

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2014038906201**

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

RE: BestVest Investments, Ltd. ("BestVest" or the "Firm"), Respondent
CRD No. 40302

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent BestVest 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 BestVest alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. I hereby accept and consent, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA 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 FINRA:

BACKGROUND

BestVest has been a FINRA member since 1996 and is headquartered in Media, Pennsylvania. BestVest engages in a general securities business. The Firm employs approximately 22 registered representatives at seven branch offices.

RELEVANT DISCIPLINARY HISTORY

BestVest has no relevant disciplinary history with the Securities and Exchange Commission, any state securities regulator, or any self-regulatory organization.

OVERVIEW

From January 2012 through August 2014 (the "Relevant Period"), BestVest failed to establish and maintain a supervisory system, including written procedures, reasonably designed to monitor transactions in leveraged, inverse, and inverse-leveraged exchange-traded funds (collectively, "Non-Traditional ETFs"). Based on the foregoing, BestVest violated NASD Conduct Rule 3010 and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

Non-Traditional ETFs are designed to return a multiple of an underlying index or benchmark, the inverse of that benchmark, or both, over only the course of one trading session—usually a single day. As a result, the performance of Non-Traditional ETFs over periods of time longer than a single trading session “can differ significantly from the performance ... of their underlying index or benchmark during the same period of time.”

FINRA Regulatory Notice 09-31. Because of these risks and the inherent complexity of these products, FINRA has advised broker-dealers and their representatives that Non-Traditional ETFs “are typically not suitable for retail investors who plan to hold them for more than one trading session, particularly in volatile markets.” *Id.*

During the Relevant Period, BestVest allowed its representatives to recommend and sell Non-Traditional ETFs to customers. Throughout this time, BestVest’s written supervisory procedures did not address the sale or supervision of Non-Traditional ETFs. Also, despite the unique features and notable risk factors of Non-Traditional ETFs, BestVest did not provide its representatives or supervisors with any training or other guidance specific to whether and when Non-Traditional ETFs might be appropriate for their customers. In addition, BestVest did not use or make available to its supervisory personnel any reports or other tools to monitor transactions with respect to Non-Traditional ETFs, including the length of time that customers held open positions in Non-Traditional ETFs.

Through this conduct, BestVest failed to establish and maintain a supervisory system, including written policies and procedures, regarding the sale of Non-Traditional ETFs that was reasonably designed to achieve compliance with applicable securities laws and regulations, thereby violating NASD Conduct Rule 3010 and FINRA Rule 2010.

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

- A censure; and
- A fine in the amount of \$15,000.

BestVest agrees to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are due and payable. BestVest has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

BestVest specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

Restitution is ordered to be paid to the customer listed on Attachment A hereto in the total amount of \$2,132.31, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), from March 28, 2013 until the date this AWC is accepted by the NAC.

A registered principal on behalf of BestVest shall submit satisfactory proof of payment of restitution or of reasonable and documented efforts undertaken to effect restitution. Such proof shall be submitted either by letter to Karen C. Daly, Principal Regional Counsel, 1835 Market Street, Philadelphia, PA 19103, or by email from a work-related account of the registered principal of Respondent firm to EnforcementNotice@FINRA.org. The letter or email should identify BestVest and include the case number. This proof shall be provided to the FINRA staff member or email address listed above no later than 120 days after acceptance of the AWC.

If for any reason BestVest cannot locate the customer identified in Attachment A after reasonable and documented efforts within 120 days from the date the AWC is accepted, or such additional period agreed to by a FINRA staff member in writing, BestVest shall forward any undistributed restitution and interest to the appropriate escheat, unclaimed property or abandoned property fund for the state in which the customer is last known to have resided. BestVest shall provide satisfactory proof of such action to the FINRA staff member identified above and in the manner described above, within 14 days of forwarding the undistributed restitution and interest to the appropriate state authority.

The imposition of a restitution order or any other monetary sanction herein, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies.

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

II.

WAIVER OF PROCEDURAL RIGHTS

BestVest 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, BestVest 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 acceptance or rejection of this AWC.

BestVest 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

BestVest 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 the Firm; and
- C. If accepted:
 - 1. this AWC will become part of BestVest's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against the Firm;
 - 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 the subject matter thereof in accordance with FINRA Rule 8313; and
 - 4. BestVest 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. BestVest 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 the Firm's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

- D. BestVest may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. BestVest 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 or its staff.

The undersigned, on behalf of BestVest, 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 BestVest has agreed to its 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.

6/26/2015
Date (mm/dd/yyyy)


Respondent BestVest Investments, Ltd.

By: JAMES W. O'CONNOR, PRES.

Reviewed by:

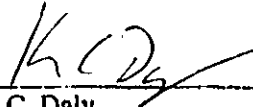


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Accepted by FINRA:

July 20, 2015
Date

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



Karen C. Daly
Principal Regional Counsel
FINRA Department of Enforcement
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Philadelphia, PA 19103
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ATTACHMENT A

Restitution in the amount of \$2,132.31, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), shall be paid to customer WB.