

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10462 / February 28, 2018

SECURITIES EXCHANGE ACT OF 1934
Release No. 82792 / February 28, 2018

INVESTMENT ADVISERS ACT OF 1940
Release No. 4862 / February 28, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18381

In the Matter of

**AMERIPRISE FINANCIAL
SERVICES, INC.,**

Respondent.

**ORDER INSTITUTING
ADMINISTRATIVE AND
CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTION 8A OF THE
SECURITIES ACT OF 1933, AND
SECTION 15(b) 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 Section 8A of the Securities Act of 1933 (“Securities Act”), Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”), and Section 203(e) of the Investment Advisers Act of 1940 (“Advisers Act”), against Ameriprise Financial Services, Inc. (“Ameriprise” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Ameriprise 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 or denying the findings

herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Ameriprise consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Section 15(b) 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 Ameriprise’s Offer, the Commission finds that:

Summary

1. From at least January 2010 through June 2015 (the “Relevant Period”), Ameriprise disadvantaged certain retirement plan customers (“Eligible Customers”)¹ by failing to ascertain that they were eligible for a less expensive share class, and recommending and selling them more expensive share classes in certain open-end registered investment companies (“mutual funds”) when less expensive share classes were offered to these Eligible Customers by Ameriprise on its platform. Ameriprise did so without disclosing that it would receive greater compensation from the Eligible Customers’ purchases of the more expensive share classes. Eligible Customers did not have sufficient information to understand that Ameriprise had a conflict of interest resulting from compensation it received for selling the more expensive share classes. Specifically, Ameriprise recommended and sold these Eligible Customers Class A shares with an up-front sales charge or Class B or Class C shares with a back-end contingent deferred sales charge (“CDSC”) (a deferred sales charge the purchaser pays if the purchaser sells the shares during a specified time period following the purchase) and higher ongoing fees and expenses, when these Eligible Customers were eligible to purchase load-waived Class A shares. Ameriprise omitted material information concerning its compensation when it recommended the more expensive share classes to these Eligible Customers. Because Ameriprise did not ascertain these customers’ eligibility for load-waived A shares, it did not disclose to Eligible Customers that the purchase of the more expensive share classes would negatively impact their overall return, in light of the different fee structures for the different fund share classes.

2. In making those recommendations of more expensive share classes while omitting material facts, Ameriprise willfully violated Sections 17(a)(2) and 17(a)(3) of the Securities Act. These provisions prohibit, respectively, in the offer or sale of securities, obtaining money or property by means of an omission to state a material fact necessary to make statements made not misleading and engaging in a course of business which operates as a fraud or deceit on the purchaser.

¹ The term “Eligible Customers” may include, among others, customers who held the following types of retirement accounts: 401(k) plans, 403(b) plans, profit-sharing plans, defined benefit plans, and certain IRA accounts.

Respondent

3. **Ameriprise Financial Services, Inc.** is registered with the Commission as a broker-dealer and investment adviser. Ameriprise is incorporated in Delaware and has its principal place of business in Minneapolis, Minnesota.

Background

4. Mutual funds often offer different fund share classes that each represent a common interest in an investment portfolio, but differ in the amount and types of sales charges and fees a fund investor may incur. For funds that have sales charges or sales “loads,” the timing and amount of sales loads typically vary between share classes. These sales charges are normally assessed as a percentage of an investor’s investment. For example, Class A shares often are subject to an up-front sales charge in addition to ongoing marketing and distribution fees, known as Rule 12b-1 fees. Class B and Class C shares often do not have an up-front sales charge, but have higher Rule 12b-1 fees.

5. Many mutual funds provide sales-load waivers for Class A shares to qualified retirement accounts. Such waivers are important to investors because they allow investors to buy shares at the fund’s current net asset value. Eligibility requirements for load-waived Class A shares are disclosed in the prospectus and statement of additional information for each relevant fund.

6. The sales charges and fees associated with different share classes affect mutual fund shareholders’ returns. A mutual fund investor eligible for a sales charge waiver in Class A shares will likely obtain a higher return by investing in Class A shares than incurring the ongoing sales-related costs associated with Class B and Class C shares in the same fund.

7. Sales charges and fees associated with different share classes also affect a broker-dealer’s revenue earned from selling mutual fund shares. Broker-dealers typically receive all or a portion of the sales charges and Rule 12b-1 fees charged to their customers. For example, broker-dealers generally receive higher ongoing fees when their customers hold Class B and Class C shares as compared to Class A shares. Broker-dealers therefore may earn more compensation when recommending a share class to customers if the customer’s purchase of that share class will increase a broker-dealer’s revenue when compared to another share class in the same fund that the broker-dealer could recommend to the customer.

Ameriprise Omitted Material Facts When Recommending Class A, Class B, and Class C Mutual Fund Shares to Eligible Customers

8. Although Ameriprise disclosed to customers that “[c]ertain account types, such as retirement plan accounts, may be eligible for discounts and waivers,” from at least January 2010 through June 2015, Ameriprise did not have adequate systems and controls in place to determine whether a customer was eligible for such discounts and waivers, including load-waived Class A shares. As a result, Ameriprise did not provide available sales charge waivers in at least 5,973 transactions involving approximately 1,791 Eligible Customer accounts. These were

transactions in which Eligible Customers could have purchased load-waived Class A shares because Ameriprise made them available to these Eligible Customers in certain offerings. Instead of recommending these lower cost shares, Ameriprise recommended and sold them Class A shares with an up-front sales charge or Class B or Class C shares with a CDSC and higher ongoing fees and expenses than the load-waived Class A shares. In connection with all of these recommendations, Ameriprise omitted to state to Eligible Customers that it would earn more revenue from customer purchases of Class A shares with an up-front sales charge or Class B or Class C shares with a CDSC and higher ongoing expenses as compared to load-waived Class A shares for which the customers were eligible. Ameriprise also omitted to state to the Eligible Customers that their purchases of the more expensive shares would negatively impact the customers' overall investment returns. In the context of multiple-share-class mutual funds, in which the only reason for the differences in rate of return among classes is the cost structure of the different classes, information about this cost structure would accordingly be important to a reasonable investor.

Ameriprise's Remedial Efforts

9. In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Ameriprise and cooperation afforded the Commission staff.

10. Ameriprise voluntarily identified the Eligible Customers who purchased more expensive shares than those shares for which they were eligible, and has completed full remediation for those customers. Eligible Customers paid a total of \$1,778,592.31 in up-front sales charges, CDSCs, and higher ongoing fees and expenses from purchases of mutual fund share classes for which they did not receive an applicable sales charge waiver or did not otherwise receive the most cost-effective share class for which they were eligible that was available on Ameriprise's platform during the Relevant Period. Ameriprise voluntarily reimbursed this amount, along with \$190,797.40 in interest, to Eligible Customers. Ameriprise also voluntarily converted all Eligible Customers holding Class B and Class C shares to the Class A shares with the lowest expenses for which they are eligible, at no cost to the customers.

Violations

11. As a result of the conduct described above, Ameriprise willfully violated Sections 17(a)(2) and 17(a)(3) of the Securities Act, which prohibit any person in the offer or sale of securities from obtaining money or property by means of any untrue statement of material fact or any omission to state a material fact necessary in order to make statements made not misleading, and from engaging in any transaction, practice or course of business which operates or would operate as a fraud or deceit upon the purchaser, respectively.² Ameriprise failed to ascertain Eligible Customers' eligibility for load-waived A shares available at Ameriprise and omitted to state to Eligible Customers that it would earn greater compensation in recommending Class A

² A willful violation of the securities laws means merely "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)). There is no requirement that the actor "also be aware that he is violating one of the Rules or Acts." *Id.* (quoting *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965)).

shares with an up-front sales charge, or Class B or Class C shares with a CDSC and higher ongoing fees and expenses, because these share classes would generate additional revenue for Ameriprise compared to other less expensive share classes available to Eligible Customers. Thus, Eligible Customers did not have sufficient information to understand that Ameriprise had a conflict of interest resulting from sales of the more expensive share classes. Ameriprise's omission of material information concerning its compensation made its recommendations of the more expensive share classes misleading. Ameriprise also omitted to state to the Eligible Customers that the purchase of these more expensive shares would negatively impact the customers' overall investment returns, in light of the different fee structures for the different fund share classes. As a result, Eligible Customers incurred up-front sales charges, CDSCs, and higher ongoing fees and expenses, and Ameriprise received additional revenue.

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 Section 8A of the Securities Act, Section 15(b)(4) of the Exchange Act, and Section 203(e) of the Advisers Act, it is hereby ORDERED that:

- A. Respondent Ameriprise cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act.
- B. Respondent Ameriprise is censured.
- C. Respondent Ameriprise shall, within 30 days of the entry of this Order, pay a civil money penalty of \$230,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury in accordance with Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717. Payment must be made in one of the following ways:

- (1) Respondent Ameriprise may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent Ameriprise 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 Ameriprise 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 Ameriprise Financial Services, Inc., 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 simultaneously sent to Anthony S. Kelly, Co-Chief, Asset Management Unit, Division of Enforcement, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549, or such other person or address as the Commission staff may provide.

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 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 Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent 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 these proceedings. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent 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 these proceedings.

By the Commission.

Brent J. Fields
Secretary