

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2015047602803**

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

RE: Michael S. Androulakis, Respondent
General Securities Representative
CRD No. 2793638

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, I submit 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 me 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

Michael Androulakis ("Androulakis" or "Respondent") entered the securities industry in 1996 as a non-registered employee with a FINRA member firm. Since that time, Androulakis has been associated with three FINRA member firms, including Legend Securities, Inc. ("Legend" or the "Firm"), where he was registered from September 2010 through June 2016. At Legend, Androulakis worked as a registered representative out of the Firm's main office, located at 45 Broadway, New York, NY. Androulakis has been registered with another FINRA member firm since that time, and is subject to FINRA's jurisdiction.

Androulakis obtained his Series 7 (General Securities Representative) license in 2001 and his 63 (Uniform Securities Agent State Law) license in 2002.

RELEVANT DISCIPLINARY HISTORY

Androulakis has no prior relevant disciplinary history with the Securities and Exchange Commission, any state securities agency, FINRA or any other self-regulatory

organization.

OVERVIEW

Between October 2014 through April 2016 (the “Relevant Period”), while Androulakis was registered with Legend, Androulakis violated FINRA Rules 2111 and 2010 by failing to have a reasonable basis to recommend and effect 24 unsuitable Leveraged Exchange Traded Fund (“Non-Traditional ETF”) transactions in the accounts of three senior citizen customers.

Androulakis’ customers held the Non-Traditional ETFs for periods as long as 531 days, despite the fact that these Non-Traditional ETFs were short-term trading vehicles not meant to be held for extended periods. In total, the customers invested over \$177,000 resulting in losses of approximately \$42,000.

FACTS AND VIOLATIVE CONDUCT

The Non-Traditional ETFs at issue in this matter are leveraged, or seek to deliver multiples of the performance of an underlying index. The Non-Traditional ETFs recommended by Androulakis used a factor of three times the underlying index, or the inverse of that benchmark, over the course of one trading session, which typically was a single trading day. As noted in FINRA Regulatory Notice 09-31 regarding Non-Traditional ETFs, “due to the effect of compounding, their performance over longer periods of time can differ significantly from the performance (or inverse of the performance) of their underlying index or benchmark during the same period of time.” Because of these risks and the inherent complexity of the 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.”¹

FINRA Rule 2111 requires that, in recommending the purchase, sale, or exchange of any security by a customer, the member “must have a reasonable basis to believe that a recommended transaction or investment strategy involving a security or securities is suitable for the customer” given the customer’s financial situation and needs. The reasonable-basis suitability obligation under FINRA Rule 2111 requires a broker-dealer and its registered representatives to perform reasonable due diligence to understand the nature of a recommended security, as well as the potential risks and rewards. As FINRA has stated, “[w]ith respect to leveraged and inverse ETFs, this means that a firm must understand the terms and features of the funds, including how they are designed to perform, how they achieve that objective, and the impact that market volatility, the ETF’s use of leverage, and the customer’s intended holding period will have on their performance.”²

A violation of FINRA Rule 2111 is also violation of FINRA Rule 2010, which states that

¹ FINRA Regulatory Notice 09-31.

² *Id.*

a "member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade."

During the Relevant Period, Androulakis made unsuitable recommendations to three customers to invest in Non-Traditional ETFs and hold such positions for extended periods of time. Androulakis recommended and effected 24 transactions in four different Non-Traditional ETFs in his customer's accounts. In total, the customers invested over \$177,000 resulting in losses of approximately \$42,000.

- Customer TB was 65 years old when he opened his account. Androulakis recommended and effected 11 unsuitable Non-Traditional ETF trades in Customer TB's account, and Customer TB invested a total of \$130,625.80 in these Non-Traditional ETFs. Customer TB held the positions in the Non-Traditional ETFs for 91, 97, 106 and 126 days, resulting in losses of \$31,173.66.
- Customer CW was 69 years old when he opened his account. Customer CW invested a total of \$40,358.70 in these Non-Traditional ETFs and held the positions for 68, 88 and 129 days, resulting in losses of \$7,045.39.
- Customer RG was 79 years old when he opened his account. Customer RG invested a total of \$6,435 in these Non-Traditional ETFs and held the positions for 489 and 531 days, resulting in losses of \$3,905.86.

Androulakis lacked a sufficient understanding of the Non-Traditional ETFs at issue, and therefore lacked a reasonable basis upon which to recommend the purchases to his customers. Androulakis did not conduct the required diligence to understand the investment, and demonstrated his lack of understanding by holding the Non-Traditional ETFs for unreasonably long periods - as long as 531 days - despite the fact that these Non-Traditional ETFs were short-term trading vehicles not meant to be held for extended periods.

In addition, as Androulakis did not understand the true risks associated with Non-Traditional ETFs, such as the increased risks associated with the use of leverage, there was no way for him to accurately determine whether the Non-Traditional ETFs were suitable for any particular customer.

By recommending and effecting unsuitable transactions in Non-Traditional ETFs, without having a reasonable basis for recommending the transactions, Androulakis violated FINRA Rules 2111 and 2010.

B. I also consent to the imposition of the following sanctions:

- A three-month suspension from association with any FINRA member firm in any capacity;
- A fine in the amount of \$5,000; and

- The requirement that within 60 days of the date of the Notice of Acceptance of this AWC, Androulakis will undertake to attend and satisfactorily complete ten hours of continuing education concerning complex products, which includes exchange traded funds, by a provider not unacceptable to FINRA. Within 30 days of following completion of such training, Androulakis will submit written proof that the continuing education program has been satisfactorily completed. Such proof shall be submitted by letter to David Friedman — FINRA Department of Enforcement, Brookfield Place, 200 Liberty Street, New York, NY 10281, and by email to David.Friedman@FINRA.org and FINRANotice@FINRA.org. All correspondence must identify the Respondent and Matter No. 2015047602803.

I agree to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. I have submitted an Election of Payment form showing the method by which I propose to pay the fine imposed.

I specifically and voluntarily waive any right to claim that I am unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

I understand that if I am barred or suspended from associating with any FINRA member, I become subject to a statutory disqualification as that term is defined in Article III, Section 4 of FINRA's By-Laws, incorporating Section 3(a)(39) of the Securities Exchange Act of 1934. Accordingly, I may not be associated with any FINRA member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension (see FINRA Rules 8310 and 8311).

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

II.

WAIVER OF PROCEDURAL RIGHTS

I specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against me;
- 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, I specifically and voluntarily waive 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.

I further specifically and voluntarily waive 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

I understand 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 me; and
- C. If accepted:
 - 1. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against me;
 - 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. I 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. I 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 my: (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. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I 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.

I certify that I have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that I have 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 me to submit it.

2-20-18
Date (mm/dd/yyyy)

Michael S. Androulakis
Michael S. Androulakis

Reviewed by:

Scott Holcomb
Scott Holcomb
Holcomb & Ward, LLP
Counsel for Respondent
3399 Peachtree Road NE, Suite 400
Atlanta, Georgia 30326
(404) 601-2803

Accepted by FINRA:

3/20/18
Date

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

Susan Light
Susan Light
Sr. Vice President & Chief Counsel
FINRA Department of Enforcement
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