

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2021070230801**

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

RE: TD Ameritrade Clearing, Inc. (Respondent)
Former Member Firm
CRD No. 5633
Acquired by Charles Schwab & Co., Inc.
Member Firm
CRD No. 5393

TD Ameritrade, Inc. (Respondent)
Former Member Firm
CRD No. 7870
n/k/a Ameritrade New York, Inc.

Pursuant to FINRA Rule 9216, Respondents TD Ameritrade Clearing, Inc. (which was acquired by Charles Schwab & Co., Inc.) and TD Ameritrade, Inc. (n/k/a Ameritrade New York, Inc.), submit 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 Respondents alleging violations based on the same factual findings described in this AWC.

I.

ACCEPTANCE AND CONSENT

A. Respondents accept and consent to the following findings by FINRA without admitting or denying them:

BACKGROUND

TD Ameritrade Clearing became a FINRA member in 1971. TD Ameritrade became a FINRA member in 1979. In 2020, The Charles Schwab Corporation acquired TD Ameritrade Clearing's and TD Ameritrade's parent company. In June 2022, Charles Schwab & Co., Inc. (CRD No. 5393), which is also owned by The Charles Schwab Corporation, acquired all the assets and current and future liabilities of TD Ameritrade Clearing and TD Ameritrade in a merger. Once the merger was complete, TD Ameritrade Clearing and TD Ameritrade subsequently terminated their FINRA memberships in October 2024 and July 2024, respectively.¹

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

OVERVIEW

From about January 2007 to May 2024, TD Ameritrade Clearing and TD Ameritrade failed to report or timely report millions of transactions to the FINRA/Nasdaq Trade Reporting Facility (FNTRF), the Over-the-Counter Reporting Facility (ORF) and predecessor reporting facilities. Thus, TD Ameritrade Clearing and TD Ameritrade violated FINRA Rules 6380A, 6622, and 2010 and predecessor NASD Rules.² Additionally, from July 2020 to November 2022, TD Ameritrade failed to report positions to the LOPR in violation of FINRA Rules 2360(b)(5) and 2010. Finally, from approximately January 2007 through 2024, TD Ameritrade Clearing and TD Ameritrade failed to establish and maintain a supervisory system reasonably designed to achieve compliance with FINRA's trade reporting rules, in violation of FINRA Rules 3110 and 2010, and predecessor NASD Rules.³ For these violations, respondents are censured, fined \$550,000, and subject to an undertaking to pay regulatory transaction fees as described below.

FACTS AND VIOLATIVE CONDUCT

TD Ameritrade Clearing and TD Ameritrade failed to report, and untimely reported, millions of trades to FNTRF and ORF.

FINRA Rules 6380A and 6622, and their predecessors, NASD Rules 4632, 6420, and 6620, set forth requirements for reporting trades in national market system (NMS) stocks to the FNTRF and in OTC equity securities to the ORF, respectively, and to their predecessor facilities. FINRA Rules 6380A(a) and 6622(a) specify that most transactions not reported within ten seconds after execution shall be designated as late. FINRA Rules 6380A(b) and 6622(b), and their predecessors, NASD Rules 4632(b), 4642(b), 6420(d), and 6620(b), require that the member report trades executed in a principal capacity between a member and a customer. Trades involving fractional shares, such as a trade for less than one share or a trade for 10.5 shares, and error corrections are subject to FINRA's trade reporting rules.

Trades executed in a principal capacity are also subject to a regulatory transaction fee. Section 31 of the Exchange Act requires FINRA and national securities exchanges to pay regulatory transaction fees and assessments to the Securities and Exchange Commission intended to recover costs related to the government's supervision and regulation of the securities markets and securities professionals. FINRA obtains its Section 31 fees and assessments from its membership in accordance with Section 3 of Schedule A to the FINRA By-Laws.

Violations of FINRA's trade reporting rules are also violations of FINRA Rule 2010 and its predecessor NASD Rule 2110, which require members, in the conduct of their

² On March 5, 2007, the requirements of NASD Rule 6420 were incorporated into NASD Rule 4632, and NASD Rule 6420 was retired. On December 15, 2008, FINRA Rule 6622 superseded NASD Rule 6620, FINRA Rule 6380A superseded NASD Rule 4632, and FINRA Rule 2010 superseded NASD Rule 2110.

³ FINRA Rule 3110 superseded NASD Rule 3010 on December 1, 2014.

business, to observe high standards of commercial honor and just and equitable principles of trade.

The FNTRF and ORF provide member firms with a mechanism by which to report transactions effected other than on an exchange. The data that members report has a direct impact on the accuracy of public information FINRA disseminates. Additionally, the inaccurate reporting of required trade information may negatively impact FINRA's surveillance patterns. FINRA relies on the accuracy of trade reporting to reconstruct and review the activities of market participants to safeguard the integrity of the securities markets and protect investors. Accurate recordkeeping also enables member firms to establish and maintain a supervisory system reasonably designed to achieve compliance with applicable securities laws and regulations.

From at least January 2007 to February 2022, TD Ameritrade Clearing failed to report millions of fractional share trades executed in a principal capacity with customers. During a sample period of May 2012 to February 2022, TD Ameritrade Clearing failed to report over 14 million fractional share liquidations, and TD Ameritrade Clearing and TD Ameritrade failed to report more than 84,000 error correction transactions, to the FNTRF, ORF, or their predecessor reporting facilities.⁴ As a result, the firms did not pay the Section 31 regulatory transaction fees associated with these trades. The firms did not appreciate they had an obligation to report certain fractional share and error correction transactions. The firms self-reported both issues and implemented remedial measures by February 2022.

Additionally, from February 2022 to May 2024, TD Ameritrade Clearing and TD Ameritrade failed to transmit approximately 1.6 million transactions in NMS securities to the FNTRF within ten seconds after execution, and TD Ameritrade Clearing failed to transmit to the ORF 29,119 transactions in OTC Equity securities within ten seconds after execution. Therefore, TD Ameritrade Clearing and TD Ameritrade violated FINRA Rules 6380A, 6622, and 2010 and NASD Rules 4632, 6420, 6620, and 2110.

TD Ameritrade Clearing failed to report positions to the LOPR.

FINRA requires member firms to report large options positions to the Large Options Positions Reporting (LOPR) system.⁵ FINRA uses LOPR information to identify holders of large options positions and to surveil for potentially manipulative behavior, including attempts to corner the market in the underlying equity, leverage an option position to affect the price, or move the underlying equity to change the value of a large option position. The accuracy of LOPR reporting is essential to FINRA's surveillance. It is particularly important with respect to the over-the-counter (OTC) options market because there is no independent source of data for regulators to review OTC options.

⁴ The whole share portion of the trades involving a fractional share were reported.

⁵ The Options Clearing Corporation hosts the LOPR system and collects and disseminates all LOPR data for the U.S. options exchanges and FINRA.

FINRA Rule 2360(b)(5) requires member firms to report to the LOPR each customer or firm account that, acting alone or in concert, has established an aggregate position of 200 or more option contracts on the same side of the market covering the same underlying security or index. The report must identify the account holder and the total number of option contracts for each options class comprising the reportable position and must include other information as prescribed by FINRA.

A violation of FINRA Rule 2360(b)(5) also is a violation of FINRA Rule 2010, which requires members, in the conduct of their business, to observe high standards of commercial honor and just and equitable principles of trade.

From July 2020 to March 2022, TD Ameritrade Clearing failed to report equity and index options position changes to the LOPR in 59,238 instances⁶ when a position was added, modified, or deleted on the expiration date of the option. From July 2020 to November 2022, TD Ameritrade Clearing failed to report equity and index options positions to the LOPR in 12,118 instances when its system caused certain accounts acting in concert to be randomly missed. Both failures were caused by a system update implemented in June 2020 designed to increase the speed of the firm's technological review related to the submission of its LOPR file. The failures were resolved by system modifications implemented in March 2022 and November 2022, respectively.

By failing to report positions to the LOPR, TD Ameritrade Clearing violated FINRA Rules 2360(b)(5) and 2010.

TD Ameritrade Clearing and TD Ameritrade failed to establish a supervisory system reasonably designed to achieve compliance with FINRA reporting rules.

FINRA Rule 3110(a), and its predecessor, NASD Rule 3010(a), require each member 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), and its predecessor, NASD Rule 3010(b), require 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 those rules also constitutes a violation of FINRA Rule 2010 and its predecessor, NASD Rule 2110.

From 2007 to 2024, TD Ameritrade Clearing and TD Ameritrade failed to establish, maintain, and enforce a supervisory system for the reporting of error correction transactions, and TD Ameritrade Clearing failed to establish, maintain, and enforce a supervisory system for the reporting of fractional share trades. TD Ameritrade Clearing had no written supervisory procedures concerning the reporting of fractional share trades,

⁶ An “instance” occurs where a firm fails to report, or inaccurately reports, a position for one day. The number of instances is determined by multiplying a given reportable position by the number of trade dates that the position was not reported or was reported inaccurately.

and neither TD Ameritrade Clearing nor TD Ameritrade had written supervisory procedures concerning the reporting of error correction transactions prior to terminating their FINRA membership in 2024. Once the firms began reporting fractional share and error correction trades, they also began to incorporate those trades in supervisory reviews, but neither firm updated its WSPs. Therefore, TD Ameritrade Clearing and TD Ameritrade violated FINRA Rules 3110 and 2010, and NASD Rules 3010 and 2110.

B. Respondents also consent to the imposition of the following sanctions:

- a censure;
- a \$550,000 fine; and
- undertakings to pay the regulatory transaction fees as billed pursuant to Section 3 of Schedule A to FINRA's By-Laws, no later than 60 days after the approval of this AWC by the Office of Disciplinary Affairs (ODA) or the National Adjudicatory Council (NAC) Review Subcommittee. For good cause shown and upon receipt of a timely application from the firm, FINRA will extend the deadlines set forth in this undertaking.

Respondents agree to pay the monetary sanctions upon notice that this AWC has been accepted and that such payment is due and payable. Respondents have submitted an Election of Payment form showing the method by which they propose to pay the fine imposed.

Respondents specifically and voluntarily waive 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

Respondents specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

- A. To have a complaint issued specifying the allegations against them;
- 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, Respondents specifically and voluntarily waive any right to claim bias or pre-judgment 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.

Respondents further specifically and voluntarily waive 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

Respondents understand 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 Respondents; and
- C. If accepted:
 - 1. this AWC will become part of Respondents' permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator against Respondents;
 - 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. Respondents 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. Respondents 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 Respondents' 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 Respondents' testimonial obligations in any litigation or other legal proceedings.

- D. Respondents may attach a corrective action statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondents understand that they 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 TD Ameritrade Clearing, Inc., 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 12, 2025

Date

James Kostulias

Charles Schwab & Co., Inc., as the acquirer of TD Ameritrade Clearing, Inc., Respondent

James Kostulias
Managing Director, Head of Trading Services

The undersigned, on behalf of Respondent TD Ameritrade, Inc., 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 12, 2025

Date

James Kostulias

TD Ameritrade, Inc., n/k/a Ameritrade New York, Inc., Respondent

James Kostulias
Managing Director, Head of Trading Services

Reviewed by:

Susan Light

Susan Light
Counsel for Respondents
Katten Muchin Rosenman LLP
50 Rockefeller Plaza
New York, NY 10020-1605

Accepted by FINRA:

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

September 24, 2025

Date

Valerie Cahan

Valerie Cahan
Counsel
FINRA
Department of Enforcement
Brookfield Place
200 Liberty Street
New York, NY 10281

ELECTION OF PAYMENT FORM

Respondents intend to pay the fine set forth in the attached Letter of Acceptance, Waiver, and Consent by the following method (check one):

- A check for the full amount;
- Wire transfer for the full amount;
- Credit card authorization for the full amount;⁷ or
- The installment payment plan (only if approved by the Department of Enforcement and the Office of Disciplinary Affairs).⁸

Respectfully submitted,

September 12, 2025

Date

James Kostulias

Charles Schwab & Co., Inc., as the acquirer of TD Ameritrade Clearing, Inc. and TD Ameritrade, Inc., n/k/a Ameritrade New York, Inc., Respondents

James Kostulias
Managing Director, Head of Trading Services

⁷ Credit card payment is only available for fines of \$50,000 or less. Only Mastercard, Visa, and American Express are accepted. If this method is chosen, the appropriate forms will be mailed to Respondents by FINRA's Finance Department. Credit card information should not be included on this Election of Payment Form.

⁸ The installment payment plan is only available for fines of \$5,000 or more. Certain interest payments, minimum initial and monthly payments, and other requirements apply. Respondents must discuss these requirements with the Department of Enforcement prior to requesting this method of payment. If this method is chosen and approved, the appropriate forms will be mailed to Respondents by FINRA's Finance Department.