

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2016049867901**

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

RE: Cowen and Company, LLC, Respondent
Broker-Dealer
CRD No. 7616

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Cowen and Company, LLC (the "firm" or "Respondent") 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 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

The firm became a member of FINRA on May 23, 1978 and its registration remains in effect. The firm is a full-service investment banking and securities brokerage firm that publishes and provides research and brokerage services to institutional customers.

RELEVANT DISCIPLINARY HISTORY

On October 31, 2016, FINRA accepted an AWC in which the firm was censured and fined \$35,000, which included a fine of \$10,000 for Order Audit Trail System ("OATS") reporting violations that occurred in January 2015.

On March 23, 2015, FINRA accepted an AWC in which the firm was censured and fined \$25,000 for OATS reporting violations for two matters with conduct that occurred from April 2, 2012 through May 31, 2013 and from February 22, 2013 through October 3, 2013.

SUMMARY

During the period January 1, 2015 through April 2018 (the "Relevant Period"), the firm failed to transmit and/or transmitted inaccurate order information to OATS, in violation of FINRA Rule 7450. In addition, during the Relevant Period, the firm failed to establish and maintain a supervisory system, including written supervisory procedures, reasonably designed to achieve compliance with its OATS reporting obligations, in violation of FINRA Rules 3110 and 2010.

FACTS AND VIOLATIVE CONDUCT

1. FINRA Rule 7450 requires Reporting Members¹ to transmit to OATS a report containing applicable order information whenever an order is originated, received, transmitted to another department within the member or to another member, modified, canceled, or executed.
2. FINRA Rule 3110 requires members to establish and maintain a system, including written supervisory procedures, to supervise the activities of associated persons that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules.
3. FINRA Rule 2010 requires members to, in the conduct of business, observe high standards of commercial honor and just and equitable principles of trade.
4. During the Relevant Period, the firm submitted certain Route Reports ("RTs") subsequent to an order modification (cancel/replace) that linked to the Firm Order ID ("FOID") of the original order instead of the modified order. Because the RT subsequent to the cancel/replace linked back to the original FOID, instead of the new FOID for the replaced order, the sequencing of events within the order lifecycle was inaccurate. Because FINRA uses OATS data as an integral part of its automated market surveillance program to detect customer harm, manipulative activity, and other potential violations of FINRA rules and federal securities laws, a failure to transmit Reportable Order Events ("ROEs"), or the transmission of inaccurate or incomplete ROEs, can hamper FINRA's ability to detect potentially violative conduct and/or create false positive alerts requiring the expenditure of unnecessary resources to resolve the alerts. Moreover, these failures also caused the audit trail to be inaccurate.
5. During the period January 1, 2015 through October 31, 2017, the firm transmitted to OATS 23,882,352 reports that contained inaccurate, incomplete, or improperly

¹ A Reporting Member is a member that receives or originates an order, and has an obligation to record and report the order to OATS.

formatted data. Specifically, the ROEs contained inaccurate FOIDs. These inaccurate ROEs represented 9.17% of all ROEs that the firm transmitted to OATS during this time period. Additionally, during the period November 2017 through April 2018, the firm transmitted an additional 13,973,601 ROEs to OATS with inaccurate FOIDs, representing 10.15% of all ROEs that the firm transmitted to OATS for that period. This conduct resulted from two issues: (a) the firm's misunderstanding of its FOID reporting obligation; and (b) the misreporting of a certain type of order that was unique to a recently-acquired broker-dealer. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 7450.

6. In addition, during the period March 9, 2017 through July 25, 2017, the firm failed to transmit 13,585,099 ROEs to OATS. These 13,585,099 ROEs represented 27.27% of the firm's total OATS reporting obligation during this period. This conduct resulted from a vendor issue that occurred when maintenance was being performed on an OATS-reporting server. The server issue was resolved on July 25, 2017 and the firm resubmitted the 13,585,099 ROEs to OATS in August and September 2017. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 7450.
7. During the Relevant Period, the firm failed to establish and maintain a supervisory system, including written supervisory procedures, reasonably designed to ensure that the firm complied with its OATS reporting obligation. While the firm's written supervisory procedures included a review of the OATS Website and OATS Report Cards, reviews of that nature will not show whether all required ROEs were submitted to OATS or whether the information submitted to OATS was accurate. The conduct described in this paragraph constitutes a violation of FINRA Rules 2010 and 3110.

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

1. A censure;
2. A fine of \$175,000 (comprised of \$135,000 for the OATS reporting violations and \$40,000 for the OATS supervision violation); and,
3. An undertaking to revise the firm's supervisory system and written supervisory procedures with respect to the area described in paragraph I.A.7, above. Within 30 business days of acceptance of this AWC by the National Adjudicatory Council ("NAC"), a registered principal of the firm shall submit to the **COMPLIANCE ASSISTANT, DEPARTMENT OF ENFORCEMENT, 15200 OMEGA DRIVE, SUITE 300, ROCKVILLE, MD 20850**, a signed, dated letter, or an email from a work-related account of the registered principal to

MarketRegulationComp@finra.org, providing the following information: (a) a reference to this matter; (b) a representation that the firm has addressed and corrected the deficiency described in paragraph I.A.7, above; and (c) the date the deficient procedures were addressed and corrected by the firm.

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;
- 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.

3/8/19
Date

Respondent
Cowen and Company, LLC

By: [Signature]

Name: STEVEN COHEN

Title: CCO

Reviewed by:

Attorney Name
Counsel for Respondent
Firm Name
Address
City/State/Zip
Phone Number

Accepted by FINRA:

3/18/19
Date

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

[Signature]
Carly M. Kostakos
Senior Counsel
FINRA Department of Enforcement