

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2017053779201**

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

RE: UBS Securities LLC (Respondent)
Member Firm
CRD No. 7654

Pursuant to FINRA Rule 9216, Respondent UBS Securities LLC 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 in this AWC.

I.

ACCEPTANCE AND CONSENT

- A. Respondent accepts and consents to the following findings by FINRA without admitting or denying them:

BACKGROUND

UBS became a FINRA member in August 1978. The firm is headquartered in New York, New York, and it has more than 1,850 registered representatives and maintains approximately 30 branches. The firm provides banking, research, and securities trading services to primarily institutional clients.¹

OVERVIEW

From January 2011 through October 2017, UBS violated Regulation SHO Rule 200(f) and FINRA Rule 2010 by including securities positions of a foreign affiliate (UBS AG London) when calculating the net positions of four independent trading units. In addition, UBS violated NASD Rule 3010 and FINRA Rules 3110 and 2010 by failing to (1) establish and maintain a supervisory system reasonably designed to achieve compliance with Rule 200(f) from January 2011 through October 2017; and (2) establish, maintain, and enforce written procedures reasonably designed to achieve compliance with Rule 200(f) from January 2011 through March 2020.²

¹ For more information about the firm, including prior regulatory events, visit BrokerCheck® at www.finra.org/brokercheck.

² FINRA Rule 3110 superseded NASD Rule 3010 on December 1, 2014.

FACTS AND VIOLATIVE CONDUCT

This matter originated from a FINRA cycle examination of UBS.

UBS did not comply with Regulation SHO Rule 200(f).

Rule 200(f) allows a broker-dealer to create independent trading units (also known as aggregation units or AGUs) and determine its net position in a security at the AGU level, rather than at the firm level, subject to certain conditions. Rule 200(f) does not permit a broker-dealer to include the securities positions of a foreign affiliate in this calculation. In adopting Rule 200(f), the Securities and Exchange Commission stated that it “determined not to extend aggregation unit netting to entities that lack self-regulatory oversight and are not subject to Commission examination.”³ FINRA Rule 2010 requires a member, in the conduct of its business, to observe high standards of commercial honor and just and equitable principles of trade. A violation of Rule 200(f) is also a violation of FINRA Rule 2010.

From January 2011 through October 2017, UBS organized the accounts used by its traders into AGUs based on trading strategy and without regard to whether the accounts were owned by a foreign affiliate. UBS included nine accounts owned by UBS AG London and used by UBS traders in four AGUs. UBS automatically netted the securities positions in the trading accounts of each AGU—including the UBS AG London accounts—to calculate the AGU net position, which it then used to determine whether the AGU’s sale orders should be marked long or short. However, UBS AG London’s positions should not have been included in the firm’s AGU net positions because UBS AG London was not subject to Commission examination. As a result, UBS did not accurately calculate the net positions of, or assess long and short sales by, four AGUs during this period.⁴

Therefore, Respondent violated Regulation SHO Rule 200(f) and FINRA Rule 2010.

UBS’s supervisory system and written procedures were not reasonably designed to achieve compliance with Regulation SHO Rule 200(f).

FINRA Rule 3110(a) and its predecessor, NASD Rule 3010(a), require a member to establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules. FINRA Rule 3110(b) and its predecessor, NASD Rule 3010(b), require a member to establish, maintain, and enforce written procedures to supervise the types of business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable

³ *Short Sales*, Exchange Act Release No. 50103, 69 Fed. Reg. 48008, 48011, at n.26 (Aug. 6, 2004).

⁴ For example, during six sample months, the firm effected approximately 5.4 million sale transactions on behalf of UBS AG London in two AGUs and included UBS AG London’s securities positions when determining the net positions of those AGUs.

securities laws and regulations, and with applicable FINRA rules. A violation of FINRA Rule 3110 or NASD Rule 3010 is also a violation of FINRA Rule 2010.

UBS failed to establish and maintain a supervisory system reasonably designed to achieve compliance with Rule 200(f) from January 2011 through October 2017 and failed to establish, maintain, and enforce written procedures reasonably designed to achieve compliance with Rule 200(f) from January 2011 through March 2020. UBS's supervisory system, including its written procedures, failed to require the exclusion of foreign affiliate accounts used by UBS's traders from the net positions of its AGUs. By mid-2015, UBS determined, based on prior FINRA disciplinary actions involving improper inclusion of certain affiliate accounts in AGUs' net positions, that it needed to remove the UBS AG London accounts from its AGUs. UBS failed, however, to take reasonable steps to implement these changes in a timely manner. UBS began to work on a remediation plan for removing affiliate accounts from its AGUs' net positions. However, in July 2016, UBS improperly added another UBS AG London account to its AGUs. Only after FINRA raised the issue directly with the firm in March 2017 did UBS remove the UBS AG London accounts from its AGUs' net positions. UBS removed the accounts over the course of eight months, from March 2017 through October 2017. Beginning in late November 2017, UBS provided AGU supervisors with separate monthly reports listing AGU accounts and non-AGU foreign affiliate accounts and instructed them to review the reports as part of their monthly AGU reviews. However, UBS failed to update its written procedures to prohibit the inclusion of foreign affiliate accounts in the net positions of its AGUs and to require supervisors to verify that only firm accounts were included in AGUs until April 2020.

Therefore, Respondent violated NASD Rule 3010 and FINRA Rules 3110 and 2010.

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

- a censure; and
- a \$520,000 fine, of which \$173,334 is payable to FINRA.⁵

Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is 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 an inability to pay, now or at any time after the execution of this AWC, the monetary sanction imposed in this matter.

The sanctions imposed in this AWC shall be effective on a date set by FINRA.

⁵ The remainder of the fine is payable to the New York Stock Exchange LLC and NYSE American LLC.

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 its acceptance or rejection.

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 its subject matter 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 right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party. Nothing in this provision affects Respondent's testimonial obligations in any litigation or other legal proceedings.

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.

The undersigned, on behalf of Respondent, certifies that a person duly authorized to act on Respondent's 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 the AWC's provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce Respondent to submit this AWC.

September 7, 2022

Date

Darya Geetter

UBS Securities LLC
Respondent

Print Name: Darya Geetter

Title: Head of US Securities Regulatory Affairs

Reviewed by:

Elizabeth L. Mitchell

STEPHANIE R. NICOLAS

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Accepted by FINRA:

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

October 3, 2022

Date

Sharyn Gillespie

Sharyn Gillespie
Senior Counsel
FINRA
Department of Enforcement
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