



DIVISION OF
CORPORATION FINANCE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

December 21, 2015

Giovanni P. Prezioso
Clearly Gottlieb Steen & Hamilton LLP
2000 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Re: In the Matter of KCG Americas LLC (NY-08495)
KCG Holdings, Inc. – Waiver Request of Ineligible Issuer Status under Rule 405 of the Securities Act

Dear Mr. Prezioso:

This is in response to your letter dated December 7, 2015, written on behalf of KCG Holdings, Inc. (“Company”) and constituting an application for relief from the Company being considered an “ineligible issuer” under Clause (1)(vi) of the definition of ineligible issuer in Rule 405 of the Securities Act of 1933 (“Securities Act”). The Company requests relief from being considered an “ineligible issuer” under Rule 405, due to the entry on December 21, 2015, of a Commission Order (“Order”) pursuant to Section 8A of the Securities Act and Section 15(b) of the Securities Exchange Act of 1934 naming KCG Americas LLC (“KCG Americas”) as a respondent. The Order requires that, among other things, KCG Americas cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act.

Based on the facts and representations in your letter, and assuming that KCG Americas complies with the Order, the Commission, pursuant to delegated authority has determined that the Company has made a showing of good cause under Clause (2) of the definition of ineligible issuer in Rule 405 and that the Company will not be considered an ineligible issuer by reason of the entry of the Order. Accordingly, the relief described above from the Company being an ineligible issuer under Rule 405 of the Securities Act is hereby granted. Any different facts from those represented or failure to comply with the terms of the Order would require us to revisit our determination that good cause has been shown and could constitute grounds to revoke or further condition the waiver. The Commission reserves the right, in its sole discretion, to revoke or further condition the waiver under those circumstances.

Sincerely,

/s/

Elizabeth Murphy
Associate Director
Division of Corporation Finance

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* ADMITTED ONLY TO A BAR OTHER THAN THAT OF THE DISTRICT OF COLUMBIA.
WORKING UNDER THE SUPERVISION OF PRINCIPALS OF THE WASHINGTON OFFICE.

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December 7, 2015

BY EMAIL AND OVERNIGHT COURIER

Eun Ah Choi, Esq.
Division of Corporation Finance
United States Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: In the Matter of KCG Americas LLC

Dear Ms. Choi:

We submit this letter on behalf of our client, KCG Holdings, Inc. ("KCG"), in connection with the settlement of the above-captioned matter involving its wholly owned broker-dealer subsidiary, KCG Americas LLC ("KCG Americas"), pursuant to the settlement order to be entered into by the U.S. Securities and Exchange Commission (the "Commission") in an administrative proceeding against KCG Americas (the "Order").

Pursuant to Rule 405 ("Rule 405") under the Securities Act of 1933 (the "Securities Act"), KCG respectfully requests that the Commission determine that, for good cause shown, it is not necessary for KCG to be considered an "ineligible issuer" under Rule 405. KCG requests that this determination be made effective immediately upon the entry of the Order.

I. BACKGROUND

The Commission is initiating a settled administrative and cease-and-desist proceeding against KCG Americas under Section 8A of the Securities Act and Sections 15(b)

and 21C of the Securities Exchange Act of 1934 (the “Exchange Act”). As described in the Order, the Commission finds that KCG Americas failed to seek to obtain best execution of certain customer orders and, as a result of such failures, KCG Americas’ representations to its customers that their orders were being handled consistent with best execution requirements were inaccurate. Specifically, as described in the Order, the Commission finds that, from at least 2010 until July 1, 2013, KCG Americas’ systems failed to protect certain customer orders in situations where KCG Americas simultaneously held a pending customer order and an order received through the electronic messaging service offered by OTC Link LLC (“OTC Link”) and filled the customer order first.

Without admitting or denying the matters set forth in the Order, except as to the jurisdiction of the Commission and the subject matter of the proceedings, KCG Americas is consenting to entry of the Order finding that it violated Sections 17(a)(2) and 17(a)(3) of the Securities Act. Pursuant to the Order, the Commission will require KCG Americas to cease and desist from committing or causing any future violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act; censure KCG Americas; and require KCG Americas to pay disgorgement of \$685,900, including prejudgment interest of \$69,297.38, and a civil money penalty of \$300,000.

II. DISCUSSION

KCG has registered its securities pursuant to Section 12(b) of the Exchange Act and files the required periodic disclosure reports. As indicated in its most recent Annual Report on Form 10-K filed on March 2, 2015, KCG currently is a well-known seasoned issuer (“WKSI”). Pursuant to Rule 405, a WKSI is a category of issuer that is eligible for the securities offering reforms adopted by the Commission in 2005,¹ including the ability to, among other things, register securities under an automatic shelf registration statement, as defined in Rule 405, and to use free-writing prospectuses in registered offerings pursuant to Rules 164 and 433 of the Securities Act.

Rule 405 provides that an “ineligible issuer” cannot be treated as a WKSI. An ineligible issuer includes any issuer who, within the past three years, was – or had a subsidiary that was – “made the subject of any . . . administrative decree or order arising out of a governmental action that: (A) [p]rohibits certain conduct or activities regarding, including future violations of, the anti-fraud provisions of the federal securities laws; (B) [r]equires that the person cease and desist from violating the anti-fraud provisions of the federal securities laws; or (C) [d]etermines that the person violated the anti-fraud provisions of the federal securities laws.”² However, Rule 405 authorizes the Commission to determine, “upon a showing of good cause, that it is not necessary under the circumstances that the issuer be considered an ineligible issuer.”³

¹ See Securities Offering Reform, Securities Act Release No. 8591, Exchange Act Release No. 52,056, Investment Company Act Release No. 26,993, 70 Fed. Reg. 44,722, 44,790 (Aug. 3, 2005).

² Rule 405, 17 C.F.R. § 230.405.

³ Rule 405, 17 C.F.R. § 230.405.

Pursuant to Rule 405, unless the Commission grants a waiver of ineligible issuer status, KCG will lose its status as a WKSI upon entry of the Order and for the three-year period after entry of the Order. As an ineligible issuer, KCG would be unable to establish a WKSI shelf and benefit from the other provisions of the 2005 reforms. There is good cause for the Commission to grant a waiver of ineligible issuer status to KCG because the conduct at issue in the Order does not “relate[] to the reliability of the issuer’s current and future disclosures.” See Division of Corporation Finance, “Revised Statement on Well-Known Seasoned Issuer Waivers,” April 24, 2014 (the “Policy Statement”). In fact, the conduct did not involve KCG, the issuer, at all – only the conduct of its broker-dealer subsidiary – and in any event, remedial measures have been implemented to prevent the conduct in the future.

III. REASONS FOR GRANTING A WAIVER

Based on the framework set forth in the Policy Statement, KCG respectfully submits that, for the reasons detailed below, the loss of KCG’s ineligible issuer status is not necessary for the protection of investors and granting its waiver request is in the public interest:

A. Nature of the Violation

The violation at issue in the Order does not involve any activities undertaken by KCG in its role as an issuer of securities or any of its filings with or disclosures to the Commission. Rather, the conduct involves the activity of KCG Americas in its role as a broker-dealer. Such conduct has no impact on the reliability of KCG’s future disclosures and, accordingly, should not result in the loss of KCG’s status as a WKSI.

The Policy Statement explains that the determination of whether to grant a waiver will entail consideration of “the nature of the violation or conviction and whether it involved disclosure for which the issuer or any of its subsidiaries was responsible or calls into question the ability of the issuer to produce reliable disclosure currently and in the future.” Further, it will include a review of “whether the conduct involved a criminal conviction or a scienter based violation.” The issuer’s burden to show good cause for a waiver is significantly greater “[w]here there is a criminal conviction or a scienter based violation involving disclosure for which the issuer or any of its subsidiaries was responsible.”

In this matter, although the Order finds a willful violation of Sections 17(a)(2) and 17(a)(3) of the Securities Act⁴ by the respondent, KCG Americas, it does not find that KCG Americas acted with scienter, *i.e.*, the “intent to deceive, manipulate, or defraud.”⁵ Moreover, the issuer, KCG, did not engage in any misconduct and is not a party to the settlement.

⁴ As noted in the Order, a willful violation of the securities laws means merely “that the person charged with the duty knows what he is doing.” *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)).

⁵ See *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 194 n. 2 (1976).

B. Responsibility for and Duration of the Misconduct

As described in the Order, the violation at issue involved an operating subsidiary, KCG Americas, in relation to the failure to achieve best execution of a category of client orders in the subsidiary's broker-dealer business. The conduct at issue in the Order, which took place from at least 2010 until July 2013, did not call into question the reliability of KCG's disclosures as an issuer of securities.

No employees of KCG or KCG Americas are identified as respondents in this matter. Moreover, the conduct occurred prior to the creation of KCG as a result of a merger between KCG's predecessor – Knight Capital Group, Inc. ("Knight Capital") – and GETCO Holding Company, LLC ("GETCO") in July 2013. Since the merger was implemented, GETCO's management has taken control of the merged entity. In connection with the merger, KCG appointed a new Chief Executive Officer; General Counsel and Chief Legal Officer; and Chief Operating Officer and Chief Risk Officer, among others. The new Chief Operating Officer and Chief Risk Officer was appointed to also serve as the head of KCG Americas. The Knight Capital executives formerly in these roles, who would have previously been involved in the company's disclosures as an issuer of securities, were not involved in any of the conduct at issue in the Order. KCG's current senior management was not present at the time the conduct occurred.

C. Remedial Steps Taken by the Issuer

As described above, the conduct at issue in the Order did not involve, or have an impact on, the reliability of KCG's disclosures. Further, the company cooperated fully with the Commission's investigation. Once the issue was discovered, KCG Americas promptly and voluntarily implemented remedial measures to prevent the conduct from occurring in the future, including by (1) analyzing the issue and architecting logic for an automated report that would identify orders in which customers' fills with respect to securities quoted on OTC Link are not at or better than prices available through OTC Link; (2) running the automated report against historical data to ascertain the scope of the issue; (3) implementing new automated daily notifications of potential best execution exceptions, effective as of July 2013, to facilitate supervisory procedures aimed at detecting such occurrences; and (4) requiring customers to be notified of any such occurrences and be given the opportunity to either obtain cash compensation for the price difference or adjust the trade.

Additionally, after learning of the conduct at issue in the Order, the Desk Supervisor instructed the relevant personnel about their best execution obligations in this context. More specifically, in November 2012, the Head of Cash Trading for KCG Americas met with the firm's Chief Compliance Officer for Cash Trading to review the systems in place to protect customer orders in situations where both a customer order and an OTC Link message were simultaneously in hand but the customer order was executed first. At or about that time, the Head of Cash Trading also discussed the issue with the firm's OTC traders and informed them that, in circumstances where they were aware that they simultaneously held a customer order and received an OTC Link message, they were required to protect the customer order. Further, at or about the time KCG Americas implemented its automated surveillance report, the

subject was discussed again by the Head of Cash Trading with the Firm's OTC Traders, including to inform traders that the firm had implemented the automated report and that the support desk would be providing notice and opportunity for compensation or trade adjustments as described above.

D. Impact on the Issuer

KCG believes that the consequences of the loss of its status as an ineligible issuer would be disproportionately severe relative to the conduct described in the Order – which, as noted above, involved a non-scienter-based violation of the securities laws by a non-issuer subsidiary that has no impact on the reliability of KCG's future disclosures. The loss of KCG's status as a WKSI could make future attempts by KCG to raise debt or equity capital more costly and time consuming.⁶

Since the 2013 merger, KCG has focused significant efforts on the integration and operation of Knight Capital and GETCO. During that time, it has met its capital needs primarily through the incurrence of debt, both in the form of unregistered note issuances and credit facilities. As it moves forward, KCG anticipates that the issuance of securities through the public offering process will constitute a significant feature of its capital-raising and financing activities. The ability to quickly and efficiently raise capital through public offerings will provide KCG with the flexibility to pursue acquisitions and investments in the future and will allow its management to execute on its strategic goals without constraints on liquidity. Future public equity offerings by KCG or certain large shareholders with registration rights will also increase KCG's "public float" and thus diversify its shareholder base.

Additionally, KCG is obligated, subject to the terms of a Registration Rights Agreement with certain large shareholders, to file a shelf registration statement on Form S-3 in July 2016, upon expiration of the initial shelf registration statement currently still in effect. Loss of WKSI status thus also potentially imposes a heightened burden on KCG in meeting its obligations under the Registration Rights Agreement.

Moreover, as an ineligible issuer, KCG Holdings would be disadvantaged by losing the ability to establish a WKSI shelf and to (1) file new automatically effective shelf registration statement or post-effective amendments pursuant to a WKSI shelf registration; (2) omit certain information from the prospectus; and (3) utilize the pay-as-you-go fees for offerings from the WKSI Shelf (as an ineligible issuer, KCG would be required to pay all relevant fees at the time of registration). KCG also would lose its ability to use free writing prospectuses – a tool that allows issuers to convey information to investors in a user-friendly format.

* * *

⁶ We note that, as a result of a recent modified Dutch auction tender offer, KCG specifically identified potential loss of WKSI status as a "Risk Factor" in its two most recent 10-Q filings, consistent with the concerns identified in this letter.

Eun Ah Choi, Esq.

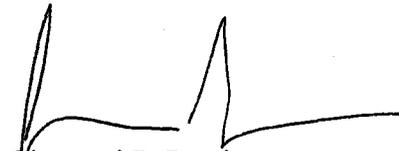
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As described above, granting KCG's waiver request would be consistent with the public interest and the protection of investors, particularly since the conduct at issue in the Order involved a non-scienter based violation of the securities law related to the activities of a non-issuer subsidiary of KCG and is unrelated to the reliability of KCG's current or future disclosures. KCG thus respectfully requests that the Commission grant its request for waiver of ineligible issuer status.

If you have any questions or require any additional information, please do not hesitate to contact me at (202) 974-1650 or by email at gprezioso@cgsh.com.

Sincerely yours,



Giovanni P. Prezioso