

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2021069504101**

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

RE: Wedbush Securities Inc. (Respondent)
Member Firm
CRD No. 877

Pursuant to FINRA Rule 9216, Respondent Wedbush Securities Inc. 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

Wedbush Securities Inc. has been a FINRA member since 1955 and is headquartered in Los Angeles, California. Wedbush Securities provides securities brokerage, wealth management, investment banking, and clearing services. The firm employs approximately 520 registered representatives and has 69 branches.¹

OVERVIEW

Between September 2009 and March 2022, Wedbush Securities published quarterly reports on its handling of customers' orders in National Market System (NMS) securities that failed to disclose required information; provided inaccurate and incomplete information; or were not timely published. In addition, between January 2020 and December 2021, Wedbush Securities failed to notify customers of the availability of information concerning NMS securities. Therefore, the firm violated Rules 606(a) and 606(b)(2) of Regulation NMS under the Securities Exchange Act of 1934 and FINRA Rule 2010.

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

Between January 2015 and May 2022, Wedbush Securities published monthly reports regarding its execution of covered orders that contained inaccurate order data or were not timely published, in violation of Rule 605 of Regulation NMS and FINRA Rule 2010.

Between September 2009 and March 2022, Wedbush Securities failed to establish and maintain a supervisory system, including written supervisory procedures (WSPs), reasonably designed to achieve compliance with Rule 606 of Regulation NMS, and between January 2015 and March 2021, the firm failed to conduct any supervisory review of its Rule 605 reports. As a result, the firm violated NASD Rule 3010² and FINRA Rules 3110 and 2010.

FACTS AND VIOLATIVE CONDUCT

This matter arose from a self-report filed by Wedbush Securities pursuant to FINRA Rule 4530 and FINRA examinations of the firm.

A. Wedbush Securities failed to comply with Regulation NMS Rule 606.

Rule 606 of Regulation NMS under the Exchange Act is designed to foster greater transparency in connection with a broker-dealer's best execution responsibilities. Rule 606 requires every broker-dealer to make available to the public a quarterly report containing information on its routing of non-directed orders in NMS securities.³ The disclosures contained in these quarterly reports are designed to help customers better understand how the firm routes and handles their orders; assess the quality of order handling services provided by the firm; and ascertain whether the firm is effectively managing potential conflicts of interest that may impact the firm's routing decisions.

1. Wedbush Securities published Rule 606 reports that excluded orders, contained inaccurate order percentages, and failed to include required information concerning its execution venues.

Rule 606(a)(1) requires broker-dealers to publish quarterly reports that contain statistical information regarding the routing of held, non-directed customer orders in NMS stocks,⁴ and both held and not held, non-directed customer orders in NMS securities that are option contracts. The reports must include the following information:

- (i) The percentage of total orders that were non-directed, and the percentages of non-directed orders that were market orders, marketable limit orders, non-marketable limit orders, and other orders;

² FINRA Rule 3110 superseded NASD Rule 3010 on December 1, 2014.

³ A "non-directed order" means any customer order other than a directed order. A "directed order" means a customer order that the customer specifically instructed the broker-dealer to route to a particular venue for execution. *See* Regulation NMS Rule 600(b).

⁴ A broker-dealer must attempt to execute a "held" order immediately, whereas "not-held" orders provide the broker-dealer with price and time discretion in handling the order.

(ii) The ten venues to which the largest number of non-directed orders were routed for execution, any venue to which five percent or more of non-directed orders were routed for execution, and information concerning the types of orders that were routed to the venue;

(iii) For each venue identified, the net aggregate amount of any payment for order flow received, payment from any profit-sharing relationship received, transaction fees paid, and transaction rebates received, both as a total dollar amount and per share, for specified types of non-directed orders; and

(iv) A discussion of the material aspects of the broker-dealer's relationship with each venue identified, including a description of any arrangement for payment for order flow, any profit-sharing relationship, and any terms of such arrangements, that may influence a broker's or dealer's order routing decision, including arrangements specified in the rule.

Rule 606(a)(2) provides that a broker-dealer shall make the report required by Rule 606(a)(1) publicly available within one month after the end of the quarter addressed in that report.

A violation of Rule 606(a) is a violation of FINRA Rule 2010, which states that "[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade."

Wedbush Securities failed to comply with the requirements of Rule 606(a) in multiple respects. First, between September 2009 and March 2022, the firm published 51 Rule 606 reports that excluded 630,000 equity and options orders in NMS securities due to data integrity issues. As a result, the reports also contained inaccurate percentages of the firm's non-directed equity and options orders. In March 2022, the firm remediated the identified data integrity issues.

Second, between January 2020 and December 2021, Wedbush Securities published eight Rule 606 reports that did not provide an accurate list of the firm's execution venues for options orders and omitted other required information concerning those execution venues. Specifically, the reports misidentified one broker-dealer as an execution venue. The reports also failed to disclose material aspects of the firm's relationships with any of its execution venues, including payment for order flow arrangements.

Third, for six quarters between January 2020 and October 2021, Wedbush Securities failed to make its Rule 606 reports available within one month after the end of the preceding quarter. On average, the firm's Rule 606 reports were late by 129 days. Since January 2022, the firm has been timely in making its Rule 606 reports available.

As a result, Wedbush Securities violated Rule 606(a) of Regulation NMS and FINRA Rule 2010.

2. Wedbush Securities failed to notify customers of information available in Rule 606 reports.

Rule 606(b)(2) requires a broker-dealer to “notify customers in writing at least annually of the availability on request” of certain information specified in Rule 606(b)(1). A violation of Rule 606(b)(2) is also a violation of FINRA Rule 2010,

From January 2020 through December 2021, Wedbush Securities failed to notify customers in writing, on at least an annual basis, of information available to them pursuant to Rule 606(b)(1). The firm therefore violated Rule 606(b)(2) and FINRA Rule 2010.

B. Wedbush Securities failed to comply with Regulation NMS Rule 605.

Regulation NMS Rule 605 facilitates the uniform public disclosure of order execution information by requiring any market center⁵ that trades national market system securities to publish standardized monthly electronic reports of statistical information concerning execution of covered orders it receives.⁶ Rule 605(a)(6) requires these reports to be available “within one month after the end of the month addressed in the report.”

Rule 605 requires market centers to report statistical information by security, order size, and order type, which includes market, marketable limit, and other limit orders. In each of these categories, market centers must disclose, among other statistics: (a) the number of covered orders; (b) the cumulative number of shares of covered orders; (c) the cumulative number of shares of covered orders cancelled prior to execution; and (d) the cumulative number of shares of covered orders executed at the receiving market center.

A violation of Rule 605 is also a violation of FINRA Rule 2010.

From January 2015 through March 2021, Wedbush Securities operated as a market center because of the firm’s market making activity in NMS and over-the-counter securities. In that capacity, the firm received covered orders reportable under Rule 605. During this period, the firm published 75 monthly Rule 605 reports that did not report statistical information on those covered orders and instead inaccurately stated the firm had “0 covered orders.”

⁵ Rule 600(b)(46) defines “market center” as “any exchange market maker, OTC market maker, alternative trading system, national securities exchange, or national securities association.”

⁶ Rule 600(b)(22) defines covered orders as “any market order or limit order (including immediate-or-cancel orders) received by a market center during regular trading or at a time when a national best bid and national best offer is being disseminated, and, if executed, is executed during regular trading hours, but shall exclude any order for which the customer requests special handling for execution, including, but not limited to, orders to be executed at a market opening price or a market closing price, orders submitted with stop prices, orders to be executed only at their full size, orders to be executed on a particular type of tick or bid, orders submitted on a ‘not held’ basis, orders for other than regular settlement, and orders to be executed at prices unrelated to the market price of the security at the time of execution.” Accordingly, orders with special handling instructions are not covered orders.

Between December 2021 and July 2022, after discovering the reporting inaccuracies, Wedbush Securities republished the firm's monthly Rule 605 reports for the period of July 2020 through March 2021. However, these nine reports were also inaccurate because they included hundreds of orders not covered under Rule 605 because the orders were subject to special order handling instructions.

In addition, from April 2021 through May 2022, Wedbush Securities did not publish its monthly Rule 605 reports. In July 2022, Wedbush Securities published its Rule 605 reports for the period April 2021 through May 2022. Each of these reports was late because it was filed more than one month after the end of the month addressed in the report. Since July 2022, the firm has been timely in making its Rule 605 reports available.

Therefore, the firm violated Rule 605 of Regulation NMS and FINRA Rule 2010.

C. Wedbush Securities failed to establish, maintain, and enforce a supervisory system reasonably designed to achieve compliance with Regulation NMS Rules 605 and 606.

FINRA Rule 3110(a), like its predecessor, NASD Rule 3010(a), requires that each member firm establish, maintain, and enforce a supervisory system, including written supervisory procedures, "that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA Rules." FINRA Rule 3110(b), and its predecessor, NASD Rule 3010(b), requires that each member firm 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. Violations of NASD Rule 3010 and FINRA Rule 3110 are also violations of FINRA Rule 2010.

Between September 2009 and March 2022, Wedbush Securities failed to establish and maintain a supervisory system reasonably designed to achieve compliance with Rule 606. Specifically, the firm did not have any system in place to supervise its Rule 606 reports or the third-party vendors it used to prepare those reports. The firm also had no processes or procedures to review the accuracy of order data or other information contained in the Rule 606 reports. In addition, the firm failed to update its Rule 606 WSPs to address the U.S. Securities and Exchange Commission's 2018 regulations, which require more detailed disclosures, particularly regarding payments per order,⁷ until March 2022. In March 2022, the firm revised its WSPs to address the SEC's amended regulations and require, among other things, the firm to review the accuracy of its Rule 606 reports.

Separately, from January 2015 through March 2021, Wedbush Securities failed to perform any supervisory reviews to verify the accuracy of the firm's Rule 605 reporting.⁸

⁷ In November 2018, the SEC adopted amendments to Rule 606. The amendments went into effect beginning with the first quarter of 2020.

⁸ The firm started performing these reviews when it resumed publishing its Rule 605 reports in July 2022.

Therefore, Wedbush Securities violated NASD Rule 3010 and FINRA Rules 3110 and 2010.

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

- a censure; and
- a \$425,000 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 the 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.

September 9, 2024

Date

Donald Hultgren

Wedbush Securities Inc.
Respondent

By: Donald Hultgren, Executive Chair

Reviewed by:

John L. Erikson, Jr.

John L. Erikson, Jr., Esq.
Counsel for Respondent
Wedbush Securities Inc.
1000 Wilshire Blvd
Los Angeles, CA 90017

Accepted by FINRA:

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

September 19, 2024

Date

Karen C. Daly

Karen C. Daly
Principal Counsel
FINRA
Department of Enforcement
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