

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2017056222301**

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

RE: Folio Investments, Inc. (Respondent)
Member Firm
CRD No. 48015

Pursuant to FINRA Rule 9216, Respondent Folio Investments, Inc. (Folio) 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

Folio became a FINRA member in December 1999. Based in McLean, Virginia, the firm has six branch offices and approximately 50 registered representatives. The firm offers brokerage and custodial services. In September 2020, the firm was acquired by Goldman Sachs Group, Inc.¹ Following the acquisition, Folio has continued to maintain and operate under its own broker-dealer registration.

OVERVIEW

From at least January 2017 to the present, Folio failed to conduct reasonable regular and rigorous reviews of execution quality. During this period, Folio routed its customer orders to two market centers that paid the firm for that order flow. In 2022, Folio began routing a substantial portion of its orders to another market center, which was a firm affiliate. The firm failed to compare the quality of executions it obtained from its order routing and execution arrangements to the quality of executions it could have obtained from competing markets. Additionally, in reviewing the execution quality provided by its existing routing venues, the firm reviewed price improvement, but did not consider other relevant execution quality factors. The firm's price improvement review was also unreasonable because it did not reasonably consider differences in order types or sizes.

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

As a result, Folio violated FINRA Rules 5310(a), 5310 Supplementary Material .09 (Rule 5310.09), and 2010.

During this same period, Folio also violated FINRA Rules 3110 and 2010 by failing to establish and maintain a supervisory system, including written supervisory procedures (WSPs), reasonably designed to achieve compliance with its best execution obligations.

For these violations, Folio is censured, fined \$1.3 million, and required to certify that it has implemented a supervisory system reasonably designed to remediate the issues identified in this AWC.

FACTS AND VIOLATIVE CONDUCT

Broker-dealers have a longstanding and fundamental obligation to seek “best execution” of their customers’ orders—that is, to seek the most favorable terms for their customers’ orders that are reasonably available under the circumstances.

FINRA codified this best execution obligation in FINRA Rule 5310 and its Supplementary Material. FINRA Rule 5310(a)(1) provides that, “[i]n any transaction for or with a customer or a customer of another broker-dealer, a member . . . shall use reasonable diligence to ascertain the best market for the subject security and buy or sell in such market so that the resultant price to the customer is as favorable as possible under prevailing market conditions.” FINRA Rule 5310(a)(1) identifies certain factors to consider in determining whether a member has used reasonable diligence, including (A) the character of the market for the security (e.g., price, volatility, relative liquidity, and pressure on available communications); (B) the size and type of transaction; (C) the number of markets checked, (D) accessibility of the quotation; and (E) the terms and conditions of the order which result in the transaction, as communicated to the member and persons associated with the member. Under FINRA Rule 5310.09(a), if a member does not conduct an “order-by-order” review of execution quality, it must conduct “regular and rigorous” reviews of the execution quality of customer orders. The review must be conducted on a security-by-security, type-of-order basis (e.g., limit order, market order, and market on open order).

FINRA Rule 5310.09(a) requires that, at a minimum, the member conduct regular and rigorous reviews on a quarterly basis and that firms consider whether, based on their business, more frequent reviews are needed. FINRA Rule 5310.09(b) provides that, “[i]n conducting its regular and rigorous review, a member must determine whether any material differences in execution quality exist among the markets trading the security and, if so, modify the member’s routing arrangements or justify why it is not modifying its routing arrangements.” Each member must “compare, among other things, the quality of the executions the member is obtaining via current order routing and execution arrangements . . . to the quality of the executions that the member could obtain from competing markets.”

FINRA Rule 5310.09(b) identifies certain factors that should be considered in reviewing and comparing the execution quality of the member's current order routing and execution arrangements to the execution quality of competing markets, including: (1) price improvement (*i.e.*, the difference between the execution price and the best quotes prevailing at the time the order is received by the market); (2) differences in price disimprovement (*i.e.*, situations in which a customer receives a worse price at execution than the best quotes prevailing at the time the order is received by the market); (3) the likelihood of execution of limit orders; (4) the speed of execution; (5) the size of execution; (6) transaction costs; (7) customer needs and expectations; and (8) the existence of internalization or payment for order flow arrangements.

A violation of FINRA Rule 5310 also constitutes a violation of FINRA Rule 2010, which requires a member, in the conduct of its business, to observe high standards of commercial honor and just and equitable principles of trade.

Folio failed to conduct reasonable regular and rigorous reviews of execution quality.

During the relevant period, Folio offered brokerage and custody services primarily to registered investment adviser customers, which used the firm's trading platform to create customized portfolios of securities for their retail customers. As part of the firm's "windows trading" business model, at two separate times each day, Folio routed nearly all customer orders in the same equity security on the same side of the market for execution as one omnibus order.

Folio routed nearly all its order flow to three market makers. From at least 2017 to 2022, Folio routed nearly all large orders (of several hundred shares or more) to one market maker for execution and nearly all the firm's small orders to another market maker. Both market makers paid Folio for this order flow.² In late 2022, while continuing to route orders to these two venues, Folio began routing a substantial portion of its order flow to another market maker, which was a corporate affiliate.

Between 2017 and 2025, Folio routed approximately 440 million equity shares for execution annually.

Folio's reviews of customer execution quality failed to meet the reasonable diligence standard of FINRA Rule 5310(a) and the regular and rigorous review requirements of FINRA Rule 5310.09.

From at least January 2017 to the present, Folio had a best execution committee which met quarterly to review execution quality. From at least January 2017 to December 2025, the committee's regular and rigorous reviews of execution quality only included the executions of orders the firm routed to its existing routing venues and did not include data for the execution quality available at market centers to which it did not already route its order flow. Thus, the firm failed to compare the execution quality of its current order

² Between 2017 and 2024, this revenue was approximately \$4 million.

routing and execution arrangements to the execution quality the firm could have obtained from competing markets, as required under FINRA Rule 5310.09.

The firm's reviews of the execution quality obtained from its existing routing venues were also not reasonably designed. From at least January 2017 to December 2025, the best execution committee's regular and rigorous review was primarily limited to a single execution quality factor—price improvement—and the firm failed to reasonably review any other execution quality factor set forth in FINRA Rule 5310.09(b). Moreover, the committee did not review price improvement statistics broken down by order type or size, and therefore the firm could not reasonably evaluate differences in execution quality among its existing venues because differences in order types or sizes may have affected execution quality.

Therefore, Folio violated FINRA Rules 5310(a), 5310.09, and 2010.

Folio did not reasonably supervise for best execution.

FINRA Rule 3110(a) requires members to establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable laws and regulations, and with applicable FINRA rules.

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.

A violation of FINRA Rule 3110 constitutes a violation of FINRA Rule 2010.

Folio's supervisory system was not reasonably designed to achieve compliance with the firm's best execution obligations. The firm relied upon the reviews of its best execution committee as its supervisory system for compliance with its best execution obligations. As described above, from at least January 2017 to December 2025, the firm's reviews failed to consider whether the firm could have obtained better execution quality from competing markets and failed to reasonably consider the execution quality provided by the firm's existing routing arrangements.

From at least January 2017 to the present, Folio's WSPs related to best execution were also unreasonable. Until April 2021, the WSPs did not discuss the best execution committee or provide any process or procedures as to how the committee was to conduct its reviews. In April 2021, the firm adopted a best execution committee charter, but the firm's WSPs continued to lack procedures for how the committee was to consider the execution quality factors under FINRA Rule 5310.09(b) or under what circumstances the firm should consider modifying its existing routing arrangements. Moreover, the WSPs did not describe any process or procedures regarding how the firm was to evaluate the execution quality available at competing markets. In practice, as described above, the firm did not conduct any reviews of competing markets.

Therefore, Folio violated FINRA Rules 3110 and 2010.

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

- a censure;
- a \$1.3 million fine; and
- an undertaking that, within 120 days of the date of the notice of acceptance of this AWC, a member of Respondent's senior management who is a registered principal of the firm shall certify in writing that, as of the date of the certification, the firm has remediated the issues identified in this AWC and implemented a supervisory system, including written supervisory procedures, reasonably designed to achieve compliance with FINRA Rules 5310, 5310.09, 3110, and 2010 regarding the issues identified in this AWC. The certification shall include a narrative description and supporting exhibits sufficient to demonstrate Respondent's remediation and implementation. FINRA staff may request further evidence of Respondent's remediation and implementation, and Respondent agrees to provide such evidence. Respondent shall submit the certification to Carly M. Kostakos, Senior Counsel, 9509 Key West Avenue, Rockville, MD 20850, carly.kostakos@finra.org, with a copy to EnforcementNotice@finra.org. Upon written request showing good cause, FINRA staff may extend this deadline.

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.

February 24, 2026

Date

Jeremy Eisenstein

Folio Investments, Inc.
Respondent

Print Name: Jeremy S. Eisenstein

Title: Managing Director, Head of GS Custody Solutions

Reviewed by:

Nowell Bamberger

Nowell D. Bamberger
Counsel for Respondent
Cleary Gottlieb Steen & Hamilton LLP
2112 Pennsylvania Avenue
Washington, DC 20037

Accepted by FINRA:

February 27, 2026

Date

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

Carly M. Kostakos

Carly M. Kostakos
Senior Counsel
FINRA
Department of Enforcement
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Rockville, MD 20850