

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT  
NO. 2020068047101**

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

RE: Charles Schwab & Co., Inc. (Respondent)  
Member Firm  
CRD No. 5393

Pursuant to FINRA Rule 9216, Respondent Charles Schwab & Co., 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**

Schwab has been a FINRA member since 1970. The firm conducts a general securities business. It has approximately 15,000 registered persons and more than 400 branches.

In August 2013, Schwab entered into an AWC with FINRA through which it consented to findings that it provided inaccurate call date information on 289 customer confirmations. FINRA censured Schwab and required it to pay a \$12,500 fine. *See* AWC No. 2011028941201.<sup>1</sup>

**OVERVIEW**

Between January 2016 and December 2020, Schwab sent its customers approximately 765,000 transaction confirmations that omitted required disclosures regarding its customers' purchases of certain exchange traded notes (ETNs). Specifically, the confirmations failed to disclose that the ETNs were callable and that early redemption could affect the ETNs' yield. As a result, Schwab violated Exchange Act Rule 10b-10(a)(4), promulgated under Section 10(b) of the Securities Exchange Act of 1934, and FINRA Rules 2232 and 2010.

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<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, during this same period, Schwab failed to establish, maintain, and enforce a supervisory system, including written supervisory procedures (WSPs), reasonably designed to achieve compliance with the rules regarding transaction confirmations for callable ETNs, in violation of FINRA Rules 3110 and 2010.

### **FACTS AND VIOLATIVE CONDUCT**

This matter originated from a self-report by Schwab pursuant to FINRA Rule 4530.

#### **A. Schwab sent 765,248 transaction confirmations that failed to disclose required information concerning certain ETNs to its customers.**

Trade confirmations protect investors who buy or sell securities through broker-dealers by, among other things, providing them the means to verify the terms of their transactions.

Exchange Act Rule 10b-10 requires broker-dealers effecting customer transactions in securities to provide customers with written notification, at or before the completion of a transaction, disclosing specific details about the transaction. If the transaction concerns a debt security that is subject to redemption before maturity (including ETNs), Rule 10b-10(a)(4) requires that the confirmation disclose that: the debt security may be redeemed in whole or in part before maturity; a redemption could affect the yield represented; and additional information is available upon request.

FINRA Rule 2232(a) requires member firms, at or before the completion of any transaction in any security effected for or with an account of a customer, to provide the customer with written confirmation that conforms with the requirements of Exchange Act Rule 10b-10. Additionally, with respect to any transaction in a callable equity security, FINRA Rule 2232(b)(2) further requires that, among other things, the confirmation disclose that the security is a callable equity security.

A violation of an Exchange Act rule, or any FINRA rule also is a violation of FINRA Rule 2010, which requires that “[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.”

Between January 2016 and December 2020, Schwab sent 765,248 confirmations to customers who purchased certain ETNs that failed to disclose that, as the prospectuses for such ETNs identified, the securities were subject to redemption and that redemption before maturity could affect the securities’ yields. During that period, Schwab relied on a third-party vendor to provide it with redemption information about securities, including ETNs. Schwab then used the redemption information in transaction confirmations it sent to customers. However, for 183 ETNs, the vendor provided inaccurate or incomplete information about redeemable ETNs, and for 15 additional ETNs, Schwab received accurate redemption information from its vendor but inaccurately stated on transaction confirmations that the ETNs were not redeemable.

By failing to disclose in confirmations that the ETNs in question were callable, and by failing to disclose in confirmations that early redemption of the ETNs could affect the

securities' yields, Respondent violated Exchange Act Rule 10b-10(a)(4), and FINRA Rules 2232 and 2010.

**B. Schwab failed to establish, maintain, and enforce a supervisory system, including WSPs, reasonably designed to achieve compliance with the rules concerning transaction confirmations for callable ETNs.**

FINRA Rule 3110(a) requires a member firm to establish and maintain a supervisory system 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. A violation of FINRA Rule 3110 is also a violation of FINRA Rule 2010.

From January 2016 through December 2020, Schwab's supervisory system, including its WSPs, was not reasonably designed to achieve compliance with rules governing disclosures in transaction confirmations. The firm had no procedures to review the accuracy of the redemption features of ETNs identified in the confirmations other than to compare the information to the data provided by the firm's third-party vendor. The firm also did not have any procedures to verify the information provided by its vendor concerning the ETNs' callability or redemption features.

In approximately June 2020, Schwab identified that the ETN transaction confirmations described above did not contain the required redemption disclosures and subsequently self-reported the issue to FINRA and notified its customers of the correct redemption information. In approximately December 2020, the firm revised its supervisory procedures to require firm personnel to validate ETN redemption data provided by the firm's vendor and to review ETN confirmation data for accuracy of redemption information.

By failing to have a reasonably designed supervisory system, including WSPs, Respondent violated FINRA Rules 3110(a) and (b), and 2010.

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

- a censure; and
- a \$350,000 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 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.

May 22, 2023

\_\_\_\_\_  
Date



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Charles Schwab & Co., Inc.  
Respondent

By: Jeffrey Starr  
Title: Managing Director

Reviewed by:

*Paul M. Tyrrell, Esq.*

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Paul M. Tyrrell, Esq.  
Counsel for Respondent  
Sidley Austin LLP  
60 State Street, 36<sup>th</sup> Floor  
Boston, MA 02109

Accepted by FINRA:

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

June 8, 2023

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Date

*Stuart P. Feldman*

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Stuart P. Feldman  
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FINRA  
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