

**WAC 460-20C-210 Dishonest or unethical practices—Broker-dealers.** If you are a broker-dealer registered or required to be registered under RCW 21.20.040, you must observe high standards of commercial honor and just and equitable principles of trade in conducting your business. If you engage in acts and practices contrary to such standards, this may constitute grounds for denial, suspension, or revocation of your registration. The phrase "dishonest or unethical practices" as used in RCW 21.20.110 (1)(g) and as applied to broker-dealers includes, but is not limited to, any of the following:

(1) Engaging in a pattern of unreasonable and unjustifiable delays in the delivery of securities purchased by any of its customers and/or in the payment upon request of free credit balances reflecting completed transactions of any of its customers;

(2) Inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account;

(3) Recommending to a customer the purchase, sale, or exchange any security without reasonable grounds to believe that such transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, age, other investments, tax status, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other relevant information known by the broker-dealer;

(4) Making a recommendation of any security transaction or investment strategy involving securities (including account recommendations) to a retail customer if the recommendation does not comply with the obligations set forth in Regulation Best Interest (17 C.F.R. 240.121-1 as amended effective September 10, 2019);

(5) Executing a transaction on behalf of a customer without authorization to do so;

(6) Exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time and/or price for the execution of orders;

(7) Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement;

(8) Failing to segregate customers' free securities or securities held in safekeeping;

(9) Hypothecating a customer's securities without having a lien thereon unless the broker-dealer secures from the customer a properly executed written consent, except as permitted by rules of the Securities and Exchange Commission;

(10) Entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit;

(11) Failing to furnish to a customer purchasing securities in an offering, no later than the date of confirmation of the transaction, a final or preliminary prospectus, and if the latter, failing to furnish a final prospectus within a reasonable period after the effective date of the offering;

(12) Charging unreasonable and inequitable compensation, fees, concessions, discounts, commissions, or other allowances for services performed, including miscellaneous services such as collection of moneys due for principal, dividends or interest, exchange or transfer of securities, appraisals, safekeeping, or custody of securities and other services related to its securities business;

(13) Offering to buy from or sell to any person any security at a stated price unless such broker-dealer is prepared to purchase or sell, as the case may be, at such price and under such conditions as are stated at the time of such offer to buy or sell;

(14) Representing that a security is being offered to a customer "at the market" or a price relevant to the market price unless such broker-dealer knows or has reasonable grounds to believe that a market for such security exists other than that made, created, or controlled by such broker-dealer, or by any person for whom the broker-dealer is acting or with whom the broker-dealer is associated in such distribution, or any person controlled by, controlling, or under common control with such broker-dealer;

(15) Effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive, or fraudulent device, practice, plan, program, design, or contrivance, which may include, but is not limited to:

(a) Effecting any transaction in a security which involves no change in the beneficial ownership thereof;

(b) Entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance with respect to the market for the security; provided, however, nothing in this subsection prohibits a broker-dealer from entering bona fide agency cross transactions for its customer;

(c) Effecting, alone or with one or more other persons, a series of transactions in any security creating actual or apparent active trading in such security or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others;

(d) Effecting any transaction in a security or a related financial instrument when the salesperson causing such transaction to be executed has material, nonpublic market information concerning an imminent block transaction in that security, a related financial instrument, or a security underlying the related financial instrument prior to the time information concerning the block transaction has been made publicly available or has otherwise become stale or obsolete. For the purposes of this subsection, "related financial instrument" means any option, derivative, security-based swap, or other financial instrument overlying a security, the value of which is materially related to, or otherwise acts as a substitute for, such security, as well as any contract that is the functional economic equivalent of a position in such security;

(e) Effecting any transaction in an equity security on the same side of the market for the broker-dealer's own account at a price that would satisfy the customer order, if the broker-dealer has accepted and holds an order for the same equity security from its customer or the customer of another broker-dealer without immediately executing such order, unless the broker-dealer immediately thereafter executes the customer order up to the size and at the same or better price at which it traded for its own account; and

(f) Using aggressive, high-pressure, or deceptive marketing tactics to affect the market price of the security;

(16) Guaranteeing a customer against loss in any securities account of such customer carried by the broker-dealer or in any securi-

ties transaction effected by the broker-dealer with or for such customer;

(17) Publishing or circulating, or causing to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless such broker-dealer believes that such transaction was a bona fide purchase or sale of such security; or which purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation represents a bona fide bid for, or offer of, such security;

(18) Using, ratifying, or condoning any communication, advertising, or sales presentation in such a fashion as to be deceptive or misleading. An example of such practice is the distribution of any nonfactual data, material, or presentation based on conjecture, or unfounded or unrealistic claims or assertions in any customer correspondence, social media, electronic communication, brochure, flyer, or display by words, pictures, graphs, or otherwise designed to supplement, detract from, supersede, or defeat the purpose or effect of any prospectus or disclosure; and the distribution of any communications inconsistent with WAC 460-20C-190;

(19) Failing to disclose that the broker-dealer is controlled by, controlling, affiliated with, or under common control with the issuer of any security before entering into any contract with or for a customer for the purchase or sale of security, the existence of such control to such customer, and if such disclosure is not made in writing, it must be supplemented by the giving or sending of written disclosure at or before the completion of the transaction;

(20) Failing to make a bona fide public offering of all of the securities allotted to a broker-dealer for distribution, whether acquired as an underwriter, a selling group member, or from a member participating in the distribution as an underwriter or selling group member by, amongst other things:

(a) Transferring securities to a customer, another broker-dealer, or a fictitious account with the understanding that those securities will be returned to the broker-dealer or its nominees; or

(b) Parking or withholding securities;

(21) Failing or refusing to furnish a customer, upon reasonable request, information to which the customer is entitled, or to respond within 14 calendar days to a formal written request or complaint;

(22) In connection with the solicitation of a sale or purchase of an OTC non-NASDAQ security, failing to promptly provide the most current prospectus or the most recently filed periodic report filed under Section 13 of the Securities Exchange Act of 1934, when requested to do so by a customer;

(23) Marking any order ticket or confirmation as unsolicited when in fact the transaction is solicited;

(24) For any month in which activity has occurred in a customer's account, but in no event less than every three months, failing to provide each customer with a statement of account which with respect to all OTC non-NASDAQ equity securities in the account, contains a value for each such security based on the closing market bid on a date certain, provided that this subsection will apply only if the firm has been a market maker in such security at any time during the month in which the monthly or quarterly statement is issued;

(25) Failing to comply with any applicable provision of the Conduct Rules of FINRA or any applicable fair practice or ethical stand-

ard promulgated by the Securities and Exchange Commission, Commodity Futures Trading Commission, Municipal Securities Rulemaking Board, New York Stock Exchange, Chicago Board Options Exchange, Consumer Financial Protection Board, National Futures Association, state securities regulator, state insurance regulator, state or federal banking regulator, or by a self-regulatory organization approved by the Securities and Exchange Commission;

(26) Any acts or practices enumerated in WAC 460-20C-160 and 460-20C-170;

(27) Using any term or abbreviation thereof in a manner that misleadingly states or implies that a person has special expertise, certification, or training in financial planning including, but not limited to, the misleading use of a senior-specific certification or designation as set forth in WAC 460-25A-020;

(28) Operating a securities business while unable to meet current liabilities, or violating any statutory provision, rule, or order relating to minimum capital or surety bond;

(29) Extending, arranging for, or participating in arranging for credit to a customer in violation of any federal law or regulation including, but not limited to, 15 U.S.C 78k(d) (as amended effective September 23, 1994) or 12 C.F.R. 220.7 (as amended effective April 1, 1998);

(30) Failing to refrain from soliciting prospective customers who have informed the broker-dealer that such person does not want to be solicited, or conducting business by telephone at unreasonable times;

(31) Failing to disclose to a person purchasing securities on the premises of a depository institution that such investment is not insured by the Federal Deposit Insurance Corporation or the National Credit Union Association (as applicable), is not a deposit or other obligation of the depository institution or guaranteed by the depository institution, and is subject to investment risk; or failing to cause a written disclosure statement to be presented to, and signed by such person, acknowledging that such person has received such information;

(32) Altering or creating any document relevant to or on the books and records of any broker-dealer, investment adviser, bank, credit union, insurance company, or commodities futures business with any entry or deletion which is materially false or misleading;

(33) Failing to comply with a suspension or bar order of the Securities and Exchange Commission, FINRA, any other self-regulatory organization, or any other securities regulator;

(34) Establishing or maintaining an account containing fictitious information in order to execute transactions which would otherwise be prohibited;

(35) Engaging in acts or practices that constitute deceptive market-timing in the trading of securities including, but not limited to:

(a) Breaking a trade into smaller trades to avoid detection; or

(b) Using multiple accounts, nominees, agent numbers, or multiple agents or representatives to avoid breakpoints, internal controls, exception reports, or other forms of firm or regulatory supervision;

(36) Engaging in acts or practices that constitute deceptive sales practices in the trading of mutual funds including, but not limited to:

(a) Recommending mutual funds just under breakpoints;

(b) Recommending a share class that does not align with customers' needs; or

- (c) Recommending a mutual fund switch that does not align with customers' needs;
- (37) Disclosing the identity, investment, or other financial information of any customer or former customer unless required by law to do so, or unless consented to by the customer;
- (38) Failing to disclose in any retail communications, correspondence, or other materials used in connection with the promotion or transaction of securities business in Washington, the name of the broker-dealer or the name under which the broker-dealer's business is primarily conducted as disclosed on Form BD. For purposes of this subsection, "other materials" include, but are not limited to, business cards, business stationery, and display signs;
- (39) Representing that securities will be listed or that application for listing will be made on a securities exchange or the National Association of Securities Dealers Automated Quotations (NASDAQ) system or other quotation system without reasonable basis in fact for the representation;
- (40) Engaging in any act, practice, or course of business which is fraudulent, deceptive, manipulative, or unethical;
- (41) Engaging in conduct or any act, indirectly or through or by any other person, which would be unlawful for such person to do directly under the provisions of the Securities Act of Washington, chapter 21.20 RCW, or any rule or regulation thereunder;
- (42) Making, in the solicitation of customers, any untrue statement of fact, or omitting to state a material fact necessary in order to make the statement made, in light of the circumstances under which it was made, not misleading;
- (43) Failing to pay and fully satisfy any final judgment or arbitration award resulting from an investment-related, customer-initiated arbitration or court proceeding, unless alternative payment arrangements are agreed to between the customer and the broker-dealer, in writing, and the broker-dealer complies with the terms of the alternative payment arrangement;
- (44) Attempting to avoid payment of any final judgment or arbitration award resulting from an investment-related, customer-initiated arbitration or court proceeding, unless alternative payment arrangements are agreed to between the customer and the broker-dealer, in writing, and the broker-dealer complies with the terms of the alternative payment arrangement;
- (45) Failing to pay and fully satisfy and fine, civil penalty, order of restitution, order of disgorgement, or similar monetary payment obligation imposed upon the broker-dealer by the Securities and Exchange Commission, the securities or other financial services regulator of any state or province, or any self-regulatory organization;
- (46) Accessing a customer's account by using the customer's own unique identifying information (such as username and password);
- (47) Failing to provide training regarding the financial exploitation of vulnerable adults pursuant to RCW 74.34.220 to employees who are required to be registered as salespersons under RCW 21.20.040 if such employees have contact with customers and access to account information on a regular basis and as part of their jobs;
- (48) Failing to establish, maintain, and enforce a business continuity and succession plan that identifies procedures to be followed in the event of an emergency or significant business disruption, including a disruption caused by the loss of principals and other key persons;

(49) Paying, directly or indirectly, any compensation, fees, concessions, discounts, commissions, or other allowances to any person that is not registered as a broker-dealer or salesperson under applicable state or federal securities laws but, by reason of receipt of such payment and the activities related thereto, is required to be so registered under state or federal securities laws; and

(50) Receiving fees or commissions on customer accounts or holdings if such fees or commissions are made unreasonable because there is no salesperson of the broker-dealer assigned to the account who currently provides the specific services for which the fees or commissions are charged, except as permitted under FINRA Rule 2040(b).

The conduct set forth above is not inclusive. Engaging in other conduct such as forgery, embezzlement, nondisclosure, incomplete disclosure, or misstatement of material facts, or manipulative or deceptive practices will also be grounds for denial, suspension, or revocation of registration.

[Statutory Authority: RCW 21.20.070 and 21.20.450. WSR 24-19-055, s 460-20C-210, filed 9/12/24, effective 10/13/24.]