

June 28, 2023

## Broker Dealer Settles FINRA Charges for Inadequate Review of Order Execution Quality



An introducing broker-dealer [settled](#) FINRA charges for inadequate review of order execution quality and a variety of disclosure failures.

In a Letter of Acceptance, Waiver and Consent, FINRA stated that the broker-dealer's execution quality review was limited to the analysis of quarterly reports provided by its clearing firm. FINRA found these reviews to be lacking any information about the quality of executions potentially derived from competing markets. Further, FINRA found that the broker-dealer lacked a supervisory system to (i) evaluate its compliance with best execution obligations and (ii) provide direction on conducting execution quality reviews. As a result, FINRA found that the broker-dealer violated FINRA Rules [5310\(a\)](#) ("Best Execution and Interpositioning"), [5310.09\(a\)](#) and (b) ("Regular and Rigorous Review of Execution Quality"), [2010](#) ("Standards of Commercial Honor and Principles of Trade") and [3110](#) ("Supervision").

In addition, FINRA determined that the broker-dealer violated Exchange Act [Rule 607\(a\)](#) ("Customer account statements") and FINRA Rule 2010 by failing to provide customers with timely written disclosure of its payment for order flow arrangements. FINRA also found the broker-dealer violated [Rule 2210\(d\)\(1\)\(A\)](#) ("Communications with the Public") by providing less than clear retail sales disclosures, *i.e.*, the broker-dealer (i) disclosed that it "may" receive payment for order flow, instead of stating that it did in fact receive such payments, (ii) provided a marketing tool that highlighted positive historical performance without disclaiming that past performance is not a guarantee of futures results and (iii) touted its commission free trades, but omitted disclosure of the related service fees.

To settle the charges, the broker-dealer agreed to a censure and a \$500,000 fine.

### Primary Sources

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1. FINRA AWC: Opening to the Public Investing, Inc.

### Premium Content

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Available only to Premium subscribers.

- FINRA Rule 5310: Best Execution and Interpositioning
- FINRA Rule 2010: Standards of Commercial Honor and Principles of Trade
- FINRA Rule 3110: Supervision
- FINRA Rule 2210: Communications with the Public
- SEC Regulation NMS: National Market System (17 CFR 242 Rules 600 to 614)

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