

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 105790 / June 29, 2026

INVESTMENT ADVISERS ACT OF 1940
Release No. 6975 / June 29, 2026

ADMINISTRATIVE PROCEEDING
File No. 3-22652

In the Matter of

**Merrill Lynch, Pierce,
Fenner & Smith
Incorporated,**

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTIONS 15(b) AND 21C
OF THE SECURITIES EXCHANGE ACT OF
1934 AND SECTION 203(e) OF THE
INVESTMENT ADVISERS ACT OF 1940,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS AND A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) and Section 203(e) of the Investment Advisers Act of 1940 (“Advisers Act”) against Merrill Lynch, Pierce, Fenner & Smith Incorporated (“Merrill” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”), which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 and Section 203(e) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds that:

A. Summary

1. From at least April 8, 2020 through September 10, 2024 (the “Relevant Period”), Merrill failed to file certain Suspicious Activity Reports (“SARs”) with the U.S. Treasury Department’s Financial Crimes Enforcement Network (“FinCEN”) in violation of the broker-dealer reporting and recordkeeping provisions of Section 17(a) of the Exchange Act and Rule 17a-8 thereunder. Merrill, as a registered broker-dealer, is required by rules promulgated under the Exchange Act to file SARs on certain suspicious transactions or attempted transactions in its accounts.

2. Throughout the Relevant Period, Merrill relied on Bank of America Corporation’s (“Bank of America”) enterprise-wide Bank Secrecy Act/Anti-Money Laundering (“BSA/AML”) program to help fulfill Merrill’s independent SAR-filing responsibilities. Bank of America used a transaction monitoring software system called “Event Processor” to aggregate alerts of potentially suspicious “events” into “Event Groups” and assign them “risk scores.” Only Event Groups with risk scores of 20 or more were investigated for potential SAR filings, notwithstanding that internal analyses showed, at least as early as April 2020, that certain Event Groups with risk scores below 20, if investigated, would result in SAR filings.

3. During the Relevant Period, Merrill failed to file numerous SARs due to its failure to investigate such Event Groups.

4. By failing to file SARs, Merrill violated Exchange Act Section 17(a) and Rule 17a-8 thereunder.

B. Respondent

5. Merrill, an indirect wholly owned subsidiary of Bank of America, is headquartered in New York, New York. Merrill is dually registered with the Commission as a broker-dealer and investment adviser. The Commission previously brought two settled administrative and cease-and-desist proceedings against Merrill for failing to file SARs in violation of Section 17(a) of the Exchange Act and Rule 17a-8 thereunder. *See In re Merrill Lynch, Pierce, Fenner & Smith Incorporated et al.*, Exchange Act Rel. No. 97872 (July 11, 2023); *In re Merrill Lynch, Pierce, Fenner & Smith Incorporated*, Exchange Act Rel. No. 34-82382 (Dec. 21, 2017). On December 23, 2024, the Office of the Comptroller of the Currency issued a cease-and-desist order against Bank of America, N.A. for deficiencies related to its Bank Secrecy Act and sanctions compliance programs. *See* Office of the Comptroller of the Currency Consent Order dated Dec. 23, 2024, *In re Bank of America, N.A.*, AA-ENF-2024-56.

C. Merrill’s Violative Conduct

6. The Bank Secrecy Act (“BSA”) and its implementing regulations require that broker-dealers such as Merrill file SARs with FinCEN to report, among other things, a transaction (or pattern of transactions of which the transaction is a part) conducted or attempted by, at, or through it involving or aggregating funds or other assets of at least \$5,000 that Merrill knows,

suspects, or has reason to suspect: (1) involve funds derived from illegal activity or are conducted to disguise funds derived from illegal activities; (2) are designed to evade any requirement of the Bank Secrecy Act; (3) have no business or apparent lawful purpose and Merrill knows of no reasonable explanation for the transactions after examining the available facts; or (4) involve use of Merrill to facilitate criminal activity. *See* 31 C.F.R. § 1023.320(a)(2).

7. Throughout the Relevant Period, Merrill relied on Bank of America's enterprise-wide BSA/AML program to help fulfill Merrill's independent SAR-filing responsibilities. Merrill retained all responsibility for complying with the BSA and FinCEN requirements.

8. During the Relevant Period, Bank of America used a software system called Event Processor to aggregate alerts of potentially suspicious events generated by various detection channels, including both automated monitoring systems and manual employee referrals. The Event Processor aggregated events into Event Groups and assigned each Event Group a numeric risk score. The Event Processor promoted Event Groups for investigation if the Event Group's risk score met or exceeded a threshold of 20 points. Promoted Event Groups were referred to as "Cases." Event Groups with risk scores below 20 points were not promoted to Cases and were not investigated for potential SAR filings. Risk scores could increase if additional related events were detected. After 13 months, if an Event Group had not become a Case, all events in the Event Group that were 13-months-old "retired" without being investigated and events that existed in the system for less than 13 months formed a new Event Group.

9. Beginning before the Relevant Period, Bank of America and Merrill regularly analyzed the performance of the Event Processor as part of their BSA/AML compliance program. Among other things, Bank of America and Merrill regularly reviewed sampling analyses of Event Groups below the 20-point threshold to test the likelihood that such Event Groups, if investigated, would require filing a SAR—a statistic called the "SAR Yield." Throughout the Relevant Period, these analyses showed, based on statistical sampling, that certain Event Groups with risk scores below 20 had high estimated SAR Yields. These SAR Yields, in some instances, were higher than the SAR Yields for analyzed Event Groups at or above the 20-point threshold. Despite these analyses, Bank of America and Merrill did not change the Event Processor promotion threshold until December 2023.

10. As a result of these analyses, Merrill knew, suspected or had reason to suspect that certain Event Groups with risk scores below 20 would, if investigated, result in SAR filings.

11. During the Relevant Period, Merrill failed to file numerous SARs due to its failure to investigate certain Event Groups with risk scores below 20. The suspicious activity referenced by these Event Groups pertained to hundreds of millions of dollars in transactions by, at, or through Merrill. The suspicious activity included, among other things, transfers that appeared to have no apparent economic, business or other lawful purpose, transfers in large, round dollar amounts, transfers to or from designated high-risk geographical locations, cash transactions that appeared to be structured, transactions related to criminal activity, and transactions in accounts of subjects that had been the subjects of prior SARs or otherwise had been reviewed for conducting potentially suspicious activity.

D. Violations

12. Exchange Act Section 17(a) and Rule 17a-8 thereunder require registered broker-dealers to “comply with the reporting, recordkeeping, and record retention requirements” of certain FinCEN rules. These FinCEN rules, among other things, require broker-dealers to file SARs with FinCEN to report transactions that the broker-dealer “knows, suspects, or has reason to suspect,” involve certain defined categories of suspicious activity. 31 C.F.R. § 1023.320(a)(2).

13. As a result of failing to file numerous SARs under the circumstances described above, Merrill willfully violated Exchange Act Section 17(a) and Rule 17a-8 thereunder.¹

E. Respondent’s Remedial Efforts

14. In determining to accept the Offer, the Commission considered Respondent’s cooperation with the staff’s investigation and remedial steps taken by Respondent. In December 2023, Bank of America and Merrill lowered the Event Processor Case promotion threshold. Bank of America and Merrill also conducted a retrospective review of Event Groups that had previously been below the promotion threshold; as a result of this review, Merrill filed numerous SARs. Bank of America also retained a compliance consultant to conduct a full assessment of its enterprise-wide BSA/AML program.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent’s Offer.

Accordingly, pursuant to Sections 15(b) and 21C of the Exchange Act and Section 203(e) of the Advisers Act, it is hereby ORDERED that:

A. Respondent Merrill cease and desist from committing or causing any violations and any future violations of Exchange Act Section 17(a) and Rule 17a-8 promulgated thereunder.

B. Respondent Merrill is censured.

C. Respondent Merrill shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of \$7,500,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

¹ “Willfully,” for purposes of imposing relief under Section 15(b) of the Exchange Act and Section 203(e) of the Advisers Act “means no more than that the person charged with the duty knows what he is doing.” *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)).

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Merrill as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Thomas P. Smith, Jr., Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 Pearl Street, Suite 20-100, New York, New York 10004-2616.

D. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent Merrill agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Merrill's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Merrill agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Merrill by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary