

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2022073414901**

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

RE: Merrill Lynch, Pierce, Fenner & Smith Incorporated (Respondent)
Member Firm
CRD No. 7691

Pursuant to FINRA Rule 9216, Respondent Merrill Lynch, Pierce, Fenner & Smith Incorporated 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

Merrill Lynch has been a FINRA member since 1937 and a Municipal Securities Rulemaking Board (MSRB) registrant since 1976. Headquartered in New York, New York, Merrill Lynch employs more than 27,600 registered representatives in over 4,200 branch offices. Merrill Lynch is a multi-service brokerage firm that provides, among other things, retail brokerage and wealth management services.

In January 2020, FINRA issued an AWC in which Merrill Lynch consented to a censure and a fine of \$150,000 for violating MSRB Rules G-15 and G-47 by executing municipal securities trades with customers in amounts lower than the issues' minimum denominations and not providing certain related disclosures to customers at or prior to the time of trade.¹

OVERVIEW

Between January 2021 and September 2023, Merrill Lynch failed to provide material disclosures regarding municipal securities purchased with market discounts for 4,181 transactions involving 1,072 self-directed customer accounts.

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

During this same period, Merrill Lynch failed to establish and maintain a supervisory system, including written procedures, reasonably designed to achieve compliance with the firm's obligation to provide self-directed customers with all material information concerning municipal securities transactions subject to a market discount at or prior to the time of trade.

As a result, Merrill Lynch violated MSRB Rules G-47 and G-27. For these violations, Merrill Lynch is censured and fined \$175,000.

FACTS AND VIOLATIVE CONDUCT

This matter originated from a cycle examination of Merrill Lynch.

MSRB Rule G-47 requires brokers, dealers, and municipal securities dealers to disclose orally or in writing to customers, at or prior to the time of trade, all material information known about the transaction, as well as material information about the security that is reasonably accessible to the market. MSRB Rule G-47(b)(ii) states that information is material "if there is a substantial likelihood that the information would be considered important by a reasonable investor in making an investment decision."

MSRB Rule G-27 requires brokers, dealers, and municipal securities dealers to establish and maintain a supervisory system, including written procedures, to supervise the conduct of their municipal securities activities to ensure compliance with MSRB rules and applicable provisions of the Securities Exchange Act of 1934 and Exchange Act rules.

During periods of rising interest rates, municipal bonds may be traded at a "market discount." Market discounts occur when a municipal bond is purchased for less than its par value or, if the bond was an original issue discount bond, its adjusted issue price. The fact that a municipal security bears a market discount may affect its tax treatment. When a market discount exceeds a threshold defined in the Internal Revenue Code, the discount may be considered "non-de minimis" and will generally be taxed as ordinary income. Bonds with a "de minimis" amount of market discount are subject to capital gains tax treatment. MSRB guidance in effect during the relevant period stated that the fact that a municipal security bears a market discount is material information required to be disclosed to a customer under MSRB Rule G-47.²

Between January 2021 and September 2023, Merrill Lynch did not disclose to customers non-de minimis market discounts in 4,181 purchases of municipal securities with a total

² *Interpretive Notice Regarding Rule G-47, on Time of Trade Disclosure – Disclosure of Market Discount* (Nov. 22, 2016). In July 2024, MSRB Rule G-47 was amended to codify and retire the November 2016 guidance on market discount as of March 3, 2025. See MSRB Notice 2024-10 at 2-3 (July 12, 2024) (adding Supplementary Material .03(p), which identifies the following as material information: "The fact that a municipal security bears market discount and that all or a portion of the investor's investment return represented by accretion of the market discount might be taxable as ordinary income.").

principal value of approximately \$87 million by 1,072 self-directed customer accounts.³ The firm subsequently provided market discount disclosures to the impacted self-directed customers, as well as an offer to compensate the customers who demonstrated that they incurred tax liability above the capital gains rate as a result of purchasing the municipal securities.

During the same period, Merrill Lynch did not establish and maintain a supervisory system, including written procedures, reasonably designed to achieve compliance with the firm's obligation to disclose to self-directed customers, at or prior to the time of trade, all material information regarding municipal securities that traded at a market discount, including that all or a portion of the investor's investment return represented by accretion of the market discount might be taxable as ordinary income. The firm's written procedures did not address the firm's obligation to provide time of trade disclosures regarding market discounts to customers who used the firm's self-directed platform. Moreover, the firm did not have any process to determine whether all material information regarding market discounts was provided to self-directed customers at or prior to the time of trade. In September 2023, the firm updated its written procedures regarding the market discount disclosures for its self-directed platform, and added a market discount disclosure for applicable transactions on its self-directed platform.

By failing to disclose certain material market discounts, and by failing to establish and maintain a supervisory system, including written procedures, reasonably designed to achieve compliance with the firm's market discount disclosure obligations, Merrill Lynch violated MSRB Rules G-47 and G-27.

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

- a censure and
- a \$175,000 fine.

Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. FINRA's Finance Department will contact Respondent regarding payment. 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 become effective on a date set by FINRA.

³ In December 2022, the firm provided a general disclosure to customers on its self-directed platform concerning the potential tax consequences associated with purchasing municipal securities with non-de minimis market discounts. However, this disclosure did not address whether market discounts were applicable to specific securities and was provided for all municipal securities transactions, regardless of whether the security had a market discount.

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:

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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 12, 2026

Date

Laura Hussain

Merrill Lynch, Pierce, Fenner & Smith Incorporated
Respondent

Print Name: Laura Hussain

Title: Managing Director & Associate General Counsel

Reviewed by:

Lara Thyagarajan

Lara C. Thyagarajan
Counsel for Respondent
Sidley Austin LLP
787 Seventh Avenue
New York, NY 10019

Accepted by FINRA:

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

June 18, 2026

Date

Kavitha Sivashanker

Kavitha Sivashanker
Senior Counsel
FINRA
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