

**THE NASDAQ STOCK MARKET LLC  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2017055996902**

TO: The Nasdaq Stock Market LLC  
c/o Department of Enforcement  
Financial Industry Regulatory Authority (“FINRA”)

RE: Piper Sandler & Co. (f/k/a Sandler O’Neill & Partners, L.P.), Respondent  
Broker-Dealer  
CRD No. 665

Pursuant to Rule 9216 of The Nasdaq Stock Market LLC (“Nasdaq”) Code of Procedure, Piper Sandler & Co. (“Piper” or the “firm”) 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, Nasdaq will not bring any future actions against the firm alleging violations based on the same factual findings described herein.

**I.**

**ACCEPTANCE AND CONSENT**

- A. The firm hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of Nasdaq, or to which Nasdaq is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by Nasdaq:

**BACKGROUND**

Sandler, O’Neill & Partners, L.P. (“Sandler”), CRD No. 23328, became a member of Nasdaq in July 2006. In January 2020, Sandler merged with Piper Jaffray & Co.,<sup>1</sup> CRD No. 665, becoming Piper Sandler & Co. The resulting firm is a full-service investment banking firm and broker-dealer. The firm maintains its headquarters in Minneapolis, MN, and employs approximately 1,200 registered representatives across 56 branch offices. The firm has no relevant disciplinary history.

**SUMMARY**

This matter arose from multiple surveillance alerts indicating Piper failed to timely submit Regulation M-related notifications to FINRA, Nasdaq, NYSE Arca, and/or NYSE American.

During the period April 1, 2017 through June 30, 2018 and April 1, 2020 through June 30, 2020 (“the review period”), Piper participated in two distributions of securities in

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<sup>1</sup> Piper Jaffray & Co. became a member of Nasdaq in July 2006.

which it was late in filing the notifications required under Nasdaq Rule 4619(e)(1)(A), which is in place to monitor compliance with the provisions of Regulation M of the Securities Exchange Act of 1934. The firm also participated in two distributions in which it effected syndicate covering transactions but failed to provide the required notification expressing its intent to engage in the transactions before it did so. These failures were caused by administrative errors.

During the period April 1, 2017 through December 31, 2019, Piper also failed to establish, maintain, and enforce written supervisory procedures (“WSPs”) reasonably designed to achieve compliance with FINRA notification requirements. While Respondent maintained operational procedures during that period regarding what steps to take when filing Regulation M notifications, it did not conduct any supervisory reviews to ensure that the notifications were filed timely or accurately.

As a result, Piper violated Rule 104 of Regulation M and Nasdaq Rules 4619(e)(1)(A), 4624, 3010 (for conduct that occurred prior to December 6, 2019) and General 9, Section 20 (for conduct that occurred on or after December 6, 2019), and 2010A (for conduct that occurred prior to December 6, 2019) and General 9, Section 1(a) (for conduct that occurred on or after December 6, 2019).

### **FACTS AND VIOLATIVE CONDUCT**

1. Regulation M, promulgated under the Securities Exchange Act of 1934, is the SEC’s principal anti-manipulation provision that applies to securities offerings and is used, in part, as a prophylactic measure to prevent distribution participants from: (a) influencing offerings in which it has an interest in a successful outcome and (b) conditioning the market in order to facilitate a distribution.
2. Nasdaq Rules 4619 and 4624 set forth notice requirements that are applicable to members participating in offerings of securities for the purposes of monitoring compliance with the provisions of Regulation M.
3. Nasdaq Rule 2010A, now General Rule 9, Section 1(a),<sup>2</sup> requires members, in the conduct of their business, to observe high standards of commercial honor and just and equitable principles of trade.

#### **Syndicate Covering Transaction Notification**

4. Rule 104(h)(2) of Regulation M requires any person effecting a syndicate covering transaction to provide prior notice to the self-regulatory organization with direct authority over the principal market in the U.S. for the security for which the syndicate covering transaction is effected.

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<sup>2</sup> Effective December 6, 2019, Nasdaq Rule 2010A (now, General 9, Section 1(a)) was renumbered and relocated under the General 9 title (“Regulation”) in the Nasdaq rulebook. *See* Securities Exchange Act Release No. 34-87778 (Dec. 17, 2019), 84 FR 70590 (Dec. 23, 2019) (SR-NASDAQ-2019-098).

5. Nasdaq Rule 4624 requires a Nasdaq market maker that is acting as a manager, or in a similar capacity, of a distribution of a security that is a subject or reference security under Rule 101 of Regulation M (“Rule 101”) to provide written notice to the Corporate Financing Department of FINRA of its intention to conduct syndicate covering transactions pursuant to Rule 104 prior to engaging in the first syndicate covering transaction.
6. The firm was acting as a manager, or in a similar capacity, of a distribution in security “ZZ,” a Nasdaq-listed security, which was a subject or reference security under Rule 101.<sup>3</sup>
7. On August 22, 2017, the firm engaged in a syndicate covering transaction in connection with an initial public offering for security “ZZ” but failed to provide written notice of its intention to do so prior to engaging in the first syndicate covering transaction.
8. From June 18, 2020 through July 6, 2020, the firm engaged in syndicate covering transactions in connection with a follow-on offering for security “YY” but failed to provide written notice of its intention to do so prior to engaging in the first syndicate covering transaction.
9. These violations occurred due to clerical and administrative errors committed by the firm.
10. Therefore, in two instances, Piper violated Rule 104 of Regulation M and Nasdaq Rules 4624, 2010A (for conduct that occurred prior to December 6, 2019), and General 9, Section 1(a) (for conduct that occurred on or after December 6, 2019).

#### Regulation M Restricted Period Notifications

11. Nasdaq Rule 4619(e)(1)(A) requires members that are acting as a manager, or in a similar capacity, of a distribution of a security to provide written notification to Nasdaq regarding the determination as to whether a one-day or five-day restricted period applies under Rule 101 and the basis for such determination,<sup>4</sup> that its quotations be identified as those of a passive market maker, and the contemplated date and time of the commencement of the restricted period.
12. In each of the two distributions below, the firm assumed the obligation of filing the Restricted Period Notification required by Nasdaq Rule 4619(e)(1)(A) as a manager, or in a similar capacity.
13. During the review period, the firm failed to submit Restricted Period Notifications to Nasdaq in a timely manner in connection with the following two distributions:

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<sup>3</sup> Generic symbols are used in place of the names of the referenced securities.

<sup>4</sup> The length of the restricted period depends on the average daily trading value and the value of the public float.

- a. For a follow-on distribution<sup>5</sup> on behalf of Issuer “A,” the firm should have submitted a Restricted Period Notification by April 3, 2017 but did not submit until April 5, 2017.
- b. For a follow-on distribution on behalf of Issuer “B,” the firm should have submitted a Restricted Period Notification by April 25, 2017 but did not submit until April 26, 2017.

14. These violations occurred due to clerical and administrative errors committed by the firm.

15. Therefore, in two instances, Piper violated Nasdaq Rules 4619(e)(1)(A) and 2010A.

#### Supervision

16. Nasdaq Rule 3010, now General Rule 9, Section 20,<sup>6</sup> requires members to establish and maintain a system to supervise the activities of its registered representatives and associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations and with applicable Nasdaq rules.

17. During the period from April 1, 2017 through December 31, 2019, the firm failed to establish, maintain, and enforce written procedures to supervise the activities of its registered representatives and associated persons that were reasonably designed to achieve compliance with Rule 104 and Nasdaq Rules 4619(e)(1)(A) and 4624.

18. The firm’s written supervisory procedures that were in effect in 2017 and 2018 failed to provide for any supervisory reviews to ensure its compliance with Rule 104 and Nasdaq Rules 4619(e)(1)(A) and 4624. The written supervisory procedures generally restated the requirements of the rules and set forth the operational steps individuals were to take when submitting a Regulation M notification to Nasdaq, but failed to provide for any means by which the firm would supervise to ensure that those requirements would be met.

19. Therefore, Piper violated Nasdaq Rules 3010 (for conduct that occurred prior to December 6, 2019), General 9, Section 20 (for conduct that occurred on or after December 6, 2019), 2010A (for conduct that occurred prior to December 6, 2019), and General 9, Section 1(a) (for conduct that occurred on or after December 6, 2019).

B. The firm also consents to the imposition of the following sanctions:

1. A censure and

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<sup>5</sup> A follow-on distribution is a second offering from a company where the company places new shares into the market.

<sup>6</sup> Effective December 6, 2019, Nasdaq Rule 3010, (now, General 9, Section 20) was renumbered and relocated under the General 9 title (“Regulation”) in the Nasdaq rulebook. *See* Securities Exchange Act Release No. 34-87778 (Dec. 17, 2019), 84 FR 70590 (Dec. 23, 2019) (SR-NASDAQ-2019-098).

2. An aggregate fine of \$85,000, of which \$24,000 is payable to Nasdaq (comprising \$10,000 for the Rule 104 and Nasdaq Rule 4624 violations, \$4,000 for the Nasdaq Rule 4619(e)(1)(A) violation, and \$10,000 for the supervision violation).<sup>7</sup>

Acceptance of this AWC is conditioned upon acceptance of similar settlement agreements in related matters between the firm and each of the following SROs: (i) FINRA; (ii) NYSE Arca, Inc.; and (iii) NYSE American LLC.

The firm agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. It has submitted a Payment Information form showing the method by which it proposes to pay the fine imposed.

The firm specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

## II.

### WAIVER OF PROCEDURAL RIGHTS

The firm specifically and voluntarily waives the following rights granted under Nasdaq's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against the firm;
- B. To be notified of the Formal 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 Nasdaq Review Council and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, the firm specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Regulatory Officer, the Nasdaq Review Council, or any member of the Nasdaq Review Council, 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 acceptance or rejection of this AWC.

The firm further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of Rule 9143 or the separation of functions prohibitions of Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and

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<sup>7</sup> The balance of the fine will be paid to the self-regulatory organizations referenced below.

conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

### III.

#### OTHER MATTERS

The firm 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 FINRA's Department of Enforcement and the Nasdaq Review Council, the Review Subcommittee, or the Office of Disciplinary Affairs ("ODA"), pursuant to Nasdaq Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the firm; and
- C. If accepted:
  - 1. This AWC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by Nasdaq or any other regulator against the firm;
  - 2. Nasdaq may release this AWC or make a public announcement concerning this agreement and the subject matter thereof in accordance with Nasdaq Rule 8310 and IM-8310-3; and
  - 3. The firm 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. The firm may not take any position in any proceeding brought by or on behalf of Nasdaq, or to which Nasdaq is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the firm's right to take legal or factual positions in litigation or other legal proceedings in which Nasdaq is not a party.
- D. The firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The firm 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 Nasdaq, nor does it reflect the views of Nasdaq or its staff.

The undersigned, on behalf of the firm, certifies that a person duly authorized to act on its 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 it 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 herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the firm to submit it.

August 2, 2021

\_\_\_\_\_  
Date

Piper Sandler & Co.  
Respondent

By: Bridget Wherley \_\_\_\_\_

Name: Bridget wherley

Title: Chief Compliance Officer

Reviewed by:

David S. Petron

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David S. Petron  
Counsel for Respondent  
Sidley Austin LLP  
1501 K Street, NW  
Washington, DC 20005

Accepted by Nasdaq:

August 4, 2021

\_\_\_\_\_  
Date

Carly M. Kostakos

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Carly M. Kostakos  
Senior Counsel  
Department of Enforcement

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