

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2018060267902**

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

RE: American Independent Securities Group, LLC
Member Firm
CRD No. 135288

Ryan Carlson
General Securities Principal
CRD No. 4209072

Nicholas Cioffi
Former General Securities Principal
CRD No. 1090646

Pursuant to FINRA Rule 9216, Respondents American Independent Securities Group, LLC, Ryan Carlson, and Nicholas Cioffi submit 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 Respondents alleging violations based on the same factual findings described in this AWC.

I.

ACCEPTANCE AND CONSENT

- A. Respondents hereby accept and consent, 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

American Independent Securities Group, LLC (AISG) has been a FINRA member since 2005, is based in Eagle, Idaho, and conducts a general securities business. AISG has 56 registered individuals and 46 branch offices.

Ryan Carlson first registered with FINRA as a General Securities Representative (GS) through an association with a member firm in August 2000. He has been registered with FINRA through AISG as a GS and a General Securities Principal (GP) since 2005, an Introducing Broker-Dealer Financial and Operations Professional (OS) since 2006, and an Operations Professional since 2012. He has served as AISG's chief compliance officer since 2007.

Nicholas Cioffi first registered with FINRA as a GS through an association with a member firm in 1984. He was registered with FINRA through AISG as a GS and a GP from June 2011 through February 2021 and as an OS from October 2012 through February 2021. He is not registered or currently associated with a FINRA member but is subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.

Respondents do not have any relevant disciplinary history.

OVERVIEW

From October 2014 through April 2017, AISG and Carlson failed to (a) establish, maintain, and enforce a supervisory system, including written supervisory procedures, reasonably designed to achieve compliance with applicable rules relating to sales of collateralized mortgage obligations (CMOs); (b) take reasonable action to ensure that Cioffi—the principal to whom Carlson had delegated responsibility for supervising Representative A and his CMO recommendations—was properly executing that responsibility; (c) reasonably respond to red flags indicating that Representative A's CMO recommendations were unsuitable; and (d) reasonably supervise discretionary trading and accounts held by senior investors. As a result, AISG and Carlson violated FINRA Rules 3110 and 2010 and NASD Rules 3010 and 2510(c).¹

During the same period, Cioffi failed to reasonably supervise Representative A and to reasonably respond to red flags of unsuitable CMO recommendations. As a result, Cioffi violated FINRA Rules 3110 and 2010 and NASD Rule 3010.

FACTS AND VIOLATIVE CONDUCT

This matter originated from a 2017 cycle examination of AISG.

Background on inverse floating rate CMOs.

A CMO is a complex mortgaged-backed security. A CMO comprises multiple pools of mortgage securities or loans and is structured with different bond classes or "tranches" that each operates under its own set of rules for distributing the cash flows from the underlying mortgages. These tranches are each designed to have their own unique risk characteristics and maturity dates.

Floating-rate tranches or "floaters" carry interest rates tied to a variable interest rate index, such as the London Interbank Offered Rate (LIBOR), subject to an upper limit or "cap" and sometimes to a lower limit or "floor." Inverse floating rate CMOs or "inverse floaters" are securities structured to offset floating-rate tranches. This matter involves inverse floaters.

¹ FINRA Rule 3110 superseded NASD Rule 3010 on December 1, 2014. FINRA Rule 3260(c) superseded NASD Rule 2510(c) on May 8, 2019. Because the misconduct occurred before May 8, 2019, NASD Rule 2510(c) applies here.

Inverse floaters are among the most thinly traded and volatile types of CMOs. They are structured so that interest payments reset periodically, typically monthly, and move in the opposite direction of a floating rate index. Their interest rate or “coupon” formulas typically contain multipliers that magnify the effect of changes in the specified index, making them more leveraged than other tranches and giving them a high degree of price volatility as interest rates move. As the rate of the index drops, the interest rate on the inverse floater rises at an accelerated pace. Conversely, rising rates cause interest payments for inverse floaters to drop dramatically, and they can extend the return of principal beyond the anticipated average life of the loans underlying the security.

In October 1993, NASD Notice to Members 93-73 warned that inverse floaters “are only suitable for sophisticated investors with a high-risk profile.”

AISG’s sales of inverse floaters, liquidations, and losses.

In June 2014, Representative A contacted AISG to discuss associating with the firm. During his interview with Carlson and Cioffi, Representative A described himself as a CMO specialist and disclosed that most of his business consisted of sales of inverse floaters. At that time, AISG’s business primarily consisted of sales of mutual funds and variable annuities; the firm did no CMO business, and its principals had no experience supervising sales of CMOs. AISG hired Representative A nonetheless, and he began working for the firm in July 2014. Representative A was the only AISG representative selling CMOs.

Although Representative A developed new customers while associated with AISG, most of his accounts were held by customers with whom he had worked at his prior firm and who transferred their accounts to AISG when Representative A associated with the firm. By the end of 2014, Representative A had 148 customer accounts that held inverse floaters and cash, totaling over \$20 million. He had limited trading authorization from most of his customers for those accounts, which AISG permitted, that allowed him to purchase and sell securities in the accounts at his discretion.

Representative A’s customers were predominantly older and retired. A majority of them were seniors and held their securities in retirement accounts. Nearly all his customers identified their account objective as: “Preservation of Principal/Income – Focus is on preserving principal and generating current income.” Most specified a “moderate” risk tolerance; the remainder had either “low” or “minimal” risk tolerances. None expressed a desire to the firm to speculate or make high-risk investments.

From October 2014 through April 2017, Representative A recommended only inverse floaters to his customers notwithstanding their conservative investment profiles, and he completely concentrated their accounts in that single product. During this period, Representative A, through AISG, made more than 20 purchases of inverse floaters from another firm and then simultaneously sold those securities to his customers. Representative A’s customers purchased thousands of inverse floaters through more than

1,100 transactions that collectively totaled more than \$17 million. All transactions were solicited, and most were executed on a discretionary basis.

In May and June 2017, Representative A liquidated his customers' accounts, selling most of the inverse floaters in their accounts, resulting in realized losses in excess of \$2 million.

Respondents violated FINRA's supervisory rules.

FINRA Rule 3110(a) and its predecessor, NASD Rule 3010(a), require firms to establish and maintain a system to supervise the activities of registered and associated persons. FINRA Rule 3110(b) and its predecessor, NASD Rule 3010(b), require firms to establish, maintain, and enforce written procedures to supervise the types of business they engage in and the activities of their registered and associated persons. Both the supervisory system and the written procedures must be reasonably designed to achieve compliance with applicable securities laws, regulations, and rules. A violation of FINRA Rule 3110 or NASD Rule 3010 also constitutes a violation of FINRA Rule 2010.

1. AISG and Carlson failed to establish and maintain a reasonable supervisory system and procedures to supervise CMO transactions.

From October 2014 through April 2017, AISG's written supervisory procedures required Carlson to establish and maintain a reasonable supervisory system and written supervisory procedures for the firm's business. During this period, however, AISG and Carlson did not establish any procedures related to CMO transactions or the suitability of CMO recommendations. For example, there was no reasonable process to evaluate and determine whether inverse floaters were appropriate for a given customer or to assess the size of the CMO investment that would be suitable. There was no guidance addressing to whom CMOs could be offered, the extent to which a customer's account could be concentrated in inverse floaters or any other CMO tranche, or the percentage of a customer's net worth that could be invested in CMOs.

Therefore, AISG and Carlson violated FINRA Rules 3110 and 2010 and NASD Rule 3010.

2. AISG and Cioffi failed to reasonably supervise Representative A.

Carlson assigned to Cioffi responsibility for approving new accounts and reviewing and supervising trading at the firm. Carlson also delegated to Cioffi the responsibility of supervising Representative A. Although the firm did not have any written supervisory procedures addressing CMO transactions, Cioffi ignored multiple red flags that should have alerted him that Representative A's inverse floater recommendations were potentially unsuitable:

- Inverse floaters were risky and illiquid products that were inconsistent with his customers' conservative investment objectives and risk tolerances;

- Representative A's customer accounts were entirely concentrated in inverse floaters;
- Transactions were flagged in the firm's trade review system for over concentration of non-investment grade holdings in accounts;
- A majority of his customers were seniors and held their securities in retirement accounts;
- Many account holders had limited income and net worth; and
- Irrespective of age, financial situations, investment experience, and risk tolerances, Representative A's customers purchased the same CMOs at the same time.

Cioffi should have followed up on these red flags because reasonable supervision entails investigation of red flags that suggest misconduct may be occurring and taking any appropriate steps following such investigation. Cioffi, however, failed to take reasonable action. He rarely questioned a transaction, never initiated a customer contact, and never escalated any suitability concern to AISG senior management.

Therefore, AISG and Cioffi violated FINRA Rules 3110 and 2010 and NASD Rule 3010.

3. AISG and Carlson failed to take reasonable action to ensure Cioffi properly executed delegated responsibilities and failed to respond to red flags.

Carlson was responsible under the firm's written supervisory procedures for designating principals to supervise the firm's representatives and for vetting new products. He delegated to Cioffi the responsibility for supervising Representative A and therefore was responsible for taking reasonable action to ensure Cioffi properly executed that responsibility.

Carlson should have been concerned about Representative A's recommendations and Cioffi's supervision of them and should have acted on those concerns. Carlson was aware of red flags indicating that Representative A's recommendations were unsuitable. For example, he knew that Representative A's customers were retail customers, many of them seniors, with mostly conservative investment and risk profiles. He also knew that Representative A had discretionary authority over many of their accounts, only recommended inverse floaters, and concentrated customers' accounts exclusively in inverse floaters. He further knew that Cioffi supervised Representative A's CMO activity even though Cioffi had no specialized training relating to CMOs and inverse floaters and had no prior experience supervising sales of the product. Carlson also was aware that Representative A's transactions repeatedly were setting off alerts in the firm's trade review system. Nonetheless, Carlson did not follow up on these red flags and took no action to address the obvious suitability issues or ensure that the supervisory responsibilities he had delegated to Cioffi were reasonably exercised.

Therefore, AISG and Carlson violated FINRA Rules 3110 and 2010 and NASD Rule 3010.

4. AISG and Carlson failed to reasonably supervise discretionary and senior accounts.

In addition to the general supervisory requirements in FINRA Rule 3110 and its predecessor, NASD Rule 3010, NASD Rule 2510(c) requires firms to “review all discretionary accounts at frequent intervals in order to detect and prevent transactions which are excessive in size or frequency in view of the financial resources and character of the account.” A violation of NASD Rule 2510 also constitutes a violation of FINRA Rule 2010.

AISG’s procedures provided that discretionary accounts would be “strictly and continuously monitored.” They assigned to Carlson responsibility for ensuring that: (i) the firm considered an individual’s investment objectives, experience, and account size before opening a discretionary account and then documented its rationale; (ii) order tickets noted whether discretion was exercised; (iii) discretionary accounts were reviewed semi-annually to ensure recommendations were suitable and accounts were not unduly concentrated; and (iv) principals of the firm spoke with each discretionary account client annually to determine his or her level of satisfaction and documented the conversations. The procedures also assigned to Carlson responsibility for ensuring that the firm conducted an annual review of senior accounts that focused on transactions that “lack liquidity” or cases where investors have “utilized retirement savings . . . to invest in high risk investments.”

These procedures for discretionary and senior accounts, had they been enforced, would have highlighted the suitability red flags raised by Representative A’s recommendations, including the undue concentration, the inconsistency between the recommendations and the customers’ objectives and risk tolerances, the customers’ limited income net worth, and the fact that many customers were seniors who held their securities in retirement accounts.

But the procedures were ignored. AISG did not document its rationale for opening any discretionary account; order tickets failed to note whether discretion was exercised; firm principals did not speak with discretionary account clients; and nobody conducted the mandated reviews of discretionary and senior accounts.

Therefore, AISG and Carlson violated FINRA Rules 3110 and 2010 and NASD Rule 3010. By failing to review its discretionary accounts, AISG and Carlson also violated NASD Rule 2510(c) and FINRA Rule 2010.

B. Respondents also consent to the imposition of the following sanctions:

For AISG:

- a censure; and
- partial restitution of \$275,000.²

For Carlson:

- a \$10,000 fine;
- a suspension from association with any FINRA member firm in any principal capacity for 60 calendar days; and
- an undertaking that within 90 days of notice that this AWC has been accepted, Carlson will attend and satisfactorily complete 20 hours of continuing education concerning supervisory responsibilities by a provider not unacceptable to FINRA. Carlson will notify Joel Kornfeld, Senior Counsel, of the name and contact information of the provider of the continuing education at least 10 days prior to attending the continuing education. Within 30 days following the completion of the continuing education, Carlson will submit written proof that the continuing education program was satisfactorily completed to Joel Kornfeld at Joel.Kornfeld@finra.org. All correspondence must identify the respondent and matter number 2018060267902. Upon written request showing good cause, FINRA staff may extend any of the deadlines related to the continuing education component of the sanction.

For Cioffi:

- a suspension from association with any FINRA member firm in any principal capacity for 45 calendar days.

Respondent Carlson agrees to pay the monetary sanctions upon notice that this AWC has been accepted and that such payment is due and payable. Respondent Carlson has submitted an Election of Payment form showing the method by which he proposes to pay the fines imposed.

Respondent Cioffi has submitted a statement of financial condition and demonstrated an inability to pay. In light of Respondent Cioffi's financial status, no monetary sanctions have been imposed.

Respondents Carlson and Cioffi each understand that if they are barred or suspended from associating with any FINRA member in a principal capacity, they become subject to a statutory disqualification as that term is defined in Article III, Section 4 of FINRA's

² FINRA imposed partial restitution and no fine after considering, among other things, AISG's financial resources. (See FINRA Sanction Guidelines, General Principles Applicable to All Sanction Determinations, No. 1.) This partial restitution will be applied toward compensating customers who have not previously asserted claims and/or been compensated through prior settlements or judgments for losses resulting from the conduct described in this AWC.

By-Laws, incorporating Section 3(a)(39) of the Securities Exchange Act of 1934. Accordingly, Respondents Carlson and Cioffi may not be associated with any FINRA member in a principal capacity, during the period of the bar or suspension. *See* FINRA Rules 8310 and 8311. Furthermore, because Respondents Carlson and Cioffi are subject to a statutory disqualification during the suspension, if either remain associated with a member firm in a non-suspended capacity, an application to continue that association may be required.

Partial restitution is ordered to be paid by Respondent AISG to the customers listed on Attachment A to this AWC in the total amount of \$275,000.

A registered principal on behalf of Respondent AISG shall submit satisfactory proof of payment of restitution and prejudgment interest (separately specifying the date and amount of each paid to each customer listed on Attachment A) or of reasonable and documented efforts undertaken to effect restitution. Such proof shall be submitted by email to EnforcementNotice@FINRA.org from a work-related account of the registered principal of Respondent AISG. The email must identify Respondent AISG and the case number and include a copy of the check, money order, or other method of payment. This proof shall be provided by email to EnforcementNotice@FINRA.org no later than 120 days after the date of the notice of acceptance of the AWC.

If for any reason Respondent AISG cannot locate any customer identified in Attachment A after reasonable and documented efforts within 120 days after the date of the notice of acceptance of the AWC, or such additional period agreed to by FINRA in writing, Respondent AISG shall forward any undistributed restitution to the appropriate escheat, unclaimed property, or abandoned property fund for the state in which the customer is last known to have resided. Respondent AISG shall provide satisfactory proof of such action to FINRA in the manner described above, within 14 calendar days of forwarding the undistributed restitution and interest to the appropriate state authority.

Respondents specifically and voluntarily waive 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 imposition of a restitution order or any other monetary sanction in this AWC, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies.

Restitution payments to customers shall be preceded or accompanied by a letter, not unacceptable to FINRA staff, describing the reason for the payment and the fact that the payment is being made pursuant to a settlement with FINRA and as a term of this AWC.

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

II.

WAIVER OF PROCEDURAL RIGHTS

Respondents specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

- A. To have a complaint issued specifying the allegations against them;
- 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, Respondents specifically and voluntarily waive 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.

Respondents further specifically and voluntarily waive 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

Respondents understand 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 Respondents; and
- C. If accepted:

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1. this AWC will become part of Respondents' permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator against Respondents;
 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. Respondents 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. Respondents 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 Respondents' testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

D. Respondents may attach a corrective action statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondents understand that they 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.

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The undersigned, on behalf of Respondent AISG, 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 Respondent AISG 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 AISG to submit this AWC.

Date: March 15, 2021

American Independent Securities Group, LLC
Respondent

By: Ryan Carlson

Print Name: Ryan Carlson

Title: CCO/CFO

Respondent Carlson certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; Respondent Carlson has agreed to the AWC's provisions voluntarily; and 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 him to submit this AWC.

Date: March 15, 2021

Ryan Carlson
Ryan Carlson
Respondent

Reviewed by:

D. J. Hargis
David J. Hargis, Esq.
Counsel for Respondents AISG and Carlson
Lewis Brisbois
24 Greenway Plaza, Suite 1400
Houston, TX 77046

Respondent Cioffi certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; Respondent Cioffi has agreed to the AWC's provisions voluntarily; and 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 him to submit this AWC.

Date: March 15, 2021

Nicholas Cioffi
Nicholas Cioffi,
Respondent

Accepted by FINRA:

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

Date: March 29, 2021

Joel Kornfeld
Joel Kornfeld
Senior Counsel
FINRA
Department of Enforcement
300 S. Grand Avenue, Suite 1600
Los Angeles, CA 90071

Attachment A
Letter of Acceptance, Waiver and Consent
American Independent Securities Group, LLC, et al., No. 2018060267902

CUSTOMER	RESTITUTION
Customer 1	(\$7,080.66)
Customer 2	(\$3,162.35)
Customer 3	(\$3,945.28)
Customer 4	(\$4,713.11)
Customer 5	(\$1,110.13)
Customer 6	(\$387.00)
Customer 7	(\$2,817.59)
Customer 8	(\$7,098.42)
Customer 9	(\$18,367.67)
Customer 10	(\$3,434.41)
Customer 11	(\$348.39)
Customer 12	(\$14,912.85)
Customer 13	(\$6,736.23)
Customer 14	(\$9.74)
Customer 15	(\$4,019.98)
Customer 16	(\$612.40)
Customer 17	(\$7,743.30)
Customer 18	(\$1,728.74)
Customer 19	(\$7,890.39)
Customer 20	(\$5,229.11)
Customer 21	(\$12,803.04)
Customer 22	(\$924.02)
Customer 23	(\$5,286.97)
Customer 24	(\$7,054.51)
Customer 25	(\$8,844.45)
Customer 26	(\$3,242.31)
Customer 27	(\$7,248.26)
Customer 28	(\$2,386.60)
Customer 29	(\$1,503.64)
Customer 30	(\$10,003.71)
Customer 31	(\$8,901.94)
Customer 32	(\$1,168.05)
Customer 33	(\$1,242.31)
Customer 34	(\$1,076.42)
Customer 35	(\$842.86)

Attachment A
Letter of Acceptance, Waiver and Consent
American Independent Securities Group, LLC, et al., No. 2018060267902

CUSTOMER	RESTITUTION
Customer 36	(\$8,576.79)
Customer 37	(\$1,147.92)
Customer 38	(\$510.84)
Customer 39	(\$3,873.88)
Customer 40	(\$736.40)
Customer 41	(\$16,020.07)
Customer 42	(\$60,666.45)
Customer 43	(\$2,263.72)
Customer 44	(\$7,327.10)