FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2013036343601

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

RE: Raymond James Financial Services, Inc., Respondent
FINRA Member Firm
CRD No. 6694

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent 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 it alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

A. Respondent hereby accepts and consents, 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

Raymond James Financial Services, Inc. ("RJFS" or the "firm") is an introducing broker-dealer that offers investments and services to retail clients through independent contractors located throughout the United States. RJFS currently has approximately 6,100 registered representatives working at approximately 3,114 branch office locations and maintains its headquarters in St. Petersburg, Florida. RJFS introduces accounts to its affiliate, Raymond James and Associates, Inc.

OVERVIEW

Between December 2007 and September 2017 ("the relevant period"), RJFS did not have supervisory systems and procedures for reviewing email communications that were reasonably designed to achieve compliance with applicable legal requirements or appropriate for the firm's business, size, structure, and customers. As a result, RJFS violated NASD Rules 3010 and 2110 and FINRA Rules 3110 and 2010.

FACTS AND VIOLATIVE CONDUCT

During the relevant period, RJFS relied primarily on an automated, lexicon-based system to surveil the emails of its personnel. The system allowed the firm to select from and customize various "policies" designed to "flag" emails that contained specified words, phrases, or other characteristics suggesting potential concerns warranting further review. Flagged emails were then reviewed by a team of registered principals in the firm's home office.

This system was flawed in significant respects. For example, the primary lexicon used by the firm's system was not reasonably designed to identify emails suggesting certain categories of potentially problematic conduct and circumstances that the firm—in light of its size, structure, business model, and experience from prior disciplinary actions taken against its personnel by both the firm and regulators—knew or should have anticipated would recur from time to time. This included, for example, firm representatives experiencing financial distress, borrowing from or lending to customers, and soliciting penny-stock transactions, which the firm prohibited.

The firm also failed to devote adequate personnel and resources to the team that reviewed emails flagged by the system, even as the number of emails sent or received by the firm increased over time.

In addition, the firm unreasonably failed to apply all of the policies in the firm's primary lexicon to the emails of approximately 1,300 registered representatives who worked in branch offices that maintained their own email servers. The firm also unreasonably excluded from email surveillance certain firm personnel who sent or received emails that required review, including personnel in its headquarters who serviced customer brokerage accounts in addition to their other responsibilities.

Finally, the firm did not periodically test the configuration and effectiveness of its lexicon-based email surveillance system and lacked reasonable procedures for doing so. Although the firm refined the policies it implemented over time by adding or subtracting keywords, the firm's primary focus was on reducing the number of "false positives" that would need to be reviewed rather than ensuring that the system was effectively identifying all potentially problematic categories of emails by, for example, adding additional policies.

During some of the relevant period, separate from the automated, lexicon-based surveillance system described above, the firm also required and trained its branch managers to manually review emails sent and received by the registered representatives they supervised and retain evidence of that review either electronically or in hard copy. This manual review process, however, was essentially based on an "honor system" whereby supervised representatives self-selected and copied, blind copied, or forwarded emails for review, with no effective means to ensure that representatives were in fact providing all emails that should have been reviewed. Moreover, when branch managers left the firm, the firm did not retain the electronic records evidencing which emails they

had reviewed. The firm discontinued its manual email review by branch managers in January 2013, but failed to reevaluate the adequacy of its primary email review lexicon when it did so.

The foregoing combination of failures allowed millions of RJFS emails to evade meaningful review during the relevant period, creating unreasonable risk that misconduct by firm personnel might be occurring undetected. For example, the failures contributed to the firm not detecting that a former firm representative had engaged in private securities transactions involving the fraudulent sale of approximately $1 million in unregistered notes, resulting in substantial losses to some of his customers.[1] At least 16 separate strings contained evidence that, if reviewed by the representative's branch manager, could have indicated that the representative was improperly selling the investment away from the firm's supervision. In eight of the email strings, a firm customer had initially contacted the representative about the investment but then subsequently, at the representative's request, sent a follow-up email that falsely indicated that the representative was not involved in the investment. The representative, however, was not complying with the firm's requirement to forward emails to his branch manager, despite affirming to the firm that he was doing so, thereby evading the firm's email review system. Approximately two years after the last customer had already invested, two relevant email strings were flagged by the firm's lexicon-based surveillance system, but the firm failed to detect the misconduct.

FINRA Rule 3110, like its predecessor NASD Rule 3010, generally requires firms to establish and maintain supervisory systems, including written supervisory procedures, that are reasonably designed to achieve compliance with applicable securities laws and regulations and with FINRA rules.[2] FINRA Rule 3110(b)(4), like its predecessor NASD Rule 3010(d)(2), more specifically requires firms to have procedures for the review of incoming and outgoing securities-related written correspondence that are appropriate for the member's business, size, structure, and customers, including procedures that require the review of customer complaints and other communications that are of a subject matter that require review under FINRA rules or the federal securities laws. NASD Rule 3010(d)(3) also required member firms to retain records indicating who reviewed the correspondence of its registered representatives.[3] As discussed above, RJFS did not have systems and procedures that complied with these requirements during the relevant period, and thereby violated NASD Rule 3010 (prior to December 1, 2014) and FINRA Rule 3110 (beginning December 1, 2014). By virtue of these violations, the firm also violated

[1] In 2011 the SEC filed securities-fraud charges against the issuer of the notes and several individuals, including the former RJFS representative. In 2015, the SEC obtained a judgment imposing financial sanctions against the former RJFS representative and permanently barred him from, among other things, associating with any broker-dealer. The firm was not named in the SEC action.

[2] NASD Rule 3010 was superseded in relevant part by FINRA Rule 3110 effective December 1, 2014.

[3] Effective December 1, 2014, FINRA Rule 3110.07 states that the evidence of review must be chronicled either electronically or on paper and clearly identify the reviewer, the internal communication or correspondence that was reviewed, the date of review, and the actions taken by the member as a result of any significant regulatory issues identified during the review. Merely opening a communication is not sufficient review.

NASD Rule 2110 (prior to December 15, 2008) and FINRA Rule 2010 (beginning December 15, 2008).[4]

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

1. A censure;

2. A fine of $2 million; and

3. The undertakings described below.

Certification. RJFS further agrees to certify to FINRA Enforcement, within 180 days of the issuance of this AWC, in a writing signed by a principal and officer of RJFS, that it has adopted and implemented written supervisory policies, procedures, and systems including, if utilized, an appropriate email review lexicon, that are reasonably designed to address each of the deficiencies identified in this AWC.

Risk-Based Review. RJFS further agrees to certify to FINRA Enforcement, within 180 days of the issuance of the AWC, in a writing signed by a principal and officer of RJFS, that it has (i) completed a risk-based retrospective review, which may include the use of sampling, reasonably designed to detect potential violations of the securities laws and FINRA rules evidenced in emails sent or received by its registered representatives that were impacted by the systemic failures described above; and has (ii) complied with its Form U4, Form U5, and Rule 4530 reporting obligations as a result of its findings arising out of that review.

The certifications described above shall be submitted by letter addressed to Thomas S. Kimbrell, Senior Counsel, FINRA's Department of Enforcement, 15200 Omega Drive, 3rd Floor, Rockville, MD 20850. FINRA staff can extend the deadlines set forth above for good cause upon written request from the firm.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. RJFS 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 that it is unable to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

[4] NASD Rule 2110 was superseded by FINRA Rule 2010 effective December 15, 2008.

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 acceptance or rejection of this AWC.

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 actions brought by FINRA or any other regulator against it;

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 the subject matter thereof 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: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

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 understand 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 or its staff.

The undersigned, on behalf of the Firm, 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 it has agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the firm to submit it.

12/15/2017
Date (mm/dd/yyyy)

Raymond James Financial Services, Inc.
Respondent

By: _____
Scott Alan Curtis, President

Reviewed by:

E. Andrew Southerling
Counsel for Respondent
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Ave. NW
Washington, DC 20004-2541
202-739-3001

Accepted by FINRA:

12/21/2017
Date

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

for Thomas S. Kimbrell
Senior Counsel
FINRA, Department of Enforcement
15200 Omega Drive, 3rd Floor
Rockville, Maryland 20850-3241
Tel: (301) 258-8564