

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2009019242701**

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

RE: Calyon Securities Inc., now known as Credit Agricole Securities (USA) Inc.,  
Respondent  
Member Firm  
BD No. 190

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent 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. Respondent 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**

Calyon Securities Inc. ("Calyon" or the "Firm"), now known as Credit Agricole Securities (USA) Inc. ("Credit Agricole"), has been a registered broker-dealer and a member of FINRA since March 1968. Calyon is a full service brokerage firm headquartered in New York City and has seven active branches and 420 registered representatives.

**RELEVANT PRIOR DISCIPLINARY HISTORY**

Calyon has not been the subject of any relevant formal disciplinary history.

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## **OVERVIEW**

During the period from April 11, 2008 through April 17, 2009 ("the Relevant Period"), Calyon violated Securities Exchange Act of 1934 ("Exchange Act") Rules 15c3-3(e)(1), 15c3-3(e)(3), NASD Rule 2110 and FINRA Rule 2010 relating to the Firm's Proprietary Accounts of Introducing Brokers ("PAIB").

Specifically, Calyon miscalculated its weekly customer reserve formula resulting in an approximately \$5 million understatement of the Firm's customer credits, which continued for a 54-week period. Specifically, Calyon misclassified an introducing broker's clearing deposit, valued at approximately \$5 million, as a debit (i.e. an asset), whereas the clearing deposit should have been classified as a credit (i.e., a debt), in violation of Exchange Act Rule 15c3-3(e)(1), NASD Rule 2110 and FINRA Rule 2010. In addition, during the Relevant Period, Calyon's PAIB Special Reserve Bank Account for the Exclusive Benefit of Customers (the "Reserve Account") was deficient for 37 weeks, in violation of Exchange Act Rule 15c3-3(e)(3), NASD Rule 2110 and FINRA Rule 2010. This hindsight deficiency occurred because the Firm did not maintain sufficient excess debits in its PAIB Reserve Account. The Firm also failed to make required weekly deposits to its PAIB Reserve Account in 37 instances, in violation of Exchange Act Rule 15c3-3(e)(3), NASD Rule 2110 and FINRA Rule 2010.

## **FACTS AND VIOLATIVE CONDUCT**

### **Exchange Act Rule 15c3-3: The Customer Protection Rule**

Exchange Act Rule 15c3-3, known as "The Customer Protection Rule," was created to ensure that rules exist regarding the acceptance, custody, and use of customer securities. The Customer Protection Rule requires broker-dealers to take steps to protect the securities that customers leave in custody of broker-dealers. These steps include the requirement that broker-dealers promptly obtain and maintain possession or control of all "fully paid" and "excess-margin" securities carried for the accounts of customers ("customer securities"). The possession or control requirement is designed to ensure that broker-dealers do not put customers at risk by borrowing their securities to expand or otherwise further the broker-dealer's proprietary activities.<sup>1</sup> The Rule insures that customers' funds held by a broker-dealer and the cash which is realized through the lending, hypothecation and other permissible uses of customers' securities are deployed in safe areas of the broker-dealer's business related to servicing his customers, or to the extent that the funds are not deployed in these limited areas, that they be deposited in a reserve bank account.<sup>2</sup>

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<sup>1</sup> See "Customer Protection Rule-Reserves and Custody of Securities Delegation of Authority to the Director of the Division of Market Regulation", SEC Release No. 34-47480, File No. S7-20-02 (<http://www.sec.gov/rules/final/34-47480.htm>).

<sup>2</sup> *Upton v. Securities and Exchange Commission*, 75 F.3d 92, 96 (2d Cir. 1996).

**Exchange Act Rule 15c3-3(e), Special Reserve Bank Account for the Exclusive Benefit of Customers**

Exchange Act Rule 15c3-3(e)(1) states that the Reserve Account must be calculated and that all deposits must be made in accordance with Exchange Act Rule 15c3-3(a), Exhibit A (Formula for Determination of Reserve Requirements for Broker Dealers), which illustrates the formula to be used when determining the reserve requirement for brokers and dealers. Specifically, all amounts must be deemed a credit (amount the firm owes to customers) or a debit (amount customers owe to the firm) and the excess of total credits over total debits must be kept on deposit in the Reserve Account (unless PAIB credits are equal to or less than the total debits, the Reserve Account must reflect the difference). In addition, Exchange Act Rule 15c3-3(e)(3) requires that such computations and deposits be made weekly.

**Calyon inaccurately computed its Reserve Account formula resulting in an understatement of the Firm's customer credits from April 11, 2008 through April 17, 2009 (a 54-week period) in violation of Exchange Act Rule 15c3-3(e)(1), NASD Rule 2110 and FINRA Rule 2010.**

As part of the Firm's calculation of its weekly PAIB Reserve Account, Calyon classified a non-proprietary qualified security (an introducing broker's clearing deposit valued at approximately \$5 million) as a debit (i.e. an asset) instead of as a credit (i.e. a debt). As a result of the Firm's misclassification, Calyon's PAIB Reserve Account understated its customer credits by approximately \$5 million on 54 separate occasions from April 11, 2008 through April 17, 2009.

**Regarding its PAIB Reserve Account, Calyon failed to maintain sufficient excess debits for 37 weeks, in violation of Exchange Act Rule 15c3-3(e)(1), NASD 2110 and FINRA Rule 2010. In addition, Calyon failed to make required deposits in 37 instances, in violation of Exchange Act Rule 15c3-3(e)(3), NASD Rule 2110 and FINRA Rule 2010.**

As a result of the Firm's inaccurate Reserve Account computations, which arose from the misclassification of the non-proprietary qualified security, FINRA conducted a hindsight review of Calyon's PAIB Reserve Account for the period from November 7, 2008 through December 26, 2008 (an eight week period). FINRA discovered that during four of the eight weeks, the Firm's PAIB Reserve Account had insufficient deposits.

In an effort to ascertain the full extent of its hindsight deficiency, the Firm conducted a hindsight review which disclosed that from April 11, 2008 through April 17, 2009 (a 54 week period), Calyon misclassified the non-proprietary qualified security (the introducing broker's clearing deposit) as a debit instead of properly classifying the security as a credit. Calyon's 54-week miscalculation of its customer reserve formula computation resulted in a 37-week hindsight deficiency in the Firm's PAIB Reserve Account, in violation of Exchange Act Rule 15c3-3(e)(1). The Firm's weekly deficiencies ranged from approximately \$200,000 to approximately \$1,000,000.

During the Relevant Period, the Firm was well in excess of its required net capital reserve amount and was financially situated, had the need arose, to have covered the 37 week deficiency.

### **SANCTIONS**

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

1. A censure;
2. A fine in the amount of \$70,000.

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

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

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

### **II.**

### **WAIVER OF PROCEDURAL RIGHTS**

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

- A. To have a Formal Complaint issued specifying the allegations against the Firm;
- B. To be notified of the Formal 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, Respondent 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.

Respondent 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**

Respondent 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 Respondent'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 the Firm's disciplinary record;
    - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8310; and
4. The Firm 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. The Firm 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 Respondent's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

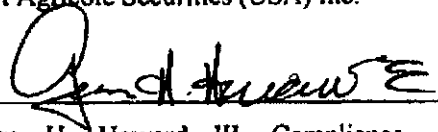
- D. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

Respondent certifies that it has read and understand all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that it 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 Respondent to submit it.

12/16/10  
Date

Credit Agricole Securities (USA) Inc.

By:

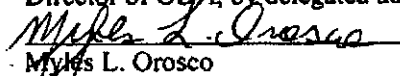


George H. Howard III, Compliance  
Director and Managing Director

Accepted by FINRA:

1/18/2011  
Date

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



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