

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2017054001501**

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

RE: Wells Fargo Clearing Services, LLC (Respondent)
Member Firm
CRD No. 19616

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Wells Fargo Clearing Services, LLC 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 in this AWC.

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

Respondent has been a member of FINRA since July 1987. Respondent has its headquarters in St. Louis, Missouri, and is the successor to several FINRA member firms, including Wells Fargo Advisors, LLC. Respondent has approximately 25,000 registered representatives and approximately 6,000 branches nationwide. Respondent does not have any relevant disciplinary history.

OVERVIEW

From October 1, 2016, through June 12, 2018, Respondent failed to make accurate order memoranda in violation of Rule 17a-3(a)(6) under the Securities Exchange Act of 1934 and FINRA Rules 4511 and 2010, and transmitted inaccurate reports to the Order Audit Trail System (OATS) in violation of FINRA Rules 7450 and 2010.

FACTS AND VIOLATIVE CONDUCT

1. Exchange Act Rule 17a-3(a)(6) requires broker-dealers to make and keep a memorandum of each brokerage order given or received for the purchase or sale of securities, except the purchase or sale of a security-based swap, whether executed or unexecuted. Among other things, the memorandum must show the time the order was received. The obligation to make and keep records current inherently includes the requirement that such records be accurate.

2. FINRA Rule 4511(a) requires “[m]embers [to] make and preserve books and records as required under the FINRA rules, the Exchange Act and applicable Exchange Act rules.”
3. FINRA Rule 7450(a) provides that all applicable order information required to be recorded under FINRA Rule 7440 shall be transmitted to OATS. FINRA Rule 7440(b) states that the order origination or receipt time is the time the order is received from the customer, and Rule 7440(b)(16) requires firms to record the date and time an order is received. FINRA Rule 7440(b)(18) requires firms to report the type of account for which the order is submitted. FINRA uses order information from OATS to conduct surveillance and investigations of member firms for violations of numerous FINRA rules and federal securities laws. Inaccurate order receipt times in OATS submissions can interfere with these functions.
4. FINRA Rule 2010 requires a member, in the conduct of its business, to observe high standards of commercial honor and just and equitable principles of trade. A violation of the Exchange Act or another FINRA rule constitutes a violation of FINRA Rule 2010.
5. From October 1, 2016, through June 12, 2018, Respondent failed to make and preserve accurate books and records as prescribed by Exchange Act Rule 17a-3(a)(6) and FINRA Rule 4511. Specifically, the firm failed to record an accurate order receipt time in certain situations when registered representatives entered the order receipt time manually. Generally, orders were entered into the firm’s system immediately upon receipt from the customer, and the system automatically appended the order receipt time and order entry time to the order record. In some instances, when the order was not immediately entered into the firm’s system, the registered representative first had to record the order on paper, and then enter all the terms and conditions, including manually entering the order receipt time, into the system. The most common examples of these instances occurred when large orders required approval, or other unique situations where, after receiving the order from the customer, the registered representative had to seek approval from his or her manager or others before entering the order into the firm’s system. In these instances, some registered representatives entered inaccurate order receipt times into the firm’s system.
6. Respondent’s registered representatives entered inaccurate order receipt times in different ways. Although OATS requires reporting in eastern military time, some of Respondent’s registered representatives entered order times reflecting another time zone or in 12-hour time. In addition, some of Respondent’s registered representatives entered orders with “00” seconds in the time stamp when “00” seconds was inaccurate.

7. Respondent recorded inaccurate order receipt times on 114,394 order memoranda.
8. By virtue of the foregoing, Respondent violated Exchange Act Rule 17a-3(a)(6) and FINRA Rules 4511 and 2010.
9. In addition, Respondent populated the order receipt time field in its OATS submissions with the time that was entered in its order management system. Thus, the inclusion of inaccurate receipt times in Respondent's system also caused the firm to submit 114,394 inaccurate submissions to OATS. By virtue of the foregoing, Respondent violated FINRA Rules 7450 and 2010.
10. During the fourth quarter of 2016, Respondent also failed to report a desk receipt time stamp to OATS in 38 instances out of a sample of 50. The failure to report was caused by an automation issue; Respondent's system was not set up to report desk receipt times to OATS. By virtue of the foregoing, Respondent violated FINRA Rules 7450 and 2010.
11. Finally, during the fourth quarter of 2016, for seven orders out of a sample of 50, Respondent reported the orders to OATS with an Account Type Code "X," which is used when an order is originated in a firm's error account. These instances involved trade corrections of customer orders, but Respondent failed to submit reports with the Account Type Code "I" for the customer orders that were corrected. Based on OATS guidance issued by FINRA, in situations involving the use of the error account to rectify an error made in the handling of a customer order, firms must submit both a report with the Account Type Code "I" for the customer order and a report with the Account Type Code "X" for the order entered or executed for the firm's error account. By virtue of the foregoing, Respondent violated FINRA Rules 7450 and 2010 in seven separate and distinct instances.

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

- a censure and
- a fine of \$75,000.

Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Respondent 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 an inability to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

The sanctions imposed in this AWC shall be effective on a date set by FINRA.

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 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 Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against Respondent;
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 testimonial obligations or 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 Respondent, certifies that a person duly authorized to act on Respondent's 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 Respondent 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 in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce Respondent to submit this AWC.

November 24, 2020

Date

Philip Lombardo

Wells Fargo Clearing Services, LLC
Respondent

Print Name: Philip Lombardo

Title: WFA Business Leader

Reviewed by:

Meghan H. Pietoso

Meghan H. Pietoso
Counsel for Respondent
Wells Fargo Legal Department
One North Jefferson Ave.
St. Louis, MO 63103

Accepted by FINRA:

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

November 25, 2020

Date

W. Kwame Anthony

W. Kwame Anthony
Senior Counsel
FINRA
Department of Enforcement
Brookfield Place
200 Liberty Street
New York, NY 10281-1003