

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2018058781101**

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 has been a member of FINRA since August 1978. The firm is headquartered in New York, New York, and is a wholly owned subsidiary of UBS AG, a publicly owned Swiss banking company. UBS employs approximately 1,900 registered persons operating out of 25 branch office locations, and provides investment banking, research, and sales and trading services mainly to corporate and institutional clients.

In November 2015, UBS consented to a censure and a fine of \$1.25 million imposed by nine SROs, including FINRA, for failing to have market access controls reasonably designed to prevent the entry of erroneous orders, and orders that exceeded appropriate pre-set credit thresholds in the aggregate for customers, in violation of Section 15(c)(3) of the Securities Exchange Act of 1934 (Exchange Act) and Rule 15c3-5 thereunder (Exchange Act Rule 15c3-5). Additionally, UBS failed to have a written description of its risk management controls reasonably designed to manage the financial, regulatory, and other risks of market access in violation of Exchange Act Rule 15c3-5, and the related supervisory rules of the SROs.¹

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

STAR No. 20180587811 (incl. merged STAR Nos. 20170562441 and 20190625785) (LAP)

OVERVIEW

From at least November 2011 through July 2019, UBS provided market access to two affiliates without accounting for those affiliates in its financial risk management controls in violation of Exchange Act § 15(c)(3), Exchange Act Rule 15c3-5 and FINRA Rule 2010.

Also, UBS failed to maintain a reasonable supervisory system with respect to (1) documenting requests to change credit limits for customers during the period from January 2017 through March 2019, and (2) the firm's documentation of soft block reviews of orders paused in connection with erroneous order controls employed by the firm's primary order router, the Oscar Smart Order Routing System (Oscar SOR), during the period of January 2017 through October 2018. As a result, UBS violated Exchange Act § 15(c)(3), Exchange Act Rule 15c3-5 and FINRA Rules 3110(a) and 2010.

FACTS AND VIOLATIVE CONDUCT

Relevant Rules

Exchange Act § 15(c)(3) prohibits broker-dealers from contravening the rules and regulations prescribed by the Securities and Exchange Commission (SEC) to "provide safeguards with respect to the financial responsibility and related practices of brokers and dealers."

Exchange Act Rule 15c3-5(b) requires that a "broker or dealer with market access, or that provides a customer or any other person with access to an exchange or alternative trading system through use of its market participant identifier or otherwise, shall establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of this business activity."

Exchange Act Rule 15c3-5(c)(1)(i) requires broker-dealers to establish financial risk management controls and supervisory procedures reasonably designed to "[p]revent the entry of orders that exceed appropriate pre-set credit or capital thresholds in the aggregate for each customer and the broker or dealer and, where appropriate, more finely tuned by sector, security, or otherwise by rejecting orders if such orders would exceed the applicable credit or capital thresholds." Under this provision, a broker-dealer is required to set appropriate credit thresholds for each customer for which it provides market access. Broker-dealers must make such determinations based on appropriate due diligence as to the customer's business, financial condition, trading patterns, and other matters, and document that decision.²

The SEC has further advised that once a credit threshold is established, the broker-dealer may continue to evaluate whether it is appropriate under the circumstances, and, if appropriate, modify the threshold in accordance with the firm's supervisory procedures.

² SEC Release No. 34-63241, Risk Management Controls for Brokers or Dealers with Market Access, at 38-39.

The reasons for any such modification should be documented and retained as part of the broker-dealer's books and records, as required by Exchange Act Rule 15c3-5.³

Exchange Act Rule 15c3-5(c)(1)(ii) requires broker-dealers to establish financial risk management controls and supervisory procedures reasonably designed to "[p]revent the entry of erroneous orders, by rejecting orders that exceed appropriate price or size parameters, on an order-by-order basis or over a short period of time, or that indicate duplicative orders."

FINRA Rule 3110(a) provides, in relevant part: "[e]ach shall 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 2010 provides that member firms, "in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade." A violation of an Exchange Act rule or a FINRA rule constitutes a violation of Rule 2010.

Violative Conduct

UBS Provided Market Access to Two Affiliates without Accounting for those Affiliates in its System of Financial Risk Controls.

Since at least 2011, UBS maintained a proprietary order management system (OMS) known as Swisskey that UBS and its affiliates used for trading in listed futures and options. In addition, the firm maintained a third-party OMS that UBS and its affiliates used primarily to enter good-till-cancelled spread orders. UBS established credit thresholds and erroneous order controls based upon its mistaken belief that the options orders entered through both OMSs were entered by a single firm affiliate, UBS AG London. In fact, a firm employee was able to enter orders on behalf of two additional UBS affiliates into both OMSs. From November 2011 (the compliance date for Exchange Act Rule 15c3-5) through July 2019, UBS did not establish any credit thresholds or erroneous order controls with respect to the two affiliates.

As a result, UBS violated Exchange Act § 15(c)(3), Exchange Act Rule 15c3-5(b) and (c)(1) and FINRA Rule 2010.

UBS Failed to Establish, Maintain, and Enforce a Reasonably Designed Supervisory System Concerning the Documentation of the Review of Credit Limits Changes.

From at least January 2017 through at least March 2019, the firm's Market Access Procedures provided guidance concerning requests for customer credit limits changes and supervisory approval of such changes. The procedures provided, among other things, that

³ SEC Division of Market Regulation, Responses to Frequently Asked Questions Concerning Risk Management Controls for Brokers or Dealers with Market Access, available at <https://www.sec.gov/divisions/marketreg/faq-15c-5-risk-management-controls-bd.htm> (April 15, 2014) (response to Question 18).

when assessing if a credit threshold increase is appropriate, the responsible supervisor must consider one or more of the ten factors enumerated in the procedures, and that increases may only be made after appropriate due diligence to determine whether any temporary or permanent increase is warranted. Finally, the approval and the basis for the approval of an increase to a customer credit threshold must be provided in writing.

However, during this period, UBS's supervisory system for reviewing credit limits changes was unreasonable, because the system for documenting approvals of changes to customer credit limits in some cases permitted increases to customer credit limits without documenting a valid reason for the approval. For example, a sample of 106 credit limit approvals from February 2018 for customers trading on the firm's Derivatives and Electronic Options desks showed 62 approvals gave the basis as "Client Requested." The firm identified the issue and corrected it as of March 2019.

As a result, UBS violated Exchange Act § 15(c)(3), Exchange Act Rule 15c3-5(b) and (c)(1) and FINRA Rules 3110(a) and 2010.

UBS Failed to Establish, Maintain, and Enforce a Reasonable Supervisory System Concerning the Documentation of the Review of Soft Blocks.

From at least January 2017 through October 2018, the firm's Market Access Procedures provided that if an erroneous order control triggered a soft block, the personnel reviewing the order must consider one or more factors specified in the procedures, as relevant, and, if overriding the soft block, document the reason for resuming the order and allowing it to proceed to the market. They also provided that UBS supervisors must review, on a weekly basis, reports of orders that were paused or rejected due to the firm's erroneous and duplicative order controls and determine, among other things, the reasons for release or rejection of a paused order in the Oscar SOR.

However, UBS's supervisory system for reviewing resumed orders was unreasonable because the system for documenting the resume reason offered a limited selection of reasons for allowing the order to proceed that did not capture the specified factors in the firm's procedures. For example, the majority of paused orders released to the markets had a reason of "reviewed by UBS" without additional basis or reason. As a result, the reports utilized by UBS supervisors did not enable them to determine the reason(s) supporting release of a paused order in the Oscar SOR or if the firm's erroneous and duplicative order controls were functioning as intended. The firm identified the issue and corrected it in November 2018.

As a result, UBS violated Exchange Act § 15(c)(3), Exchange Act Rule 15c3-5(b) and (c)(1) and FINRA Rules 3110 and 2010.

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

- a censure and

- A total fine of \$250,000 to be paid jointly to the Nasdaq Stock Market LLC, FINRA, and the NYSE Arca, Inc., of which \$70,000 is allocated to FINRA.

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.

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.

April 8, 2022

Date

Eric Bernstein

UBS Securities, LLC
Respondent

Print Name: Eric Bernstein

Title: Senior Regulatory Counsel

Accepted by FINRA:

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

May 3, 2022

Date

Luis A. Prieto

Luis A. Prieto
Principal Counsel
FINRA
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