

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20160493818-01**

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

RE: Merrill Lynch, Pierce, Fenner & Smith Incorporated, Respondent
Broker-Dealer
CRD No. 7691

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Merrill Lynch, Pierce, Fenner & Smith Incorporated (the "firm" or "Respondent") 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 Respondent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent hereby accepts and consents, 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 & RELEVANT DISCIPLINARY HISTORY

The firm became a member of FINRA on January 26, 1937, and its registration remains in effect. The firm has no relevant disciplinary history.

SUMMARY

Matter no. 20160493818 emanated from a self-report submitted by the firm which concerned its failure to report certain municipal repurchase agreements ("repos") to the Municipal Securities Rulemaking Board's ("MSRB") Real-time Reporting System ("RTRS") during the period of October 14, 2010 through February 1, 2016 (the "review period"). After a further review by the Municipal Bonds Team of the Department of Market Regulation (the "staff") of the firm's municipal trade reporting and related supervision, the firm violated MSRB Rules G-14(b) and G-27 as follows.

FACTS AND VIOLATIVE CONDUCT

1. During the review period, the firm failed to report 22,592 repo transactions effected in municipal securities to RTRS. These transactions represented 100 percent of the transactions the relevant desk was required to report. The conduct described in this paragraph constitutes separate and distinct violations of MSRB Rule G-14(b).

2. During the review period, the supervisory system on the desk responsible for effecting the relevant repo transactions did not provide for supervision reasonable designed to achieve compliance with respect to the applicable securities laws and regulations, and the MSRB rules, concerning the reporting of transactions in municipal securities. Specifically, the desk responsible for effecting the relevant repo transactions did not include written supervisory procedures ("WSPs") providing for: (1) the identification of the person(s) responsible for supervision with respect to the applicable rules; (2) a statement of the supervisory step(s) to be taken by the identified person(s); (3) a statement as to how often such person(s) should take such steps; and (4) a statement as to how the completion of the step(s) included in the WSPs should be documented. The conduct described in this paragraph constitutes a violation of MSRB Rule G-27.

OTHER FACTORS

Consistent with Regulatory Notice 08-70, "FINRA Provides Guidance Regarding Credit for Extraordinary Cooperation," dated November 2008, the mitigated monetary sanction in this matter reflects the firm's self-reporting of the violations described above.¹

- B. Respondent also consents to the imposition of the following sanctions:

A censure and a fine of \$22,500 (comprised of a fine of \$12,500 for the violations of MSRB Rule G-14(b) and a \$10,000 fine for violating MSRB Rule G-27).

Respondent agrees to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. It has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

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

II.

WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against the firm;
- B. To be notified of the Complaint and have the opportunity to answer the allegations in writing;

¹ See Regulatory Notice 08-70.

- 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, Respondent 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.

Respondent 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

Respondent 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 Respondent; and
- C. If accepted:
 - 1. this AWC will become part of the firm'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. Respondent 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. Respondent 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. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The firm 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 the firm, 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 it has agreed to the AWC's 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.

7/25/17
Date

Respondent
Merrill Lynch, Pierce, Fenner & Smith Incorporated

By: [Signature]
Name: LAURA CHEPUKAWAGE
Title: Managing Director

Reviewed by:

[Signature]

Attorney Name: David Montague, Associate General Counsel
Counsel for Respondent:
Firm Name: Merrill Lynch, Pierce, Fenner & Smith Incorporated
Address: 50 Rockefeller Plaza, 7th Floor
City/State/Zip: New York, NY 10020
Phone Number: (646) 556-2440

Accepted by FINRA:

8/17/17
Date

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

[Signature]

Tina Salehi Gubb
Chief Counsel
FINRA Department of Market Regulation