

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2009018057401**

TO: Department of Enforcement
Financial Industry Regulatory Authority ("FINRA")

RE: UBS Securities LLC, Respondent
CRD No. 7654

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent UBS Securities LLC ("UBS," or the "Firm") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against the Firm alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. UBS hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

UBS has been a FINRA regulated broker dealer since August 1978. The Firm is headquartered in Stamford, Connecticut and is a wholly owned subsidiary of UBS AG, a publicly owned Swiss banking corporation. The Firm is a multi-service brokerage firm that provides a full range of financial services to its retail and institutional clients, including publishing equity research reports. During the relevant period, UBS annually published approximately 16,000 equity research reports.

UBS has the following relevant disciplinary history.

On April 22, 2003, UBS submitted an AWC consenting to findings that it violated NASD Rules 2110, 2210, and 3010 by failing to manage conflicts of interest between investment banking and research analyst operations, making undisclosed payments for research to other firms involved in an underwriting, and failing to supervise its research analysts (the "Research Analyst Settlement"). In connection with this settlement and similar settlements with the Securities and Exchange Commission, the NYSE and certain State regulators at the same time, UBS agreed to a censure and a total payment of \$80 million, consisting of a \$25 million fine, \$25 million as disgorgement, \$25 million to be used for

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procurement of independent research and \$5 million to be used for investor education. The Firm also agreed to certain undertakings.

On December 6, 2005, UBS submitted an AWC consenting to a censure and a \$10,000 fine for failing to include at least one of the following required disclosures in approximately 170 research reports: (i) investment banking subject company relationships, and (ii) non-investment banking-related compensation and subject company relationships (non-investment banking securities-related services and non-securities services).

On July 16, 2007, UBS entered into a settlement with New York Stock Exchange LLC ("2007 Enforcement Action ") consenting to a censure and a \$150,000 fine for failing to include one or more of the following required disclosures in excess of 1,300 equity research reports: (i) investment banking subject company relationships and (ii) non-investment banking-related compensation and subject company relationships and for supervisory violations relating to UBS's failure to establish appropriate supervisory procedures and controls relating to the inclusion of required disclosures in its published research reports.

OVERVIEW

Between November 2007 and February 2009 (the "Relevant Period"), UBS published approximately 260 equity research reports that failed to include one or more non-investment banking disclosures (non-investment banking compensation, non-investment banking securities-related services, and non-securities services) in violation of NASD Rule 2711(h)(2). The Firm also failed to implement written supervisory procedures reasonably designed to ensure compliance with NASD Rule 2711 in violation of NASD Rules 2711(i), 2110 and FINRA Rule 2010.

In addition, during the Relevant Period as a result of its non-investment banking disclosure failures, certain information contained in the Firm's central disclosure database was not updated. As such, the Firm's research analysts failed to disclose public appearance information to media outlets about UBS's non-investment banking-related compensation and the types of services provided to the subject company in the prior 12 months, in violation of NASD Rule 2711(h)(2).

FACTS AND VIOLATIVE CONDUCT

A. UBS Failed to Include the Required Non-Investment Banking Disclosures in Research Reports

NASD Rule 2711(h) requires disclosure in research reports and public appearances of conflicts and potential conflicts stemming from, among other things, a member's or its research analysts' receipt of compensation from, ownership of securities in or other relationships with subject companies (collectively, the "required disclosures").

NASD Rule 2711(h)(2)(A)(iii) requires a member to disclose in its research reports (as of the end of the month immediately preceding the date of publication of the research report):

- (a) if the member received any compensation for products or services other than investment banking services from the subject company in the past 12 months; or
- (b) the subject company currently is, or during the 12-month period preceding the date of distribution of the research report was, a client of the member. In such cases, the member also must disclose the types of services provided to the subject company. For purpose of this Rule 2711(h)(2), the types of services provided to the subject company shall be described as investment banking services, non-investment banking securities-related services, and non-securities services.

UBS's Written Procedures

After the 2007 Enforcement Action, the Firm established written supervisory procedures to update non-investment banking disclosures in the Firm's central disclosure database. Under the Firm's procedures, at the end of each month, an automated scheduling program queried the global equity research database and auto-generated an email containing a list of covered and non-covered companies and company codes. This email was sent to the Firm's Core Client Data Services Group ("CCDS")¹, where a member of the group manually updated the company codes in a client-based database that stored information regarding revenue received by the Firm from the subject companies. Once the company codes were manually updated by a CCDS member, CCDS sent an email to the Client Management Team ("CMT"),² who produced a business object report (the "Report"). This Report, which combined the research and revenue information for each client, was saved to a subdirectory. Within the first 10 business days of each month, an automatic scheduling program retrieved the completed file from the appropriate subdirectory and loaded it into the central disclosure database. The data from the completed file was used to create the required non-investment banking disclosures in the equity research reports.

Following the 2007 Enforcement Action, the Firm also established certain procedures that were meant to notify the Firm in the event that the new procedures were not followed. For example, email alerts were triggered if the automatically generated email containing the list of covered and

¹ This group is responsible for maintaining the client-based database.

² This group is responsible for running reports on client-based database.

non-covered companies and company codes was not generated or was late at the start of the process. Email alerts were also generated if the file was unable to load (corrupt or not available) into the central disclosure database at the end of the process.

Failures During the Non-Investment Banking Disclosure Update Process

In October 2007, the member of CCDS, who was tasked with the responsibility for manually updating the client-based database with company codes, left the Firm. The Firm failed to reassign this task. As a result, during the Relevant Period, the Firm failed to update the company codes in the client-based database and no emails indicating that the company codes had been added were sent to CMT by CCDS. But the Client Data Strategist, a senior officer in CMT who was in charge of producing the Report, continued to produce the Reports without confirming that the company codes were updated.

The Client Data Strategist continued to produce the Reports, so the file was created and uploaded in the central disclosure database, even though it contained incomplete information. Since the Reports were completed the email alerts were not triggered at the end of the process.

As a result of the above failures during the update process, 260 equity research reports published by UBS during the Relevant Period failed to include one or more required non-investment banking disclosures (non-investment banking compensation, non-investment banking securities-related services, and non-securities services), in violation of NASD Rules 2711(h)(2), 2110 and FINRA Rule 2010.

B. The Research Analysts Failed to Disclose to Media Outlets in Connection With Public Appearances Certain Information about Non-Investment Banking Related Compensation and Subject Company Relationships

NASD Rule 2711(h)(2)(B) requires a research analyst to disclose in public appearances if, to the extent the research analyst knows or has reason to know: the member or any affiliate received any compensation from the subject company in the past 12 months;³ or the subject company currently is, or during the 12-month period preceding the date of distribution of the research report, was, a client of the member. In such cases, the research analyst also must disclose the types of services provided to the subject company, if known by the research analyst.⁴

During the Relevant Period, certain information contained in the central disclosure database was not updated due to the above-mentioned update process failure. As a result, research analysts creating and sending information about the impacted subject companies to media outlets in connection with public appearances, failed to disclose UBS's non-investment banking related compensation and the types of services (non-investment banking securities-related services, and

³ NASD Rule 2711(h)(2)(B)(i)

⁴ NASD Rule 2711(h)(2)(B)(iii)

non-securities services) UBS provided in the prior 12 months, in violation of NASD Rules 2711(h)(2)(B), 2110 and FINRA Rule 2010.⁵

C. UBS Failed to Implement Written Supervisory Procedures

NASD Rule 2711(i) requires member firms to implement written supervisory procedures reasonably designed to ensure that the member and its employees comply with the provisions of Rule 2711.

UBS failed to adequately implement its supervisory procedures concerning compliance with NASD Rule 2711(h). The Firm violated NASD Rule 2711(i) by failing to (a) conduct follow-up and review to ensure that its employees were performing their assigned responsibilities of collecting and updating data to generate accurate disclosures; and (b) have a verification process to confirm that each group was performing its task to ensure the flow of updated information at each stage in order to have accurate disclosures.

During the Relevant Period, the Firm failed to adequately implement its written procedures that provided for step-by-step guidance for updating the required disclosures in the relevant databases in order to reasonably ensure that they were disclosed in the research reports and in public appearances. Accordingly, UBS violated NASD Rules 2711(i), 2110 and FINRA Rule 2010.

OTHER FACTORS

In determining the appropriate sanction in this matter, FINRA's Enforcement Department considered UBS's self-report that it failed to make the required disclosures relating to non-investment banking-related compensation and/or types of services provided to the subject company in 260 equity research reports published in the U.S., the prompt remedial steps that the Firm put in place to address the deficiencies, as well as the Firm's prior disciplinary history.

B. UBS also consents to the imposition of the following sanctions:

1. A censure; and
2. A fine of \$ 300,000.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

UBS agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. UBS has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

⁵ In each of the instances where UBS failed to make these specific disclosures to the media outlets, either the research analysts never made the public appearance or the media outlets failed to publish any disclosures.

UBS specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

II.

WAIVER OF PROCEDURAL RIGHTS

UBS specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against it;
- B. To be notified of the Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, UBS specifically and voluntarily waives any right to claim bias or prejudgment of the General Counsel, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

UBS further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

UBS understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the Firm; and
- C. If accepted:
 - 1. This AWC will become part of UBS's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against the Firm;
 - 2. This AWC will be made available through FINRA's public disclosure program in response to public inquiries about UBS's disciplinary record;
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
 - 4. UBS may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. UBS may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the Firm's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. UBS may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The Firm understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf

has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that the undersigned has agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the undersigned to submit it.

April 14, 2011
Date

UBS Securities LLC
Respondent

By: Judith Romaine
Judith Romaine

Accepted by FINRA:

5/2/11
Date

Signed on behalf of the
Director of ODA, by delegated authority

Julie H. Broderick
Julie H. Broderick
Director
FINRA Department of Enforcement
14 Wall Street
New York, New York 10005
Phone: 646-315-7313
Fax: 202-689-3414