

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2014041254102**

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

RE: Santander Investment Securities Inc., Respondent
Member Firm
CRD No. 37216

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Santander Investment Securities Inc. ("Santander" 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 Respondent 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

Santander has been a member of FINRA since December 1994. Santander is wholly owned by Santander Holdings USA, Inc., which, in turn, is wholly owned by Banco Santander, S.A. ("Banco Santander"), a Spanish banking corporation. Santander's principal place of business is in New York, NY. Santander's business activities include investment banking, institutional sales, trading and offering research reports of Latin American and European equity and fixed income securities.

RELEVANT DISCIPLINARY HISTORY

Santander does not have any relevant disciplinary history with the Securities and Exchange Commission, any state securities regulators, FINRA, or any other self-regulatory organization.

OVERVIEW

During the period December 1, 2012 through June 30, 2014 (the “review period”) Santander failed to reasonably supervise its Credit Trading Desk which executed 163 fixed income transaction pairs that were non-bona fide. Santander also failed to establish a reasonably designed supervisory system, including written supervisory procedures, to achieve compliance with FINRA Rule 5210, FINRA’s prohibition on non-bona fide trading.¹

FACTS AND VIOLATIVE CONDUCT

NASD Rule 3010 and FINRA Rule 2010

1. NASD Rule 3010 (Supervision) states, in part: “(a) Supervisory System - Each member shall establish and maintain a system to supervise the activities of each registered representative, registered principal, and other associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable NASD Rules. Final responsibility for proper supervision shall rest with the member . . . (b) Written Procedures - (1) Each member shall establish, maintain, and enforce written procedures to supervise the types of business in which it engages and to supervise the activities of registered representatives, registered principals, and other associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with the applicable Rules of NASD.”
2. FINRA Rule 2010 provides, “[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.”
3. A violation of NASD Rule 3010 also constitutes a violation of FINRA Rule 2010.

The Relevant Fixed Income Trading Activity

4. During the review period, Santander executed 163 fixed income transaction pairs with another broker-dealer as the counterparty. In each instance, three traders on Santander’s Credit Trading Desk caused the firm to buy (sell) fixed income securities from (to) another broker-dealer as the counterparty and then, during the same day in virtually all cases, sold (bought) the same bonds to (from) the same counterparty (“transaction pairs”).
5. The 163 transaction pairs were reported to the Trade Reporting and Compliance

¹ FINRA Rule 5210 provides: “No member shall publish or circulate, or cause to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless such member believes that such transaction was a bona fide purchase or sale of such security; or which purports to quote the bid price or asked price for any security, unless such member believes that such quotation represents a bona fide bid for, or offer of, such security.”

Engine (“TRACE”). These transaction pairs were executed at market prices set by Santander traders. There was generally a price difference of .02 to .03 cents between the two legs of the transactions (*i.e.*, the buy and the sell). This price difference represented the amount paid by Santander to the other broker-dealer to execute these transactions. The total amount Santander paid to the other broker-dealer was \$35,038. These transactions violated FINRA Rules 2010 and 5210.

The Traders Engaged in the Transactions to Reset Aged Inventory

6. The transactions at issue were executed by the Credit Trading Desk, which only has institutional customers. The Credit Trading Desk traded fixed income inventory for Banco Santander, S.A. (“Banco Santander”), the foreign bank parent company of Santander. Banco Santander held the fixed income inventory traded by the Credit Trading Desk.
7. Banco Santander’s risk department in Madrid (“Madrid Risk Department”) drafted an internal risk management policy (the “Fair Value Document”) that established permissible holding periods for bond positions traded by the Credit Trading Desk. The Madrid Risk Department monitored the holding periods and calculated whether positions were aged. The Madrid Risk Department reviewed aging to address market and liquidity risk of its portfolio.
8. During the review period, the Madrid Risk Department sent emails to traders on the Credit Trading Desk, the Head of the Desk, and certain supervisors, identifying bonds that were about to age or had aged.
9. The Madrid Risk Department would apply a “provision” to fixed income positions maintained longer than the holding period. A provision was an unrealized loss that applied to the overall Credit Trading Desk, not to individual traders. If there were provisions in place during the last month of the fiscal year, those provisions would be factored into the Credit Trading Desk’s profit and loss calculation.
10. Beginning in December 2012, the Head of the Desk told the traders on the Credit Trading Desk that they could conduct these type of transaction pair trades to control provisions.
11. From December 2012 through the end of the review period, three traders, including the Head of the Desk, engaged in these transactions to reset the holding period for bond positions that were approaching or were in excess of the aging period. The traders did not attempt to conceal the transactions. However, Santander was not aware of the purpose of the transactions during the review period.
12. The transaction pairs described above were not bona fide because they involved no transfer of risk or ultimate change in beneficial ownership, were not conducted

at negotiated prices, and were with the same counterparty over a short period of time. The transactions had no legitimate economic purpose. As a result, traders at Santander caused the publication of non-bona fide transactions.

Santander did not Establish and Maintain a Supervisory System Reasonably Designed to Achieve Compliance with FINRA Rule 5210

13. During the review period, Santander failed to detect the 163 non-bona fide transactions. Although Santander had a supervisory system, including written supervisory procedures, requiring daily review of the Credit Trading Desk's transactions, there was no required review for non-bona fide transactions. Moreover, Santander's supervisory personnel were unaware of Banco Santander's risk management policy and, therefore, did not understand or appreciate the risk that firm traders may engage in non-bona fide trading. Additionally, Santander's compliance personnel were unaware of the impact of the "provision" deduction to the Credit Trading Desk's P&L under Banco Santander's risk management policy. As a result, Santander failed to establish and maintain a supervisory system, including written supervisory procedures in violation of NASD Rule 3010(a)-(b) and FINRA Rule 2010.

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

- A censure,
- a fine of \$30,000, and
- an undertaking to revise the firm's supervisory system and written supervisory procedures with respect to the area described in paragraph I.A.13, above. Within 30 business days of acceptance of this AWC by the National Adjudicatory Council ("NAC"), a registered principal of the firm shall submit to the **COMPLIANCE ASSISTANT, DEPARTMENT OF ENFORCEMENT, 15200 OMEGA DRIVE, SUITE 300, ROCKVILLE, MD 20850**, a signed, dated letter, or an email from a work-related account of the registered principal to **MarketRegulationComp@finra.org**, providing the following information: (a) a reference to this matter; (b) a representation that the firm has addressed and corrected the deficiency described in paragraph I.A.13, above; and (c) the date the deficient procedures were addressed and corrected by the firm.

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

Respondent agrees to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are due and payable. Respondents have 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 an inability to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

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 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, 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 action 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 of the Respondent 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 it has agreed to the AWC's 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 it to submit it.

5/13/20
Date

Santander Investment Securities Inc.
Respondent

By: M A Achon

Print Name: Marco Antonio Achon Tunon

Title: CEO

Reviewed by:

Hai Shaftel
Hai Shaftel
Counsel for Respondent

Accepted by FINRA:

May 21, 2020
Date

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

Gerard Finn

Gerard P. Finn
Senior Director
FINRA
Department of Enforcement
15200 Omega Drive, Suite 300
Rockville, MD 20850