

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2022073421202**

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

RE: Pinnacle Investments, LLC (Respondent)
Member Firm
CRD No. 142910

Pursuant to FINRA Rule 9216, Respondent Pinnacle Investments, 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

Pinnacle has been a FINRA member since 2007. The firm, which is headquartered in East Syracuse, New York, has 20 branch offices and approximately 70 registered representatives.¹

OVERVIEW

From June 30, 2020, through September 2024, Pinnacle violated Rule 15c-1 of the Securities Exchange Act of 1934 (Reg BI), as well as FINRA Rules 3110 and 2010, by failing to establish, maintain, and enforce a reasonable supervisory system, including written supervisory procedures (WSPs), concerning recommendations of inverse, or leveraged exchange traded funds or notes (NT-ETPs). Also, from May 2021, through June 2024, Pinnacle violated FINRA Rules 3110 and 2010 by failing to establish, maintain, and enforce a supervisory system reasonably designed to monitor for discretionary and/or unauthorized trading in customer accounts. In addition, from 2016 to 2022, the firm failed to conduct timely branch inspections, in violation of FINRA Rules 3110 and 2010. For these three supervisory violations, Pinnacle is censured, fined \$65,000, ordered to pay restitution of \$53,847.99 plus interest, and has agreed to an undertaking.

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

FACTS AND VIOLATIVE CONDUCT

This matter originated from FINRA's cycle examination of the firm.

1. Pinnacle failed to establish, maintain, and enforce a reasonably designed supervisory system, including WSPs, related to NT-ETPs.

As of June 30, 2020, broker-dealers and their associated persons are required to comply with Regulation BI under the Securities Exchange Act of 1934. Rule 15c-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 15c-1(a)(2)(iv), requires a broker-dealer to establish, maintain, and enforce written policies and procedures reasonably designed to achieve compliance with Reg BI. 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 requires member firms to establish, maintain, and enforce a supervisory system, including written procedures, to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws, regulations, and FINRA rules.

Violations of Reg BI or FINRA Rule 3110 also are violations of FINRA Rule 2010, which requires member firms to "observe high standards of commercial honor and just and equitable principles of trade" in the conduct of their business.

NT-ETPs are complex financial instruments designed to return a multiple of the daily performance of an underlying index or benchmark (leveraged ETPs), the opposite of the daily performance of the index or benchmark (inverse ETPs), or both (leveraged-inverse ETPs) over the course of one trading session—usually a single day. As such, NT-ETPs typically rebalance their portfolios on a daily basis (also known as the daily reset), which means they are designed to achieve their stated objective on a daily basis. The prospectus for each product typically describes the product's intended holding period.

In June 2009, FINRA issued Regulatory Notice 09-31, which cautioned that, due to the effect of compounding, the performance of NT-ETPs for periods longer than the intended holding period "can differ significantly from the performance (or inverse of the performance) of their underlying index or benchmark during the same period of time"

² *Regulation Best Interest: The Broker-Dealer Standard of Conduct*, Exchange Act Release No. 86031, 84 FR 33318 at 33397 (July 12, 2019).

and therefore “typically are not suitable for retail investors who plan to hold them for more than one trading session.” NT-ETP prospectuses typically provide similar warnings.

Regulatory Notice 09-31 also reminded firms of their obligation to establish supervisory systems reasonably designed to achieve compliance with applicable FINRA and SEC rules when recommending NT-ETPs. The Notice further advised that firms and their associated persons must understand the terms and features of NT-ETPs, including the effect the customer’s intended holding period will have on the products’ performance, before recommending the purchase of the products. The Notice instructed firms that they “must train registered persons about the terms, features and risks of all [ETPs] that they sell. . . . In the case of leveraged and inverse [ETPs], that training should emphasize the need to understand and consider the risks associated with such products, including the investor’s time horizons, and the impact of time and volatility on the [product’s] performance.”

In January 2012, FINRA issued Regulatory Notice 12-03, which reminded firms of their heightened supervisory obligations regarding complex products, including NT-ETPs. This obligation requires firms to “periodically reassess” these products “to determine whether their performance and risk profile remain consistent with the manner in which the firm is selling them” and to “consider developing procedures to monitor how the products performed after the firm approved them.”

In adopting Reg BI, the SEC cited Regulatory Notices 09-31 and 12-03 in its discussion of inverse and leveraged exchange-traded products, cautioning that, “broker-dealers recommending such products should understand that inverse and leveraged exchange-traded products that are reset daily may not be suitable for, and as a consequence also not in the best interest of, retail customers who plan to hold them for longer than one trading session, particularly in volatile markets.” Emphasizing the importance of understanding the terms, features, and risks of such products in order to form a reasonable basis to recommend them to retail customers, the SEC further stated that “these products may not be in the best interest of a retail customer absent an identified, short-term, customer-specific trading objective.”³

From June 30, 2020, through September 2024, Pinnacle’s supervisory system, including WSPs, concerning the recommendation and sale of NT-ETPs was not reasonably designed to achieve compliance with Reg BI. Until September 2024, the firm’s WSPs and training regarding the recommendation of NT-ETPs did not address Reg BI as it applied to these products. Additionally, the firm required registered representatives to sign and initial each page of an attestation stating that he or she was knowledgeable about NT-ETPs and was aware of the risks of holding them for more than a single trading session but did not further confirm that those representatives understood the features and risks unique to NT-ETPs. The firm also did not otherwise establish a supervisory system reasonably designed to ensure that its representatives actually considered the intended holding period before recommending NT-ETPs.

³ *Id* at 33376.

Pinnacle's WSPs required a supervising principal to review every recommended NT-ETP transaction but did not address NT-ETP holding periods or provide any guidance as to how the intended holding period should be considered in connection with NT-ETP recommendations and the customer's best interest. The firm also did not establish a supervisory system to facilitate such an assessment. Indeed, the firm's supervisory review of NT-ETP recommendations was limited to verifying that registered representatives recommending the purchase of NT-ETPs had signed the above-described attestation.

Pinnacle failed to identify that a registered representative was recommending that his customers buy and hold NT-ETPs for durations that were not in their best interest. For instance, between late September and early October 2022, this registered representative recommended NT-ETPs to 13 retail customers who held them for periods ranging from 18 days to 110 days, resulting in \$53,847.99 in realized losses.

In September 2024, Pinnacle revised its WSPs for NT-ETPs and began using a monthly exception report to identify holding periods for NT-ETPs held in customer accounts.

By failing to establish, maintain, and enforce reasonably designed written policies and procedures and a reasonably designed supervisory system related to NT-ETPs, Pinnacle violated Exchange Act Rule 15c-1(a)(1) and FINRA Rules 3110 and 2010.

2. Pinnacle failed to establish, maintain, and enforce a supervisory system reasonably designed to achieve compliance with FINRA Rule 3260(b).

FINRA Rule 3260(b) states that “[n]o member or registered representative shall exercise any discretionary power in a customer’s account unless such customer has given prior written authorization to a stated individual or individuals and the account has been accepted by the member, as evidenced in writing by the member . . . in accordance with Rule 3110.”

From May 2021 through June 2024, the firm’s supervisory system was not reasonably designed to monitor for discretionary and/or unauthorized trading in customer accounts. During the relevant period, Pinnacle did not permit its registered representatives to exercise discretion in their customers’ commission-based accounts. Until the fourth quarter of 2022, however, the firm relied exclusively on next-day, manual reviews of the trade blotter, which failed to detect red flags of discretionary trading, such as instances where multiple unrelated customers purchased the same security on the same day. Although the firm attempted to implement an automated system to monitor for potentially unauthorized trading and discretionary trading in late 2022, that system was ineffective due to technical issues. As a result, Pinnacle failed to detect at least one registered representative’s pattern of same-day, same-security trades in the accounts of multiple unrelated customers through 2023 and failed to take steps to verify that the registered representative was contacting each customer before every trade to obtain authorization as was required.⁴

⁴ In December 2023, the registered representative agreed to a bar for failure to cooperate with a FINRA investigation, in violation of FINRA Rules 8210 and 2010.

In June 2024, the firm began using an automated system to monitor for potentially unauthorized or discretionary trading, replacing its prior manual trade review and ineffective automated system.

By failing to establish, maintain, and enforce a supervisory system reasonably designed to achieve compliance with FINRA Rule 3260(b), Pinnacle violated FINRA Rules 3110 and 2010.

3. Pinnacle failed to conduct timely inspections of six branch offices and one OSJ.

FINRA Rule 3110(c)(1)(A) requires each member to inspect its offices of supervisory jurisdiction (OSJs), as defined in Rule 3110(f)(1), at least annually on a calendar-year basis. FINRA Rule 3110(c)(1)(B) requires each member to inspect “at least every three years every branch office that does not supervise one or more non-branch locations.” Pursuant to FINRA Rule 3110(c)(1), member firms are required to retain a written record of the date upon which these inspections are conducted.

In 2020 and 2021, Pinnacle failed to conduct an annual inspection of its OSJ located in East Syracuse, New York, as required by FINRA Rule 3110(c)(1)(A). Specifically, the firm conducted an inspection of its OSJ located in East Syracuse, New York in 2019, but failed to conduct another inspection until September 16, 2022, more than two years later. Additionally, for six non-OSJ branch locations, Pinnacle was unable to provide any written records demonstrating that, between 2016 and 2021, it had inspected these non-OSJ branch locations within three years as required by FINRA Rule 3110(c)(1)(B).

Therefore, Pinnacle violated FINRA Rules 3110(c) and 2010.

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

- a censure;
- a \$65,000 fine;
- restitution of \$53,847.99 plus interest as described below; and
- an undertaking that, within 60 days of the date of the notice of acceptance of this AWC, a member of Respondent’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 system, including written supervisory procedures, reasonably designed to achieve compliance with Rule 15l-1 of the Securities Exchange Act of 1934 (Reg BI) and Rule 3110 regarding the issues identified in this AWC. The certification shall include a narrative description and supporting exhibits sufficient to demonstrate Respondent’s remediation and implementation. FINRA staff may request further evidence of Respondent’s remediation and

implementation, and Respondent agrees to provide such evidence. Respondent shall submit the certification to Karen Daly, Senior Counsel, at karen.daly@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 sanctions 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.

Restitution is ordered to be paid to the customers listed on Attachment A to this AWC (Eligible Customers) in the total amount of \$53,847.99, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. § 6621(a)(2), from February 1, 2023, until the date this AWC is accepted by the National Adjudicatory Council (NAC).

A registered principal on behalf of Respondent shall submit satisfactory proof of payment of restitution and interest (separately specifying the date and amount of each paid to each Eligible Customer) or of reasonable and documented efforts undertaken to effect restitution. Such proof shall be submitted by email to EnforcementNotice@FINRA.org from a work-related account of the registered principal of Respondent. The email must identify Respondent and the case number and include a copy of the check, money order, or other method of payment. This proof shall be provided by email to EnforcementNotice@FINRA.org no later than 120 days after the date of the notice of acceptance of the AWC.

The restitution amount plus interest to be paid to each Eligible Customer shall be treated by the Respondent as the Eligible Customer's property for purposes of state escheatment, unclaimed property, abandoned property, and similar laws. If after reasonable and documented efforts undertaken to effect restitution Respondent is unable to pay all Eligible Customers within 120 days after the date of the notice of acceptance of the AWC, Respondent shall submit to FINRA in the manner described above a list of the unpaid Eligible Customers and a description of Respondent's plan, not unacceptable to FINRA, to comply with the applicable escheatment, unclaimed property, abandoned property, or similar laws for each such Eligible Customer.

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 sanctions imposed in this matter.

The imposition of a restitution order or any other monetary sanctions in this AWC, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies.

Restitution payments to customers shall be preceded or accompanied by a letter, not unacceptable to FINRA, describing the reason for the payment and the fact that the payment is being made pursuant to a settlement with FINRA and as a term of this AWC.

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.

March 21, 2025

Date



Pinnacle Investments, LLC
Respondent

Print Name: Benjamin Quilty

Title: Chief Executive Officer

Accepted by FINRA:

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

May 1, 2025

Date

Karen C. Daly

Karen C. Daly
Senior Counsel
FINRA
Department of Enforcement
1601 Market Street, 27th Floor
Philadelphia, PA 19103

ATTACHMENT A

RESTITUTION SCHEDULE

Customer	Restitution Amount¹
Customer 1	\$8025.47
Customer 2	\$3926.39
Customer 3	\$6939.94
Customer 4	\$3230.57
Customer 5	\$2714.28
Customer 6	\$2126.36
Customer 7	\$5746.42
Customer 8	\$8329.17
Customer 9	\$7215.27
Customer 10	\$1149.01
Customer 11	\$2768.90
Customer 12	\$601.98
Customer 13	\$1074.23
TOTAL:	\$53,847.99

¹ Excluding interest.