

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2022075399001**

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

RE: IRC Securities LLC (Respondent)
Member Firm
CRD No. 150022

Pursuant to FINRA Rule 9216, Respondent IRC Securities LLC (IRC) 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

IRC has been a FINRA member since 2009. The firm is headquartered in New York, New York and has 41 registered representatives in one branch office. The firm's primary business involves the supervision and support of independent research companies who distribute their research to institutional customers.¹

OVERVIEW

In January 2021, a registered representative associated with IRC disclosed to IRC in writing that he had begun issuing promissory notes on behalf of a disclosed outside business activity (OBA). IRC failed to evaluate whether this activity was properly characterized as an OBA or whether it should instead be treated as an outside securities activity subject to the requirements of FINRA Rule 3280. As a result, IRC violated FINRA Rules 3270.01 and 2010.

FACTS AND VIOLATIVE CONDUCT

This matter originated from FINRA's 2022 examination of IRC.

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

FINRA Rule 3270 prohibits registered persons from engaging in any outside business activities unless they provide prior written notice to the member firm. FINRA Rule 3270 Supplementary Material .01 (Rule 3270.01) requires that “[u]pon receipt of a written notice under Rule 3270,” a member must, among other things, “evaluate the proposed activity to determine whether the activity properly is characterized as an outside business activity or whether it should be treated as an outside securities activity subject to the requirements of Rule 3280.”

A violation of FINRA Rule 3270.01 also constitutes a violation of FINRA Rule 2010, which requires a member firm, in the conduct of its business, to observe high standards of commercial honor and just and equitable principles of trade.

IRC’s written supervisory procedures (WSPs) required representatives engaging in OBAs to report the nature of the activity in writing to the firm, which was then required to review the proposed activity. Once IRC received the required written notice, IRC’s WSPs required the firm to complete the required review under FINRA Rule 3270.01, including by considering whether the activity is properly considered an OBA or if it should be considered a private securities transaction (PST) subject to the requirements of the firm’s WSPs applicable to PSTs. IRC’s WSPs also highlighted, in their section on PSTs, “that promissory notes often are securities.”

In January 2021, a registered representative associated with IRC disclosed to the firm that he had recently started “a new strategy to raise capital called Promissory Notes where we pay investors a fixed rate of interest” through his disclosed OBA. The OBA served as the investment manager to a series of investment funds, and the registered representative disclosed that the money from the promissory notes was invested in one of those funds. The registered representative also provided the firm two promissory notes from November 2020 and January 2021.

Contrary to the requirements of FINRA Rule 3270.01, IRC failed to conduct an evaluation of its representative’s promissory note activity to determine whether that activity should have been considered and treated as a PST subject to the requirements of FINRA Rule 3280. Instead, IRC approved the representative’s activity as an amendment to his previously-disclosed OBA without further evaluation. Between January 2021 and April 2023, the registered representative sold at least 23 additional promissory notes on behalf of his OBA without the firm’s knowledge or supervision.

Therefore, IRC violated FINRA Rules 3270.01 and 2010.

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

- a censure and
- a \$45,000 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 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.

November 12, 2024

Date

Brian O'Day

IRC Securities LLC
Respondent

Print Name: Brian O'Day

Title: CEO

Reviewed by:

William D. Edick

William D. Edick
Counsel for Respondent
Pickard Djinis and Pisarri LLP
1990 M Street, NW, Suite 660
Washington, DC 20036

Accepted by FINRA:

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

January 8, 2025

Date

Nicolas Steenland

Nicolas W. Steenland
Counsel
FINRA
Department of Enforcement
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New York, NY 10281