

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2020068668804**

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

RE: OFG Financial Services, Inc. (Respondent)
Member Firm
CRD No. 23940

Pursuant to FINRA Rule 9216, Respondent OFG Financial Services, 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

OFG Financial Services, Inc. has been a FINRA member since February 1989. Headquartered in Topeka, Kansas, the firm operates 15 branch offices and employs approximately 60 registered representatives.¹

OVERVIEW

The firm failed to establish, maintain, and enforce a reasonable supervisory system, including written supervisory procedures (WSPs), to review electronic communications that its registered representatives sent and received. As a result, the firm's violated FINRA Rule 3110 and 2010.

FACTS AND VIOLATIVE CONDUCT

This matter originated from the firm's self-report to FINRA that one of its registered representatives failed to disclose an outside business activity and loans obtained from firm customers.

FINRA Rule 3110(a) requires that FINRA members "establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve

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

compliance with applicable securities laws and regulations, and with applicable FINRA rules.” FINRA Rule 3110(b)(1) requires that each FINRA member “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 the applicable securities laws and regulations, and with applicable FINRA Rules.” FINRA Rule 3110(b)(4) requires every firm’s written supervisory procedures (WSPs) to “include procedures for the review of incoming and outgoing written (including electronic) correspondence. . . .” Such procedures “must be appropriate for the member’s business, size, structure, and customers.” Rule 3110(b)(4) also requires that “reviews of correspondence . . . must be conducted by a registered principal and must be evidenced in writing, either electronically or on paper.” A violation of FINRA Rule 3110 also constitutes a violation 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.

As discussed in FINRA Regulatory Notice 07-59, member firms may employ risk-based procedures to review electronic communications so long as they reasonably consider how to effectively flag potentially problematic communications, including the use of keyword-based reviews, random sampling, or both.

From November 2017 to November 2022, the firm’s WSPs concerning review of its registered representatives’ electronic communications were not reasonable. The firm’s WSPs did not identify the personnel responsible for searching or reviewing emails, state how frequently reviews should occur, or provide any information about the sample size for email review. In addition, the WSPs did not specify any keywords or process for identifying keywords to flag emails for review. Nor did the WSPs describe any parameters for conducting random sampling. Further, the WSPs did not describe any types of red flags or issues that would require follow up steps from reviewers or any steps for escalating issues identified during email review.

The firm’s email review was also unreasonable in practice during this period. The keywords the firm used to flag emails for review included the firm’s own name, which appeared in virtually all its emails. In addition, the firm only reviewed a small fraction of the emails contained in the random sampling identified for review. As a result, the firm reviewed only 0.26% of the emails that its registered representatives sent or received from November 2017 to December 2021.

Therefore, Respondent violated FINRA Rules 3110 and 2010.

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

- a censure and
- a \$45,000 fine.
- The firm further agrees to the following undertakings:

- Within 90 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 3110(b)(4) 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 Matthew Aglialoro, Principal Counsel (matthew.aglialoro@finra.org), with a copy to EnforcementNotice@finra.org. Upon written request showing good cause, FINRA staff may extend this deadline.
- Within 180 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 completed a retrospective review of emails sent or received by its associated personnel from November 2017 to November 2022 reasonably designed to detect potential violations of the federal securities laws and FINRA rules. The firm also will comply with all reporting obligations under FINRA Rule 4530, Form U4 and Form U5, as result of its findings out of that review. Respondent shall submit the certification to Matthew Aglialoro, Principal Counsel (matthew.aglialoro@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 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.

December 5, 2022

Date

Todd Payne

OFG Financial Services, Inc.
Respondent

Print Name: Todd Payne

Title: Chief Compliance Officer



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

December 14, 2022

Date

Matthew Aglialoro

Matthew Aglialoro
Principal Counsel
FINRA
Department of Enforcement
200 Liberty Street, 11th Floor
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