

FINANCIAL INDUSTRY REGULATORY AUTHORITY

In the Matter of the
Continued Membership
of
Oppenheimer & Co. Inc.
(CRD No. 249)

Notice Pursuant to
Rule 19h-1
Securities Exchange Act
of 1934

SD-2398

December 9, 2024

I. Introduction

On March 11, 2024, Oppenheimer & Co. Inc. (“Oppenheimer” or “Firm”) submitted a Membership Continuance Application (“MC-400A” or “Application”) to FINRA’s Credentialing, Registration, Education, and Disclosure (“CRED”) Department.¹ The Application seeks to permit the Firm, a FINRA member, to continue its membership with FINRA notwithstanding its statutory disqualification. A hearing was not held in this matter; rather, pursuant to FINRA Rule 9523(b), FINRA’s Department of Member Supervision (“FINRA,” “Member Supervision,” or “Department”) approves the Application and is filing this Notice pursuant to Rule 19h-1 of the Securities Exchange Act of 1934 (“Exchange Act” or “SEA”).

II. The Statutorily Disqualifying Event

The Firm is subject to statutory disqualification, as that term is defined in Section 3(a)(39)(F) of the Exchange Act, incorporating by reference Sections 15(b)(4)(D) and (E), as a result of a February 2024 order issued by the Securities and Exchange Commission (“SEC” or “Commission”) finding that Oppenheimer willfully violated Section 17(a) of the Exchange Act and Rule 17a-4(b)(4) and failed reasonably to supervise its employees with a view to preventing or detecting certain of its employees’ aiding and abetting violations of Section 17(a) of the Exchange Act and Rule 17a-4(b)(4) thereunder (“SEC Order”).² According to the SEC Order, from at least January 2020, Oppenheimer

¹ See MC-400A and related attachments compiled by CRED, with a cover memorandum dated May 1, 2024, attached as Exhibit 1.

² See SEC Order, *In re Oppenheimer & Co. Inc.*, Exchange Act Release No. 99503 (Feb. 9, 2024), attached as Exhibit 2.

The SEC Order also triggered disqualification under Rules 262(a)(4), 506(d)(1)(iv), and 602(c)(3) of the Securities Act of 1933 and Rule 503(a)(4)(ii) of Regulation Crowdfunding. On February 9, 2024, the SEC granted a waiver from the application of the disqualification provisions of these Rules. See *In re Certain Broker-Dealer Practices*, Securities Act Release No. 11270 (Feb. 9, 2024), attached as Exhibit 3.

employees sent and received off-channel communications that related to the Firm's business, and a majority of these written communications was not maintained or preserved by the Firm.³ Further, supervisors who were responsible for preventing this misconduct among junior employees routinely communicated off-channel using their personal devices, and, in so doing, failed to comply with Firm policies by communicating using non-Firm approved methods on their personal devices about the Firm's broker-dealer business.⁴

The Firm was censured, ordered to cease and desist from committing or causing any future violations, ordered to pay a civil monetary penalty of \$12,000,000, and ordered to comply with certain undertakings.⁵

III. Remedial Measures

In its Application, the Firm represented that it undertook remedial measures prior to the issuance of the SEC Order, including issuing reminders to employees regarding the Firm's prohibition on off-channel communications, enhancing trainings, and implementing new approved methods for sending messages.⁶ According to the SEC Order, the Commission considered the Firm's prompt remedial actions and cooperation with the SEC when determining to accept the Offer of Settlement.⁷

IV. Firm Background

The Firm has been a FINRA member since March 22, 1945.⁸ It is headquartered in New York, New York, with 151 branches (73 of which are Offices of Supervisory Jurisdiction).⁹ The Firm employs approximately 1972 of registered representatives (495 of which are registered principals), 33 operations professionals, and 923 non-registered fingerprint

³ See Exhibit 2 at p. 2.

⁴ *Id.*

⁵ *Id.* at pp. 5-11. The Firm agreed to pay the monetary penalty in installments and provided proof that it paid the first installment. See Exhibit 1 at p. 4, Item 4 and p. 21. The Firm subsequently provided proof that it has paid the remaining installments and represented that it is in compliance with the ordered undertakings, which includes having retained a consultant who completed its report and recommendations, all of which the Firm accepted and is implementing. See Firm Discovery Responses and exhibits dated October 21, 2024, attached as Exhibit 4, at FINRA pp. 1-2 and 5-8.

⁶ See Exhibit 1 at FINRA00443.

⁷ See Exhibit 2 at p. 5, para. 27.

⁸ See Central Registration Depository ("CRD") Excerpt – Organization Registration Status, attached as Exhibit 5.

⁹ FINRA confirmed this through analysis of the Firm's information contained in CRD, last performed on October 28, 2024.

employees.¹⁰ It employs one statutorily disqualified individual.¹¹

Oppenheimer is approved to engage in the following lines of business: exchange member engaged in exchange commission business other than floor activities; broker or dealer making inter-dealer markets in corporate securities over-the-counter; broker or dealer retailing corporate equity securities over-the-counter; broker or dealer selling corporate debt securities; underwriter or selling group participant (corporate securities other than mutual funds); mutual fund retailer; U.S. government securities dealer; U.S. government securities broker; municipal securities dealer; municipal securities broker; broker or dealer selling variable life insurance or annuities; put and call broker or dealer or option writer; investment advisory services; broker or dealer selling tax shelters or limited partnerships in primary distributions; broker or dealer selling tax shelters or limited partnerships in the secondary market; trading securities for own account; private placements of securities; broker or dealer selling interests in mortgages or other receivables; engages in other securities business (municipal advisors).¹²

The Firm is a member of the following self-regulatory organizations (“SROs”): Cboe Exchange, Inc. (“Cboe”); New York Stock Exchange LLC (“NYSE”); NYSE American LLC (“NYSE American”); NYSE Arca, Inc. (“NYSE Arca”); NYSE Chicago, Inc. (“NYSE Chicago”); Nasdaq ISE, LLC (“ISE”); Nasdaq PHLX LLC (“PHLX”); The Nasdaq Stock Market LLC (“Nasdaq”);¹³ Municipal Securities Rulemaking Board (“MSRB”); The Depository Trust Company (“DTC”); Fixed Income Clearing Corporation – Government Securities Division (“FICC-GOV”); Fixed Income Clearing Corporation – Mortgage-Backed Securities Division (“FICC-MBS”); and National Securities Clearing Corporation (“NSCC”).¹⁴

Recent Examinations

In the past two years, FINRA completed three routine examinations (including two on behalf of other SROs pursuant to Regulatory Services Agreements) all of which resulted in a Cautionary Action Letter (“CAL”), and three non-routine examinations of the Firm, which resulted in a CAL. The SEC also completed one examination that resulted in a no deficiencies noted.

¹⁰ *Id.*

¹¹ *Id.* See also Appendix A.

¹² See CRD Excerpts – Types of Business and Other Business Descriptions, collectively attached as Exhibit 6.

¹³ See Exhibit 5.

¹⁴ Membership in these organizations was verified by FINRA staff through a search of public member directories, last performed on October 28, 2024.

A. FINRA Routine Examinations

In May 2024, FINRA completed a routine examination of the Firm that resulted in a CAL for 12 exceptions, a referral to FINRA’s Department of Enforcement (“Enforcement”) for further review and disposition of three exceptions (with another exception being reviewed under a different matter number), and no further action taken with regard to one exception.¹⁵ The 12 exceptions that were the subject of the CAL pertained to the Firm’s failure to maintain a control system that would consistently “net like” customer accounts for purposes of the 140% of Customer Debit requirement under SEA Rule 15c3-3(a)(5)/01, maintain written supervisory procedures (“WSPs”) that fully described the daily processes the Firm uses to ensure compliance with SEA Rule 15c3-3, use appropriate qualified individuals to review e-mails, update a registered representative’s Form U4 to disclose outside business activities, maintain WSPs related to assessing whether a registered representative could act in a fiduciary capacity, provide written approval for a registered representative to act as a trustee, provide the adequate disclosures when making MSRB Rule G-32 filings, maintain investment banking procedures that reasonably address how the Firm will monitor to ensure the price paid to a municipal issuer on a new issue of municipal bonds is fair and reasonable, ensure customers sign a Risk Acknowledgment/Accredit Investor Form, accurately report municipal transactions to MSRB’s Real-Time Transaction Reporting System, provide the required disclosures on customer confirmations, and maintain WSPs that discussed monitoring of the Firm’s quoting activity in fixed income securities.¹⁶ The Firm responded in writing that it resolved its reporting and disclosure issues, provided enhanced training, and updated its processes, policies, and procedures to address the issues.¹⁷ The three exceptions referred to Enforcement pertained to the Firm’s failure to establish a system of controls reasonably designed to supervise Rights of Reinstatement waivers and/or fee rebates related to mutual fund transactions, establish WSPs that adequately addressed the requirement that all options customer statements should include a legend requesting that the customer promptly advise the Firm of any material change in the customer’s investment objectives or financial situation, and accurately reflect non-Agency CMO holdings on customer account statements.¹⁸

In February 2024, FINRA completed a routine examination of the Firm on behalf of Cboe, NYSE Chicago, ISE, NYSE, NYSE American, NYSE Arca, and PHLX that resulted in a CAL issued to the Firm on behalf of the NYSE, NYSE American and NYSE Arca for one exception pertaining to the Firm’s failure to register five entities as Approved Persons.¹⁹

¹⁵ See Disposition Letter for Examination No. 20230770589 dated May 23, 2024, Examination Report dated February 13, 2024, and Firm Response dated March 6, 2024, collectively attached as Exhibit 7.

¹⁶ *Id.* at FINRA pp. 5-16.

¹⁷ *Id.* at FINRA pp. 19-31.

¹⁸ *Id.* at FINRA pp. 5, 8, 14-15. As of the date of this Notice, these three exceptions are still under review.

¹⁹ See Disposition Letter for Examination No. 20230770590 dated February 29, 2024, Examination Report dated December 7, 2023, and Firm Response dated December 21, 2023, collectively attached as Exhibit 8, at

The Firm also failed to maintain WSPs surrounding the process of identifying and disclosing Approved Persons to NYSE, NYSE American and NYSE Arca.²⁰ The Firm responded in writing indicating that it had, subsequently, implemented policies and procedures surrounding the process of identifying and disclosing Approved Persons and that it registered the five entities listed in the CAL as Approved Persons.²¹

In November 2022, FINRA completed a routine examination of the Firm on behalf of Cboe, ISE, PHLX, Nasdaq, NYSE, NYSE American, NYSE Arca, and NYSE Chicago which resulted in a CAL to the Firm on behalf of Cboe, ISE, NYSE American and PHLX for two exceptions.²² These two exceptions pertained to the Firm's failure to maintain adequate records of its customers' options orders and to maintain adequate supervisory procedures or evidence of supervisory review for accuracy of books and records pertaining to option orders.²³ The Firm responded in writing that it had already taken proactive steps to ensure that timestamps are complete and stated that it was now conducting and documenting the review on a monthly basis (as opposed to its previous quarterly review).²⁴

B. FINRA Non-Routine Examinations

In September 2024, FINRA issued a CAL to the Firm for incorrectly marking 627 short sale orders with a short sale indicator in reliance on the provisions set forth in Rule 201(d)(3) of Regulation SHO when such provisions were not applicable and failing to maintain WSPs reasonably designed to achieve compliance with respect to Rule 201(d) of Regulation SHO.²⁵ In the CAL, FINRA acknowledged that the Firm had taken corrective actions including ceasing to use the exemption and updating its WSPs.²⁶

In September 2023, FINRA, acting on behalf of Cboe, issued a CAL to the Firm because the Firm overreported positions with double the contract quantities for one day each; and

FINRA pp. 5-6.

²⁰ *Id.*

²¹ *Id.* at FINRA p. 8.

²² See Disposition Letter for Examination No. 20210694498 dated November 15, 2022, Examination Report dated August 12, 2022, and Firm Response dated August 29, 2022, collectively attached as Exhibit 9, at FINRA pp. 1-2.

²³ *Id.* at FINRA pp. 5-7.

²⁴ *Id.* at FINRA pp. 8-10.

²⁵ See CAL for Examination No. 20220767990 dated September 20, 2024, attached as Exhibit 10. The Firm was not required to submit a written response.

²⁶ *Id.* at p. 2.

reported hundreds of positions with incorrect effective dates.²⁷ The Firm responded in writing acknowledging the CAL.²⁸

In January 2023, FINRA issued a CAL to the Firm based on one exception because the Firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to FINRA Rule 2121 and was, therefore, in violation of FINRA Rule 3110.²⁹ Specifically, the Firm's review of markups and markdowns did not account for FINRA Rule 2121.02(b) with institutional customer trades in convertible funds.³⁰ The Firm responded in writing acknowledging the CAL and describing its review of market prices with regard to institutional customer trades in convertible bonds and indicating that the Firm was in the process of updating its WSPs to address the issues raised in the CAL.³¹

C. SEC Examination

In September 2023, the SEC concluded an examination of the Firm's Bethlehem, Pennsylvania branch office that resulted in no deficiencies noted.³²

Regulatory Actions

Oppenheimer has been the subject of four recent disciplinary matters resulting in one Letter of Acceptance, Waiver, and Consent ("AWC") entered into with FINRA; one Commodity Futures Trading Commission ("CFTC") Order, one Letter of Consent entered into with Cboe, and one AWC entered into with NYSE Arca.

A. FINRA Action

On May 7, 2024, the Firm entered into an AWC with FINRA in connection with the Firm's failure to reasonably supervise transactions that the Firm's registered representatives placed directly with product sponsors on behalf of the Firm's customers (i.e., direct business transactions or held away securities transactions) in violation of NASD Rule 3010 and FINRA Rules 3110 and 2010.³³ The Firm failed to take steps reasonably designed to ensure that direct business transactions appeared on the Firm's daily trade blotter, causing the Firm to fail to run approximately 490,000 transactions (including dividend

²⁷ See CAL for Examination No. 20200685197 dated September 20, 2023, and Firm Response dated October 4, 2023, collectively attached as Exhibit 11.

²⁸ *Id.* at FINRA p. 3.

²⁹ See CAL for Examination No. 20210706082 dated January 31, 2023, and Firm Response dated February 27, 2023, collectively attached as Exhibit 12.

³⁰ *Id.* at FINRA p. 1.

³¹ *Id.* at FINRA pp. 3-4.

³² See SEC Examination Letter, SEC File No. 008-4077 dated September 11, 2023, attached as Exhibit 13.

³³ See FINRA AWC No. 2017052438501 dated May 7, 2024, attached as Exhibit 14.

reinvestments) for over 14,000 customers through exception reports used to identify potential sales practice violations, including potentially unsuitable transactions.³⁴ Further, the Firm failed to ensure it collected information from customers' investment profiles that was relevant to making suitability determinations.³⁵ As a result, SEA Rule 17(a), SEA Rule 17a(3), NASD Rule 3010, and FINRA Rules 3110, 4511 and 2010 were violated.³⁶ The Firm consented to a censure and a \$500,000 fine.³⁷ The fine was paid in full on May 23, 2024.³⁸

B. CFTC Action

On March 19, 2024, the CFTC issued an Order finding that the Firm violated Section 4g of the Commodity Exchange Act ("CEA") (7 U.S.C. § 6g), and Commission Regulations 1.31, 1.35, and 166.3 (17 C.F.R. §§ 1.31, 1.35, 166.3 (2021)).³⁹ These violations were based on the same misconduct underlying the SEC Order that is the subject of the Firm's Application. The Firm was ordered to cease and desist from violations of 4g of the CEA and CFTC Regulations 1.31., 1.35 and 166.3, to pay a \$1,000,000 civil penalty, and to comply to with certain undertakings as described in the Order.⁴⁰ The Firm paid the penalty on April 2, 2024.⁴¹ The Firm also represented that it is in compliance with the undertakings.⁴²

C. Cboe Action

On September 14, 2023, Cboe issued a disciplinary decision incorporating a Letter of Consent which found that Oppenheimer violated Cboe Rules 4.13 and 8.43 (Reports Related to Position Limits) and 4.24 and 8.16 (Supervision).⁴³ The Firm had an obligation to report certain options positions and related information to the Large Position Report System ("LOPR") but failed in some 809,000 instances to report or accurately report

³⁴ *Id.* at p. 1.

³⁵ *Id.*

³⁶ *Id.* at p. 2.

³⁷ *Id.* at p. 4.

³⁸ See Disclosure Occurrence Composite for Occurrence 2337276, attached as Exhibit 15, at p. 3.

³⁹ See CFTC Order, *In re Oppenheimer & Co. Inc.*, CFTC Docket No. 24-04 (Mar. 19, 2024), attached as Exhibit 16. FINRA has determined that this is not a disqualifying event.

⁴⁰ *Id.* at pp. 7-11.

⁴¹ See Exhibit 4, at FINRA pp. 3, 12.

⁴² *Id.* at FINRA pp. 1-3.

⁴³ See Cboe Disciplinary Decision and Letter of Consent, File No. URE-146-01/Star No. 20200685197 (Sept. 14, 2023), attached as Exhibit 17.

positions to LOPR.⁴⁴ The Firm also failed to establish a supervisory system, including WSPs reasonably designed to ensure compliance with exchange LOPR rules.⁴⁵ The Firm consented to a censure, a monetary fine of \$450,000, and an undertaking related to Oppenheimer's remediation of the issues described above.⁴⁶ The Firm provided proof that it paid the fine on September 19, 2023 and an attestation that it completed the undertakings.⁴⁷

D. NYSE Arca Action

On March 13, 2023, the Firm entered into an AWC with NYSE Arca, for violating NYSE Arca Rule 11.1 (b) by failing to obtain the most advantageous terms for its customer on an options order and to obtain the agreement of its customer to nullify and adjust the price of that order before doing so, and NYSE Arca Rules 11.18(b) and (c) by failing to establish and maintain supervisory systems and written supervisory procedures that were reasonably designed to ensure compliance with NYSE Arca rules concerning best execution.⁴⁸ The Firm consented to a censure and \$90,000 fine.⁴⁹ The Firm provided proof that it paid the fine on March 29, 2023.⁵⁰

V. **Prior SEA Rule 19h-1 Notices**

FINRA previously filed two SEA Rule 19h-1 Notices approving the Firm's continued membership notwithstanding its statutory disqualification.

On January 25, 2017, FINRA filed a SEA Rule 19h-1 Notice approving the Firm's continued membership notwithstanding its statutory disqualification stemming from a January 27, 2015, SEC order.⁵¹ The Commission acknowledged FINRA's Notice on March 7, 2017.⁵²

On August 10, 2015, FINRA filed a SEA Rule 19h-1 Notice approving the Firm's

⁴⁴ *Id.* at FINRA pp. 3-4.

⁴⁵ *Id.* at FINRA p. 4.

⁴⁶ *Id.* at FINRA p. 5.

⁴⁷ *See* Exhibit 4 at FINRA pp. 9-10.

⁴⁸ *See* NYSE Arca AWC No. 2022-05-13-00029, dated March 13, 2023, attached as Exhibit 18, at p. 1.

⁴⁹ *Id.* at p. 3.

⁵⁰ *See* Exhibit 4, at FINRA pp. 2, 11.

⁵¹ *See In re Oppenheimer & Co., Inc.*, SD-2062, (FINRA Jan. 25, 2017), and the SEC's Letter of Acknowledgement dated March 7, 2017, collectively attached as Exhibit 19.

⁵² *Id.* at FINRA p. 11.

continued membership notwithstanding its statutory disqualification stemming from a June 18, 2015 SEC order.⁵³ The Commission acknowledged FINRA's Notice on August 20, 2015.⁵⁴

VI. The Firm's Proposed Continued Membership with FINRA and Plan of Heightened Supervision

The Firm seeks to continue its membership with FINRA notwithstanding its status as a disqualified member. The Firm has agreed to the following Plan of Heightened Supervision ("Supervision Plan" or "Plan") as a condition of its continued membership with FINRA.⁵⁵

Oppenheimer & Co. Inc. ("Oppenheimer" or the "Firm") is subject to statutory disqualification pursuant to Section 3(a)(39)(F) of the Securities Exchange Act of 1934, which incorporates by reference Sections 15(b)(4)(D) & (E), as a result of an order issued by the U.S. Securities and Exchange Commission ("SEC" or "Commission") dated February 9, 2024 which found that the Firm willfully violated Section 17(a) of the Securities Exchange Act of 1934 and Rule 17a-4(b)(4) thereunder ("SEC Order"). The SEC Order also found that the Firm failed reasonably to supervise its employees within the meaning of Section 15(b)(4)(E).

For the purpose of this Supervision Plan, the term "Digital Communication Channels" means all written electronic methods of communication used to conduct Firm business, including but not limited to, text messaging platforms, whether via SMS messaging, iMessage, or other messaging services such as WhatsApp; direct messaging platforms including X f/k/a "Twitter," Instagram, LinkedIn, Slack, or Bloomberg Messaging; non-firm domain email accounts; and any other written electronic business-related correspondence. "Digital Communication Channels" encompass platforms used to exchange messages with internal or external stakeholders using either a personal or Firm-provided device.

For the purpose of this Supervision Plan, the term "Off-Channel Communications" means all business-related written electronic messages required to be maintained under Rule 17a-4 sent on Digital Communication Channels that are not captured by Firm surveillance and record-keeping systems.

In consenting to this Supervision Plan, the Firm agrees to the following:

1. The Firm shall comply with all of the undertakings outlined in the SEC Order.

⁵³ See *In re Oppenheimer & Co. Inc. et al.*, SD-MCDC-026, SD-MCDC-032, SD-MCDC-030, SD-MCDC-025, SD-MCDC-008, SD-MCDC-034 (FINRA Aug. 10, 2015), and the SEC's Letter of Acknowledgement dated August 20, 2015, collectively attached as Exhibit 20.

⁵⁴ *Id* at FINRA p. 7.

⁵⁵ See Executed Consent to Plan of Heightened Supervision dated October 28, 2024, attached as Exhibit 21.

2. The Firm shall maintain copies of all correspondence between the Firm and Commission staff relating to the SEC Order, including documenting when Commission staff grants extensions to the deadlines set forth in the SEC Order. The Firm shall maintain copies of all such correspondence in a readily accessible place for ease of review by FINRA staff.
3. The Firm shall provide FINRA's Statutory Disqualification Group with copies of all certifications submitted to the SEC upon completion of the undertakings as specified in the SEC Order. The Firm shall maintain copies of all certifications in a readily accessible place for ease of review by FINRA staff.
4. The Firm shall maintain copies of all reports and supporting documentation submitted to SEC staff in accordance with the SEC Order, as well as any other documentation needed to evidence the status and completion of each of the undertakings outlined in the SEC Order. The Firm shall maintain copies of such documentation in a readily accessible place for ease of review by FINRA staff.
5. Within six months of the SEC's Letter of Acknowledgement ("LOA") in this matter, to the extent that it has not already done so within the past six months, and on at least an annual basis thereafter, for a term of six years from the date of the LOA, the Firm shall conduct training for all associated persons regarding the Digital Communication Channels that the Firm has approved for business communication, along with the Firm's current policies regarding retention of business-related electronic communications. The Firm shall maintain a record of individual completion of said training and a copy of said training materials in a readily accessible place for ease of review by FINRA staff.
6. The Firm shall conduct the training described in Paragraph 5 above for all new hires, within 65 days from the date of commencement of new hire training, for a term of six years from the date of the LOA. The Firm shall retain a record of all new hire training, including a copy of all written training materials, and keep said record(s) in a readily accessible place for ease of review by FINRA staff.
7. Within 90 days of the LOA, the Firm shall, to the extent that it has not already done so, establish and maintain a written list(s) of all Digital Communication Channels that its associated persons are permitted to use to communicate about Firm business. The list(s) shall be circulated to all of the Firm's associated persons at least on a semi-annual basis, for a term of six years from the date of the LOA. The Firm shall require that all associated persons obtain written approval for use of any Digital Communication Channels to communicate about Firm business that are not already on the approved list(s) maintained by the Firm. The Firm shall maintain a record of all requests and approvals or rejections of each request, including the date of the requests and the Firm's decision. The Firm shall maintain copies of such requests and decisions in a readily accessible place for ease of review by FINRA staff.
8. The Firm shall require all associated persons to disclose on at least a semi-annual basis, for a term of six years from the date of the LOA, any unapproved Digital

Communication Channels he/she is using to communicate about Firm business. The Firm shall maintain records of such disclosures in a readily accessible place for ease of review by FINRA staff.

9. Subject to Paragraph 7 above, the Firm shall prohibit associated persons from using Off-Channel Communications.
10. Within 90 days of the LOA, the Firm shall, to the extent that it has not already done so, develop a process whereby, in the event that an associated person sends or receives an Off-Channel Communication, the Off-Channel Communication is submitted to the Firm and retained in compliance with relevant securities laws and regulations. For a term of six years from the date of the LOA, the Firm shall maintain a record of all such Off-Channel Communications, including a record of the Firm's receipt of the communication, in a readily accessible place for ease of review by FINRA staff.
11. Within 90 days of the LOA, the Firm shall, to the extent that it has not already done so, develop and maintain written policies and procedures detailing the Firm's processes for disciplining associated persons who use Off-Channel Communications to communicate about Firm business. When the Firm uses the disciplinary process, the Firm shall document each instance. The Firm shall retain records of such written policies and procedures and records of the disciplinary processes and each outcome.
12. All requested documents and certifications under this Supervision Plan shall be sent directly to FINRA's Statutory Disqualification Group at SDMailbox@FINRA.org.
13. The Firm shall obtain written approval from FINRA's Statutory Disqualification Group prior to changing any provision of the Supervision Plan.
14. The Firm shall submit any proposed changes or other requested information under this Supervision Plan to FINRA's Statutory Disqualification Group at SDMailbox@FINRA.org.

VII. Discussion

After carefully reviewing the entire record in this matter, FINRA approves the Firm's request to continue its membership with FINRA, subject to the terms and conditions set forth herein. In evaluating Oppenheimer's Application, FINRA assessed whether the Firm has demonstrated that its continued membership is consistent with the public interest and does not create an unreasonable risk of harm to investors or the markets. *See* FINRA By-Laws, Art. III, Sec. 3(d); *cf. Frank Kufrovich*, 55 S.E.C. 616, 624 (2002) (holding that FINRA "may deny an application by a firm for association with a statutorily-disqualified individual if it determines that employment under the proposed plan would not be consistent with the public interest and the protection of investors"). Typically, factors that bear on FINRA's assessment include, among other things, the nature and gravity of the statutorily disqualifying misconduct, the time elapsed since its occurrence, the restrictions

imposed, the Firm's regulatory history, and whether there has been any intervening misconduct.

As of the date of this Notice, FINRA has determined that the Firm's continued membership is consistent with the public interest and does not create an unreasonable risk of harm to investors or the markets. While the SEC Order identified serious violations of securities laws, the Firm was not expelled or suspended, nor were any limitations placed on Oppenheimer's securities activities. Although the SEC Order triggered certain disqualifications from exemptions from registration available under the Securities Act of 1933 ("Securities Act"), specifically Regulations A, D and E of the Securities Act and Regulation Crowdfunding, the SEC granted the Firm a waiver from the application of the disqualification provisions of Rules 262(a)(4)(ii), 506(d)(1)(iv)(B), and 602(c)(3) of the Securities Act and Rule 503(a)(4)(ii) of Regulation Crowdfunding.⁵⁶

Moreover, the full amount of the civil monetary penalty was promptly paid, and the Firm represented that it is currently compliant with the ordered undertakings.⁵⁷ Specifically, the Firm represents that it hired a compliance consultant that completed its review of the Firm and submitted a report with its recommendations, which the Firm accepted and is in the process of implementing.⁵⁸ Member Supervision also acknowledges that within the SEC Order, the Commission considered the Firm's prompt remedial actions and cooperation with the Commission when determining to accept the Offer of Settlement. Specifically, the Firm, prior to and after being approached by the SEC, revised its policies and procedures relating to retention of off-channel communications.⁵⁹

It is well settled that a firm's regulatory history bears upon the assessment of its ability to comply with securities law and regulations. *See In the Matter of the Continued Association of Craig Scott Taddonio with Meyers Associate, L.P.*, SD-2117, slip op. at 24-25 (FINRA NAC Mar. 8, 2017). However, the corrective measures taken by firms to address deficiencies are weighed in determining whether to approve applications. *See In the Matter of the Association of X with the Sponsoring Firm*, SD11007 (FINRA NAC Jan. 1, 2011) (where a firm's corrective actions negated Member Regulation's assertion that the firm failed to appreciate or respect securities rules and regulations). FINRA has also previously approved applications for continued membership where the firms had extensive regulatory history, including disqualifying events. *See In the Matter of the Continued Membership of Deutsche Bank Securities, Inc.*, SD-2190 (FINRA Jan. 14, 2020) and *In the Matter of the Continued Membership of Citigroup Global Markets, Inc.*, SD-2082 (FINRA May 2, 2017) (approving continued membership where the firms had extensive regulatory history, including recent disqualifying events).

⁵⁶ See Exhibit 3.

⁵⁷ See Exhibit 4 at FINRA pp.1-2.

⁵⁸ *Id.*

⁵⁹ See Exhibit 2, at p. 5, para 27.

In its evaluation of the Firm's Application, FINRA acknowledges the Firm's recent regulatory and disciplinary history, including its additional statutory disqualifying events. Member Supervision also notes that, as of the date of this Notice, the Firm has paid all fines and complied with all undertakings ordered by regulators. None of these matters would prevent the continuance of the Firm as a FINRA member. With respect to the Firm's recent examination exceptions, the Firm addressed the exceptions by resolving its reporting and disclosure issues, providing enhanced training to staff, and updating its policies and procedures. The Firm also indicated that it has implemented new policies and procedures surrounding the process of identifying and disclosing Approved Persons, and it registered the five entities listed in the CAL as Approved Persons. In addition, the Firm indicated that it has taken steps to ensure that timestamps for orders are accurate and complete and that it is now conducting and documenting the review of its books and records on a monthly basis. Following the approval of the Firm's continued membership in FINRA, FINRA intends to utilize its examination and surveillance processes to monitor the Firm's continued compliance with the standards prescribed by Exchange Act Rule 19h-1 and FINRA Rule 9523.

FINRA is further reassured by the controls set in place by the Firm's Supervision Plan which bolster the undertakings outlined in the SEC Order and will continue to provide oversight of the Firm and compliance with its remaining undertakings. In accordance with the Plan, the Firm agreed to conduct annual training for all associated persons, including new hires, regarding the Firm's approved digital communication methods and record retention policies for electronic communications. Further, the Plan calls for the Firm to maintain a list of approved digital communication methods that associated persons are permitted to use for Firm business and to circulate that list to its associated persons semi-annually. The Plan requires the Firm's associated persons to obtain written approval to use digital communication channels not already approved. The Plan prohibits the use of off-channel communications and requires associated persons to semi-annually disclose any unapproved digital communication methods they are using for Firm business; they must also forward any off-channel communications that may have taken place to the Firm for retention purposes. These provisions will help to ensure that the Firm is aware of the communication methods being used by associated persons so that it can appropriately monitor, capture, and retain those communications. Additionally, the Plan mandates that the Firm develop policies and procedures for disciplining associated persons who use unapproved communication methods for Firm business and segregate all certifications, reports, and supporting documentation submitted to the SEC regarding compliance with the undertakings, for ease of review by FINRA staff to ensure ongoing compliance.

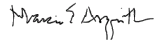
Thus, FINRA is satisfied, based on the foregoing and on the Firm's representations made pursuant to the Supervision Plan, that the Firm's continued membership in FINRA is consistent with the public interest and does not create an unreasonable risk of harm to the market or investors. Accordingly, FINRA approves Oppenheimer's Application to continue its membership with FINRA.

FINRA certifies that the Firm meets all qualification requirements and represents that the Firm is registered with several other SROs including Cboe; NYSE; NYSE American;

NYSE Arca; NYSE Chicago; ISE; PHLX; Nasdaq; DTC; FICC-GOV; FICC-MBS; and NSCC. The SROs have been provided with the terms and conditions of Oppenheimer's proposed continued membership and concur with FINRA.

In conformity with the provisions of Rule 19h-1 of the Exchange Act, the continued membership of the Firm will become effective within 30 days of the receipt of this notice by the Commission, unless otherwise notified by the SEC.


On Behalf of FINRA,



Marcia E. Asquith
Executive Vice President & Corporate Secretary

Appendix A

Statutorily Disqualified Individual Associated with Oppenheimer & Co. Inc.

- 1) A large rectangular area of the document is completely redacted with black ink, covering the majority of the page's content. The redaction starts at the first list item and extends to the bottom of the page.

EXHIBITS

SD-2398

1. MC-400A and related attachments compiled by CRED, with a cover memorandum dated May 1, 2024.
2. SEC Order, *In re Oppenheimer & Co. Inc.*, Exchange Act Release No. 99503 (Feb 9, 2024).
3. SEC Order, *In re Certain Broker-Dealer Practices*, Securities Act Release No. 11270 (Feb. 9, 2024).
4. Firm Discovery Responses and Exhibits, dated October 21, 2024.
5. CRD Excerpt – Organization Registration Status.
6. CRD Excerpts – Types of Business and Other Business Descriptions.
7. Disposition Letter for Examination No. 20230770589 dated May 23, 2024, Examination Report dated February 13, 2024, and Firm Response dated March 6, 2024.
8. Disposition Letter for Examination No. 20230770590 dated February 29, 2024, Examination Report dated December 7, 2023, and Firm Response dated December 21, 2023.
9. Disposition Letter for Examination No. 20210694498 dated November 15, 2022, Examination Report dated August 12, 2022, and Firm Response dated August 29, 2022.
10. CAL for Examination No. 20220767990 dated September 20, 2024.
11. CAL for Examination No. 20200685197 dated September 20, 2023, and Firm Response dated October 4, 2023.
12. CAL for Examination No. 20210706082 dated January 31, 2023, and Firm Response dated February 27, 2023.
13. SEC Examination Letter, SEC File No. 008-4077 dated September 11, 2023.
14. FINRA AWC No. 2017052438501 dated May 7, 2024.
15. Disclosure Occurrence Composite for Occurrence 2337276.
16. CTFC Order, *In re Oppenheimer & Co. Inc.*, CFTC Docket No. 24-04 (Mar. 19, 2024).
17. Cboe Disciplinary Decision and Letter of Consent, File No. URE-146-01/Star No. 20200685197 (Sept. 14, 2023).
18. NYSE Arca AWC No. 2022-05-13-00029, dated March 13, 2023.
19. *In re the Continued Membership of Oppenheimer & Co., Inc.*, SD-2062, (FINRA Jan. 25, 2017), and the SEC’s Letter of Acknowledgement dated March 7, 2017.

20. *In re Oppenheimer & Co. Inc. et al.*, SD-MCDC-026, SD-MCDC-032, SD-MCDC-030, SD-MCDC-025, SD-MCDC-008, SD-MCDC-034 (FINRA Aug. 10, 2015), and the SEC's Letter of Acknowledgement dated August 20, 2015.
21. Executed Consent to Plan of Heightened Supervision, dated October 28, 2024.