

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2017052326501**

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

RE: H. Beck, Inc. (CRD No. 1763)
Respondent

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent H. Beck, Inc. ("H. Beck," 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 H. Beck alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. H. Beck 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

H. Beck has been a member of FINRA since 1954. H. Beck is headquartered in Rockville, Maryland, and has approximately 681 registered persons and approximately 406 registered branch offices.

RELEVANT DISCIPLINARY HISTORY

In March 2015, H. Beck entered into an AWC (No. 2012031552601) in which it consented to findings that it, among other things, failed to establish a reasonably-designed supervisory system and WSPs regarding representatives' use of consolidated reports. H. Beck was censured and fined \$425,000.

OVERVIEW

From January 2013 through August 2018, H. Beck failed to establish and maintain a supervisory system, and failed to establish, maintain, and enforce WSPs, reasonably designed to achieve compliance with applicable securities

laws, regulations, and FINRA rules concerning multi-share class variable annuities. Based on the foregoing, H. Beck violated NASD Rule 3010 and FINRA Rules 2330, 3110, and 2010.

Additionally, from March 2016 through April 2017, H. Beck failed to enforce its WSPs regarding consolidated reports issued by registered representatives to customers. Based on the foregoing, H. Beck violated FINRA Rules 3110 and 2010.

FACTS AND VIOLATIVE CONDUCT

A. H. Beck Failed to Supervise Variable Annuity Share Class Recommendations

Variable annuities are contracts between an investor and an issuing company, whereby an issuing company promises to make periodic payments to the investor or a beneficiary designated by the investor. Variable annuities allow customers to choose from an array of contract features and options, including various share classes and optional riders.

From January 2013 through August 2018, H. Beck sold variable annuity contracts with the option of different share classes, including B-share contracts and L-share contracts. B-share contracts are the most common share class sold in the industry and typically have a seven-year surrender period. L-share contracts have relatively short surrender periods, generally three to four years. Insurance companies design L-share contracts so that customers pay a higher fee in exchange for the increased liquidity provided by the shorter surrender period. Consequently, the annual fees associated with L-share contracts often are between 35 and 50 basis points higher than most B-share contracts.

Because L-share contracts generally charge higher fees for the life of the contract than comparable B-share contracts, L-share contracts raise suitability concerns when sold to customers with long-term time horizons. These concerns are even more pronounced where an L-share contract is combined with a long-term rider such as a Guaranteed Minimum Income Benefit Rider (GMIB) or Guaranteed Minimum Withdrawal Benefit Rider (GMWB) because these riders often require the customer to hold the variable annuity for five years or longer (*i.e.*, longer than the contract's surrender period) in order to obtain the full benefit.

Applicable Rules

NASD Rule 3010 and FINRA Rule 3110¹ require member firms to establish and maintain a supervisory system, and establish, maintain, and enforce WSPs, reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules.

¹ FINRA Rule 3110 replaced NASD Rule 3010 effective December 1, 2014.

In addition to the general supervisory requirements of NASD Rule 3010 and FINRA Rule 3110, FINRA Rule 2330(d) specifically requires member firms to establish and maintain specific WSPs reasonably designed to achieve compliance with the standards set forth in FINRA Rule 2330 regarding the recommendation of variable annuities. Among other requirements, FINRA Rule 2330(b) provides that no member or associated person shall recommend the purchase of a variable annuity unless the member or person has a reasonable basis to believe that “the customer has been informed, in general terms, of various features of deferred variable annuities, such as the potential surrender period and surrender charge ... [and] potential charges for and features of riders” and that “the particular deferred variable annuity as a whole ... and riders and similar product enhancements, if any, are suitable ... for the particular customer.” In addition, FINRA Rule 2330(e) requires firms to develop training policies or programs for registered representatives who sell, and for registered principals who review transactions in, deferred variable annuities that are reasonably designed to ensure that those individuals comply with the requirements of FINRA Rule 2330 and “understand the material features of deferred variable annuities . . . ,” including “mortality and expense fees; investment advisory fees; [and] potential charges for and features of riders.”

H. Beck's Supervisory System and WSPs

From January 2013 through August 2018, H. Beck sold a substantial amount of variable annuities to its customers. For example, for the two-year period from January 2013 through December 2014 alone, the Firm sold at least 7,001 variable annuity contracts with revenues of approximately \$ 34.9 million, including approximately 2,835 L-share contracts with revenues of about \$ 13.3 million. Moreover, many of these L-share contracts had long-term riders, and some were sold to customers with long-term investment horizons.

Notwithstanding the volume of variable annuities it sold, the Firm failed to establish and maintain a supervisory system, and failed to establish, maintain, and enforce WSPs, reasonably designed to achieve compliance with applicable FINRA rules regarding the suitability of brokers' variable annuity recommendations.

With respect to its WSPs, the Firm's procedures failed to address suitability considerations for sales of different variable annuity share classes. Indeed, none of the Firm's WSPs addressed the suitability considerations pertaining to the fees, costs, and surrender periods associated with different variable annuity share classes. Similarly, the Firm's WSPs were silent as to the potential suitability concerns raised by the sale of L-share contracts to customers with long-term time horizons and particularly when combined with long-term riders.²

² H. Beck stopped selling L-shares with long-term riders in March 2017.

With respect to its supervisory system, H. Beck failed to provide sufficient training to its registered representatives and reviewing principals to ensure that they understood the material features of variable annuities, as required by FINRA Rule 2330(e). Specifically, the variable annuity training provided by the Firm failed to address the suitability considerations raised by the sale of L-share contracts with long-term income riders.

By virtue of the foregoing, H. Beck violated NASD Rule 3010 and FINRA Rules 2330, 3110, and 2010.

B. H. Beck Failed to Enforce its Written Supervisory Procedures for Consolidated Reports

A consolidated report is a document provided by a registered representative to a customer that combines account information regarding most or all of a customer's assets. In April 2010, FINRA issued Regulatory Notice 10-19, which reminded member firms that consolidated reports represent communications with the public, and must be clear, accurate, and compliant with federal securities laws and FINRA rules. The Notice cautioned that consolidated reports, "[i]f not rigorously supervised ... can raise a number of regulatory concerns, including the potential for communicating inaccurate, confusing or misleading information to customers ... and the use of these reports for fraudulent or unethical purposes."

Accordingly, Notice 10-19 directed that any firm that permitted registered representatives to provide consolidated reports to customers "must ensure that the size and complexity of the consolidated reporting program does not exceed the firm's ability to supervise the activity and to subject it to a rigorous system of internal controls." The Notice further cautioned that if consolidated reports could not be properly supervised, then the member firm must prohibit its representatives from disseminating them to customers.

H. Beck's WSPs

In response to the consolidated report violation that was one of the subjects of the 2015 AWC cited above (No. 2012031552601), H. Beck implemented new WSPs for consolidated reports. The Firm's newly-established procedures defined "re-created" consolidated reports as any reports created by registered representatives using certain third-party data systems or any reports containing manual entries made by the representatives. H. Beck required representatives to submit a template of the consolidated report to the Firm's advertising compliance department for pre-approval to confirm that the reports complied with the Firm's mandatory requirements. In addition, H. Beck's WSPs provided that, after approval, representatives were required to submit consolidated reports to Firm compliance principals, who were required to conduct a "heightened review" of 25% of the reports. The stated purpose of the heightened review was to ensure that the consolidated reports were in the correct format, contained the required disclosures, and were accurate, and that the representatives had sufficient

documentation supporting their manual entries. H. Beck's WSPs prohibited representatives from presenting manually calculated performance data, such as percentage changes in accounts, in consolidated reports. In addition, the Firm's procedures required branch auditors to review consolidated reports during branch inspections to ensure compliance with the Firm's WSPs for consolidated reports.

From March 2016 to April 2017, H. Beck failed to enforce its WSPs for consolidated reports in several respects. First, in certain instances, H. Beck failed to conduct the mandated heightened review of a sample of the consolidated reports created by representatives. Second, the Firm failed to enforce its prohibition against manually calculated performance data in consolidated reports; indeed, one representative of the Firm issued 192 consolidated reports to customers that contained such manually calculated data. Third, the Firm's branch office inspection personnel failed to review consolidated reports on certain occasions while conducting inspections of branch offices. As a result, the Firm failed to detect instances where representatives issued consolidated reports that failed to comply with its WSPs. For example, H. Beck failed to detect that certain consolidated reports containing manually calculated data were sent to Firm customers, as noted above. The Firm also failed to detect certain consolidated reports sent to Firm customers with manual entries that lacked documentary support.

By virtue of the foregoing, H. Beck violated FINRA Rules 3110 and 2010.

B. H. Beck also consents to the imposition of the following sanctions:

- censure;
- a fine of \$400,000; and
- Certification Regarding Supervision of Multi-Share Class Variable Annuities: H. Beck shall review and revise, as necessary, the Firm's systems, policies, and procedures (written and otherwise) and training with respect to the areas described in Section I.A. of this AWC. Within 90 business days of the date this AWC is accepted, the President of the Firm shall certify in writing to David F. Newman, Senior Counsel, at the address listed below, that with respect to the areas described in Section I.A. of this AWC: (i) the Firm has engaged in the review described above; and (ii) as of the date of the certification, the Firm has established and implemented systems and policies and procedures (written or otherwise) that are reasonably designed to achieve compliance with the applicable FINRA and NASD Rules cited herein.

H. Beck agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. H. Beck has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

H. Beck specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction 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 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, 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

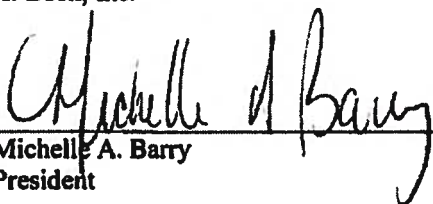
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- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against Respondent; and
- C. If accepted:
 - 1. this AWC will become part of the Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against it;
 - 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 Respondent'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. Respondent 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 the Firm 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.

H. Beck, Inc.

10/11/2018
Date (mm/dd/yyyy)

By: 
Michelle A. Barry
President

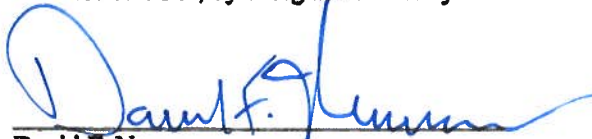
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Accepted by FINRA:

November 20, 2018
Date

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


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