

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT  
NO. 2020066661101**

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

RE: Pershing LLC (Respondent)  
Member Firm  
CRD No. 7560

Pursuant to FINRA Rule 9216, Respondent Pershing LLC 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**

Pershing LLC has been a FINRA member since 1973 and a Municipal Securities Rulemaking Board (MSRB) registrant since 1976. The firm, headquartered in Jersey City, New Jersey, is a clearing broker that provides clearing, custody, and execution services to other registered broker-dealers. Pershing has more than 1,100 registered representatives and 18 branch offices.<sup>1</sup>

**OVERVIEW**

From July 2016 to April 2021, Pershing failed to include the Non-Transaction Based Compensation (NTBC) indicator when reporting approximately 23,000 municipal securities transactions to the MSRB's Real-Time Transaction Reporting System (RTRS) in violation of MSRB Rule G-14.

During the same period, the firm also did not report the No Remuneration (NR) indicator to the Trade Reporting and Compliance Engine (TRACE) for approximately 155,000 transactions in TRACE-eligible securities, as defined in FINRA Rule 6710(a), in violation of FINRA Rules 6730(d) and 2010.

---

<sup>1</sup> For more information about the firm, including prior regulatory events, visit BrokerCheck® at [www.finra.org/brokercheck](http://www.finra.org/brokercheck).

Additionally, from July 2016 to May 2021, the firm failed to establish and maintain supervisory systems reasonably designed to achieve compliance with MSRB Rule G-14 and FINRA Rule 6730, in violation of MSRB Rule G-27 and FINRA Rules 3110 and 2010, respectively.

### **FACTS AND VIOLATIVE CONDUCT**

This matter originated from FINRA's Department of Market Regulation's review of the firm's compliance with trade reporting rules.

#### **Pershing failed to report the NTBC indicator for certain transactions in municipal securities.**

MSRB Rule G-14(b)(i) requires each broker, dealer, and municipal securities dealer to report "information about each purchase and sale transaction effected in municipal securities to the [RTRS] in the manner prescribed by Rule G-14 RTRS Procedures and the RTRS Users Manual." MSRB Rule G-14(b)(ii) requires each broker, dealer, and municipal securities dealer to report the information in the Rule G-14 RTRS Procedures promptly, accurately, and completely. Rule G-14 RTRS Procedures (b)(iv) requires reporting of the "special condition indicators" for "transactions affected by the special conditions described in the RTRS Users Manual in Section 4.3.2 of the Specifications for Real-Time Reporting of Municipal Securities Transactions." Section 4.3.2 of the Specifications and Rule G-14 RTRS Procedures (b)(iv) and (d)(x) state that the special condition indicator for non-transaction based compensation is mandatory for a customer transaction that does not include a mark-up, mark-down, or commission. The NTBC indicator improves price transparency by distinguishing between transaction prices that include some form of transaction-based dealer compensation and those that do not. The requirement to report the NTBC indicator became effective on July 18, 2016.

From July 2016 to April 2021, the firm failed to include the NTBC indicator for approximately 23,000 reports of municipal securities transactions with customers that did not include a mark-up, mark-down, or commission. Specifically, the firm's electronic system for reporting transactions failed to account for the fact that it did not accept compensation for transactions with two affiliates. Thus, the firm erroneously reported the affiliate transactions without the applicable NTBC indicator.

Therefore, the firm violated MSRB Rule G-14(b).

#### **Pershing failed to report the NR indicator for certain transactions in TRACE-eligible securities.**

FINRA Rule 6730(a) provides, in relevant part, that "[e]ach member that is a Party to a Transaction in a TRACE-Eligible Security must report the transaction." Rule 6730 also identifies the specific types of information required to be included in trade reports submitted to TRACE, including information about price and the use of modifiers and indicators. FINRA Rule 6730(d)(4)(F) provides that, "[w]here a trade report does not reflect either a commission, mark-up or mark-down," a member should "select the 'No

Remuneration' indicator," subject to the exceptions provided in Rule 6730(d)(1). FINRA Rule 6730(d)(1) provides that a member "must use the 'No Remuneration' indicator described in paragraph (d)(4)(F) where a trade report does not reflect either a commission, mark-up or mark-down," subject to certain exceptions not applicable here. A failure to accurately report the NR indicator on qualifying transactions to TRACE affects the reliability of publicly disseminated transaction and pricing data and the accuracy of the audit trail for such transactions. The NR indicator became effective on July 18, 2016.

A violation of FINRA Rule 6730 constitutes a violation of FINRA Rule 2010, which provides that a "member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade."

From July 2016 to April 2021, the firm failed to include the NR indicator for approximately 155,000 transactions in TRACE-eligible securities that did not include a commission, mark-up, or mark-down because its reporting logic failed to account for transactions with affiliates where the firm did not charge transaction-based compensation.

Therefore, the firm violated FINRA Rules 6730(d) and 2010.

**Pershing's supervisory system was not reasonably designed to ensure compliance with the requirements of MSRB Rule G-14(b).**

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.

From July 2016 to May 2021, the firm's supervisory system, including its written supervisory procedures, was not reasonably designed to ensure compliance with MSRB reporting requirements because the firm lacked supervisory reviews and written procedures for checking whether the firm accurately reported the NTBC indicator. Pershing addressed this issue in May 2021, when firm personnel began reviewing randomly selected trades on a monthly basis to confirm whether the firm correctly appended the NTBC indicator in reports to the RTRS. The firm memorialized this process in its written supervisory procedures.

Therefore, the firm violated MSRB Rule G-27.

**Pershing's supervisory system was not reasonably designed to achieve compliance with the requirements of FINRA Rule 6730(d).**

FINRA Rule 3110(a) provides that "[e]ach member shall 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)(1) provides that "[e]ach member shall 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.” A violation of FINRA Rule 3110 also constitutes a violation of FINRA Rule 2010.

From July 2016 to May 2021, the firm’s supervisory system, including its written supervisory procedures, was not reasonably designed to achieve compliance with TRACE reporting requirements. While the firm’s written procedures provided for certain supervisory reviews of its TRACE reporting, none related to the accurate reporting of the NR indicator. The firm addressed this issue in May 2021, when it began performing monthly reviews of a random sample of TRACE-eligible securities transactions for the accuracy of the reported NR indicator. This process is memorialized in the firm’s written supervisory procedures.

Therefore, the firm violated FINRA Rules 3110 and 2010.

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

- a censure and
- a \$150,000 fine (\$42,000 of which pertains to the violations of MSRB Rules G-14 and G-27).

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 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 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

Jesse Lawrence

Pershing LLC  
Respondent

Print Name: Jesse Lawrence

Title: Managing Director, Head of Legal

Accepted by FINRA:

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

September 16, 2024

Date

Jeffery Ding

Jeffery Ding  
Senior Counsel  
FINRA  
Department of Enforcement  
Brookfield Place  
200 Liberty Street  
New York, NY 10281