FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2023080627901

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

RE: Independent Financial Group, LLC (Respondent)
Member Firm
CRD No. 7717

Pursuant to FINRA Rule 9216, Respondent Independent Financial Group, 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

Independent Financial Group, LLC (IFG), became a FINRA member in 1978. The firm is headquartered in San Diego, California. IFG, which operates an independent contractor model, offers investment products and services to retail customers. The firm has approximately 380 branch offices and approximately 650 registered representatives.

In April 2021, IFG entered into an AWC with FINRA through which the firm consented to findings that from January 2008 through March 2016 it failed to reasonably supervise a registered representative's recommendations that his customers unsuitably concentrate their investments in illiquid alternative investments, in violation of NASD Rule 3010 and FINRA Rules 3110 and 2010. IFG was censured, fined $200,000, and required to certify that it had implemented a reasonably designed supervisory system and procedures concerning alternative investments.[1]

OVERVIEW

Between July 2020 and December 2022, IFG failed to establish, maintain, and enforce a supervisory system, including written supervisory procedures (WSPs), reasonably designed to supervise actively traded accounts and achieve compliance with the Care

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

Obligation of Rule 15*l*-1 of the Securities and Exchange Act of 1934 (Regulation BI or Reg BI) and FINRA Rule 2111 as they pertain to excessive trading. Therefore, IFG violated the Compliance Obligation of Reg BI, Exchange Act Rule 15*l*-1(a)(1), and FINRA Rules 3110 and 2010. During that same period, IFG also failed to reasonably supervise a registered representative who excessively traded five customers' accounts in violation of FINRA Rules 3110 and 2010.

Additionally, between September 2022 and April 2024, IFG made late and incomplete responses to a FINRA Rule 8210 request in violation of FINRA Rules 8210 and 2010.

FACTS AND VIOLATIVE CONDUCT

I. IFG failed to establish, maintain, and enforce a supervisory system reasonably designed to supervise excessive trading and assure compliance with Reg BI, and failed to reasonably supervise a registered representative who excessively traded five customers' accounts.

A. Applicable rules.

As of June 30, 2020, broker-dealers and their associated persons are required to comply with Regulation BI under the Securities and 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 at 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, including the Care Obligation. Reg BI's Adopting Release provides that broker-dealers should consider the nature of that 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.[2]

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. The duty to supervise under Rule 3110 also includes the responsibility for firms and their designated supervisors to reasonably investigate red flags of potential misconduct and to act upon the results of their investigation.

[2] Adopting Release at 33397.

A violation of Exchange Act Rule 15*l*-1(a)(1) and FINRA Rule 3110 also constitutes a violation of FINRA Rule 2010, which requires that member firms and associated persons "observe high standards of commercial honor and just and equitable principles of trade" in the conduct of their business.

Additionally, Reg BI's Care Obligation, set forth at 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, have a reasonable basis to believe that a series of recommended transactions, even if in the retail customer's best interest when viewed in isolation, is not excessive and is in the retail customer's best interest in light of the retail customer's investment profile. FINRA Rule 2111(a)[3] requires member firms and associated persons to have a reasonable basis to believe that a recommended transaction or investment strategy involving a security or securities is suitable for the customer. Under FINRA Rule 2111 Supplementary Material .05(c), members and associated persons are required to have a reasonable basis for believing that a series of recommended transactions, even if suitable when viewed in isolation, are not excessive and unsuitable for the customer in light of the customer's investment profile. No single test defines when trading is excessive, but factors such as the turnover rate, the cost-to-equity ratio, and the use of in-and-out trading in a customer's account are relevant to determining whether a member firm or associated person has excessively traded a customer's account in violation of Reg BI or FINRA Rule 2111. A turnover rate of six or a cost-to-equity ratio above 20 percent generally indicates that a series of recommended transactions was excessive and not in the retail customer's best interest or not suitable for the non-retail customer.

B. IFG failed to establish, maintain, and enforce a supervisory system reasonably designed to supervise excessive trading and achieve compliance with Reg BI.

Between July 2020 and December 2022, IFG failed to establish, maintain, and enforce a supervisory system, including WSPs, reasonably designed to supervise excessive trading and achieve compliance with Reg BI. Specifically, the responsibility for reviewing alerts that flagged potential excessive trading was shared between compliance staff and supervisory staff. IFG's WSPs made compliance staff, who were not responsible for supervising registered representatives, responsible for reviewing an "Excessive Trading Report" available through the firm's clearing firm. The Excessive Trading Report listed accounts bearing potential indicia of excessive trading and contained relevant data related to those accounts.

Instead of reviewing the Excessive Trading Report, the firm's compliance staff reviewed an internal excessive trade alert, which suffered from certain deficiencies of which the firm was unaware. The excessive trade alert was generated based on the number of trades and the amount of commissions and other charges to an account over a rolling ninety-day period. But unbeknownst to IFG, once staff reviewed (and added a note to) an excessive trade alert for an account, for the next six months an alert was not generated even if there

[3] As of June 30, 2020, FINRA Rule 2111 continues to apply to non-retail customers who are not subject to Reg BI.

was activity that met the designated criteria. The firm also did not know that in certain circumstances alerts stopped appearing for review even if they had not been reviewed.

Additionally, IFG's procedures failed to provide reasonable guidance about how compliance personnel should conduct review of excessive trade alerts or when they should take action based upon the information contained in those alerts. IFG did not include guidance on the use of cost-to-equity ratios or guidance on what turnover rates could signal excessive trading. When the firm's compliance staff reviewed excessive trade alerts, they frequently closed them without conducting further investigation into whether the trading was consistent with the customer's best interest. For example, in June 2021, IFG generated an excessive trade alert concerning the account of a 78-year-old retiree with a capital preservation investment objective and a moderate risk tolerance (Customer 1), which alert IFG compliance personnel reviewed and closed. At the time the alert was generated, the account had, over the prior 12 months, a cost-to-equity ratio of approximately 23%. As a result of the system described above, the alert's parameters did not generate any excessive trade alerts for the next six months. The registered representative who handled the account continued to place frequent in-and-out, high-commission trades in the account.

IFG's WSPs contained a provision making supervisory staff responsible for identifying potential excessive trading through their overall review of client transactions appearing on trade blotters and trade-by-trade alerts, including a "high-principal solicited trade" alert. A senior supervisor at IFG, however, instructed supervisory personnel to assess each alert only as it pertained to the specific trade generating the alert. IFG failed to provide the firm's supervisory staff with procedures, tools, or training to identify potential excessive trading by assessing a series of transactions. IFG provided no guidance to supervisors regarding what factors might suggest that a representative was excessively trading an account or what steps they should take if they identified potential excessive trading.

C. IFG failed to reasonably respond to red flags of excessive trading by a registered representative who excessively traded five customers' accounts.

Between July 2020 and December 2022, IFG failed to reasonably respond to repeated red flags that the representative was excessively trading five customers' accounts. All five customers' accounts repeatedly appeared on the Excessive Trading Report. For example, between July 2020 and June 2021, three of the customers' accounts appeared on the report every month; one customer's account appeared eleven times; and another customer's account appeared six times.

Additionally, all five customers' accounts triggered multiple excessive trade alerts. However, IFG compliance staff repeatedly closed those alerts without ever calculating the cost-to-equity ratio in the affected account.[4] The firm contacted two of these

[4] As detailed below, during the time period pertinent to this matter, the annualized cost-to-equity ratios in the five accounts at issue ranged from 13.7% to 27.1%.

customers, but did not discuss with them the activity in their accounts. IFG also failed to restrict the commissions charged, or otherwise take steps to limit the representative's excessive trading.

Between July 2020 and December 2022, the representative excessively traded five customers' accounts, directing frequent in-and-out trading and causing a level of trading that was inconsistent with the customers' investment profiles and that was not in their best interest or was not suitable.[5] Collectively, these five customers paid more than $2.2 million in total trading costs and incurred realized losses totaling approximately $2.2 million.

- Customer 1 was a 77-year-old retiree in July 2020, with a capital preservation investment objective and a moderate risk tolerance. The representative's trading produced an annualized cost-to-equity ratio of 20.3%. This customer paid more than $490,000 in total trading costs and incurred realized losses of more than $550,000, inclusive of commissions.

- Customer 2 was a trust owned by an 88-year-old retiree who, prior to becoming a customer of the representative, had been diagnosed with Alzheimer's disease; she passed in 2022. The trust had an investment objective of growth and income and a moderate risk tolerance. The representative's trading produced an annualized cost-to-equity ratio of 23.4%. This customer paid more than $650,000 in total trading costs and incurred realized losses of more than $560,000, inclusive of commissions.

- Customer 3 was an engineer with an income investment objective and a moderate risk tolerance. The representative's trading produced an annualized cost-to-equity ratio of 20.3%. This customer paid more than $185,000 in total trading costs and incurred realized losses of more than $145,000, inclusive of commissions.

- Customer 4 was a 69-year-old retired police officer in July 2020, with a capital appreciation investment objective and a moderate risk tolerance. The representative's trading produced an annualized cost-to-equity ratio of 13.7%. This customer paid more than $110,000 in total trading costs and incurred realized losses of more than $115,000, inclusive of commissions.

- Customer 5 was a dental practice[6] with two accounts – one with a capital appreciation investment objective and moderate risk tolerance and the other with a growth investment objective and moderately-high risk tolerance. The representative's trading in Customer 5's accounts produced an annualized cost-to-equity ratio of 27.1%. This customer paid approximately $788,000 in total trading costs and incurred realized losses of more than $825,000, inclusive of commissions.

[5] FINRA's Department of Enforcement filed a Complaint against the representative in October 2023 and accepted an offer of settlement from the representative in August 2024.
[6] Customer 5 is not a retail customer subject to Reg BI and therefore FINRA Rule 2111 applies.

By failing to establish, maintain, and enforce a supervisory system, including WSPs, reasonably designed to supervise actively traded accounts and achieve compliance with Reg BI and FINRA Rule 2111, IFG violated FINRA Rules 3110 and 2010 and Exchange Act Rule 15*l*-1(a)(1). By failing to reasonably supervise a registered representative who excessively traded five customers' accounts, IFG violated FINRA Rules 3110 and 2010.

II. IFG failed to timely and completely respond to FINRA Rule 8210 requests.

FINRA Rule 8210(a) states, in relevant part, that FINRA may require a member "to provide information orally, in writing, or electronically" and that FINRA may "inspect and copy the books, records, and accounts of such member . . . with respect to any matter involved in [a FINRA] investigation [or] examination." FINRA Rule 8210(c) further states that "[n]o member . . . shall fail to provide information . . . or to permit an inspection and copying of books, records, or accounts pursuant to this Rule." Failing to provide timely and complete information in response to a FINRA Rule 8210 request violates FINRA Rules 8210 and 2010.

In August 2022, FINRA sent IFG a request for, among other things, documentation of its supervisory review of all exceptions, alerts, or other documents to supervise for excessive trading, active accounts, and excessive commissions for customers of the representative. IFG's September 2022 response to that request was incomplete because it failed to include any of the Excessive Trading Reports available through IFG's clearing firm and failed to include any excessive trade alerts that had stopped appearing on the firm's system. FINRA sent a series of follow-up requests to IFG to ascertain the completeness of the firm's response. In April 2024—after multiple discussions with FINRA, IFG contacted the service provider that generated the firm's excessive trade alerts and became aware that excessive trade alerts could and had stopped appearing even if they had not been cleared—IFG finally made a complete production of all excessive trade alerts that had stopped appearing on the firm's system. In April 2024, IFG also completed its production of the Excessive Trade Reports.

By failing to timely and completely respond to FINRA's requests for documents and information, IFG violated FINRA Rules 8210 and 2010.

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

- a censure;
- a $500,000 fine;[7] and
- an undertaking that within 90 days of the date of the notice of acceptance of this AWC, a member of IFG's senior management who is a registered principal of the firm shall certify in writing that, as of the date of the certification, the firm has remediated the issues identified in this AWC and implemented a supervisory

[7] All customers have already either received restitution or are expected to receive full restitution through a separate agreement.

system, including WSPs, reasonably designed to achieve compliance with Reg BI and FINRA Rules 3110 and 2010 regarding the issues identified in this AWC. The certification shall include a narrative description and supporting exhibits sufficient to demonstrate the firm's remediation and implementation. FINRA staff may request further evidence of the firm's remediation and implementation, and Respondents agree to provide such evidence. IFG shall submit the certification to Jessica Moran, Principal Counsel, FINRA Department of Enforcement, 99 High Street, Suite 900 Boston, MA 02110 (jessica.moran@finra.org), with a copy to EnforcementNotice@finra.org. Upon written request showing good cause, FINRA staff may extend this deadline.

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 IFG, 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 IFG 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 IFG to submit this AWC.

September 5, 2024
Date

Sarah Kreisman
Independent Financial Group, LLC
Respondent

Print Name: Sarah Kreisman

Title: General Counsel/VP, Compliance

Reviewed by:

Alan Wolper
Alan Wolper
Counsel for Respondent
UB Greensfelder LLP
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Chicago, Illinois 60661

Accepted by FINRA:

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

September 23, 2024
Date

Jessica Moran
Jessica Moran
Principal Counsel
FINRA
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Boston, MA 02110