

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2017055996901**

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

RE: Piper Sandler & Co. (f/k/a Sandler O'Neill & Partners, L.P) (Respondent)
Member Firm
CRD No. 665

Pursuant to FINRA Rule 9216, Respondent Piper Sandler & Co. 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

Sandler, O'Neill & Partners, L.P. (Sandler), CRD No. 23328, became a member of FINRA in November 1988. In January 2020, Sandler merged with Piper Jaffray & Co.,¹ CRD No. 665, becoming Piper Sandler & Co. (Piper or the firm). The resulting firm is a full-service investment banking firm and broker-dealer. The firm maintains its headquarters in Minneapolis, MN and employs approximately 1,200 registered representatives across 56 branch offices.²

OVERVIEW

During the periods April 1, 2017 through June 30, 2018 and October 1, 2019 through December 31, 2019 (collectively, the review period³), Piper participated in 34 distributions of securities in which it was late in filing, or failed to file, the notifications required under FINRA Rule 5190, which is in place to monitor compliance with the

¹ Piper Jaffray & Co. became a member of FINRA in October 1936.

² For more information about the firm, including prior regulatory events, visit BrokerCheck® at www.finra.org/brokercheck.

³ The review period refers to when the relevant offerings were completed; not when notifications should have been filed.

provisions of Regulation M of the Securities Exchange Act of 1934. These failures were caused by administrative errors, failures to monitor publicly available information that triggers requirements to provide notice, and misunderstandings as to the requirements to provide notice.

Piper also failed to establish, maintain, and enforce written supervisory procedures (WSPs) reasonably designed to achieve compliance with FINRA notification requirements. While the firm maintained operational procedures regarding what steps to take when filing Regulation M notifications, it did not conduct any supervisory reviews to ensure that the notifications were filed timely or accurately.

As a result, Piper violated FINRA Rules 5190(c)(1)(A), 5190(c)(1)(B), 5190(d), 3110(b) and 2010.

FACTS AND VIOLATIVE CONDUCT

This matter arose from multiple surveillance alerts indicating Piper failed to timely submit Regulation M-related notifications to FINRA, Nasdaq, NYSE Arca, and/or NYSE American.

Regulation M, promulgated under the Securities Exchange Act of 1934, is the SEC's principal anti-manipulation provision that applies to securities offerings and is used, in part, as a prophylactic measure to prevent distribution participants from: (a) influencing offerings in which it has an interest in a successful outcome and (b) conditioning the market in order to facilitate a distribution.

FINRA Rule 5190 sets forth notice requirements that are applicable to all members participating in offerings of securities for purposes of monitoring compliance with the provisions of Regulation M.

FINRA Rule 2010 requires members, in the conduct of their business, to observe high standards of commercial honor and just and equitable principles of trade.

Regulation M Restricted Period Notifications

In connection with distributions of securities, broker-dealers must comply with relevant notification rules. FINRA Rule 5190(c)(1)(A) requires members that are acting as a manager, or in a similar capacity, of a distribution of a security to provide written notification to FINRA regarding the determination as to whether a one-day or five-day restricted period applies under Rule 101 of Regulation M (Rule 101) and the basis for such determination,⁴ the contemplated date and time of the commencement of the restricted period, the security name and symbol, and the identification of the distribution participants and affiliated purchasers. The notification must be submitted no later than the business day prior to the first complete trading session of the applicable restricted period.

⁴ The length of the restricted period depends on the average daily trading value and the value of the public float.

In each of the ten distributions below, Piper assumed the obligation of filing the Restricted Period Notifications required by FINRA Rule 5190(c)(1)(A) as a manager, or in a similar capacity.

During the review period, the firm failed to submit Restricted Period Notifications to FINRA in a timely manner in connection with the following ten distributions:

- For a follow-on distribution⁵ on behalf of Issuer “A,” the firm should have submitted a Restricted Period Notification by April 3, 2017 but did not submit until April 5, 2017.⁶
- For a follow-on distribution on behalf of Issuer “B,” the firm should have submitted a Restricted Period Notification by April 25, 2017 but did not submit until April 26, 2017.
- For an IPO distribution on behalf of Issuer “C,” the firm should have submitted a Restricted Period Notification by May 1, 2017 but did not submit until May 3, 2017.
- For an IPO distribution on behalf of Issuer “D,” the firm should have submitted a Restricted Period Notification by June 19, 2017 but did not submit until June 28, 2017.
- For a merger distribution on behalf of Issuer “E,” the firm should have submitted a Restricted Period Notification by October 10, 2017 but did not submit until October 12, 2017.
- For an IPO distribution on behalf of Issuer “F,” the firm should have submitted a Restricted Period Notification by November 9, 2017 but did not submit until November 16, 2017.
- For an IPO distribution on behalf of Issuer “G,” the firm should have submitted a Restricted Period Notification by March 6, 2018 but did not submit until March 16, 2018.
- For a merger distribution on behalf of Issuer “H,” the firm should have submitted a Restricted Period Notification by March 12, 2018 but did not submit until March 13, 2018.
- For a follow-on distribution on behalf of Issuer “I,” the firm should have submitted a Restricted Period Notification by April 11, 2018 but did not submit until April 13, 2018.
- For an at-the-market (ATM) distribution⁷ on behalf of Issuer “FF,” the firm should have submitted a Restricted Period Notification by August 23, 2019 but the firm failed to submit a notification.

⁵ A follow-on distribution is a second offering from a company where the company places new shares into the market.

⁶ Generic symbols are used in place of the names of the referenced securities.

⁷ An ATM distribution is a type of follow-on offering of stock where exchange-listed companies incrementally sell newly issued shares into the secondary trading market through a designated broker-dealer at prevailing market prices.

With respect to the two merger distributions identified above, the restricted period began on the day proxy solicitation or offering materials were disseminated to security holders.⁸ In both distributions, the proxy statements/prospectuses, which indicated when the documents would be furnished to shareholders, were filed with the SEC and publicly available at least one week prior to the date they were furnished to shareholders, giving the firm an opportunity to determine when the relevant restricted period began. Piper nonetheless filed Restricted Period Notifications late for the two merger distributions.

With respect to the four IPO distributions identified above, the restricted period began five days prior to the determination of the offering price. Piper, however, based its notification submissions on the expected date of the first completed trading session. Due to the firm's misunderstanding of its reporting obligation, Piper filed Restricted Period Notifications late for the four IPO distributions.

The remaining four violations occurred due to administrative errors committed by the firm.

Therefore, in ten instances, Piper violated FINRA Rules 5190(c)(1)(A) and 2010.

Regulation M Trading Notifications

FINRA Rule 5190(c)(1)(B) requires members that are acting as a manager, or in a similar capacity, of a distribution of a security to provide written notification to FINRA regarding the pricing of the distribution, the security name and symbol, the pricing basis, the effective date and time, the trade date, the restricted period, and the identification of the distribution participants and affiliated purchasers. The notification must be submitted no later than the close of business the next business day following the pricing of the distribution.

In each of the five distributions below, Piper assumed the obligations of filing the Trading Notifications required by FINRA Rule 5190(c)(1)(B) as a manager, or in a similar capacity.

During the review period, the firm failed to submit Trading Notifications to FINRA in a timely manner in connection with the following five distributions:

- For a Private Investment in Public Equity (PIPE) distribution⁹ on behalf of Issuer "J," the firm should have submitted a Trading Notification by April 20, 2017 but did not submit until April 21, 2017.
- For a PIPE distribution on behalf of Issuer "K," the firm should have submitted a Trading Notification by April 25, 2017 but did not submit until April 27, 2017.
- For an IPO distribution on behalf of Issuer "L," the firm should have submitted a

⁸ Rule 100(b) of Regulation M.

⁹ A PIPE distribution is a private placement of a public issuer's equity or equity-linked securities to investors.

- Trading Notification by March 15, 2018 but did not submit until March 16, 2018.
- For a merger distribution on behalf of Issuer “H,” the firm should have submitted a Trading Notification by March 28, 2018 but did not submit until April 3, 2018.
- For a merger distribution on behalf of Issuer “C,” the firm should have submitted a Trading Notification by May 22, 2018 but did not submit until May 30, 2018.

With respect to the two merger distributions identified above, the offering price is not agreed upon until the shareholders vote in favor of the transaction.¹⁰ As such, the date of the shareholder meeting is the pricing date for merger distributions. Piper’s practice, however, was to file Trading Notifications as soon as practicable after the discovery of the outcome of the shareholder vote. Due to the firm’s misunderstanding of its reporting obligations, the firm filed Trading Notifications late for the two merger distributions.

The remaining three violations occurred due to administrative errors committed by the firm.

Therefore, in five instances, Piper violated FINRA Rules 5190(c)(1)(B) and 2010.

Regulation M Trading Notifications for Actively Traded Securities

FINRA Rule 5190(d) requires members that are acting as a manager, or in a similar capacity, of a distribution of a security that is considered “actively traded” under Rule 101 to provide a Trading Notification to FINRA of the member’s determination that no restricted period applies under Rule 101 and the basis for that determination.¹¹ The notification must be submitted no later than the close of business the next business day following the pricing of the distribution.

In each of the 21 distributions below, Piper assumed the obligation of filing the Trading Notifications required by FINRA Rule 5190(d) as a manager, or in a similar capacity.

During the review period, the firm failed to submit Trading Notifications to FINRA in a timely manner in connection with the following 21 distributions of securities that were considered “actively traded” under Rule 101:

- For a merger distribution on behalf of Issuer “M,” the firm should have submitted a Trading Notification by March 1, 2017 but did not submit until March 2, 2017.
- For a merger distribution on behalf of Issuer “N,” the firm should have submitted a Trading Notification by May 18, 2017 but did not submit until May 19, 2017.
- For an ATM distribution on behalf of Issuer “O,” the firm should have submitted a Trading Notification by June 1, 2017 but did not submit until June 22, 2017.

¹⁰ SEC Frequently Asked Questions About Regulation M, Staff Legal Bulletin No. 9 (October 27, 1999; Revised November 22, 2019).

¹¹ Rule 101 defines an “actively traded” security as a security that has an average daily trading volume value of at least \$1,000,000 and is issued by an issuer whose common equity securities have a public float value of at least \$150,000,000; provided, however, that such security is not issued by the distribution participant or an affiliate of the distribution participant.

- For a merger distribution on behalf of Issuer “P,” the firm should have submitted a Trading Notification by June 7, 2017 but did not submit until June 8, 2017.
- For a merger distribution on behalf of Issuer “Q,” the firm should have submitted a Trading Notification by June 29, 2017 but did not submit until July 3, 2017.
- For a merger distribution on behalf of Issuer “R,” the firm should have submitted a Trading Notification by October 13, 2017 but did not submit until October 23, 2017.
- For a merger distribution on behalf of Issuer “R,” the firm should have submitted a Trading Notification by October 20, 2017 but did not submit until October 23, 2017.
- For a merger distribution on behalf of Issuer “S,” the firm should have submitted a Trading Notification by October 26, 2017 but did not submit until October 27, 2017.
- For a merger distribution on behalf of Issuer “T,” the firm should have submitted a Trading Notification by October 31, 2017 but did not submit until November 1, 2017.
- For an ATM distribution on behalf of Issuer “O,” the firm should have submitted a Trading Notification by November 7, 2017 but did not submit until November 9, 2017.
- For a merger distribution on behalf of Issuer “U,” the firm should have submitted a Trading Notification by November 8, 2017 but did not submit until November 9, 2017.
- For an ATM distribution on behalf of Issuer “V,” the firm should have submitted a Trading Notification by November 8, 2017 but did not submit until November 9, 2017.
- For a merger distribution on behalf of Issuer “W,” the firm should have submitted a Trading Notification by December 5, 2017 but did not submit until December 6, 2017.
- For a merger distribution on behalf of Issuer “X,” the firm should have submitted a Trading Notification by January 5, 2018 but did not submit until January 8, 2018.
- For a merger distribution on behalf of Issuer “Y,” the firm should have submitted a Trading Notification by February 12, 2018 but did not submit until February 13, 2018.
- For a merger distribution on behalf of Issuer “Z,” the firm should have submitted a Trading Notification by February 23, 2018 but did not submit until February 28, 2018.
- For a merger distribution on behalf of Issuer “AA,” the firm should have submitted a Trading Notification by March 2, 2018 but did not submit until March 5, 2018.
- For an ATM distribution on behalf of Issuer “BB,” the firm should have submitted a Trading Notification by March 7, 2018 but did not submit until March 26, 2018.
- For a merger distribution on behalf of Issuer “CC,” the firm should have submitted a Trading Notification by April 11, 2018 but did not submit until June 1, 2018.

- For a merger distribution on behalf of Issuer “DD,” the firm should have submitted a Trading Notification by May 2, 2018 but did not submit until May 7, 2018.
- For an acquisition distribution on behalf of Issuer “EE,” the firm should have submitted a Trading Notification by June 8, 2018 but did not submit until June 18, 2018.

With respect to the 17 merger and acquisition distributions identified above, the offering price is not agreed upon until the shareholders vote in favor of the transaction. As such, the date of the shareholder meeting is the pricing date for merger and acquisitions. The date of shareholder meetings, which is included in proxy statements and prospectuses that are filed with the SEC, is publicly available information. Piper’s practice, however, was to file Trading Notifications as soon as practicable after the discovery of the outcome of the shareholder vote. Due to the firm’s misunderstanding of its reporting obligations, the firm filed Trading Notifications late for the 17 merger and acquisition distributions.

The remaining four violations occurred due to administrative errors committed by the firm.

Therefore, in 21 instances, Piper violated FINRA Rules 5190(d) and 2010.

Supervision

FINRA Rule 3110(b) requires members to establish, maintain, and enforce written procedures to supervise the types of business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules.

During the review period, the firm failed to establish, maintain, and enforce written procedures to supervise the types of business in which it engages and the activities of its associated persons that were reasonably designed to achieve compliance with FINRA Rule 5190.

The firm’s WSPs that were in effect in 2017 and 2018 failed to provide for any supervisory reviews to ensure its compliance with FINRA Rule 5190. The WSPs generally restated the requirements of FINRA Rule 5190 and set forth the operational steps individuals were to take when submitting a Regulation M notification to FINRA, but failed to provide for any means by which the firm would supervise to ensure that those requirements would be met.

Therefore, Piper violated FINRA Rules 3110(b) and 2010.

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

- a censure and
- an aggregate \$85,000 fine, of which \$28,000 is payable to FINRA.

Acceptance of this AWC is conditioned upon acceptance of similar settlement agreements in related matters between the firm and each of the following self-regulatory organizations: (i) The Nasdaq Stock Market LLC; (ii) NYSE Arca, Inc.; and (iii) NYSE American LLC.

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 after the execution of this AWC, 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 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 its acceptance or rejection.

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 action 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 its subject matter 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.

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.

July 20, 2021

Date

Bridget Wherley

Piper Sandler & Co.
Respondent

Print Name: Bridget wherley

Title: Chief Compliance Officer

Reviewed by:

David S. Petron

David S. Petron
Counsel for Respondent
Sidley Austin LLP
1501 K Street, NW
Washington, DC 20005

Accepted by FINRA:

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

August 4, 2021

Date

Carly M. Kostakos

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