

**NEW YORK STOCK EXCHANGE LLC
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2017-09-00057**

TO: New York Stock Exchange LLC

RE: UBS Financial Services, Inc., Respondent
CRD No. 8174

During the period from August 1, 2013 through July 13, 2018 (the “Review Period”), UBS Financial Services, Inc. (“UBSFS” or the “Firm”) violated: (1) Rule 15c3-5 of the Securities Exchange Act of 1934 (the “Exchange Act”), by failing to establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial and regulatory risks of its business activity; and (2) NYSE Rule 3110 and former NYSE Rule 342, by failing to establish and maintain a supervisory system reasonably designed to achieve compliance with applicable laws, rules, and regulations. Consent to a censure and a \$125,000 fine.

* * *

Pursuant to Rule 9216 of the New York Stock Exchange LLC (the “NYSE” or the “Exchange”) Code of Procedure, UBSFS 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, the NYSE will not bring any future actions against the Firm alleging violations based on the same factual findings described herein.

I. ACCEPTANCE AND CONSENT

- A. UBSFS hereby accepts and consents, solely for the purposes of this proceeding and any other proceeding brought by or on behalf of the NYSE, or to which the NYSE is a party, prior to a hearing and without an adjudication of any issue of law or fact, and without admitting or denying the findings, to the entry of the following findings by the NYSE:

BACKGROUND AND JURISDICTION

1. UBSFS is a Delaware corporation with its primary place of business in Weehawken, New Jersey. UBSFS has been registered as a broker-dealer with the Securities and Exchange Commission (“SEC”) since 1971, and with the NYSE since 1982.

PROCEDURAL HISTORY

2. This matter arises from a referral to NYSE Regulation by the Financial Industry Regulatory Authority, Inc. (“FINRA”) regarding the Firm’s compliance with Rule 15c3-5 of the Exchange Act (the “Market Access Rule” or “Rule 15c3-5”).

VIOLATIONS

3. This matter concerns UBSFS' pre-trade credit limits and erroneous order controls on two different order management systems during the Review Period.
4. During the Review Period and currently, approximately three percent of UBSFS' business was and is subject to the Market Access Rule.
5. The Direct Order Routing System ("DORS") was the Firm's legacy, back-up mainframe based system used in limited circumstances to manually enter handwritten paper ticketed orders on an order by order basis accessed only by branch operational personnel, and only after supervisor approval. DORS was in the process of being decommissioned at the start of the Review Period and was fully decommissioned by October of 2014.
6. The Consolidated Order Entry System ("COE") is the Firm's automated, web-based, primary equity order management system allowing for the entry of orders by Financial Advisors at their desktops, that was in production prior to and during the Review Period.
7. The Firm's controls were not reasonably designed to prevent the entry of orders that exceed appropriate pre-set credit limits for the period August 2013 to December 3, 2014 because, during this period, the Firm had only soft block credit limits for its retail customers in COE, which were not subjected to additional Firm controls or any supervisory review or oversight, and had *no* credit limits at all in DORS through its decommissioning in October 2014.
8. The Firm's controls also were not reasonably designed to prevent 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, for the entire Review Period because DORS had no duplicative order controls through its decommissioning in October 2014 and because neither of the Firm's systems factored in the individual characteristics of a security (such as average daily trade volume or a recent reference price) until an average daily trade volume control was implemented in COE on July 13, 2018.

Violations of the Market Access Rule

9. Rule 15c3-5 requires that a broker or dealer with market access, or that provides a customer with market access, "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." Rule 15c3-5(b).
10. The Market Access Rule, in conjunction with the Rule's Adopting Release, specifies certain financial and regulatory risks and corresponding requirements, including the requirement to design reasonable controls and supervisory procedures to prevent the entry of orders that exceed pre-set aggregate credit thresholds for customers, and to

prevent the entry of erroneous orders, by rejecting orders that exceed appropriate price or size parameters. *See* Rule 15c3-5(c).

11. As will be discussed below, the Firm's controls relating to customer credit limits and the prevention of erroneous orders were not reasonably designed as required by the Market Access Rule.

(1) Violations Concerning Customer Credit Limits

12. Exchange Act Rule 15c3-5(c)(1)(i) requires that broker-dealers' risk management controls and supervisory procedures be reasonably designed to "prevent the entry of orders that exceed appropriate pre-set credit or capital thresholds in the aggregate for each customer."
13. The Firm failed to satisfy these Market Access Rule credit threshold requirements by: (i) failing to have any pre-trade credit limits in DORS through its decommissioning in October 2014; and (ii) having only soft block credit limits for its retail customers in COE, which not subjected to additional Firm controls or any supervisory review or oversight, until December 2014.
14. Until December 2014, if an equity order by a retail customer would cause an account to have insufficient funds equal to or greater than \$50,000, an "Early Warning" soft block would appear, but a Financial Advisor could enter the order despite the warning. The Firm did not review any of the instances where Financial Advisors clicked through the soft block to determine if those decisions were reasonable.¹
15. For these reasons, until December 2014, the Firm's controls were not reasonably designed to prevent the entry of orders that exceed appropriate pre-set credit limits, in violation of Rule 15c3-5(c)(1)(i).

(2) Violations Concerning Erroneous Order Controls

16. Pursuant to Rule 15c3-5(b) and 15c3-5(c)(1)(ii), broker-dealers are required to establish, document, and maintain "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."
17. The Firm failed to reasonably satisfy these requirements by: (i) failing to have any duplicative order controls in DORS; and (ii) failing to have any controls in either its DORS or COE order management systems that considered the individual characteristics of a security until the Firm implemented ADTV controls in COE in July 2018.

¹ Beginning in December 2014, the Firm changed the Early Warning soft block to a "Review and Release" control, requiring supervisor review and approval.

18. A market event that took place on August 27, 2013 in DORS illustrated that system's lack of security-specific controls. On August 27, 2013, a Firm Financial Advisor received an order from a client to sell 25,000 shares of "XYZPF" security.² The Financial Advisor received supervisor approval and submitted an order ticket to a branch service associate to process the order. An order to sell 25,000 shares of "XYZ" instead of XYZPF was mistakenly entered via the Firm's DORS system, routed to the NYSE, and filled at prices from 52.17 down to 47.02, a price decline of 9.9%. The size of the XYZ order represented approximately 54% of XYZ's 20-day consolidated average daily trading volume ("ADTV") and the single order notional value of the XYZ was approximately \$1,304,250.
19. Although the Financial Advisor submitted a paper ticket for the correct symbol (XYZPF) and the supervisor approved the order, the branch service associate mistakenly entered XYZ as the symbol for the order. When NYSE contacted the Firm regarding the XYZ executions, the Firm confirmed that the XYZPF symbol should have been entered and filed a Clearly Erroneous Execution ("CEE") request for review. NYSE subsequently cancelled all transactions executed at or below the price of 50.82.
20. The Firm's COE system also failed to have any controls that took into account the characteristics of an individual security during the Review Period. The Firm, as of July 13, 2018, now employs an ADTV control on its COE system that blocks orders greater than 20% of a security's 50-trading-day average volume.
21. For these reasons, in DORS, until its decommissioning in October 2014, and in COE, until the July 2018 implementation of an ADTV control, the Firm's controls were not reasonably designed to prevent 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, in violation of Rule 15c3-5(c)(1)(ii).

Violations of Exchange Supervisory Rules

22. NYSE Rule 3110 requires each member firm to "establish and maintain a system to supervise the activities of each associated person that is reasonably designed to ensure compliance with applicable federal securities laws and regulations, and with applicable Exchange rules." NYSE Rule 3110(b). Similarly, prior to its replacement by Rule 3110 in December 2014, former NYSE Rule 342 required member firms to provide for "appropriate supervisory control" and "compliance with securities laws and regulations."
23. As a result of its failure to maintain a supervisory system relating to credit limits and erroneous orders under the Market Access Rule, UBSFS failed to have a supervisory system reasonably designed to ensure compliance with applicable federal securities

² Generic identifiers have been used in place of the names of equity security symbols.

laws, regulations, and Exchange Rules, in violation of NYSE Rule 3110(b) and former NYSE Rule 342.

SANCTIONS

B. The Firm also consents to the imposition of the following sanctions:

1. Censure and fine in the amount of \$125,000

The Firm agrees to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable, on a schedule to be agreed upon by NYSE Regulation and the Firm. The Firm has submitted a Method of Payment Confirmation form showing the method by which it will pay the fine imposed.

The Firm 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 Firm agrees that it shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any fine amounts that the Firm pays pursuant to this AWC, regardless of the use of the fine amounts. The Firm further agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any fine amounts that the Firm pays pursuant to this AWC, regardless of the use of the fine amounts.

II. WAIVER OF PROCEDURAL RIGHTS

The Firm specifically and voluntarily waives the following rights granted under the NYSE Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against the Firm;
- B. To be notified of the Formal 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 Exchange's Board of Directors and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, the Firm specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Regulatory Officer of the NYSE; the Exchange's Board of Directors, Disciplinary Action Committee ("DAC"), and Committee for Review ("CFR"); any Director, DAC member, or CFR member; Counsel to the Exchange Board of Directors or CFR; any other NYSE employee; or any Regulatory Staff as defined in Rule 9120 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.

The Firm further specifically and voluntarily waives any right to claim that a person violated the ex parte communication prohibitions of Rule 9143 or the separation of functions prohibitions of 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

The Firm understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed by NYSE Regulation, and accepted by the Chief Regulatory Officer of the NYSE pursuant to NYSE Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the Firm; and
- C. If accepted:
 - 1. The AWC shall be sent to each Director and each member of the Committee for Review via courier, express delivery or electronic means, and shall be deemed final and shall constitute the complaint, answer, and decision in the matter, 25 days after it is sent to each Director and each member of the Committee for Review, unless review by the Exchange Board of Directors is requested pursuant to NYSE Rule 9310(a)(1)(B);
 - 2. This AWC will become part of the Firm's permanent disciplinary record and may be considered in any future actions brought by the Exchange, or any other regulator against the Firm;
 - 3. The NYSE shall publish a copy of the AWC on its website in accordance with NYSE Rule 8313;
 - 4. The NYSE may make a public announcement concerning this agreement and the subject matter thereof in accordance with NYSE Rule 8313; and
 - 5. The Firm 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. The Firm may not take any position in any proceeding brought by or on behalf of the Exchange, or to which the Exchange is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the Firm's (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Exchange is not a party.

- D. A signed copy of this AWC and the accompanying Method of Payment Confirmation form delivered by email, facsimile or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy.
- E. The Firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The Firm understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. Any such statement does not constitute factual or legal findings by the Exchange, nor does it reflect the views of NYSE Regulation or its staff.

The Firm certifies that, in connection with each of the Exchange's requests for documents in connection with this matter, the Firm made a diligent inquiry of all persons who reasonably had possession of responsive documents, and that those documents have been produced or identified in a privilege log. The Firm acknowledges that, in agreeing to the AWC, the Exchange has relied upon, among other things, the completeness of such document production.

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 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 the firm to submit it.

May 13, 2019
Date

UBS Financial Services, Inc.,
Respondent

By: Taryn V. Shelton
Taryn V. Shelton, Esq.
Executive Director

Patrick T. Shilling, Esq.
Managing Director

Reviewed by:

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Accepted by NYSE Regulation

5/14/19
Date



Mark S. Silver, Esq.
Enforcement Counsel
NYSE Regulation

Signed on behalf of New York Stock
Exchange LLC, by delegated authority from
its Chief Regulatory Officer