

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2017056128501**

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

RE: Evercore Group L.L.C. (Respondent)
Member Firm
CRD No. 42405

Pursuant to FINRA Rule 9216, Respondent Evercore Group L.L.C. 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 accepts and consents to the following findings by FINRA without admitting or denying them:

BACKGROUND

Evercore has been a FINRA member since April 1997. The firm has approximately 1,150 registered individuals, is headquartered in New York City, and has 13 branch offices. The firm's main business lines include sales and trading and investment banking. Its trading activity includes providing customers with algorithmic and market access solutions.¹

OVERVIEW

During various periods between at least July 2017 and May 2023, Evercore failed to establish, document, and maintain reasonably designed market access risk management controls and supervisory procedures. In particular, the firm failed to establish certain reasonably designed credit threshold controls and certain price and size erroneous order controls and supervisory procedures. Further, the firm failed to establish a reasonable supervisory system concerning soft block reviews and modifications to existing controls. Finally, the firm failed to establish a reasonable system for annual reviews of the effectiveness of its market access risk controls and supervisory procedures. As a result, Evercore violated Section 15(c)(3) of the Securities Exchange Act of 1934, Exchange Act Rule 15c3-5, and FINRA Rules 3110(a) and 2010.

¹ For more information about the firm, including prior regulatory events, visit BrokerCheck® at www.finra.org/brokercheck.

FACTS AND VIOLATIVE CONDUCT

Relevant rules and guidance

Exchange Act § 15(c)(3) prohibits broker-dealers from contravening the rules and regulations prescribed by the Securities and Exchange Commission (SEC) to “provide safeguards with respect to the financial responsibility and related practices of brokers and dealers.”

Exchange Act Rule 15c3-5(b) requires that a “broker or dealer with market access, or that provides a customer or any other person with access to an exchange or alternative trading system through use of its market participant identifier or otherwise, shall establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of this business activity.”

Exchange Act Rule 15c3-5(c)(1)(i) requires broker-dealers with market access to establish financial risk management controls and supervisory procedures reasonably designed to “[p]revent the entry of orders that exceed appropriate pre-set credit or capital thresholds in the aggregate for each customer and the broker or dealer and, where appropriate, more finely tuned by sector, security, or otherwise by rejecting orders if such orders would exceed the applicable credit or capital thresholds.” Under this provision, a broker-dealer is required to set appropriate credit thresholds for each customer for which it provides market access. Broker-dealers must make such determinations based on appropriate due diligence as to the customer’s business, financial condition, trading patterns, and other matters, and document that decision.

Exchange Act Rule 15c3-5(c)(1)(ii) requires broker-dealers with market access to establish financial risk management controls and supervisory procedures reasonably designed to “[p]revent the entry of erroneous orders, by rejecting orders that exceed appropriate price or size parameters, on an order-by-order basis or over a short period of time, or that indicate duplicative orders.”

Exchange Act Rule 15c3-5(e) requires broker-dealers with market access to establish, document, and maintain a system for “regularly reviewing the effectiveness of the risk management controls and supervisory procedures required by paragraphs (b) and (c)” of the rule. Exchange Act Rule 15c3-5(e)(1) specifically requires the broker-dealer “to review, no less frequently than annually, the business activity of the broker or dealer in connection with market access to assure the overall effectiveness of its risk management controls and supervisory procedures, and to conduct that review in accordance with written procedures and document each such review.”

FINRA Rule 3110(a) provides, in relevant part, that “[e]ach member shall establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules.”

FINRA Rule 2010 provides that each member firm, “in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.” A violation of Exchange Act Rule 15c3-5 or FINRA Rule 3110 also constitutes a violation of Rule 2010.

Evercore failed to establish, document, and maintain reasonably designed credit threshold controls.

From at least July 2017 through Q1 2021, Evercore provided market access to certain customers and generally assigned them to pre-defined, tiered credit limits based on each customer’s largest notional value trading day for stocks priced over \$1 over a two-year period. In doing so, the firm did not sufficiently consider each customer’s business, financial condition, trading patterns, or other information when setting credit threshold controls and frequently set credit limits that were too high to be effective. For example, during the relevant period, the firm assigned credit limits of \$1 billion to 109 customers who used less than 5% of their limits, and to 24 customers who did not trade at all during that period.

As a result, Evercore violated Exchange Act § 15(c)(3), Exchange Act Rules 15c3-5(b) and 15c3-5(c)(1)(i), and FINRA Rule 2010.

Evercore failed to establish, document, and maintain certain reasonably designed erroneous order controls and procedures.

From at least July 2017 through May 2023, Evercore maintained single order quantity (SOQ) controls that were too high to prevent the entry of erroneous orders in certain securities. During this period, these included maximum share quantity and maximum order value controls, and a control setting the maximum percentage of a security’s average daily volume (ADV) at 100%. Moreover, the firm used uniform thresholds for all securities and did not consider the characteristics of individual securities. Further, during various periods, Evercore’s procedures did not explain, or did not adequately explain, its rationale for its decision to set the maximum share quantity and maximum order value limits at these levels. The firm also assigned certain customers SOQ thresholds that were not reasonable because they exceeded the customer’s aggregate credit threshold.

From at least July 2017 through May 2023, Evercore also established a control that limited the maximum percentage away from the NBBO midpoint that a limit order could be priced. Many of these price limits, however, were not reasonably designed because they were set at prices that exchanges designate as clearly erroneous without related, complementary controls that would address related risks.² The firm was also unable to provide any documentation or sufficient rationale explaining or supporting these limit order price limits.

² For example, Evercore’s limit order price control parameter of 10% for securities priced above \$50.00 was substantially higher than the industry-wide clearly erroneous execution guidelines under FINRA and exchange rules of 3% for such securities.

As a result, Evercore violated Exchange Act § 15(c)(3), Exchange Act Rules 15c3-5(b) and (c)(1)(ii), and FINRA Rules 3110(a) and 2010.

Evercore failed to establish, maintain, and enforce a reasonable supervisory system concerning the documentation of soft block reviews and control limit modifications.

From at least July 2017, Evercore's market access controls applied soft blocks to transactions that breached its risk management thresholds. In contrast to a hard block, which prevents an order that triggers a credit, price, or size control parameter from being routed to a market center by automatically rejecting it, a soft block pauses the order for review, after which the reviewer may release or cancel the order.

Prior to December 2019, however, Evercore did not have any written procedures for reviewing orders that triggered a soft block. From December 2019 through May 2023, the firm's procedures did not reasonably describe the steps firm personnel must take when reviewing a subject order or the circumstances under which a soft block may be overridden or confirmed. The firm also did not, or did not sufficiently, contemporaneously document its review of soft blocks, including documenting the rationale for releasing the subject orders into the market.

Evercore's procedures also did not reasonably describe how the firm supervises soft block alert reviews. They did not specify how the firm's daily review of "overrides of blocks and alerts" was to be performed or provide other relevant details, such as the specific reports to be reviewed or how reviews should be documented. The firm also did not review overrides of blocks and daily alerts within a reasonable timeframe. For example, Evercore did not review alerts generated in February 2020 until between April 8 and 23, 2020, despite its procedures requiring that they be reviewed daily.

Further, the firm modified financial risk control parameters to allow orders to be routed without triggering soft block alerts. Prior to January 2021, the firm had no procedures regarding when, and under what circumstances, a control parameter could be modified. Further, the firm generally did not maintain documentation relating to control limit modifications.

As a result, Evercore violated Exchange Act § 15(c)(3), Exchange Act Rule 15c3-5, and FINRA Rules 3110(a) and 2010.

Evercore failed to establish a reasonable system for reviewing the effectiveness of its market access risk management controls and supervisory procedures.

From July 2017 until approximately December 2019, Evercore's annual reviews tested the firm's controls to confirm that they were operable. They did not test to determine whether the controls were effective in appropriately limiting the risk associated with its market access.

As a result, Evercore violated Exchange Act § 15(c)(3), Exchange Act Rule 15c3-5(e), and FINRA Rules 3110(a) and 2010.

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

- a censure and
- a \$100,000 fine.

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 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 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 right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party. Nothing in this provision affects Respondent's testimonial obligations in any litigation or other legal proceedings.
- 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.

June 9, 2023

Date

Robert Manning

Evercore Group L.L.C.

Respondent

Print Name: Robert Manning

Title: SMD Head of Trading

Reviewed by:

Mark Lanpher

Mark D. Lanpher
Counsel for Respondent
Shearman & Sterling LLP
401 9th Street, NW
Washington, DC 20004

Accepted by FINRA:

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

June 22, 2023

Date

Andy Hubbartt

Andy Hubbartt
Senior Counsel
FINRA
Department of Enforcement
55 West Monroe Street, Suite 2600
Chicago, IL 60603