Form ATS of material changes to the operation of LX; and

- (d) BCI's safeguards and procedures to protect ATS subscribers' confidential trading information, including how the ATS limits access to the confidential trading information of subscribers to those employees of the ATS who are operating the system or responsible for its compliance with applicable rules (and, in particular, how the ATS maintains adequate safeguards and procedures in regards to employees or business units of BCI outside of the ATS from accessing ATS subscribers' confidential trading information); and BCI's oversight procedures for ensuring that the safeguards and procedures for protecting subscribers' confidential trading information are followed.⁴
2. Require the third-party consultant within ninety (90) days of the issuance of the Order, unless otherwise extended by Commission staff and/or the NYAG for good cause, to provide BCI, Commission staff, and NYAG with an estimate of the time needed to complete the review, to prepare the Report and to provide a proposed deadline for the Report, subject to the approval of Commission staff and/or NYAG.
 3. Require the third-party consultant to issue the Report by the approved deadline and to provide the Report simultaneously to Commission staff, NYAG and BCI.
 4. Submit to Commission staff, NYAG and the third-party consultant, within thirty (30) days of the third-party consultant's issuance of the Report, the date by which BCI will adopt and implement any recommendations in the Report, subject to Items 4(a)-(c) below and subject to the approval of Commission staff and NYAG.
 - (a) As to any recommendation that BCI considers to be, in whole or in part, unduly burdensome or impractical, BCI may submit in writing to the third-party consultant, Commission staff and NYAG a proposed alternative reasonably designed to accomplish the same objectives, within sixty (60) days of receiving the Report. BCI shall then attempt in good faith to reach an agreement with the third-party consultant relating to each disputed recommendation and request that the third-party consultant reasonably evaluate any alternative proposed by BCI. If, upon evaluating BCI's proposal, the third-party consultant

⁴ To the extent that the third-party consultant engages the services of any other consultant(s) to assist with its work, the third-party consultant shall have complete independence and discretion over the retention and work of any such consultant(s).

determines that the suggested alternative is reasonably designed to accomplish the same objectives as the recommendations in question, then the third-party consultant shall approve the suggested alternative and make the recommendations. If the third-party consultant determines that the suggested alternative is not reasonably designed to accomplish the same objectives, the third-party consultant shall reject or revise BCI's proposal. The third-party consultant shall inform BCI of the third-party consultant's final determination concerning any recommendation that BCI considers to be unduly burdensome or impractical within twenty-one (21) days after the conclusion of the discussion and evaluation by BCI and the third-party consultant.

(b) In the event that BCI and the third-party consultant are unable to agree on an alternative proposal, BCI shall accept the third-party consultant's recommendation(s).

(c) Within thirty (30) days after final agreement is reached on any disputed recommendation, BCI shall submit to the third-party consultant, Commission staff and NYAG the date by which BCI will adopt and implement the agreed-upon recommendation, subject to the approval of Commission staff and NYAG.

5. Adopt and implement, on the timetable set forth by BCI in accordance with Item 4, the recommendations in the Report. BCI shall notify the third-party consultant, Commission staff and NYAG when the recommendations have been implemented.
6. Require the third-party consultant to certify, in writing, to BCI, Commission staff, and NYAG that BCI has implemented the agreed-upon recommendations for which the third-party consultant was responsible. The third-party consultant's certification shall be received within sixty (60) days after BCI has notified the third-party consultant that the recommendations have been implemented.
7. Within one hundred and eighty (180) days from the date of the applicable certification described in Item 6 above, require the third-party consultant to have completed a review of BCI's policies, procedures, and practices described above and submit a final written report ("Final Report") to BCI, Commission staff, and NYAG. The Final Report shall describe the review made of BCI's policies, procedures, and practices and describe how BCI is implementing, enforcing, and auditing the enforcement and implementation of any recommendations by the third-party consultant. The Final Report shall

include an opinion of the third-party consultant on whether the revised policies, procedures, and practices and their implementation and enforcement by BCI and BCI's auditing of the implementation and enforcement of those policies, procedures, and practices are reasonably designed to ensure compliance with the federal securities laws.

8. BCI may apply to Commission staff and/or NYAG for an extension of the deadlines described above before their expiration and, upon a showing of good cause by BCI, Commission staff and/or NYAG may, in its sole discretion, grant such extensions for whatever time period it deems appropriate.
9. BCI shall certify, in writing, compliance with the undertakings set forth above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff and NYAG may make reasonable requests for further evidence of compliance, and BCI agrees to provide such evidence. The certification and supporting material shall be submitted no later than sixty (60) days from the date of the completion of the undertakings.
10. BCI shall require the third-party consultant to enter into an agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the third-party consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with BCI, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity. The agreement will also provide that the third-party consultant will require that any firm with which he/she is currently affiliated or of which he/she is currently a member shall not, without prior written consent of Commission staff and the NYAG, enter into any employment, consultant, attorney-client, auditing or other professional relationship with BCI, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.
11. To ensure the independence of the third-party consultant, BCI shall not have the authority to terminate the third-party consultant without prior written approval of the NYAG and the Commission staff, and shall compensate the third-party consultant and persons engaged to assist the third-party consultant for services rendered pursuant to the Order at their reasonable and customary rates.

Prior Relief

Barclays previously requested and received a waiver regarding disqualification under Rule 506 of Regulation D in 2014 and May 2015. The 2014 waiver related to violations of Sections 204(a), 206(2), 206(3), 206(4) and 207 of the Investment Advisers Act of 1940 (“Advisers Act”), and Rules 204-2, 206(4)-2 and 206(4)-7 thereunder, as a result of certain failures after BCI acquired Lehman Brothers’ investment advisory business in September 2008, including BCI’s failure to (i) enhance its infrastructure to support the new business, (ii) adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act, and (iii) make and keep certain books and records. The May 2015 waiver related to the entry by the U.S. Commodity Futures Trading Commission of (i) an order against Barclays Bank on May 20, 2015, in connection with the actions of certain Barclays employees in the foreign currency exchange spot market and (ii) an order against Barclays PLC, Barclays Bank and BCI on May 20, 2015, in connection with the actions of certain Barclays employees in respect of submissions to the interest rate benchmark, the U.S. Dollar International Swaps and Derivatives Association Fix and transactions related thereto.

The conduct, which was the subject of the previous waiver requests, occurred in different Barclays’ business units and is unrelated to the conduct which is the subject of this waiver request. Barclays believes that, despite past violations, Barclays would be less likely to engage in future conduct as a result of the remediation steps described above.

Impact on Issuer and Third Parties if Waiver is Denied

BCI uses (or participates in transactions using) the exemption provided by Rule 506, including with third parties such as corporate issuers. The ability of BCI to use (or participate in transactions using) such exemption is an integral part of its business strategy. Since the beginning of 2014, BCI has participated in approximately 79 private placement offerings under Section 4(a)(2) of the Securities Act for corporate issuers, raising approximately \$16.63 billion. Two of these private placement offerings (each for the same corporate issuer) were identified as specifically relying on Rule 506, raising approximately \$385 million.

Corporate clients engage BCI on a wide variety of private placements of securities exempt from registration under Section 4(a)(2) of the Securities Act. Consistent with current market practice, it is often unclear at the outset of an engagement whether the issuer will proceed with a private placement under Rule 506 or will choose to rely on another exemption from registration. If Barclays and its affiliates are unable to use the exemption provided by Rule 506, corporate issuers that have entered into, or will enter into, engagements with BCI, will themselves be disqualified from relying on Rule 506.

Thus, even if a corporate issuer ultimately chooses not to conduct a private placement pursuant to Rule 506, it would be unlikely to engage BCI for a private placement so as not to foreclose the option of relying on Rule 506. This would place BCI at a significant competitive disadvantage vis-à-vis other solicitors, promoters or placement agents for Section 4(a)(2) private placement generally. Moreover, if BCI is not able to develop relationships with growing private corporate clients at an early stage through private placement engagements, BCI would be at a further disadvantage relative to its peers in securing mandates from these clients in connection with future initial public offerings and other capital markets transactions or merger and acquisition transactions.

As a result, the disqualification of Barclays and any of its affiliates from using (or participating in transactions using) the exemption provided by Rule 506 would, Barclays believes, have an adverse impact on the third parties that have retained, or may retain in the future, BCI and other entities with which BCI is associated in one of those listed capacities in connection with transactions that rely on this exemption.

In light of the grounds for relief discussed above, we believe that disqualification is not necessary under the circumstances and that Barclays has shown good cause that relief should be granted. Accordingly, we respectfully urge the Commission, pursuant to Rule 506(d)(2)(ii) of Regulation D, to waive the disqualification provision in Rule 506 to the extent they may be applicable as a result of the entry of the Order.⁵

For a period of five years from the date of the Order, Barclays will furnish (or cause to be furnished) to each purchaser in a Rule 506 offering that would otherwise be subject to disqualification under Rule 506(d)(1) as a result of the Order, a description in writing of the Order at a reasonable time prior to sale.

* * *

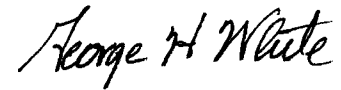
⁵ We note in support of this request that the Commission has recently granted relief under Rule 506 for similar reasons for disqualifications under Securities Act Rule 506(d)(1)(iv)(B). *See, e.g., In the Matter of Guggenheim Partners Investment Management, LLC*, Order Under Rule 506(d) of the Securities Act of 1933 Granting a Waiver of the Rule 506(d)(1)(iv)(B) Disqualification Provision (Release No. 9884, August 10, 2015); *In the Matter of Wells Fargo Advisors, LLC*, Order Under Rule 506(d) of the Securities Act of 1933 Granting a Waiver of the Rule 506(d)(1)(iv)(B) Disqualification Provision (Release No. 9649, September 22, 2014). Barclays is not requesting waivers of the disqualifications from relying on Regulation A and Rule 505 of Regulation D at this time because it does not now use or participate in transactions under such offering exemptions. Barclays understands that it may request such waivers in a separate request if circumstances change.

Eun Ah Choi

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Please do not hesitate to call me at the number listed above if you have any questions.

Very truly yours,

A handwritten signature in black ink that reads "George H. White". The signature is written in a cursive style with a large, prominent 'G' and 'W'.

George H. White