

Bond Case Briefs

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FINRA Sanctions Firm for Custody and Transaction Confirmation Deficiencies: Norton Rose Fulbright

According to the AWC, the firm failed to maintain possession or control of customers' excess margin securities by not combining credits and debits from accounts held under the same tax identification number. FINRA stated that this caused the firm to overcalculate shares available for rehypothecation—collateral that could be used for the firm's own purposes—resulting in segregation deficits in customer securities that at times exceeded 100,000 shares and \$2 million in value.

FINRA found that the firm lacked a supervisory system reasonably designed to ensure compliance with its possession or control obligations. FINRA also stated that the firm failed to provide guidance to employees on properly segregating securities to prevent the improper use of customer assets.

Separately, FINRA determined that the firm failed to include required mark-up and mark-down information on retail customer confirmations for municipal, corporate, and agency debt transactions. Approximately 300 municipal and 1,050 corporate and agency debt confirmations did not disclose mark-ups and mark-downs as both a total dollar amount and a percentage of the prevailing market price. FINRA found that these omissions resulted from personnel failing to timely enter prevailing market price information into the firm's order management system.

FINRA concluded that the firm violated SEA Section 15(c) ("Government securities brokers and dealers"), SEA Rule 15c3-3 ("Customer protection-reserves and custody of securities"), MSRB Rules G-15 ("Confirmation, Clearance, Settlement and Other Uniform Practice Requirements with Respect to Transactions with Customers") and G-27 ("Supervision"), and FINRA Rules 2010 ("Standards of Commercial Honor and Principles of Trade"), 2232 ("Customer Confirmations"), 3110 ("Supervision").

To settle the matter, the firm agreed to (i) a censure and (ii) a \$150,000 fine (\$16,250 of which pertains to MSRB violations).

Norton Rose Fulbright US LLP

November 10 2025