

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20130378568-01**

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

RE: Hapoalim Securities USA, Inc., Respondent
Registered Broker-Dealer
CRD No. 266

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 Respondent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent Hapoalim Securities USA, Inc. (the "Firm") 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

Respondent, a FINRA-regulated broker-dealer, is a wholly owned subsidiary of PHHI and acts as a fully disclosed introducing broker-dealer across various lines of business. From January 1, 2010 through June 30, 2012 (the "Relevant Period"), Respondent's business consisted primarily of institutional fixed-income sales and trading, in which it generally acted as a dealer or riskless principal. During the Relevant Period, Respondent had approximately 8,000 customer accounts, of which approximately 7,500 (93%) were delivery-versus-payment/receipt-versus-payment ("DVP/RVP") accounts. Respondent and PHHI are ultimately owned by BH, an Israeli bank. BH has branches worldwide, including in Miami, Florida, where it offers private banking services. As of February 29, 2016, Respondent was subject to a minimum net capital requirement of \$290,037, and maintained total assets of \$39,750,425.

Respondent is currently registered with FINRA, which has jurisdiction under the FINRA By-Laws.

RELEVANT DISCIPLINARY HISTORY

Respondent has no AML-related disciplinary history.

OVERVIEW

During the Relevant Period, Respondent violated FINRA Rules 3310(a) and 2010 by failing to establish an anti-money laundering ("AML") compliance program ("AMLCP") reasonably designed to achieve and monitor compliance with the Bank Secrecy Act ("BSA"). Specifically, the Firm failed to establish and implement risk-based procedures and controls reasonably designed to detect and report, on an ongoing basis, known or suspected money laundering activity.

During the Relevant Period, Respondent also violated FINRA Rules 3310(b) and 2010 by failing to (i) obtain adequate information from its foreign financial institution ("FFI") customers regarding the type, purpose and anticipated activity of their accounts as required by 31 C.F.R. § 1010.610(a)(2); (ii) adequately apply risk-based procedures and controls to each FFI account that were reasonably designed to detect and report known or suspected money laundering activity, including a periodic review of the account activity sufficient to determine consistency with information obtained about the type, purpose, and anticipated activity of the account, as required by 31 C.F.R. § 1010.610(a)(3); and (iii) failing to meet the enhanced due diligence requirements for certain foreign banks imposed by 31 C.F.R. § 1010.610(b).

FACTS AND VIOLATIVE CONDUCT

Violations of FINRA Rules FINRA Rules 3310(a) and 2010

FINRA Rule 3310 requires member firms to develop and implement a written AML program reasonably designed to achieve and monitor the member's compliance with the requirements of the BSA and the implementing regulations promulgated thereunder. FINRA Rule 3310(a) specifically requires that such AML program, at a minimum, establish and implement policies and procedures that could be reasonably expected to detect and cause the reporting of suspicious transactions. A violation of FINRA Rule 3310 constitutes a violation of FINRA Rule 2010.

During the Relevant Period, the Firm did not establish and maintain written policies reasonably expected to detect and, where appropriate, report suspicious activity. The Firm's AML procedures stated in conclusory fashion that the Firm would "manually monitor a sufficient amount of account activity to permit identification of patterns of unusual size, volume, pattern or type of transactions, geographic factors, such as whether jurisdictions designated as 'non-cooperative' are involved," and other enumerated "red flags." Yet it contained no procedures

specifying how personnel should select or identify accounts for manual monitoring, how they should conduct such monitoring, or the type of review they should conduct. The AML procedures also failed to address how the Firm or its personnel should investigate patterns of activity of 'unusual size, volume, pattern or type of transactions.'" With respect to "geographic factors," the AML procedures failed to identify high-risk jurisdictions, or criteria for identifying such jurisdictions.

Not only were the Firm's written AML procedures inadequate, but its implementation of those procedures was insufficient. The Firm's AML review process during the Relevant Period examined only trades involving more than 50,000 shares when they accounted for over 30% of an account's net worth, and failed to monitor unsolicited transactions in institutional delivery-versus-payment/receipt-versus-payment ("DVP/RVP") accounts.

As a result of these deficiencies in its AMLCP, the Firm failed to detect and investigate instances of potentially suspicious trading in microcap securities, as well as a large volume of liquidations of Venezuelan sovereign debt in at least eight different accounts. For example, the Firm failed to detect and investigate an instance in which one account sold 3,363,151 shares of one security for over \$1 million during the Relevant Period, with no corresponding purchases. During the Relevant Period, that security was the subject of paid promotions seeking to boost its public profile. The Firm also failed to detect and investigate the sale of nearly 3 million shares of another security during the Relevant Period for a total of nearly \$1.6 million, with no corresponding purchases. During the Relevant Period, that security was the subject of paid promotions seeking to boost its public profile. Finally, the Firm failed to detect and investigate over \$300 million in net sales of dollar-denominated Venezuelan debt securities by eight accounts during the Relevant Period, with few corresponding purchases. During the Relevant Period, such a sales pattern in dollar-denominated Venezuelan debt securities posed a particularly high AML risk.

Finally, the Firm used AML exception reports provided by a third party to identify accounts requiring enhanced review, but those reports excluded activity in DVP/RVP accounts, which comprised approximately 93% of all accounts at the Firm. While the Firm also used two non-AML exception reports to monitor suspicious account activity, those reports were limited to daily trading activity and could not illuminate long-term trends or patterns of suspicious activity.

By failing to establish and implement risk-based procedures and controls reasonably designed to detect and report, as appropriate, suspicious activity, the Firm violated FINRA Rules 3310(a) and 2010.

Violations of FINRA Rules FINRA Rules 3310(b) and 2010

FINRA Rule 3310(b) required the Firm to establish and implement policies, procedures, and internal controls reasonably designed to achieve compliance with the BSA and the implementing regulations thereunder, including 31 C.F.R. § 1010.610.

Section 1010.610(a) requires the establishment of procedures to, *inter alia*, assess the money laundering risk presented by each FFI correspondent account, based on factors including (i) the nature of the FFI's business and the markets it served; (ii) the type, purpose, and anticipated activity of such correspondent account; (iii) the nature and duration of the covered financial institution's relationship with the FFI; and (iv) the AML and supervisory regime of the jurisdiction that issued the charter or license to the FFI, and the jurisdiction in which any company that was an owner was incorporated. The same section also required financial institutions to apply risk-based procedures and controls to each such correspondent account reasonably designed to detect and report known or suspected money laundering activity, including a periodic review of the correspondent account activity sufficient to determine consistency with information obtained about the type, purpose, and anticipated activity of the account.

Moreover, § 1010.610(b) required the implementation of enhanced due diligence procedures with respect to foreign banks meeting criteria established in § 1010.610(c), including foreign banks operating under (1) an offshore banking license; (2) a banking license issued by a foreign country that has been designated as non-cooperative with international AML principles or procedures; and (3) a banking license issued by a foreign country that has been designated by the Secretary of the Treasury as warranting special measures due to money laundering concerns. The Firm was required to conduct enhanced scrutiny of each such bank's correspondent accounts, and incorporate various additional factors into its risk assessment of such accounts.

The Firm failed reasonably to enforce its AML procedures regarding due diligence for correspondent accounts of FFIs in violation of FINRA Rules 3310(b) and 2010. While the Firm correctly accounted for the jurisdiction of FFIs engaging in a high volume of transactions relating to Venezuelan debt securities, it failed to assess the location of the owner(s) of the FFIs or the markets they served, as required by both § 1010.610(a)(2) and its own AMLCP.

Although the Firm applied its AML procedures to identify four accounts that it deemed high risk for AML purposes, the AML procedures stated erroneously that the Firm did not maintain any high risk accounts. Moreover, correct application of the Firm's AML procedures should have identified at least three more high risk accounts.

In addition, the Firm failed to comply with § 1010.610(a)(2) and its own AMLCP, because it failed to obtain sufficient information relating to the type, purpose and anticipated activity of at least eight FFI accounts to sufficiently assess their AML risk and perform the required periodic review of their activity. The Firm also did not consider the specific risks associated with trading in Venezuelan debt in assessing AML risk, including the possibility that accounts could be used unlawfully to convert Venezuelan bolivars into United States dollars.

The Firm also failed to comply with § 1010.610(a)(3) and its own AMLCP by failing to apply risk-based procedures and controls to each FFI account reasonably designed to detect and report known or suspected money laundering activity, including a periodic review of its activity sufficient to determine consistency with information obtained about the type, purpose, and anticipated activity of the account. In derogation of its AMLCP, the Firm failed to conduct monthly account statement reviews of all FFI accounts. Moreover, the reviews it did conduct were not intended to determine whether trading in the accounts was consistent with the Firm's information on their type, purpose, and anticipated activity (which in any case was inadequate, as noted above). Rather, the reviewers focused on operational concerns such as the reasons for trade cancellations and necessary corrections, and not the entire range of considerations required by the Rule.

The Firm also failed to meet the enhanced due diligence requirements for foreign banks imposed by 31 C.F.R. § 1010.610(b). Such procedures should have been applied to at least five different account holders during the Relevant Period, four of which were held by foreign banks based in Venezuela, and one of which was held by a Curacao bank operating under an offshore banking license.

By failing to (i) obtain adequate information from its foreign financial institution ("FFI") customers regarding the type, purpose and anticipated activity of their accounts as required by 31 C.F.R. § 1010.610(a)(2); (ii) adequately apply risk-based procedures and controls to each FFI account that were reasonably designed to detect and report known or suspected money laundering activity, including a periodic review of the account activity sufficient to determine consistency with information obtained about the type, purpose, and anticipated activity of the account, as required by 31 C.F.R. § 1010.610(a)(3); and (iii) failing to meet the enhanced due diligence requirements for foreign banks imposed by 31 C.F.R. § 1010.610(b), the Firm violated FINRA Rules 3310(b) and 2010.

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

A censure; a fine of \$200,000; and an undertaking to revise its AMLCP within 30 days and provide a statement signed by its AML compliance officer affirming that the revised procedures comply with Rule 3310.

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 Complaint issued specifying the allegations against Respondent;
- 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, Respondent specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Legal Officer, 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 Respondent; 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 Respondent;
 - 2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
 - 4. Respondent 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. Respondent 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: (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. 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.

The undersigned, on behalf Respondent, 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 Respondent 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.

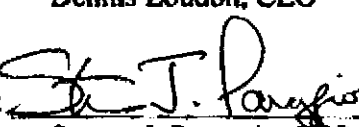
5/4/16
Date

Respondent

Hapoalim Securities USA, Inc.

By: 

Dennis Loudon, CEO

By: 

Steven J. Paraggio, CFO

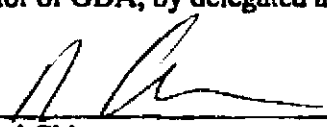
Reviewed by:

IQK
Ian Kirschner
General Counsel
Hapoalim Securities USA, Inc., Respondent
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New York, NY 10004
(212) 898-6205

Accepted by FINRA:

5/5/16
Date

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


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