

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20110292704 01 |**

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

**RE: Deutsche Bank Securities Inc.
CRD No. 2525**

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Deutsche Bank Securities Inc. (DBSI) 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 DBSI alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. DBSI 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

DBSI is a FINRA registered broker-dealer that was incorporated in 1971. DBSI provides a range of advisory, financial, research and investment services to institutional and individual customers, as well as investment banking services to corporate clients. The principal office of DBSI is located in New York, New York.

RELEVANT DISCIPLINARY HISTORY

In June 2007, DBSI entered into a Stipulation of Facts and Consent to Penalty with NYSE Regulation that included findings that: DBSI failed to deliver Exchange Traded Funds (ETF) product descriptions or prospectuses to certain customers who purchased ETFs; DBSI failed to deliver prospectuses to certain customers in connection with initial public offerings (IPOs) and secondary offerings; and DBSI failed to deliver prospectuses to certain customers who purchased

other securities products. These failures, which constituted violations of NYSE Rules, occurred from 2003 through 2006. DBSI consented to a sanction of: a censure; a fine of \$1,250,000; and an undertaking.

OVERVIEW

From January 1, 2009 through June 30, 2011 (the "Relevant Mutual Fund Review Period"), DBSI failed to deliver mutual fund prospectuses to DBSI customers within three business days of their purchases in approximately 3,800 transactions. DBSI also failed to establish and maintain adequate supervisory systems and written supervisory procedures reasonably designed to monitor and ensure the timely delivery of mutual fund prospectuses, as required by Section 5(b)(2) of the Securities Act of 1933 ("the Securities Act"). As a result of these failures, DBSI violated NASD Conduct Rules 3010(a)(1) and (b)(1), and FINRA Rule 2010.

From January 1, 2011 through May 31, 2011 (the "Relevant IPO Review Period"), DBSI failed to deliver preliminary IPO prospectuses to DBSI customers in approximately 1,000 instances. DBSI also failed to establish and maintain adequate supervisory systems and written supervisory procedures reasonably designed to monitor and ensure the timely delivery of preliminary IPO prospectuses, as required by Rule 15c2-8 of the Securities Exchange Act of 1934 ("the Securities Exchange Act"). As a result of these failures, DBSI violated NASD Conduct Rules 3010(a)(1) and (b)(1), and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

A. DBSI Failed to Deliver Prospectuses to Mutual Fund Customers on a Timely Basis During the Relevant Mutual Fund Review Period

1. Mutual Fund Prospectus Delivery Rules

During the Relevant Mutual Fund Review Period, DBSI was required to provide each of its customers who purchased a mutual fund a prospectus for that fund no later than three business days after the transaction. Section 5(b)(2) of the Securities Act prohibits the delivery of certain securities unless such delivery is accompanied by or preceded by a prospectus that meets the requirements of Section 10(a) of the Securities Act. The federal securities laws require the delivery of a prospectus to investors because it provides them with important disclosure information regarding the product being purchased. See *SEC v. Variable Annuity Ins. Co. of America*, 359 U.S. 65, 77 (1959) ("The emphasis is on disclosure; the philosophy of the Act is that full disclosure of the details of the enterprise in which the investor is to put his money should be made so that he can intelligently appraise the risks involved.").

Rule 10b-10, promulgated under Section 10(b) of the Securities Exchange Act of 1934, requires a broker-dealer to provide to the customer, in writing, certain information "at or before completion of such transaction." Transactions are complete when they settle, and Rule 15c6-1(a) provides that securities transactions settle in three business days, unless otherwise specified. Consequently, a broker-dealer must deliver a prospectus to a

customer who has purchased a mutual fund no later than three business days after the transaction.

2. Role of the Clearing Firm and Service Provider in Mutual Fund Prospectus Delivery

During the Relevant Mutual Fund Review Period, DBSI's clearing firm ("clearing firm") contracted with a third-party service provider ("service provider") for the delivery of mutual fund prospectuses for all the clearing firm's introducing brokers, including DBSI. On a daily basis, the clearing firm provided the service provider with electronic information regarding mutual fund transactions requiring delivery of a prospectus to DBSI customers. The clearing firm also provided daily and monthly reports to DBSI.

Among these was a daily report reviewing the information provided by the clearing firm to the service provider. DBSI conducted daily "spot checks" of this report. The clearing firm also provided DBSI with a daily report that identified late prospectus deliveries, including the number of days late and the reason for each delay. During the Relevant Mutual Fund Review Period, DBSI did not regularly review this report.

3. DBSI Violated FINRA Rule 2010 by Failing to Deliver Prospectuses on Time During the Relevant Mutual Fund Review Period, in Contravention of Section 5(b)(2) of the Securities Act

DBSI violated FINRA Rule 2010 during the Relevant Mutual Fund Review Period by failing to deliver on time, or failing to ensure that the service provider delivered on time, prospectuses to certain customers who purchased mutual funds. In approximately 3,800 instances, DBSI customers who should have received a prospectus within three business days of the transaction did not. Those customers received the prospectuses between 1 and 203 days late.

The primary cause of the late deliveries was the failure of certain mutual fund companies to maintain adequate supplies of paper copies of prospectuses. As a result, for many purchases from these fund companies, the service provider could not obtain a prospectus to provide to the customer on time.

DBSI did not take actions to ensure that all of its customers were receiving prospectuses on time. For instance, throughout the Relevant Mutual Fund Review Period, the service provider offered a "print on demand" ("POD") service to its clients. Even if a mutual fund company did not have adequate supplies of paper copies of a certain prospectus, POD allowed the service provider to obtain an electronic copy of the prospectus from the fund company, and then to print copies of the prospectus to send to DBSI customers. DBSI did not adequately address its prospectus delivery failures by using this service during the Relevant Mutual Fund Review Period.

As noted above, DBSI was provided with reports that identified late prospectus deliveries. Had DBSI regularly reviewed the reports, DBSI would have recognized that

during the Relevant Mutual Fund Review Period, its customers were not timely receiving prospectuses in more than 5% of the mutual fund transactions conducted by DBSI during this time.

Because of DBSI's failure to deliver prospectuses on time to a significant number of customers who purchased mutual funds, these customers were not provided with important disclosures about these products by settlement date. Consequently, DBSI acted in contravention of Section 5(b)(2) of the Securities Act, and thereby violated FINRA Rule 2010.

B. DBSI Failed to Establish, Maintain and Enforce A Supervisory System or Written Procedures Reasonably Designed to Ensure Timely Delivery of Mutual Fund Prospectuses

1. DBSI Was Required to Establish and Maintain a Supervisory System and Written Supervisory Procedures Regarding Its Mutual Fund Business

NASD Conduct Rule 3010 requires FINRA members to establish, maintain and enforce systems and procedures to supervise each type of business in which they engage. The systems and procedures must be reasonably designed to achieve compliance with securities laws, rules and regulations.

During the Relevant Mutual Fund Review Period, DBSI executed 70,848 mutual fund purchase transactions that required DBSI to deliver a mutual fund prospectus, or a summary prospectus, to the purchasing customer. As such, during the Relevant Period, DBSI was required to establish and maintain a supervisory system and written supervisory procedures that were reasonably designed to monitor and ensure the timely delivery of mutual fund prospectuses.

2. DBSI Failed to Establish, Maintain and Enforce an Adequate Supervisory System or Written Procedures to Supervise Mutual Fund Prospectus Delivery

During the Relevant Mutual Fund Review Period, DBSI's written supervisory procedures did not require review of the reports provided to DBSI by its clearing firm that identified late prospectus deliveries. The procedures also did not require DBSI personnel to communicate with the service provider. Instead, DBSI relied upon its clearing firm to ensure the timely delivery of mutual fund prospectuses.

DBSI had no system or procedures in place reasonably designed to ensure that mutual fund prospectuses were being delivered on a timely basis consistent with Section 5(b)(2) of the Securities Act. DBSI's failure to implement and maintain such a supervisory system and written supervisory procedures violated NASD Conduct Rules 3010(a)(1) and (b)(1), and FINRA Rule 2010.

C. DBSI Failed to Deliver Preliminary IPO Prospectuses During the Relevant IPO Review Period

1. Preliminary IPO Prospectus Delivery Rules

During the Relevant IPO Review Period, DBSI was required to provide each of its customers who indicated an interest in purchasing shares in an IPO with a preliminary prospectus at least 48 hours before sending a confirmation. Rule 15c2-8 of the Securities Exchange Act requires such delivery. As noted above, delivery of prospectuses is required because prospectuses provide investors with important disclosure information regarding the product being purchased.

2. DBSI's System for Delivery of Preliminary IPO Prospectuses

During the Relevant IPO Review Period, DBSI had a number of divisions that engaged in IPO business and were therefore required to deliver preliminary IPO prospectuses to customers. In September 2011, DBSI reported to FINRA that it had conducted an internal review, and had determined that its Global Markets Division ("Global Markets") failed to deliver certain preliminary prospectuses during the Relevant IPO Review Period.

Global Markets utilized two electronic systems to capture client interest during the IPO process: one system tracked indications of interest, orders and allocations; the other ensured delivery of preliminary prospectuses and, when required, final prospectuses. During the Relevant IPO Review Period, DBSI employees failed to consistently utilize both systems, as required by DBSI's written supervisory procedures, and instead sometimes utilized only the system that tracked indications of interest, orders and allocations. Each time this happened, DBSI failed to deliver a preliminary IPO prospectus.

3. DBSI Violated FINRA Rule 2010 by Failing to Deliver Prospectuses During the Relevant IPO Review Period, in Contravention of Rule 15c2-8 of the Securities Exchange Act

DBSI violated FINRA Rule 2010 during the Relevant IPO Review Period by failing to deliver preliminary IPO prospectuses to certain customers who indicated interest in IPOs. As noted above, the primary cause of the failures to deliver was the failure of employees within Global Markets to utilize the electronic system designed to ensure delivery of preliminary prospectuses.

Because of DBSI's failure to deliver preliminary IPO prospectuses to a number of customers who indicated interest in purchasing shares in IPOs, these customers were not provided with important disclosures about these products until after they had purchased the shares. Consequently, DBSI acted in contravention of Rule 15c2-8 of the Securities Exchange Act, and thereby violated FINRA Rule 2010.

D. DBSI Failed to Establish, Maintain and Enforce A Supervisory System or Written Procedures Reasonably Designed to Ensure Delivery of Preliminary IPO Prospectuses

1. DBSI Was Required to Establish and Maintain a Supervisory System and Written Supervisory Procedures Regarding Its IPO Business

NASD Conduct Rule 3010 requires FINRA members to establish, maintain and enforce systems and procedures to supervise each type of business in which they engage. The systems and procedures must be reasonably designed to achieve compliance with securities laws, rules and regulations.

During the Relevant IPO Review Period, DBSI was required to deliver approximately 13,000 preliminary IPO prospectuses. Accordingly, during the Relevant IPO Review Period, DBSI was required to establish and maintain a supervisory system and written supervisory procedures that were reasonably designed to monitor and ensure the timely delivery of mutual fund prospectuses.

2. DBSI Failed to Establish, Maintain and Enforce an Adequate Supervisory System or Written Procedures to Supervise Preliminary IPO Prospectus Delivery

During the Relevant IPO Period, DBSI's written supervisory procedures required DBSI employees to enter indications of interest in IPOs into two electronic systems. The procedures did not require anyone at the firm to daily reconcile the entries in each system or otherwise ensure compliance.

DBSI's systems and procedures were not reasonably designed to ensure that preliminary IPO prospectuses were being delivered to every customer consistent with Rule 15c2-8 of the Securities Exchange Act. DBSI's failure to implement and maintain such a supervisory system and written supervisory procedures violated NASD Conduct Rules 3010(a)(1) and (b)(1), and FINRA Rule 2010.

OTHER FACTORS

In assessing the sanctions in this matter, FINRA took into account the fact that, before FINRA staff commenced any examination into IPO prospectus violations, DBSI self-reported the failures to deliver preliminary IPO prospectuses. In September 2011, following the initiation of FINRA's investigation of DBSI's failure to timely deliver mutual fund prospectuses, DBSI self-reported to FINRA that its Global Markets Division did not deliver preliminary IPO prospectuses to certain customers during the period from January 1, 2011 through May 31, 2011. In addition, DBSI took remedial action to correct these prospectus delivery deficiencies.

E. DBSI also consents to the imposition of the following sanctions:

1. a censure; and

2. a fine of \$125,000.

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

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

II.

WAIVER OF PROCEDURAL RIGHTS

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

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

DBSI further specifically and voluntarily waive 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

DBSI 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 DBSI; and**
- C. If accepted:**
 - 1. this AWC will become part of DBSI's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against DBSI;**
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about DBSI'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. DBSI 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. DBSI 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 DBSI's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.**
- D. DBSI may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. DBSI 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 Firm to submit it.

10/26/12
Date (mm/dd/yyyy)

Deutsche Bank Securities Inc.

By: Joseph Polizzotto
Joseph Polizzotto, Esq.
Managing Director

By: Robert E. Rice
Robert E. Rice, Esq.
Managing Director

Reviewed by:

Maureen Lewis
Maureen Lewis
Director and Senior Counsel
Deutsche Bank AG New York
Legal Division
60 Wall Street, MS NYC60-3615
New York, NY 10005
212.250.2500

Accepted by FINRA:

12/31/12
Date

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

Dean M. Jeske
Dean M. Jeske
Deputy Regional Chief Counsel
FINRA Department of Enforcement
55 W. Monroe, Ste. 2700
Chicago, IL 60603-5052
312.899.4353 (t); 312.899.4600 (f)