

**COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE SECRETARY OF THE COMMONWEALTH
SECURITIES DIVISION
ONE ASHBURTON PLACE, ROOM 1701
BOSTON, MASSACHUSETTS 02108**

)	
IN THE MATTER OF:)	
)	
TD AMERITRADE, INC. – RETAIL)	
MINIMUM COMMISSIONS)	
)	
RESPONDENT.)	Docket No. 2024-0119
)	

CONSENT ORDER

I. PRELIMINARY STATEMENT

This Consent Order (the “Order”) is entered into by the Securities Division of the Office of the Secretary of the Commonwealth of Massachusetts (the “Division”) and TD Ameritrade, Inc. (“TD Ameritrade” or “Respondent”) with respect to an investigation by the Enforcement Section of the Division into whether Respondent’s acts and practices constituted violations of the Massachusetts Uniform Securities Act, M.G.L. c. 110A (the “Act”), and the regulations promulgated thereunder at 950 CMR 10.00-14.413 (the “Regulations”). As the result of a coordinated investigation, with the Division serving as a lead state, the Division concluded that TD Ameritrade charged commissions in excess of 5% on certain small principal equity transactions. Nationwide, TD Ameritrade charged a commission in excess of 5% on approximately 84,618 equity transactions over a five-year period totaling \$913,223.

On May 16, 2025, Respondent submitted an Offer of Settlement (the “Offer”) to the Division. Respondent neither admits nor denies the Statement of Facts set forth in

Section V below and neither admits nor denies the Violations of Law set forth in Section VI below, and consents to the entry of this Order by the Division, consistent with the language and terms of the Offer, settling the above-captioned matter (2024-0119)¹ with prejudice. Pursuant to M.G.L. c. 110A, § 412(b), this Order “is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of [the Act].”

II. JURISDICTION AND AUTHORITY

1. The Division has jurisdiction over matters related to securities pursuant to the Act and Regulations.
2. The Offer was made and this Order is entered in accordance with the Act and Section 10.10 of the Regulations.
3. The acts and practices that are the subject of the Division’s investigation occurred while TD Ameritrade was registered as a broker-dealer in Massachusetts.

III. RELEVANT TIME PERIOD

4. Except as otherwise expressly stated, the conduct described herein occurred during the approximate time period of June 30, 2018 to June 30, 2023 (the “Relevant Time Period”).

IV. RESPONDENT

5. TD Ameritrade, Inc. (“TD Ameritrade”) is a broker-dealer registered in Massachusetts with a main address of 200 South 108th Avenue, Omaha, Nebraska

¹ The above captioned docket number reflects the conclusion of previously captioned investigation 2023-0061, solely as it pertains to TD Ameritrade. 2023-0061 remains an ongoing investigation into registered broker-dealer commission practices.

68154. TD Ameritrade is identified by Financial Industry Regulatory Authority (“FINRA”) CRD No. 7870. During the Relevant Time Period, TD Ameritrade maintained approximately 8 branch offices in Massachusetts. TD Ameritrade has filed a Form BDW and the Securities and Exchange Commission has withdrawn its registration.

V. STATEMENT OF FACTS

A. TD Ameritrade’s Minimum Commission Practices for Equity Transactions Failed to Ensure Transactions Were Executed at a Fair and Reasonable Price

6. During the Relevant Time Period, TD Ameritrade executed 1,779 equity transactions in Massachusetts which included an unreasonable commission for services performed (*i.e.*, in excess of 5% of the principal trade amount), totaling \$20,288.45.

7. During the Relevant Time Period, TD Ameritrade charged a fixed minimum commission for broker-assisted trades—*i.e.* those not placed directly online by customers (the “Minimum Equity Commission”).²

8. The Act and Regulations prohibit TD Ameritrade from charging unreasonable commissions for services performed.

9. FINRA Rule 2121 Supplementary Material .01 (Rule 2121.01) sets a guideline of five percent for determining whether a commission is unfair or unreasonable. However, the “5% Policy” is a guide, not a rule. A commission of five percent or even less may be considered unfair or unreasonable.

² During the Relevant Time Period, over 99% of TD Ameritrade’s orders were unsolicited, self-directed trades placed online by its customers. Broker-assisted trades constituted less than 1% of the Firm’s orders. From June 2018 to October, 2019, this fee was \$44.99; and thereafter, the fee was \$25.

B. TD Ameritrade Did Not Reasonably Supervise Transactions Which Applied the Minimum Equity Commission

10. TD Ameritrade did not reasonably supervise transactions that included the Minimum Equity Commission charge to ensure that TD Ameritrade charged its customers a reasonable commission.
11. TD Ameritrade's policies and procedures contemplated review of commissions as part of normal supervisory review processes.
12. Despite these systems, TD Ameritrade's surveillance policies failed to reasonably detect and correct unreasonable commission charges, specifically as it relates to the Minimum Equity Commission.
13. As a result, TD Ameritrade failed to adequately supervise small principal equity transactions where the Minimum Equity Commission was in excess of 5%.

VI. VIOLATIONS OF LAW

Count I – Violation of M.G.L. c. 110A, § 204(a)(2)(J)

14. Section 204 of the Act provides:

The secretary may by order impose an administrative fine or censure or deny, suspend, or revoke any registration or take any other appropriate action if he finds (1) that the order is in the public interest and (2) that the applicant or registrant

...

(J) has failed reasonably to supervise agents, investment adviser representatives or other employees to assure compliance with this chapter[.]

Id. § 204(a)(2)(J).

15. TD Ameritrade's acts and practices, as described above, constitute a violation of Section 204(a)(2)(J) of the Act.

VII. ORDER

IT IS HEREBY ORDERED:

- A. TD Ameritrade is censured by the Division;
- B. TD Ameritrade shall provide restitution in an amount of no more than \$20,288.45 representing the amount of the commission on certain small principal equity transactions that exceeded five percent 5% of the principal trade amount during the Relevant Time Period to the affected Massachusetts customers set forth in Exhibit A, plus interest in the amount of 6% from the date of the transaction to the date of this Order. TD Ameritrade agrees to provide restitution within one hundred twenty (120) days of this Order;
 - i. TD Ameritrade shall provide restitution in the form of a check for all former customers;
 - ii. TD Ameritrade shall provide a notice of restitution to customers on terms not unacceptable to Massachusetts, Alabama, Iowa, Missouri, Montana, Texas, and Washington (the "Multi-State Group") ("Notice Letter.") The Notice Letter will include the check for restitution. Within forty-five (45) days of the mailing of the Notice Letter, TD Ameritrade shall provide the Division with a list of all Massachusetts residents for whom TD Ameritrade receives a Notice Letter as returned to sender ("Undeliverable Massachusetts Residents"). To the extent the Division has access to different address information, TD Ameritrade shall mail a second Notice Letter to each Massachusetts resident within thirty (30) days of the Division providing such different address; and
 - iii. TD Ameritrade shall prepare and submit to the Division a report detailing the restitution paid pursuant to the Order, which shall include dates, amounts, and

methods of the transfer of funds for all restitution payments within forty-five (45) days of completion of distribution of restitution.

C. Within fifteen (15) days following the date of entry of this Order, TD Ameritrade shall pay an administrative fine of \$15,000 and pay \$35,000 in investigation costs for a total payment of \$50,000 to Massachusetts. Payment shall be: (1) made by United States postal money order, certified check, bank cashier's check, bank money order, or wire; (2) made payable to the Commonwealth of Massachusetts; (3) either hand-delivered; mailed to One Ashburton Place, Room 1701, Boston Massachusetts 02108; or wired per the Division instructions; and (4) submitted under cover letter or other documentation that identifies payment by TD Ameritrade and the docket number of the proceeding;

D. TD Ameritrade shall not claim, assert, or apply for a tax deduction or tax credit with regard to any state, federal, or local tax for any amounts that TD Ameritrade shall pay pursuant to the Order;

E. TD Ameritrade shall not seek or accept, directly or indirectly, reimbursement or indemnification, including, but not limited to, any payments made pursuant to any insurance policy, with regard to any amount that TD Ameritrade shall pay pursuant to the Order;

F. If TD Ameritrade is the subject of a voluntary or involuntary bankruptcy petition under Title 11 of the United States Code within three hundred sixty-five (365) days of the entry of the Order, TD Ameritrade shall provide written notice to the Division within five (5) days of the date of the petition;

G. Any fine, penalty, and/or money that TD Ameritrade shall pay in accordance with the

Order is intended by TD Ameritrade and the Division to be a contemporaneous exchange for new value given to TD Ameritrade pursuant to 11 U.S.C. § 547(c)(1)(A) and is, in fact, a substantially contemporaneous exchange pursuant to 11 U.S.C. § 547(c)(1)(B);

H. If TD Ameritrade fails to comply materially with any of the terms set forth in the Order, the Division may institute an action to have the Order declared null and void. Additionally, after a fair hearing and the issuance of an order finding that TD Ameritrade has not complied with the Order, the Division may move to have the Order declared null and void, in whole or in part, and re-institute the associated proceeding that had been brought against TD Ameritrade; and


I. For good cause shown, the Division may extend any of the procedural dates set forth above. TD Ameritrade shall make any requests for extensions of the procedural dates set forth above in writing to the Division.

VIII. NO DISQUALIFICATION

This Order waives any disqualification in the laws of Massachusetts, or rules or regulations thereunder, including any disqualification from relying upon the registration exemptions or safe harbor provisions to which TD Ameritrade may be subject. This Order is not intended to be a final order based upon violations of the Act that prohibit fraudulent, manipulative, or deceptive conduct. This Order is not intended to form the basis of any disqualifications under Section 3(a)(39) of the Securities Exchange Act of 1934; or Rules 504(b)(3) and 506(d)(1) of Regulation D, Rule 262(a) of Regulation A and Rule 503(a) of Regulation CF under the Securities Act of 1933. This Order is not intended to form the basis of disqualification under the FINRA rules prohibiting continuance in membership absent the filing of a MC-400A application or

disqualification under SRO rules prohibiting continuance in membership. This Order is not intended to form a basis of a disqualification under 204(a)(2) of the Uniform Securities Act of 1956 or Section 412(d) of the Uniform Securities Act of 2002. Except in an action by the Division to enforce the obligations of this Order, any acts performed or documents executed in furtherance of this Order: (a) may not be deemed or used as an admission of, or evidence of, the validity of any alleged wrongdoing, liability, or lack of any wrongdoing or liability; or (b) may not be deemed or used as an admission of; or evidence of, any such alleged fault or omission of TD Ameritrade in any civil, criminal, arbitration, or administrative proceeding in any court, administrative agency, or tribunal.

WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH



Diane Young-Spitzer, Esq.
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Securities Division

Office of the Secretary of the Commonwealth

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Dated: June 4, 2025