FINANCIAL INDUSTRY REGULATORY AUTHORITY LETTER OF ACCEPTANCE, WAIVER, AND CONSENT NO. 2021069337301

TO: Department of Enforcement

Financial Industry Regulatory Authority (FINRA)

RE: Securities America, Inc. (Respondent)

Former Member Firm CRD No. 10205

Acquired by Osaic Wealth, Inc.

Member Firm

CRD No. 23131

Pursuant to FINRA Rule 9216, Respondent Securities America, 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

Securities America became a FINRA member firm in November 1981. The firm was headquartered in La Vista, Nebraska, and it had approximately 3,400 registered representatives and 1,900 branch offices. The firm was a full-service broker-dealer, with revenue from Class A mutual funds accounting for approximately 26 percent of the firm's total brokerage revenue. On June 14, 2024, Securities America was merged into Osaic Wealth, Inc. (Osaic), which acquired all the assets and current and future liabilities of Securities America. Securities America subsequently filed a full Uniform Request for Withdrawal from Broker-Dealer Registration (Form BDW) with FINRA, which became effective on August 19, 2024. ¹

OVERVIEW

From at least January 2018 to June 14, 2024, Securities America failed to establish, maintain, and enforce a supervisory system, including written supervisory procedures (WSPs), reasonably designed to achieve compliance with FINRA Rule 2111 and the Care

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

Obligation of Rule 15*l*-1 of the Securities Exchange Act of 1934 (Reg BI) with respect to Class A mutual fund recommendations. Moreover, from June 30, 2020, to June 14, 2024, Securities America failed to establish, maintain, and enforce written policies and procedures reasonably designed to achieve compliance with the Care Obligation of Reg BI with respect to the same recommendations. As a result, from January 1, 2018, to June 14, 2024, Securities America violated FINRA Rules 3110 and 2010 and, for the period from June 30, 2020, to June 14, 2024, violated Reg BI and Rule 2010 by failing to comply with Reg BI's Compliance Obligation. For these violations, the firm is censured, fined \$1 million, and ordered to pay \$2,019,040 in restitution.

FACTS AND VIOLATIVE CONDUCT

This matter originated from a FINRA cycle examination.

A. Class A Mutual Funds

Mutual funds are comprised of several classes of shares, which have different cost structures. While Class C mutual fund shares typically do not collect a front-end sales charge, they typically charge customers higher ongoing expenses than Class A mutual fund shares, which typically collect a front-end sales charge. Most of the front-end sales charge for a Class A mutual fund share is paid to the broker-dealer, which typically passes on a portion of the charge to the representative as a commission. If the amount of Class A shares purchased (or held by the customer) exceeds a certain dollar threshold, customers can purchase at Net Asset Value (NAV), meaning that they will not pay a front-end sales charge in connection with the transaction. However, in these instances, mutual fund companies typically pay the broker-dealer a selling concession, a portion of which the broker-dealer typically passes on to the representative, and the position is subject to a contingent deferred sales charge (CDSC), which the customer must pay if the shares are sold within a certain number of months of the purchase date. The front-end sales charge is usually waived when a customer exchanges a mutual fund for a new fund within the same fund family. In this situation, unlike purchases at NAV, the mutual fund company typically does not pay the broker-dealer a selling concession, and the position is not typically subject to a new CDSC.²

Class A mutual funds are generally suitable, or in the customer's best interest, only as long-term investments and not for short-term trading because an investor usually must hold the Class A share for a long enough period of time to recoup the costs associated with the front-end sales charge. Frequent short-term purchases and sales of Class A shares in a customer's account may be unsuitable, or not in the customer's best interest, because of the transaction costs incurred or the customer's financial situation, investment objectives, and needs. Mutual fund switching occurs when a customer sells mutual fund shares and reinvests the proceeds in another mutual fund, often incurring additional charges and commissions.

² If the original holding was subject to a CDSC, the same-family exchange typically does not trigger any obligation to pay the CDSC, and the original CDSC time period typically continues to run after the exchange.

B. Applicable Law

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

As of June 30, 2020, broker-dealers and their associated persons are required to comply with Reg BI under the Securities Exchange Act of 1934. Rule 15*l*-1(a)(1) of Reg BI requires a broker, dealer, or a natural person associated with a broker or dealer, when making a recommendation of any securities transaction or investment strategy involving securities (including account recommendations) to a retail customer, to act in the best interest of that retail customer at the time the recommendation is made, without placing the financial or other interest of the broker, dealer, or associated person ahead of the interest of the retail customer. Reg BI's Compliance Obligation, set forth in Exchange Act Rule 15*l*-1(a)(2)(iv), requires broker-dealers to establish, maintain, and enforce written policies and procedures reasonably designed to achieve compliance with Reg BI. Reg BI's Adopting Release provides that broker-dealers should consider the nature of their firm's operations and how to design such policies and procedures to prevent violations from occurring, detect violations that have occurred, and to correct promptly any violations that have occurred.³

Additionally, Reg BI's Care Obligation, set forth in Exchange Act Rule 15*l*-1(a)(2)(ii), requires broker-dealers and their associated persons to exercise reasonable diligence, care, and skill to, among other things, understand the potential risks, rewards, and costs associated with a recommendation. The Adopting Release provides that consideration of reasonably available alternatives offered by the broker-dealer is an inherent aspect of making a "best interest" recommendation.⁴

Prior to June 30, 2020, FINRA Rule 2111 required members and associated persons to have a reasonable basis to believe that a recommendation of a transaction or investment strategy involving a security or securities to any customer is suitable for the customer. FINRA Rule 2111 is still in effect, but as of June 30, 2020, it no longer applies to recommendations that are subject to Reg BI.

A violation of FINRA Rule 3110 or Reg BI is also a violation of FINRA Rule 2010, which requires member firms to "observe high standards of commercial honor and just and equitable principles of trade" in the conduct of their business.

³ Regulation Best Interest: The Broker-Dealer Standard of Conduct, Exchange Act Release No. 86031, 84 FR 33318 at 33397 (July 12, 2019).

⁴ Id. at 33381 (July 12, 2019).

C. Securities America failed to establish, maintain, and enforce a supervisory system, including WSPs, reasonably designed to achieve compliance with SEC and FINRA rules regarding Class A mutual fund recommendations.

Between January 1, 2018, and June 14, 2024, Securities America effected the purchase of approximately \$3.8 billion in Class A mutual funds, which comprised a substantial portion of the firm's revenue. However, from at least January 2018 to June 14, 2024, Securities America failed to establish, maintain, and enforce a supervisory system, including WSPs, reasonably designed to achieve compliance with FINRA Rule 2111 and Reg BI with respect to recommendations that customers (a) switch Class A mutual fund holdings between fund families ("switching") and/or (b) sell Class A mutual funds after holding them for a short period ("short-term sales").

1. The firm's WSPs were not reasonably designed to achieve compliance with suitability and best interest obligations with respect to Class A mutual fund recommendations.

Securities America's WSPs generally required supervisors to assess whether mutual fund transactions were suitable for customers or in their best interests, but they failed to provide reasonable guidance for how to conduct that analysis.

The WSPs stated that switches of Class A shares "may require additional scrutiny" if the original fund had been held for less than 4 to 5 years or the purchased fund had the same objective as the fund that was liquidated, but the WSPs left it to the supervisors' discretion whether to apply such scrutiny. They also did not provide any guidance for how supervisors should evaluate whether a recommended switch was suitable for or in the best interest of the customer. For example, the firm had no formal requirement that representatives consider the availability of a same-family exchange (which would typically trigger a waiver of the front-end sales charge) instead of a switch (which would not), and the WSPs contained no provisions requiring supervisors to consider whether representatives had done so. The firm also obligated representatives to complete, and have customers execute, switch letters disclosing the details of the transactions, including the rationale for them. However, the WSPs did not establish any procedures or guidelines for supervisory review of switch letters, and they waived the switch letter requirement entirely for purchases at NAV, even though these transactions exposed customers to potential new CDSCs.

For short-term sales, the WSPs stated that mutual funds "are generally regarded as long-term investments rather than vehicles for quick, speculative profit taking." But, as with switches, the WSPs did not provide any criteria that might guide a representative or supervisor in determining whether a particular recommended sale was suitable for or in the best interest of the customer in light of the product's cost structure.

2. The firm's supervisory system was not reasonably designed to achieve compliance with suitability and best interest obligations with respect to Class A mutual fund recommendations.

Additionally, throughout the relevant period, Securities America's systems for identifying and supervising switches and short-term sales were not reasonably designed. With respect to mutual fund switches, the firm identified switch transactions using an automated system that generated an alert when purchases of mutual funds were preceded by sales of mutual funds in the same account within a particular lookback period, which Securities America intended to set at 90 days. However, due to a vendor error, from at least January 2018 to January 21, 2022, the system only generated an alert when the sale and purchase occurred on the same day, causing the firm to fail to identify thousands of Class A mutual fund switch transactions. The firm became aware of this issue only after it was identified by a FINRA exam team.

Moreover, as explained above, even when a switch did trigger an alert, Securities America failed to provide sufficient guidance to supervisors for how to analyze whether the switch transaction was suitable or in the customer's best interest. As a result, the supervisory notes for switch alerts routinely failed to address basic questions, such as the justification for the switch or whether a commission-free alternative was considered. Likewise, despite the requirement in the WSPs to obtain a signed switch letter, the firm had no process for determining that representatives actually did so, and representatives failed to obtain signed switch letters for approximately 45 percent of switches flagged by the alert system. For letters that were obtained, the firm did not conduct a reasonable review of representatives' purported rationales for their switch recommendations, and these rationales often failed to provide a reasonable explanation for the transaction.

With respect to short-term sales of mutual funds, Securities America required analysts to review monthly reports to identify short-term sales that should be referred for supervisory review. However, the firm categorically excluded a substantial number of short-term sales from supervisory review, including (i) all short-term sales where the account had less than \$1,000 in commissions associated with such sales in a single month, (ii) all short-term sales of positions purchased at NAV, and (iii) all short-term sales of positions that had been purchased at other firms. These exclusions bore no connection to whether the representatives had adequately considered customers' time horizons when recommending the purchase of Class A shares or costs when recommending the sale of Class A shares after a short holding period. Moreover, for trades that did not fall within these categorical exclusions, the firm provided no guidance or oversight to analysts tasked with making supervisory referrals.

Finally, although the firm's WSPs directed supervisors to take account of a representatives' broader trading behavior, they provided no guidance for how to conduct that analysis. As a result, the firm failed to detect representatives who engaged in patterns of recommendations that customers: (i) switch between Class A mutual fund shares in different fund families; (ii) purchase Class A mutual funds without reasonably considering the retail customer's time horizon for such products; and/or (iii) sell their

Class A mutual funds after holding them for a short period without adequately considering costs.

In sum, Securities America failed to reasonably supervise recommendations of more than 1,000 Class A mutual fund switches and more than 2,000 short-term sales that were potentially unsuitable or not in the customer's best interest. Collectively, these trades caused customers to pay \$2,019,040 in commissions and fees.

Following the merger of Securities America into Osaic on June 14, 2024, Osaic began using its system to supervise former Securities America accounts.

Because, from at least January 1, 2018, to June 14, 2024, Securities America failed to implement a supervisory system, including WSPs, reasonably designed to achieve compliance with FINRA Rule 2111 and Reg BI, and from June 30, 2020, to June 14, 2024, Securities America failed to establish, maintain, and enforce written policies and procedures reasonably designed to achieve compliance with Reg BI with respect to Class A mutual fund recommendations, the firm violated FINRA Rules 3110 and 2010, and from June 30, 2020, to June 14, 2024, the firm also violated Exchange Act Rule 15*l*-1(a)(1) and FINRA Rule 2010.

- B. Respondent also consents to the imposition of the following sanctions:
 - a censure;
 - a \$1 million fine; and
 - restitution of \$2,019,040 plus interest as described below.

Respondent agrees to pay the monetary sanctions 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.

Restitution is ordered to be paid to the customers listed on Attachment A to this AWC (Eligible Customers) in the total amount of \$2,019,040, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. § 6621(a)(2), from June 14, 2024, until the date this AWC is accepted by the National Adjudicatory Council (NAC).

A registered principal on behalf of Respondent shall submit satisfactory proof of payment of restitution and interest (separately specifying the date and amount of each paid to each Eligible Customer) 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. The email must identify Respondent 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.

The restitution amount plus interest to be paid to each Eligible Customer shall be treated by the Respondent as the Eligible Customer's property for purposes of state escheatment, unclaimed property, abandoned property, and similar laws. If after reasonable and documented efforts undertaken to effect restitution Respondent is unable to pay all Eligible Customers within 120 days after the date of the notice of acceptance of the AWC, Respondent shall submit to FINRA in the manner described above a list of the unpaid Eligible Customers and a description of Respondent's plan, not unacceptable to FINRA, to comply with the applicable escheatment, unclaimed property, abandoned property, or similar laws for each such Eligible Customer.

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 sanctions imposed in this matter.

The imposition of a restitution order or any other monetary sanctions 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, 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

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 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.

| November 24, 2025 | Gregory Cornick |
|--------------------|---|
| Date | Osaic Wealth, Inc., as the acquirer of Securities |
| | America, Inc., Respondent |
| | Print Name: Gregory Cornick |
| | Title: <u>CEO and President, Osaic Services</u> |
| | |
| Accepted by FINRA: | |
| | Signed on behalf of the |
| | Director of ODA, by delegated authority |
| December 1, 2025 | Me the |
| Date | Alex Ehmke |
| | Counsel |
| | FINRA |
| | Department of Enforcement |
| | Brookfield Place |
| | 200 Liberty Street |
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