

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
No. 2009019434801**

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

RE: UBS Financial Services, Inc.
CRD No. 8174

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, UBS Financial Services ("UBS") 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, with its predecessor, Paine Webber & Company, became a member of FINRA in October 1936. UBS is a full service brokerage firm headquartered in Weehawken, New Jersey. The firm has approximately 500 branches and 12,000 registered representatives.

RELEVANT DISCIPLINARY HISTORY

On June 9, 2011, the State of Indiana Securities Commissioner approved a Consent Agreement between the Office of the Indiana Secretary of State, Securities Division ("Division"), and UBS relating to alleged violations of the Indiana Uniform Securities Act. Under that agreement, UBS agreed, without any admission of fault or wrongdoing, to pay a penalty in the amount of \$450,000 and \$227,000 in costs related to the Division's investigation. The investigation involved potential violations of the Indiana Uniform Securities Act in connection

with UBS's supervision of the suitability of certain investments made by IIT, an institutional entity, between January 2004 and April 2009.

OVERVIEW

Between March and May 2007, UBS failed adequately to supervise the recommendations of alternative investments made by one of its registered representatives to an institutional customer of the firm. As described below, those recommendations were inconsistent with the investment policy maintained by the customer. In addition, UBS failed to establish, maintain and enforce written supervisory procedures (WSPs) reasonably designed to ensure the proper supervision of certain institutional accounts subject to asset allocation restrictions and provide its supervisors with tools permitting the review and assessment of concentration levels in alternative investments. As a result of the referenced acts or omissions, UBS violated NASD Rules 3010 and 2110.

FACTS AND VIOLATIVE CONDUCT

UBS' Procedures Regarding Institutional Accounts

In connection with recommendations to institutional customers, UBS maintained procedures that required a registered representative to consider certain factors. One of the factors the representative was required to consider was whether the proposed investment was authorized and permissible. In making this determination, the registered representative was required to consider any limitations or restrictions on the customer's authority to make investments, including any guideline or limitation included in the client's investment policy. The procedures further required the registered representative to gather and maintain any documents bearing on the authority of the customer to engage in investments.

With respect to the supervision of recommendations by registered representatives, UBS procedures required that its branch managers conduct regular reviews of transactions in the accounts of the registered representatives under their supervision. The procedures maintained by UBS, however, did not explicitly direct branch managers to review and assess documents provided by the customer to the firm and bearing on the authority of a customer to engage in investments, including any investment policy limiting or restricting the customer's authority to make certain investments. Moreover, UBS failed to provide adequate tools to branch managers to allow them to review and assess concentration levels in alternative investments held by customers.

UBS' Inadequate Supervision of an Institutional Account

A UBS registered representative serviced a number of large institutional customers of UBS, including IIT, a trust entity established in May 1985 by a state

teachers association for the purpose of providing funding for teacher welfare benefits.

At all relevant times, investments made by IIT were subject to an investment policy prepared in 2004 with the assistance of the UBS registered representative. Pursuant to its investment policy, IIT had adopted a guideline limiting its allocation of assets to alternative investments, which included private equity funds, to no more than 20%, and 10% of its assets in REITs. Private equity funds receive capital contributions typically from institutional or high net worth investors. Private equity funds generally are set up as 10 to 15 year investments with little or no opportunity for investor redemptions. Investments in private equity funds are considered illiquid and carry a high degree of risk.

Following the establishment of the investment policy, IIT began to build its portfolio in alternative investments, including private equity funds. As a result, by the first quarter of 2007, IIT's investment portfolio consisted of a number of alternative investments (primarily investments in private equity funds), such that IIT was at or near the 20% limitation threshold described above.

Notwithstanding this fact, between March and May 2007, the UBS registered representative recommended that IIT purchase four private equity funds totaling \$3 million. The details regarding those transactions are set forth below:

Alternative Investment	Net Commitment	Initial Contribution	Month Purchased	% of Assets in Alternative Investments
SS	\$500,000	\$50,000	March 2007	> 20% as of 2/29/07
REOF	\$1 million	\$50,000	April 2007	> 20%as of 3/31/07
PEF	\$1 million	\$50,000	April 2007	> 20% as of 3/31/07
CF	\$500,000	\$25,000	May 2007	> 20% as of 4/30/07

Notwithstanding the client's investment policy, the UBS representative effected each of the above transactions at a time when the asset allocation level for alternative investments exceeded the 20% for the portfolio. In 2008, IIT began to experience difficulty in paying its medical and disability claims. IIT's efforts to improve its cash flow were hampered, in part, by the illiquidity of the alternative investments.

UBS failed adequately to supervise its representative's recommendations. Specifically, UBS was unaware of the investment policy maintained by IIT at the

time of the transactions and did not assess the concentration of alternative investments against IIT's investment policy.

Moreover, between March and May 2007, UBS Financial Services failed to establish, maintain and enforce adequate WSPs reasonably designed to ensure the proper supervision of certain institutional accounts that are subject to asset allocation restrictions, and which provided tools to supervisors regarding the review and assessment of concentration levels in alternative investments.

As described above, the WSPs maintained by UBS did not explicitly direct branch managers to review and assess documents bearing on the authority of certain institutional customers to purchase specified investments, including any investment policy limiting or restricting the customer's authority to make certain investments.

In addition UBS maintained no mechanism to assess and review the concentration levels of alternative investments held by customers.

By virtue of the foregoing, UBS failed adequately to supervise the recommendations of alternative investments made by one of its registered representatives to an institutional customer of the firm, and failed to establish, maintain and enforce adequate written supervisory procedures, in violation of NASD Conduct Rules 3010 and 2110.

- B. UBS Financial Services also consents to the imposition of the following sanctions: a fine of \$50,000 and a censure.

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

UBS Financial Services 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.

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

II.

WAIVER OF PROCEDURAL RIGHTS

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

- A. To have a Complaint issued specifying the allegations against the firm;

- 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 Financial Services 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 Financial Services 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 Financial Services 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 the firm'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 my 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 Financial Services 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 Financial Services 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 my (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. UBS Financial Services may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. It 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, on behalf of the firm, 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 firm to submit it.

RESPONDENT: UBS FINANCIAL SERVICES

By: 

9/9/13
Date

Reviewed by:



9/10/13
Date

Accepted by FINRA:

10/29/13
Date

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



Richard A. March

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