

FINRA ARBITRATION Submission Agreement

In the Matter of the Arbitration Between

Name(s) of Claimant(s)

Gianluca Passaretta

14-00740

Name(s) of Respondent(s)

UBS Securities LLC

1. The undersigned parties ("parties") hereby submit the present matter in controversy, as set forth in the attached statement of claim, answers, and all related cross claims, counterclaims and/or third-party claims which may be asserted, to arbitration in accordance with the FINRA By-Laws, Rules, and Code of Arbitration Procedure.
2. The parties hereby state that they or their representative(s) have read the procedures and rules of FINRA relating to arbitration, and the parties agree to be bound by these procedures and rules.
3. The parties agree that in the event a hearing is necessary, such hearing shall be held at a time and place as may be designated by the Director of Arbitration or the arbitrator(s). The parties further agree and understand that the arbitration will be conducted in accordance with the FINRA Code of Arbitration Procedure.
4. The parties agree to abide by and perform any award(s) rendered pursuant to this Submission Agreement. The parties further agree that a judgment and any interest due thereon, may be entered upon such award(s) and, for these purposes, the parties hereby voluntarily consent to submit to the jurisdiction of any court of competent jurisdiction which may properly enter such judgment.

5. The parties hereto have signed and acknowledged the foregoing Submission Agreement.

E. Anne Velez DIRECTOR & COUNSEL MAY 12, 2014
UBS Securities LLC Date
State Capacity if other than individual (e.g., executor, trustee, corporate officer)

LC43A: SUBMISSION AGREEMENT

idr: 02/09/2009

RECIPIENTS:

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CARA B. CHOMSKI**

March 5, 2014

*AWAITING ADMISSION
**ADMITTED IN ILLINOIS ONLY

BY HAND

Linda D. Fienberg, Esq.
President and Director of Arbitration
FINRA Dispute Resolution, Inc.
One Liberty Plaza
165 Broadway, 27th Floor
New York, New York 10006

Re: Gianluca Passaretta v. UBS Securities LLC 14-00740

Dear Ms. Fienberg:

We represent the Claimant, Gianluca Passaretta, and file the following Statement of Claim on his behalf, pursuant to Rule 13302 of the FINRA Code of Arbitration Procedure for Industry Disputes, against UBS Securities LLC ("UBS"), Mr. Passaretta's former employer.

PRELIMINARY STATEMENT

UBS wrongfully terminated Mr. Passaretta's employment based on unsupported and incorrect allegations of inappropriate behavior. UBS then filed a false and defamatory Form U5 Uniform Termination Notice For Securities Industry Registration, which impaired Mr. Passaretta's ability to find other comparable employment in the securities industry.

Mr. Passaretta's claims arise from (1) UBS's illegal forfeiture of Mr. Passaretta's deferred compensation, in an approximate amount not less than \$1,173,110;¹ (2) UBS's failure to pay Mr. Passaretta earned incentive compensation for his work in 2013; and (3) damage UBS

¹ See footnote 4 *infra* for a breakdown of Mr. Passaretta's forfeited deferred compensation.

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caused to Mr. Passaretta's career and reputation in connection with the termination of his employment. Accordingly, Mr. Passaretta seeks an award of his damages, plus attorneys' fees, interest and costs, and any such other and further relief as this Panel deems appropriate. Mr. Passaretta also seeks expungement of the defamatory language contained on his Form U5 regarding the reason for UBS's termination of his employment.

FACTUAL BACKGROUND

UBS Hires Mr. Passaretta

Mr. Passaretta, who is an Italian national, has worked in the securities industry since 1995. For approximately eight years, from 1995 to 2003, Mr. Passaretta worked at BNP Paribas, where he was a Senior Latin America FX and Interest Trader. From 2003 to 2008, for just over five years, Mr. Passaretta served as Head of Latin America Interest Rate Derivatives Trading at Barclays Capital Inc. Subsequently, Mr. Passaretta was employed as Head of Latin America Trading at Calyon Securities (USA) Inc. Mr. Passaretta holds his Series 17 (Limited Registered Representative (International)), 24 (General Securities Principal), and 63 (State Law Uniform Securities Agent) licenses with FINRA.

In or around October 2009, UBS hired Mr. Passaretta as Head of Latin America Derivatives Trading within its Fixed Income, Currencies and Commodities (FICC) Area, based in Stamford, Connecticut. Upon joining UBS, Mr. Passaretta reported initially to James Lanzilotti, then Head of Emerging Markets Foreign Exchange and Interest Rate Trading. Mr. Passaretta was responsible for trading derivative products across the Latin America region, including swaps, options and inflation products.

Mr. Passaretta's Strong Performance On Behalf Of UBS

Throughout his employment at UBS, Mr. Passaretta was recognized for his outstanding performance. In or around March 2012, Mr. Passaretta replaced Mr. Lanzilotti as Head of Emerging Markets Foreign Exchange and Interest Rate (Rates) Trading. In 2012, the trading operation Mr. Passaretta supervised was attributed with generating approximately \$220 million in annual profit-and-loss ("P&L") for UBS, which covered approximately 18 traders reporting to Mr. Passaretta across the U.S., Mexico and Brazil. Mr. Passaretta was also responsible for significant production in his individual capacity, overseeing a trading book that generated approximately \$12 million in 2010, \$32 million in 2011, and \$65 million in 2012.

In or around November 2012, UBS implemented a restructuring within the overarching FICC business unit in which Mr. Passaretta worked, largely dismantling the trading operation for which Mr. Passaretta was responsible. As a result, Mr. Passaretta was left with only two Rates traders in Mexico and two Rates traders in Brazil. During the spring of 2013, Mr. Passaretta's senior managers charged him with responsibility for running a consolidated Latin American Trading business comprised of Rates and Credit areas. To that end, Mr. Passaretta prepared a business plan for senior management and hired three Credit traders. By

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April 2013, Mr. Passaretta's Latin America Rates and Credit Trading operation was underway, but operating on an ad hoc basis under a highly restricted risk limit framework.

The Brazil IR Swap

On the afternoon of May 2, 2013, [REDACTED], a Brazil-based Rates trader who reported to Mr. Passaretta, sought Mr. Passaretta's permission to transact a derivatives trade against the Brazil interest rate, known as an interest rate swap transaction² (the "Brazil IR Swap"). The proposed Brazil IR Swap involved two competing transactions against the Brazil interest rate that, when netted together, would effectively limit UBS's market risk exposure with respect to the Brazil interest rate to a minimal level, and make a profit for UBS; Mr. Passaretta's group had executed similar transactions with regular frequency during the preceding timeframe and it was anticipated that the Brazil IR Swap would be approved.

Mr. [REDACTED] proposed Brazil IR Swap could not be executed, however, until UBS Market Risk approved the notional value of the underlying swap transactions,³ which approval Mr. Passaretta promptly sought. Mr. Passaretta immediately raised the market, timing and liquidity details bearing on the proposed Brazil IR Swap trade, and associated risk factors, with the most senior and relevant trading manager and risk officers in his line of command. Specifically, Mr. Passaretta explained the transaction in person to the Market Risk representative responsible for his business area, Natalia Ovchinnikova, who in turn, video-conferenced in her superior, Mark Sanborn, Chief Risk Officer, to discuss the transaction collectively with Mr. Passaretta. In addition, Mr. Passaretta presented the proposed Brazil IR Swap in person to his indirect senior manager, Chris Murphy, Global Head of Rates and Credit, who was normally based in London but was visiting the New York City office that day.

All of the individuals to whom Mr. Passaretta presented the proposed Brazil IR Swap agreed that the trade entailed minimal interest rate sensitivity, and thus minimal risk to UBS. As a corollary, all understood that the underlying notional values of the swap transactions comprising the trade did not reflect a key measure for gauging the trade's economic exposure. Mr. Murphy indicated his support for the Brazil IR Swap by liaising directly with Market Risk to help procure approval for its execution. As a result of these communications, Mr. Passaretta was

² An interest rate swap transaction concerns "an agreement between two parties (known as counterparties) where one stream of future interest payments is exchanged for another based on a specified principal amount. Interest rate swaps often exchange a fixed payment for a floating payment that is linked to an interest rate (most often the LIBOR). A company will typically use interest rate swaps to limit or manage exposure to fluctuations in interest rates, or to obtain a marginally lower interest rate than it would have been able to get without the swap.
<<http://www.investopedia.com/terms/i/interestrateswap.asp>>

³ In an interest rate swap transaction, the notional principal amount refers to "the predetermined dollar amounts on which the exchanged interest payments are based. Notional principal never changes hands in the transaction, which is why it is considered notional, or theoretical. Neither party pays or receives the notional principal amount at any time; only interest rate payments change hands."
<<http://www.investopedia.com/terms/n/notionalprincipalamount.asp>>

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led to understand that, in the worst case scenario, the proposed Brazil IR Swap trade would be approved for execution on a reduced level.

After he had finished presenting the Brazil IR Swap to Market Risk, Mr. Passaretta returned to his desk. It was then, while approval for the Brazil IR Swap was pending, that Mr. Passaretta discovered that Mr. [REDACTED] assisted by junior staff under his trading direction, had proceeded with executing the Brazil IR Swap trade, without pre-approval by Market Risk or Mr. Passaretta. Immediately, Mr. Passaretta informed Mr. [REDACTED] that the relevant areas of the firm were still working to confirm approval for the trade, and discussed with him the logistics and timing for potentially unwinding the Brazil IR Swap.

Shortly after, Mr. Passaretta learned, for the first time, through UBS Market Risk representative Douglas Ellison, that the Brazil IR Swap would require approval by [REDACTED] [REDACTED] who was based in Zurich, because its underlying swap transactions totaled more than [REDACTED] in notional value. This came as a shock to Mr. Passaretta. Mr. Passaretta thus realized that the firm's internal procedural constraints were unlikely to allow for such approval within a meaningful timeframe, and certainly not before the trading day close. Consequently, Mr. Passaretta commenced with Mr. [REDACTED] in attempting to unwind the Brazil IR Swap, to the greatest extent possible before the market closed that day. By the end of that trading day, the Brazil IR Swap was successfully unwound from a notional value of \$18 billion to \$9 billion.

After the close of trading, Mr. Passaretta informed Mr. Murphy of the outcome of the Brazil IR Swap, including the fact of Mr. [REDACTED] unauthorized execution of the Brazil IR Swap - without internal pre-approval and without Mr. Passaretta's knowledge - and the final result of having successfully unwound the trade from a notional value of \$18 billion to \$9 billion. Mr. Murphy, who understandably became upset, immediately called Mr. [REDACTED] to reprimand him for having executed the Brazil IR Swap without pre-approval. Subsequently, after that conversation with Mr. [REDACTED] Mr. Murphy called Mr. Passaretta into his office and said "[REDACTED] is toast." Mr. Murphy then asked Mr. Passaretta, "did you know about this?" (meaning did Mr. Passaretta approve Mr. [REDACTED] execution of the Brazil IR Swap), to which Mr. Passaretta replied, "no." Mr. Murphy was subsequently responsible for conferring with Market Risk on the resulting trade circumstances.

Later that afternoon, Mr. Passaretta conferred further with Ms. Ovchinnikova on the resulting Brazil IR Swap trade circumstances. Ms. Ovchinnikova did not indicate that any additional action was needed by Mr. Passaretta, even when Mr. Passaretta indicated that the trade could be unwound further. On the following day, Mr. Passaretta conferred with Mr. Sanborn on Mr. [REDACTED] unauthorized conduct and the resulting Brazil IR Swap trade circumstances. Mr. Passaretta revisited with Mr. Sanborn the subject of how stunned everyone involved had been to learn of the seemingly new, and previously buried, [REDACTED] notional value threshold, and the arduous internal approval policy concerning notional value risk limitations. They discussed that Mr. [REDACTED] had anticipated that the Brazil IR Swap would be approved because similar trades had gone through previously without issue and the nature of the Brazil IR Swap was of minimal risk consideration.

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Several days later, UBS Legal commenced an internal review of the Brazil IR Swap trade. While the review was ongoing, Mr. Passaretta was excluded from a salary increase which UBS implemented in his area during that time.

On June 25, 2013, UBS informed Mr. Passaretta of its decision to terminate his employment effective on or about July 9, 2013, based on his conduct in connection with the Brazil IR Swap trade. During that timeframe, UBS indicated to Mr. Passaretta that the reasoning behind his termination was related to his conduct in connection with its internal policies. Upon information and belief, no similar action was taken against Mr. [REDACTED] despite his having actually executed the underlying trade at issue, without anyone's permission.

Less than one week later, on or around July 1, 2013, upon information and belief, UBS issued a revised Market Risk Control policy which specifically exempted Emerging Markets single currency interest rate swaps from requiring pre-approval from Market Risk with respect to their notional value, subject to the new metrics of the revised policy which focused on interest rate sensitivity.

On or around July 25, 2013, UBS filed a Form U5 Uniform Termination Notice For Securities Industry Registration with FINRA in connection with its termination of Mr. Passaretta's employment, stating his End Date of employment as June 25, 2013. Among other things, on the Form U5, UBS made several inaccurate statements, including its mischaracterization of Mr. Passaretta's Reason for Termination as Permitted to Resign, followed by the Termination Explanation:

EMPLOYEE WAS PERMITTED TO RESIGN AFTER THE
FIRM DETERMINED HIS PERFORMANCE AS A
SUPERVISOR DID NOT MEET THE FIRM'S EXPECTATIONS

Mr. Passaretta, however, did not resign his employment with UBS.

In addition, on the Form U5, UBS answered "yes" to Disclosure Question 7F(3), which asks "Did the individual voluntarily *resign* from your *firm*, or was the individual discharged or permitted to *resign* from your *firm*, after allegations were made that accused the individual of failure to supervise in connection with investment-related statutes, regulations, rules or industry standards of conduct?" On the related Termination Disclosure Reporting Page, UBS explained its "yes" answer by alleging that:

FIRM INVESTIGATED FAILURE TO COMPLY WITH AN
INTERNAL TRADE PRE-APPROVAL POLICY.

The violation of which UBS accused Mr. Passaretta, however, was with respect to an internal policy, which is different than the "investment-related statutes, regulations, rules or industry standards of conduct" that the Form U5 asks about. Therefore, UBS was not justified in answering "yes" to Disclosure Question 7F(3) on the Form U5.

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Following his termination from UBS, Mr. Passaretta applied for several jobs. Despite numerous interviews, Mr. Passaretta was denied meaningful employment opportunities as a result of the assertions set forth in the aforementioned FINRA filing. Consequently, Mr. Passaretta was forced to accept employment in a lesser position than the position he held at the time he left UBS.

The Conflicting Basis for Mr. Passaretta's Termination

The reasons given for UBS's termination of Mr. Passaretta are conflicting because UBS fundamentally agreed with the economics of the Brazil IR Swap. Indeed, UBS senior management, in conjunction with Market Risk, sought extensively to help facilitate authorization of the Brazil IR Swap initially. Subsequently, upon learning of its execution and Mr. Passaretta's resulting unwind efforts, UBS (i) ultimately rejected Mr. Passaretta's offer to unwind the trade beyond a \$9 billion notional value, and (ii) modified its internal policies to accommodate similar trades without issue in the future. Upon information and belief, UBS earned a profit of approximately \$375,000 as a result of the Brazil IR Swap.

Moreover, UBS's accusation on Mr. Passaretta's Form U5, whereby it alleged Mr. Passaretta's failure to supervise, contradicted the acknowledgement by Market Risk that Mr. [REDACTED] and not Mr. Passaretta, was responsible for having executed the underlying Brazil IR Swap at issue without internal pre-approval. Namely, Mr. [REDACTED] executed the Brazil IR Swap without waiting to receive confirmation from Mr. Passaretta that Market Risk had approved the trade.

UBS sought to portray Mr. Passaretta's termination in a negative light for the purpose of its deferred compensation plans, in order to treat Mr. Passaretta's outstanding earned but deferred compensation as "forfeited." During his employment, UBS paid a significant portion of Mr. Passaretta's compensation in deferred form, of which Mr. Passaretta lost approximately \$1,173,110 as a result of UBS's actions.⁴ Notably, discovery and the testimony elicited during the hearing may demonstrate that UBS had identified individuals in Mr. Passaretta's business area for termination during the preceding timeframe, and jumped at the opportunity to effectuate Mr. Passaretta's termination in a manner so that it could retain Mr. Passaretta's outstanding deferred compensation.

⁴ Specifically, as of the time of his termination, Mr. Passaretta had earned deferred compensation that remained outstanding in an estimated amount totaling \$1,173,110, comprised of 41,277 shares and \$53,333 in cash earned for the years 2009 through 2011, plus a deferred compensation grant valued at \$390,000 for his work in 2012, as follows: (i) for his work in 2009, \$53,333 in deferred cash compensation under the UBS Deferred Cash Plan, and \$144,605 in deferred stock compensation under the 2010 UBS Equity Ownership Plan (EOP); (ii) for his work in 2010, \$136,896 in deferred stock compensation under the 2011 UBS EOP Performance IB plan; (iii) for his work in 2011, \$448,276 under the 2012 Special Plan Award Program; and (iv) for his work in 2012, \$390,000 in deferred compensation under the applicable 2013 plans.

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LEGAL CLAIMS

I. Deferred Compensation and Bonus Compensation

At no time during his employment at UBS did Mr. Passaretta engage in any misconduct that would justify the forfeiture of his deferred compensation or any of his earned compensation. Accordingly, Mr. Passaretta is entitled to the deferred compensation and bonus compensation he was denied when UBS abruptly terminated his employment and forfeited his deferred compensation he earned for 2009, 2010, 2011, and 2012, and paid him zero bonus for the work he performed in 2013.

Mr. Passaretta thus seeks these amounts, plus interest, based on principles of breach of contract, *quantum meruit* and unjust enrichment. Mr. Passaretta also requests an award of double damages, as well as his attorney's fees and costs under the Connecticut Wage Payment Law, on the grounds that UBS's failure to pay Mr. Passaretta his earned but withheld compensation was in bad faith, unreasonable and arbitrary.

II. Defamation

Under Connecticut law, UBS is liable to Mr. Passaretta for defamation based on what UBS wrote on the Form U5.

UBS recognized that Mr. Passaretta's termination was in connection with an internal investigation concerning a failure by another acknowledged individual to comply with an internal trade pre-approval policy, and there is no indication that Mr. Passaretta violated any regulatory rules or laws. UBS has nonetheless acted in a manner intended to tarnish Mr. Passaretta's reputation.

UBS defamed Mr. Passaretta on his Form U5 and related forms, effectively impairing Mr. Passaretta's ability to procure subsequent employment. As set forth above, despite numerous interviews, Mr. Passaretta was denied meaningful employment opportunities as a result of the assertions set forth in the aforementioned FINRA filing. Consequently, Mr. Passaretta was forced to accept employment in a lesser position than the position he held at the time he left UBS.

UBS's conduct thus resulted in damages to Mr. Passaretta's reputation. As remedies for this defamation, Mr. Passaretta seeks compensatory and punitive damages, in amounts to be determined at the hearing of this matter.

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III. Mr. Passaretta Seeks An Order Expunging His Form U-5

Mr. Passaretta seeks to have his Form U5 amended for UBS's own alleged regulatory missteps, and those of an individual who acted independently of Mr. Passaretta, by tainting his regulatory license and record. Mr. Passaretta asks that the Panel order the expungement of Mr. Passaretta's current Form U5 to erase the defamatory statements which UBS made about him on his Form U5.

Arbitrators are authorized to order the expungement of language on a Form U5. As set forth in the FINRA Dispute Resolution Arbitrator's Guide (<http://www.finra.org/web/groups/arbitrationmediation/@arbmed/@arbtors/documents/arbmed/p009424.pdf>):

Defamation Claims in Intra-Industry Disputes

Under existing CRD policy, FINRA will expunge information from the CRD system—without the need for judicial intervention—if the expungement directives contained in intra-industry awards that involve associated persons and firms are based on the defamatory nature of the information ordered expunged and do not involve any customer dispute information. **Arbitrators must clearly state in the award that they are ordering expungement relief based on the defamatory nature of the information** in the CRD system. (Emphasis added.)

This is also stated in the Notices to Members 99-54 and 99-09) (issued by the NASD, which is now FINRA). Notice 99-54 explicitly recognizes, however, that the Panel may expunge a Form U5 even if it does not find in favor of the claimant on a defamation claim. Notice 99-54 thus states that: **“Arbitrators, however, are not required to state explicitly in the award that they have found that all of the elements required to satisfy a claim in defamation under governing law have been met.”** (Emphasis added.)

It should be noted that, since this is not a “customer dispute” and the information sought to be expunged is not “customer dispute information,” the Arbitration Panel does not need to make any of the factual findings required by FINRA Rules 2080 and 13805 for expungements of customer dispute information.

Many arbitration awards have ordered expungements of Form U5 language. *See, e.g., Glennon v. Dean Witter Reynolds, Inc.*, NASD Case No. 91-02594 at 6-7 (1993) (directing Dean Witter to correct a false statement on a Form U5 and awarding actual and punitive damages and attorneys' fees for a total award of more than \$1.75 million), *aff'd*, 1994 WL 757709 (M.D. Tenn. Dec. 15, 1994), *aff'd* 83 F.3d 132 (6th Cir. 1996); *Paul D. Svigos v. Merrill Lynch Pierce Fenner & Smith, Inc.*, NASD Case No. 93-04516 (Oct. 6, 2000) (directing Merrill Lynch to amend Form U5 to reflect correct reason for termination of employment and awarding actual and punitive damages, attorneys' fees and costs for a total award of more than \$2.14 million).

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IV. Tortious Interference With Prospective Economic Advantage

UBS tortiously interfered with Mr. Passaretta's existing and prospective employment prospects at other firms by publishing a defamatory and otherwise inaccurate Form U5.

As a remedy for this tortious interference, Mr. Passaretta seeks compensatory and punitive damages.

V. Wrongful Termination of Employment

Mr. Passaretta signed a Form U4 Uniform Application For Securities Industry Registration Or Transfer. By signing a Form U4, Mr. Passaretta agreed to submit any dispute or claim he might have against UBS to arbitration pursuant to the rules of FINRA. As a result of this arbitration requirement, UBS could only terminate Mr. Passaretta's employment for "just cause."

As the Seventh Circuit stated in *Shearson Hayden Stone, Inc. v. Liang*, 653 F.2d 310, 312-13 (7th Cir. 1981), "[i]t has been held repeatedly that an agreement to arbitrate disputes about employee discharges implies a requirement that discharges be only for 'just cause.'" See also *PaineWebber v. Agron*, 49 F.3d 347, 352 (8th Cir. 1995) (stating that "some standard of discernible cause is inherently required in this context where an arbitration panel is called on to interpret the employment relationship."); *Truck Drivers, Oil Drivers, Filling Station and Platform Workers' Union Local 705 v. Schneider Tank Lines, Inc.*, 958 F.2d 171, 175 (7th Cir. 1992) (holding that the existence of an arbitration provision implies a just cause standard); *Smith v. Kerrville Bus Co.*, 709 F.2d 914, 918 (5th Cir. 1983) (observing that "inherent in the body of arbitral common law...is a marked awareness of the harshness of discharge, and an adherence to the principle that...arbitration, and other provisions that reflect the contracting parties' tacit acceptance of the employees' right to some measure of job security, pretermite discharge without good cause); *DeLuca v. Bear Stearns & Co.*, 175 F.Supp. 2d 102, 109 (D. Mass. 2001) (noting that "at least three circuits have held that an agreement to arbitrate employee termination may vitiate an employee's at-will status."); *Varga v. Countrywide Securities Corp.*, JAMS No. 1425001975 (JAMS panel on May 26, 2009 awarded \$4.58 million, of which \$1.89 million plus interest constituted damages on wrongful termination claim under *Agron* (award confirmed by the United States District Court for the Central District of California, CV 09-4134 (PAP) on August 19, 2009)); *Shaw v. Salomon Smith Barney, Inc.*, NYSE Docket No. 2007-016780 (NYSE panel on February 16, 2009 awarded Claimant \$1,200,000 as damages on defamation and wrongful termination claims under *Agron*); *Marais v. Barclays De Zoete Wedd, Inc. and Barclays Capital*, NASD Case No. 00-02520 (NASD panel on September 25, 2002 awarded Claimant \$4,200,000, including damages for wrongful termination under *Agron*); *Sawtelle v. Waddell & Reed, Inc., et al.*, NASD Case No. 97-03642 (NASD panel on August 7, 2001 awarded claimant \$27,574,499, including damages for wrongful termination under *Agron*); *Kates v. Deutsche Bank*, NYSE Docket No. 1998-007498 (NYSE panel on July 13, 2001 awarded \$150,000 as damages for claims of defamation and wrongful termination under *Agron*); *Svigos v. Merrill Lynch, Pierce, Fenner & Smith*, NASD Case No. 93-04516 (NASD panel on October 6,

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2000 awarded \$2,264,479, of which \$515,000 constituted damages on wrongful termination claim under *Agron*).

Here, UBS terminated Mr. Passaretta's employment without "just cause." Mr. Passaretta is therefore entitled to the compensation (including base salary, bonuses, and additional benefits) he would have earned at UBS had his employment not been terminated, plus interest.

VI. Violation of CUTPA

Under the Connecticut Unfair Trade Practices Act ("CUTPA"), UBS may be held liable for having engaged in tortious conduct that gave rise to Mr. Passaretta's loss of compensation and inability to obtain comparable subsequent employment, and resulting damages.

CONCLUSION

For the foregoing reasons, Mr. Passaretta seeks an award of compensatory and punitive damages, interest, attorneys' fees and costs, an order expunging his Form U5 and related forms of defamatory information, and any such other and further relief as the Panel deems just, proper and appropriate.

Respectfully submitted,

LIDDLE & ROBINSON, L.L.P.

By: 

Blaine H. Bortnick
Sherry M. Shore



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May 19, 2014

By E-Mail and Overnight Mail

Ms. Nicole C. Haynes
Case Assistant Manager
FINRA Dispute Resolution
One Liberty Plaza
165 Broadway, 27th Floor
New York, New York 10006

Re: Gianluca Passaretta v. UBS Securities, LLC
FINRA No. 14-00740

Dear Ms. Haynes:

This firm represents respondent UBS Securities LLC (“UBS”, “UBS Securities” or the “Firm”) in the above-referenced matter. This letter constitutes UBS Securities’ Answer to the Statement of Claim submitted on behalf of claimant Gianluca Passaretta (“Claimant” or “Passaretta”).¹ In accordance with FINRA Arbitration Rules 13300 and 13303, an original and three copies of the Statement of Answer are included with this filing. A copy of the Statement of Answer is also being served on counsel for Claimant.

In this arbitration Claimant pursues frivolous claims that are in direct contradiction to well-established New York law. Even more significantly, Claimant asks not only that FINRA ignore his role in covering up a breach of the Firm’s internal trade policy, he asks that FINRA reward him for his improper conduct. As outlined below, UBS Securities permitted Passaretta to resign his employment after it discovered that he had failed to notify timely and properly the Firm of an \$18 billion trade that had been booked without the necessary approvals and then lied when questioned about the trade afterwards. Passaretta’s poor judgment and unethical behavior mandated his separation from the Firm and the Firm’s disclosure of his improper behavior on his Form U-5, a disclosure which is protected by absolute immunity under New York law.

Although Passaretta claims that he is entitled to discretionary incentive compensation, the express writings provided to Passaretta – including his September 8, 2009 offer letter and UBS Securities’ incentive compensation policy – expressly provide that after 2009, any incentive

¹ Except as otherwise expressly admitted herein, Respondent denies all the allegations contained in the Statement of Claim and reserves all defenses as to those claims.

Proskauer

Ms. Nicole C. Haynes

May 19, 2014

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compensation awarded to Passaretta would be payable solely at the discretion of UBS Securities and contingent upon Passaretta's continued employment on the day of payment. Passaretta never had a guarantee that he would receive any incentive compensation for 2013, and given the circumstances of his departure, any claim for a 2013 bonus is preposterous. Under clear New York law – as set forth in court cases and arbitration awards applying the very UBS policy language at issue here – Passaretta simply has no cognizable claim.

In the wake of Passaretta's unethical behavior and at Passaretta's request, UBS permitted Passaretta to resign from the firm rather than terminate his employment for cause. By the express terms of UBS's policy, Passaretta's resignation triggered the forfeiture of any unvested deferred compensation. While Passaretta now attempts to rewrite history by claiming that he did not resign, his argument is not only false but immaterial, as he would still have forfeited any unvested deferred compensation had UBS Securities terminated him for cause, as originally planned.

Lastly, Passaretta asserts a claim for "wrongful discharge", even though well-established New York law makes it plain that no such claim exists. As stated in Passaretta's offer letter and the Firm's handbook, Passaretta's employment with UBS Securities was at-will. Nothing about Passaretta's signing of a Form U-4 changes New York law or the terms of the express agreements between Passaretta and UBS on this point.

Under the facts and law specified below and those to be presented at the hearing, the Panel should deny Passaretta's claims.

FACTUAL SUMMARY

The UBS Offer Letter

UBS Securities² hired Passaretta on or about September 8, 2009 as a Managing Director and Head of the Latin American Derivatives desk within the Firm's Fixed Income Currencies and Commodities ("FICC") department. UBS presented Passaretta with a September 8, 2009 offer letter (the "Offer Letter"), which described the terms of his employment, including that UBS would pay him \$400,000 annually in base salary. (See *Exhibit A*.)

The plain language of the Offer Letter requires the dismissal of Passaretta's claim for incentive compensation and his so-called claim for "wrongful discharge."

With respect to incentive compensation, the Offer Letter provides that, for years after 2009, Passaretta was merely eligible for discretionary bonuses. Under long-standing and unequivocal New York law on this subject, such language precludes any legal claim for a bonus. The discretionary nature of incentive compensation is announced on the first page of the Offer Letter

² UBS Securities LLC is the U.S. broker dealer within UBS Investment Bank and is a subsidiary of UBS AG.

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in a section entitled “Incentive Compensation Award Overview.”³ That section provides, in relevant part:

In addition to a salary, you may be eligible for a discretionary incentive compensation award, which may take into account a variety of factors including, without limitation, financial results of UBS AG, the Investment Bank division and your business area, and discretionary judgments of individual performance and contributions to business results and objectives, as well as legal and/or regulatory restrictions, which may affect individual incentive compensation award decisions.

...

A future incentive compensation award, if any, may be higher or lower in future years and remains in the sole and exclusive discretion of management.

The Offer Letter further specified for the year 2009 only that Passaretta’s incentive compensation would be guaranteed, “Your incentive compensation award for the 2009 calendar year will be \$500,000 (“2009 Guarantee”), provided that you remain employed on the 2009 Payment Date.” But the Offer Letter made plain that the 2009 Guarantee was for that year only:

The terms of your Year 2009 incentive compensation award only apply to the corresponding incentive year. Future incentive compensation award(s), if any, may be higher or lower and are in the sole and exclusive direction of management.

³ The discretionary nature of UBS Securities’ incentive compensation was also made clear in the Incentive Compensation Policy contained in the UBS U.S. Human Resources Policies handbook, applicable to employees of UBS Securities, which stated:

Incentive compensation may be awarded to you once a year in the Organization’s sole discretion. If an award is granted, the amount of such an award is entirely subjective and may be influenced by factors such as individual performance, the performance of the work unit and the performance of the Organization as a whole.

(See Exhibit B). Significantly, the Incentive Compensation Policy also provided that, “All commitments regarding compensation of any type must be in writing and be signed by the appropriate line manager and HRM.” Passaretta acknowledged his receipt of the employee handbook in 2009, shortly after the start of his employment. (See Exhibit C).

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Indeed, given that Passaretta had a written 2009 Guarantee, he was fully aware of the stark distinction drawn by UBS between guaranteed and discretionary incentive compensation. After 2009, Passaretta never again had any sort of guaranteed incentive compensation; he was merely eligible for a discretionary bonus.

The Offer Letter specified that a portion of incentive awards above a certain threshold were subject to the UBS Equity Ownership Plan and a three-year vesting period “assuming all terms and conditions” under the Plan were met, including Passaretta’s continued employment on the date of vesting. (*Id.*)

Lastly, the language of the Offer Letter absolutely precludes the assertion of any sort of claim for “wrongful discharge.” The Offer Letter confirmed that Passaretta’s employment was “at will” meaning he could resign or be terminated at any time, with or without cause:

Your employment remains ‘at will’, and this letter . . . is not, and shall not be construed as a contract of employment for a definite term. The Firm reserves the right to terminate your employment at any time with or without Cause and with or without notice.

Significantly, the Offer Letter made it clear that was the “last word” on the subjects that it addressed, unless it was modified in a writing signed by UBS and by Passaretta. In a section entitled “Entire Agreement”, the Offer Letter provides

This offer letter contains the entire understanding and agreement between the parties concerning the subject matter hereof, and supersedes all prior agreements, understandings, discussions, negotiations, and undertakings, whether written or oral, between the parties with respect hereof.

The Offer Letter further states:

The terms and subject matter of this letter may not be modified, supplemented or amended orally or in any way unless such modification, supplementation or amendment is agreed to in writing and signed by you and two authorized officers of the Firm.

Passaretta does not (and cannot) claim that he ever entered into any agreement with UBS to alter the discretionary incentive compensation or employment at-will provisions of his Offer Letter. They thus remained in full force in effect throughout his employment and require the dismissal of these claims.



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The Offer Letter also provides that the terms of Passaretta's employment were "governed, construed and enforced in accordance with the laws of the State of New York." (*See Exhibit A*.) Passaretta signed the Offer Letter three days later on September 11, 2009.

Deferred Compensation at UBS – Governed by the Equity Ownership Plan

As indicated in Passaretta's Offer Letter, UBS incentive compensation awards above a certain threshold are issued as restricted stock shares and subject to the UBS Equity Ownership Plan ("EOP"). (*See Exhibit D*).

The UBS EOP 2009/10 specifies a [REDACTED] vesting period. The EOP also defines the circumstances under which an employee forfeits any unvested award. "If an Employee's Employment terminates voluntarily . . . any Unvested Awards will be Forfeited..." (*Id* at pg 6). The EOP specifies the same result if an employee's employment terminates "for Cause." *Id.* at pgs 5-6)

Passaretta's Offer Letter defines "cause" to include, *inter alia*, "gross negligence or gross misconduct," any act that "in the reasonable judgment of your management . . . could reasonably be expected to detrimentally affect the reputation, business or business relationships of the Firm or [the employee]," or any act inconsistent with "policies, directives and practices set forth by the Firm's management." (*See Exhibit A*). The Offer Letter states that "[t]his definition of Cause shall be incorporated by reference and made a part of the definition of cause in any EOP document applicable to you." *Id.*

Risk Management & Control Function and Policies

As the Managing Director and Head of the Latin American Derivatives desk within FICC, Passaretta was responsible for ensuring that the trades executed by his traders complied with the policies established by the Firm's Risk Management and Control department ("Risk Management"). Specifically, Passaretta was responsible for ensuring that any proposed trade was in the best interest of the Firm and authorized by Risk Management.

To maintain control over the risks associated with certain trading activity, Risk Management established policies outlining pre-approval requirements for trades that exceeded certain thresholds. For example, under the Large Transactions rule in the then-applicable Firm's Risk Authorities policy, traders were required to seek pre-approval for any transaction with a potential loss in excess of [REDACTED] or a notional value greater than [REDACTED].⁴ (*See Exhibit E*).

⁴ In the Statement of Claim Passaretta alleges that after his departure from UBS, the Firm amended its Risk Authorities policy with respect to Large Transactions originating out of Brazil which would have made the unauthorized May 2, 2013 trade permissible without pre-approval. Passaretta is wrong. While UBS did amend its Risk Authorities policy in July 2013, given the exceptionally large notional size of the May 2, 2013 trade, even under the revised Risk Authorities policy, the May 2, 2013 trade still would have required pre-trade approval from Risk Management.

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On January 24, 2012, "All Securities, Equities, and FICC Sales & Trading" personnel received a copy of the policy which included an outline of the Firm's pre-approval requirement for Large Transactions. (See Exhibit E). Passaretta was amongst the recipients of the Risk Authorities policy.

In addition, and prior to the May 2013 events which led to Passaretta's discharge (as discussed below), Passaretta had numerous conversations with the Risk Management department concerning the pre-authorization requirement and its application to trades with a notional value above [REDACTED]. It is beyond dispute that Passaretta was well-aware of the pre-approval requirement for Large Transactions prior to May 2013.

Passaretta's Involvement in the May 2, 2013 Compliance Breach

On May 2, 2013, [REDACTED], a Rates trader on the Latin American Derivatives Desk and one of Passaretta's subordinates, sought permission from Passaretta to execute an interest rate swap trade with a notional value of \$18 billion. According to UBS's Risk Authorities policy, [REDACTED] was required to receive Risk Management approval prior to executing a trade of that notional magnitude. Passaretta advised [REDACTED] that he would seek the necessary pre-trade approval.

Passaretta consulted with Natalia Ovchinnokova, Executive Director, Risk Management, to obtain the necessary pre-trade approval. Given the size of the transaction, Ovchinnokova escalated the discussion to Mark Sanborn, Chief Risk Officer, Risk Management. During a telephone conference between Passaretta, Ovchinnokova and Sanborn, Sanborn stated that further research would have to be done concerning the limits of his approval authority and whether it was in the best interests of UBS Securities to engage in this type of trade.

By 3:30 p.m. approval for the trade still had not been obtained. When Passaretta advised [REDACTED] that Risk Management had not yet approved the transaction because the matter had to be escalated above Sanborn's authority, [REDACTED] responded, "don't bother," and informed Passaretta that he had already booked the trade.

As a Managing Director and the Head of the Desk, it was Passaretta's duty and obligation to inform Risk Management of [REDACTED] unauthorized action as soon as Passaretta learned of it. Instead, however, Passaretta continued to discuss with Sanborn and other Risk Management personnel the reasons for approving the trade, as if it had not already been executed. Passaretta cited the lack of risk associated with the trade, the fact that similar trades had been approved over the prior year and the short term duration of the trade, all for the purpose of seeking "approval" – knowing all the while that the trade had already been consummated. During one of these conversations, Douglas Ellison, Market Risk Officer, directly asked Passaretta if there was enough time to process the trade given that the relevant market was about to close. Passaretta responded that there was still time, plainly indicating that the trade had not been executed – and knowing full well that this was a lie.

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At around 4 p.m., Sanborn confirmed that his notional approval limit was [REDACTED] and that Passaretta only had authority for a trade of this amount. In order to book the desired trade of \$18 billion, Passaretta would be required to obtain approval from a higher authority within UBS. After being so advised – and knowing that there was not enough time left in the trading day to seek this higher level approval – Passaretta and [REDACTED] scrambled to unwind the unauthorized trade.

By the close of the markets, Passaretta and [REDACTED] had reduced the trade from its original \$18 billion notional value to \$9 billion. However, Passaretta still had not informed anyone of the unauthorized activity.

Once the markets had closed and Passaretta was left with the \$9 billion trade, only then did he report the unauthorized activity to his superior Chris Murphy, Global Head of Rates and Credit. Murphy specifically asked Passaretta whether he had been aware that the trade had already been executed while he had been seeking approval for it. In response, Passaretta denied having had any such knowledge. This was a lie. Murphy immediately informed Sanborn that a trade had been made without the necessary approval.

Ultimately, UBS decided to terminate Passaretta's employment. While he initially sought to follow the proper protocol by seeking pre-trade approval from Risk Management, once Passaretta learned that the trade had been booked prior to receiving authorization, he failed to disclose this information to Risk Management or his supervisor.⁵ Even more disturbing, Passaretta failed to advise Ellison that the trade had already been executed even when Ellison questioned him as to whether there was still sufficient time in the day for the trade to occur. Passaretta was again dishonest when he lied to Murphy about whether he had known that the trade had been executed at the time he sought approval for it. In addition, the Firm had other concerns regarding Passaretta's professionalism, including the fact that he had permitted an "intern" from Brazil to perform trade entry tasks in the United States.

Matthew Zola, then UBS's Head of Fixed Income Currencies and Commodities for the Americas, reviewed the facts surrounding the May 2, 2013 trade. Given Passaretta's failure to report the unauthorized May 2 trade once he learned it had been booked, his lies to Firm management thereafter, and other concerns regarding Passaretta's judgment, Zola (in consultation with others) decided to terminate Passaretta's employment.

⁵ Passaretta's initial attempt to seek approval for the trade demonstrates that he had knowledge and understood the policy. Indeed, in addition to Passaretta's receipt of the January 24, 2012 communication regarding the Firm's Risk Authorities policy, during 2012 and early 2013, Passaretta and his team had numerous communications with members of the Risk Management team regarding pre-approval for other large trades. (*See Exhibit F.*) Thus, it is without doubt that Passaretta knew of the pre-authorization requirement and knowingly decided not to inform his superiors once he learned that a breach had occurred. Moreover, Passaretta's status as a desk supervisor calls his conduct into even greater question, as it was his duty to convey the importance of this policy to his team and ensure that they adhered to its requirements.

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Passaretta's Notification of Termination and Subsequent Negotiations

On June 25, 2010, Zola along with Aidan Mara, UBS Director of Human Resources, notified Passaretta that as a result of the May 2 trade incident, and specifically Passaretta's failure to inform Risk Management or his superiors of the unauthorized trade – including his lack of candor once he knew of the unauthorized activity – his employment was being terminated.

Later that day, Passaretta sent an email to Mara and Zola stating, "Following today's events, I believe there are certain facts, elements and circumstances that you are unaware of and that are relevant to my U-5. Please give me the opportunity to present them before you file it, because that has an impact on my career." (See Exhibit G).

Mara contacted Passaretta to discuss his email. On June 27, 2013, Passaretta and Mara had a telephone conversation during which time Passaretta asked if the Firm would consider classifying his separation as "permitted to resign" rather than terminated. Mara said that he would discuss Passaretta's request with the legal department and revert back to him. Over the next week, Passaretta emailed Mara numerous times to inquire as to the status of his request, discreetly asking if there was "an update on the topic we discussed yesterday" or "any news on this issue today." (See Exhibit H). On July 3, 2013, the Firm decided to honor Passaretta's request and classify his separation as "permitted to resign." Mara called Passaretta the next day, on July 4, to notify him that the Firm would honor his request and permit him to resign. Mara informed Passaretta that the Firm would still make all necessary U-5 disclosures.

UBS's Truthful and Accurate Disclosures in Accordance with Form U-5 Obligations

Article V, Section 3 of the FINRA By-Laws requires member firms to file a Form U-5 within thirty (30) days of terminating any associated person's registration. Specifically, the Form U-5 requires the member firm to provide a reason and explanation for why the associated person is no longer with the firm. Indeed, it is because the completion of the Form U-5 is mandatory that employer disclosures on the Form U-5 are absolutely privileged in the State of New York and cannot give rise to a claim for damages.

On July 25, 2013 UBS Securities filed a Form U-5 with respect to Passaretta's separation from the Firm. UBS Securities truthfully classified Passaretta's separation as "permitted to resign" and, as required by FINRA's reporting obligations, provided the following explanation: "Employee was permitted to resign after the Firm determined his performance as a supervisor did not meet the firm's expectations." (See Exhibit I).

The Form U-5 also requires the employer to complete several "Disclosure Questions," including inquiries focused on whether the separation arose from allegations of conduct that violate "investment-related statutes, regulations, rules or industry standards of conduct." (*Id.* (emphasis in original).) Guidance issued by FINRA explains that simply stating the reason and explanation for a discharge or termination is not sufficient, and does not "abrogate the requirement that a firm



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complete any of the questions . . . appropriately, including, in particular, Questions 7B and 7F.”
(*Annexed hereto as Exhibit J is a true and correct copy of FINRA Regulatory Notice 10-39.*)

FINRA guidance notes that member firms have an obligation to provide truthful answers to the Disclosure Questions, and “*may not parse through the questions in a manner that would allow the firm to avoid responding affirmative to a question.*” *Id.* (emphasis in original). Failure to answer Disclosure Questions or failure to do so in a truthful manner can result in administrative and/or civil penalties against the member firm. FINRA guidance also specifically provides that the phrase “investment related” must be interpreted broadly: “*A firm should err on the side of interpreting the term “investment-related” in an expansive manner.*” *Id.* (emphasis added). “A firm may be required to provide an affirmative answer to a question even if the matter is not securities related.” *Id.* Nor does not conduct need to involve a firm customer: “[T]he issue of whether the conduct involved a customer . . . is not necessarily determinative as to whether the conduct may require an affirmative answer.” *Id.*

UBS Securities truthfully answered “yes” to Question 7F(3) on Passaretta’s Form U-5, which asked whether the “individual voluntarily resign(ed) from your firm, or was the individual discharged or *permitted to resign from your firm*, after allegations were made that accused the individual of failure to supervise in connection with investment related statutes, regulations, rules or industry standards of conduct.” (*See Exhibit I*). UBS Securities provided the following additional information: “Firm investigated failure to comply with an internal trade pre approval policy.” (*Id.*)

ARGUMENT

Passaretta’s purported claims all fail based on well-established legal principles and indisputable facts. UBS Securities did not have any obligation, express or implied, to pay Passaretta incentive compensation for 2013 based on the explicit terms of his Offer Letter and the Firm’s incentive compensation policy. Passaretta forfeited any unvested deferred compensation when he resigned after failing to notify Risk Management of the unauthorized \$18 billion trade executed by one of his traders and subsequently lying to Risk Management as to the status of the trade. UBS answered the questions on Passaretta’s Form U5 truthfully – but, even if it had not, answers to Form U5 questions are absolutely privileged and cannot give rise to any liability. It is similarly clear that at all times Passaretta remained an at-will employee and that he cannot assert a claim for wrongful termination under New York law.

As is set forth in further detail below, Passaretta’s purported claims are not only factually meritless, they are legally deficient.

I. FINRA Arbitrators Must Apply Clear Legal Principles.

Passaretta’s Statement of Claim is filled with vague assertions as to his purported rights and entitlements, all of which lack any legal grounding whatsoever. For example, Passaretta claims he is “entitled” to a bonus and deferred compensation without any contract or documentation

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stating as much. (*See Statement of Claim pg. 7.*) Similarly, Passaretta also claims that he is “entitled” to damages because his employment was protected by a “just cause” termination provision without pointing to any contract establishing any such right. Passaretta’s failure to provide any applicable legal basis for these claims underscores their lack of merit.

The FINRA Dispute Resolution Arbitrator’s Guide is clear that the panel should “apply the law to the facts” and instructs that “if the parties have provided the panel with the law, the law is clear, and it applies to the facts of the case, the arbitrators should not disregard it.” *See Arbitrator’s Guide at 52.*

As set forth below, UBS Securities acted in accordance with the well-settled laws of the state of New York, the plain language in Passaretta’s Offer Letter and the relevant UBS policies. The legal precedents applied to the facts discussed herein require that each of Passaretta’s claims be dismissed.

II. Passaretta’s Breach of Contract Claim Fails as A Matter of Law.

Passaretta cannot establish that UBS had any contractual obligation to pay him discretionary incentive compensation and/or additional deferred compensation. First and foremost, UBS’s incentive compensation policy is strictly discretionary and Passaretta cannot establish that there is any contract entitling him to incentive compensation for 2013. Furthermore, UBS’s deferred compensation plan, EOP, makes clear that Passaretta forfeited any entitlement to deferred compensation when he resigned (in lieu of being terminated for cause).

A. Passaretta’s Breach of Contract Claim for 2013 Incentive Compensation Fails.

Passaretta’s claim that he is contractually entitled to incentive compensation for 2013 fails on multiple grounds. As a threshold matter, the Statement of Claim is utterly devoid of any citation to a contractual provision requiring the payment of any incentive compensation to Passaretta for 2013. Indeed, all of the relevant writings establish that UBS made no guarantee whatsoever to Passaretta regarding incentive compensation for any year other than 2009, which Passaretta was unquestionably paid.⁶

In addition, Passaretta’s Offer Letter also provided that “incentive compensation awards are contingent upon your continued employment with the Firm on the incentive compensation award payment date,” meaning that to receive a discretionary award, if any, Passaretta had to be an employee of UBS Securities when the award was paid. Discretionary awards for 2013 were not paid until 2014, well after Passaretta’s departure. (*See Exhibit B*). Passaretta’s employment with

⁶ As expressly stated in Passaretta’s Offer Letter, “Future incentive compensation award(s), if any, may be higher or lower and are in the sole and exclusive direction of management.” (*See Exhibit A.*)

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UBS ended because he resigned in an effort to avoid being terminated “for cause.”⁷ Because Passaretta was not employed on the date UBS Securities made its 2013 discretionary bonus payment and he cannot prove the existence of a contract under which he was guaranteed an award of incentive compensation for 2013, his claim fails as a matter of law.

Claims for a discretionary bonus, such as that presented by Passaretta, are routinely dismissed by New York Courts.⁸ In a very recent case, addressing UBS policy language identical to that at issue here, New York Supreme Court Justice Jeffrey Oing granted (from the bench during oral argument) UBS Securities’ motion to dismiss Plaintiff Richard Homan’s breach of contract claims. In *Homan v. UBS Securities LLC and Dillon Read Capital Management, LLC*, N.Y. Supreme Court, New York County, Index No. 155309/2013, the plaintiff (represented by the same law firm that is representing the Claimant here) based his claim for relief on a verbal promise made by the then-Chairman of UBS Securities for a \$1,000,000 bonus in 2008. However, Homan’s offer letter – much like Passaretta’s – expressly provided that his bonus was discretionary and that any guarantee would have to be in writing. In granting UBS Securities’ motion, Justice Oing stated:

What was screaming out from the record is discretionary, discretionary, discretionary. There is no word that says guarantee in there because we know in the industry there are two kinds of bonuses, guaranteed versus the discretionary and this one here the record is replete with simply saying, Judge, there is no way you can look around the word discretionary unless you are going to redefine discretionary. (Motion Tr. 4:6-18).

The *Homan* decision follows case after case decided under New York law: where, as here, the terms of a compensation policy or other agreement give the employer “discretion,” an employee has no claim for breach of contract (express or implied) based on the employer’s alleged failure to pay incentive compensation. See *Hall v. United Parcel Serv.*, 76 N.Y.2d 27, 36 (1990) (an employee’s entitlement to incentive compensation is governed by the terms of the employer’s incentive compensation policies); *Zolotar v. New York Life Ins. Co.*, 172 A.D.2d 27, 32 (1st Dep’t 1991); *Weiner v. Diebold Group, Inc.*, 173 A.D.2d 166, 167 (1st Dep’t 1991); see, e.g., *Bessemer Trust Co. v. Branin*, 498 F. Supp. 2d 632, 638-39 (S.D.N.Y. 2007); *Arrouet v. Brown Brothers Harriman & Co.*, No. 02 Civ. 9061 (TPG), 2005 U.S. Dist. LEXIS 4327, at *10-11 (S.D.N.Y. Mar. 18, 2005); *Gorey v. Allion Healthcare Inc.*, 2008 NY Slip Op 50125U, 18 Misc.3d 1118A (N.Y. Sup. Ct. Jan. 7, 2008); *Plantier v. Cordiant plc*, No. 97 Civ. 8696, 1998

⁷ As defined in Passaretta’s Offer Letter, “for cause” includes, among other things, “gross negligence or gross misconduct” and “failure to act in a manner consistent with policies, directives and practices set forth by the Firm’s management.” (See *Exhibit A*.)

⁸ The express terms of Passaretta’s Offer Letter make clear that the terms of his employment were governed by New York law. (See *Exhibit A*.)

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U.S. Dist. LEXIS 15037, at *8 (S.D.N.Y. Sept. 24, 1998) (stating that if a bonus is “discretionary,” the bonus is not owed to the employee).

Recent arbitration decisions involving similar claims, including identical claims against UBS, have followed New York law on this point and reached similar results.

In an arbitration arising under similar circumstances, *Garner v. Dillon Read Capital Management, LLC and UBS Global Asset Management (U.S.), Inc.*, JAMS No. 1425003064 (July 13, 2011), claimant Ronald Garner – who was represented by the same law firm that represents Passaretta here – purported to advance a claim for an unpaid incentive compensation award. Arbitrator Hon. Stephen G. Crane (Ret.), former Senior Associate Justice of the New York Appellate Division, Second Department, denied Garner’s claims on a Motion for Summary Disposition by respondents, ruling:

A contract implied-in-fact arises in the absence of an express agreement.... If a bonus plan existed, however, the Claimant’s entitlement to his incentive compensation award is governed by the terms of that plan. ***If that bonus plan vested absolute discretion with the employer whether to award incentive compensation, then a claim fails for breach of implied contract for the payment of that incentive compensation.***”

Garner, JAMS No. 1425003064 at *10 (citations omitted; emphasis added). Justice Crane held that because Garner’s offer letter and the applicable incentive compensation policies provided discretion to UBS, Garner’s claim that he had an implied right to an award of incentive compensation must be denied. In addressing Garner’s implied contract claim, Justice Crane similarly stated in his decision:

The plain language of the handbooks also prevents Claimant from relying on the payment of a yearly bonus to establish a pattern and, thus, entitlement to the bonus. The handbooks both specifically state that Claimant is not entitled to a bonus merely because one had been paid in the past. Even without this language, “the fact that an employee received bonuses throughout an employment relationship does not vitiate the employer’s right to retain discretion in determining the amount, if any, of an employee’s bonus.” ***Thus, merely because the Claimant was paid a bonus year after year does not entitle him to a bonus for 2007 or 2008.***

Id. at *30 (citations omitted; emphasis added). *See also, Mendillo*, 2001 WL 1615208 (dismissing claim for breach of implied contract because employment agreement stated that bonus was to be discretionary); *Ferrand v. Credit Lyonnais*, No. 02 Civ. 5191, 2003 U.S. Dist.

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LEXIS 17202 (S.D.N.Y. Sept. 30, 2003) (dismissing “a claim for a implied contract for a guaranteed bonus where there was a explicit policy in the Bank’s Employee Handbook setting forth a policy of discretionary bonuses”). Other recent FINRA arbitrations involving the same claims against UBS Securities (also involving Passaretta’s counsel) have yielded identical results. *See, e.g., Sparks v. UBS Securities LLC*, FINRA Case No. 13-00141 (decided March 6, 2014); *Saib v. UBS Securities LLC*, FINRA Case No. 11-03855 (decided June 27, 2013).

In a very recent FINRA arbitration, *Shaia v. Moelis & Co. LLC*, FINRA Case No. 13-01319 (decided March 27, 2014), Claimant Gregory Shaia brought claims for breach of contract based on an unpaid discretionary bonus and forfeiture of unvested stock awards. In a 36 page opinion denying Shaia’s claims, the FINRA arbitrator found that the parties had a written agreement which “unambiguously” provided that Shaia would be eligible to receive “discretionary incentive compensation” and made no promise of a guaranteed bonus for the specific year in question. Further, the parties’ agreement had a broad integration clause in which the parties expressly disclaimed reliance on representations outside the agreement. (*Id. at 18*) In similarly denying Shaia’s implied contractual claims, the arbitrator stated, “the law is well-settled, that a ‘contract cannot be implied in fact when there is an express contract covering the subject matter’” citing *Julien J. Studley, Inc. v. New York News, Inc.*, 70 N.Y.2d 628 (1987).

Here, the plain language of Passaretta’s Offer Letter and the incentive compensation policy expressly negate any claim to a specific award of incentive compensation for 2013. Passaretta’s claim with respect to a 2013 bonus should be denied.

B. *Passaretta’s Breach of Contract Claim for Deferred Compensation Fails.*

Passaretta’s claim for \$1.173 million of forfeited deferred compensation similarly fails as a matter of law because Passaretta has not and cannot advance any basis to recover the forfeited amounts. The terms of UBS’s EOP expressly provide that if an employee resigns prior to the vesting date, he forfeits any unpaid amounts. (*See Exhibit D.*)

Once Passaretta learned that his employment was being terminated, he specifically requested that the Firm permit him to resign so that he would be able to find subsequent employment and avoid the consequences of a “for cause” termination notation on his Form U-5. While UBS undoubtedly had sufficient grounds to classify Passaretta’s termination as “for cause” – namely, his failure to immediately disclose that an \$18 billion trade had been made prior to receiving authorization, and subsequent lie to Ellison about whether the trade had occurred – the Firm acquiesced to Passaretta’s request on the condition that the Firm would still make the necessary U-5 disclosures to FINRA.

Passaretta now seeks to re-write history by claiming that he did not resign, but rather, that UBS terminated his employment to avoid paying his deferred compensation. While blatantly false, Passaretta’s argument is of no moment as the express terms of the EOP, which govern Passaretta’s entitlement to deferred compensation, provide that if an employee is terminated for

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cause, he similarly forfeits any unpaid deferred compensation. It is beyond doubt that Passaretta's dishonest and unethical behavior qualified as "cause" under the Firm's policy and that Passaretta would have similarly forfeited any unpaid awards had the firm moved ahead with his termination as planned, rather than having permitted him to resign.

III. Passaretta's *Quantum Meruit*/Unjust Enrichment Claim Should Be Dismissed.

Knowing that he cannot state a cognizable contractual claim, Passaretta resorts to a quasi-contract theory of *quantum meruit*/unjust enrichment, for which there also is no legal or factual support.

Courts routinely dismiss quasi-contract bonus claims where valid agreements – like the 2009 Offer Letter here – and written policy documents – like the incentive compensation policy and EOP – govern the payment of incentive compensation. *See, e.g., Ferrand v. Credit Lyonnais*, No. 02-5191, 2003 WL 22251313, at *14 (S.D.N.Y. Sept. 30, 2003); *Kaplan v. Capital Co. of Am. LLC*, 298 A.D.2d 110, 111 (1st Dep't 2002), *appeal denied*, 99 N.Y.2d 510, 760 N.Y.S.2d 101 (2003); *DeSantis v. Deutsche Bank Trust Co. Ams., Inc.*, 501 F. Supp. 2d 593, 601 (S.D.N.Y. 2007) (dismissing plaintiff's *quantum meruit* claim for extra bonus compensation because "there is an express provision in the Deutsche Bank Handbook governing the payment of bonuses"). Since Passaretta's entitlement to incentive compensation was governed by express writings that set forth the discretionary nature of his awards after 2009 and the circumstances under which he would forfeit an award, Passaretta cannot state a claim for *quantum meruit*/unjust enrichment as a matter of law.

Even if Passaretta were able to put forth a legally cognizable claim to recover under a *quantum meruit*/unjust enrichment theory – which he cannot – his claim also fails because he cannot demonstrate that he had a reasonable expectation of the compensation requested. *See Argo Marine Sys., Inc. v. Camar Corp.*, 755 F.2d 1006, 1011 (2d Cir. 1985) (affirming dismissal of plaintiff's *quantum meruit* claim for extra compensation in proportion to certain transactions claimant was responsible for because claimant did not "establish that he had a reasonable expectancy of receiving such compensation"). In light of the circumstances of his departure, the clear discretionary language in his Offer Letter and the UBS incentive compensation policy and EOP, Passaretta cannot establish a reasonable expectation of his entitlement to additional incentive compensation.

Furthermore, Passaretta cannot state a claim under a *quantum meruit* theory because he cannot establish that he performed services for UBS above and beyond those which he had previously agreed to perform as part of his typical job duties. *See Freedman v. Pearlman*, 271 A.D.2d 301, 304 (1st Dep't 2000) (affirming dismissal of *quantum meruit* claim because plaintiff did not allege that he performed services "so distinct from the duties of his employment and of such nature that it would be unreasonable for the employer to assume that they were rendered without expectation of further pay") (*citations omitted*). Passaretta's *quantum meruit*/unjust enrichment claim should therefore be dismissed.



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III. Passaretta's Defamation, Expungement and Tortious Interference Claims Are Meritless.

Passaretta's claims arising from the Firm's completion of his Form U5 are baseless. First and foremost, as Passaretta's Offer Letter expressly provides, the terms of his employment were governed by New York law, and not Connecticut. New York recognizes an absolute privilege with respect to Form U-5 disclosures (while the highest court in the state of Connecticut has yet to address this issue).

As explained by the New York Court of Appeals in *Rosenberg v. MetLife, Inc.*:

The public interests implicated by the filing of Forms U-5 are significant. The form is designated to alert the NASD to potential misconduct and, in turn, enable the NASD to investigate, sanction and deter misconduct by its registered representatives. The NASD's actions ultimately inure to the benefit of the general investing public, which faces the potential for substantial harm if exposed to unethical brokers. *Accurate and forthright responses on the Form U-5 are critical to achieving these objectives.*

Rosenberg v. MetLife, Inc., 8 N.Y.3d 359, 367-368 (2007) (emphasis added). For these reasons, the *Rosenberg* court concluded that the compulsory nature of a Form U-5, together with the imperative of full disclosure to protect the public interest, requires that statements made by an employer on a Form U5 receive absolute immunity. *Id.* (emphasis added) Thus, New York law mandates that Passaretta's U-5 be subject to an absolute privilege and, therefore, his defamation and tortious interference claims based on the language in his Form U-5, must be dismissed.

Connecticut's highest court has not yet decided whether to follow New York's lead with respect to the unqualified privilege. At a minimum, even if UBS's statements on Passaretta's Form U-5 are protected by only a qualified privilege (as has been applied by lower Connecticut courts), there are no facts supporting claims for defamation or tortious interference under either the common law or the Connecticut Unfair Trade Practices Act.⁹

Under Connecticut law, a plaintiff seeking to overcome a qualified privilege must demonstrate that the defendant acted with "actual malice." *See, e.g., Heldmann v. Tate*, No. CV 95591225, 1999 WL 353476, at *2 (Conn. Super. May 20, 1999) (Form U-5s are afforded "a qualified privilege which may be defeated if made with malice, knowledge of its falsity, or reckless disregard of its truth, or made in bad faith or an improper nature"). Similarly, a plaintiff seeking to establish that an employer tortiously interfered with his prospective employment must establish that the defendant acted with "malice." Malice requires a showing of clear and convincing evidence. *Id.*

⁹ Passaretta's employment was governed by New York law, thus he has no standing to bring a claim under the Connecticut Unfair Trade Practices Act.

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Given the dishonest nature of Passaretta's actions following his discovery that the \$18 billion trade had been booked without authorization, it is patently absurd for Passaretta to suggest that the Form U-5 explanation UBS provided in connection with his resignation is false and malicious. There are no facts whatsoever to support such a contention.

UBS's affirmative answers to the Disclosure Questions were true, and there is no evidence that those answers were untrue or malicious. FINRA regulations require member firms to provide complete and truthful responses to the Disclosure Questions on the Form U-5 or risk being subject to punishment, penalties and fines. FINRA guidance expressly advises that firms cannot "parse through the questions" so as to "avoid responding affirmative to a question." In other words, firms cannot simply refuse to answer the questions or answer all the questions in the negative to avoid getting sued. Moreover, FINRA Guidance instructs member firms that the phrase "investment-related" be interpreted broadly and will often include allegations of conduct unrelated to securities and/or interactions with a customer.

Given this backdrop, it is clear that UBS answered the Disclosure Questions on Passaretta's Form U-5 in good faith and in reliance on guidance provided by FINRA itself. Passaretta cannot point to any evidence, much less clear and convincing evidence, that UBS acted with malice by answering these questions in the affirmative and providing the necessary explanation.

Thus, even if UBS were subject to potential liability – which it isn't as a matter of established New York law – it would be improper for a FINRA panel to award damages to Passaretta given that UBS merely did as required pursuant to FINRA regulations.

VI. Passaretta's Wrongful Termination Claim is Without Merit.

Passaretta cannot establish a claim for wrongful discharge because he was an employee at-will, and as such, his employment could be terminated by either party at any time, with or without cause. Passaretta's Offer Letter and the UBS Handbook clearly and unequivocally state that Passaretta's employment was at-will. (*See Exhibits A and B.*) Passaretta tries to transform his at-will status by pointing to the Form U-4 he signed when he started his UBS employment. Passaretta's argument is wholly without merit.

It is well-settled under New York law that a cause of action for wrongful discharge cannot exist where the claimant is employed at-will. Absent an agreement establishing a fixed duration of employment, an employment relationship is terminable at any time by either party, with or without cause. *Lobosco v. N. Y. Tel. Co./NYNEX*, 727 N.Y.S.2d 383, 385 (2001); *see also Howard v. Kleinfeld Peat Marwick Goerdeler*, No. 98-9326, 1999 U.S. App. LEXIS 8402, at *3 (2d Cir. 1999); *De Petris v. Union Settlement Ass'n*, 633 N.Y.S.2d 274, 276 (1995). As the court summarized in *De Petris*, "[t]his State neither recognizes a tort of wrongful discharge nor requires good faith in an at-will employment relationship." 633 N.Y.S.2d at 276 (citations omitted); *Riccardi v. Cunningham*, 737 N.Y.S.2d 871, 871-72 (2d Dep't 2002) (upholding lower court's dismissal of an at-will employee's wrongful discharge action because New York does not recognize tort of wrongful discharge); *Poplawski v. Metro. Prop. & Cas. Ins. Co.*, 692 N.Y.S.2d

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438, 439 (2d Dep't 1999) (at-will employee cannot maintain action to recover damages for wrongful termination).

Given that Passaretta's Offer Letter did not contain "a fixed duration of employment," a fact necessary to establish a claim for wrongful discharge, Passaretta alleges that by signing Form U-4 upon his hire, which compelled Passaretta and UBS to arbitrate any dispute relating to his employment, the parties entered into a "just cause" employment relationship. Passaretta's reliance upon *PaineWebber v. Agron*, an 8th Circuit case that has no force or effect in this jurisdiction, is misplaced.

In New York the employment relationship is presumptively at will. In addition to this presumption, and unlike the facts in *Agron*, the parties here had an express written agreement stating that Passaretta's employment was at-will, which meant that UBS retained "the right to terminate [his] employment at any time with or without Cause and with or without notice." (*See Exhibit A*).

Furthermore, the Offer Letter, which embodied the parties' agreement, stated that it contained "the entire understanding and agreement between the parties" and could "not be modified, supplemented or amended orally or in any way unless ... agreed to in writing and signed by [Passaretta] and two authorized officers of the Firm." Nothing in Form U-4 calls modifies or calls the parties agreement into question. (*See Exhibit K*).

Moreover, no New York Court has ever adopted the holding of *PaineWebber v. Agron*.¹⁰ In fact, New York Courts have held that the signing of a U-4 agreement, without more, does not transform the "at-will" relationship to one requiring "just cause." Courts and arbitrators have held that absent an express agreement to alter or change the at-will relationship, it will continue even in the presence of an arbitration agreement. *See Brady v. Calyon Secs.*, 406 F. Supp. 2d 307 (S.D.N.Y. 2005); *Bevis v. Paine Webber, Inc.*, NASD Case No. 97-03381 (Aug. 11, 1999) ("Claimant's allegations that the execution of a U-4 gave rise to a right that his employment not be terminated but for 'just cause' is rejected as a matter of law."); *Patel v. Credit Suisse First Boston Corp., et al.*, NASD Case No. 96-04716 (Oct. 22, 1998) (dismissing respondent, Goldman Sachs, as no just cause requirement exists under *Paine Webber Inc. v. Agron*). *See also Int'l Bhd of Teamsters, Local 371 v. Logistics Support Group*, 999 F.2d 227, 229 (7th Cir. 1993) (despite existence of arbitration remedy, express "management rights" clause in agreement meant that no "just cause" requirement for termination could be implied); *Local Union No. 2812, Lumber Prod.*

¹⁰ To support his "just cause" argument, claimant relies only on six (mostly dated) arbitration decisions: *Kates v. Deutsche Bank*, NYSE Docket No. 1998-007498; *Svigos v. Merrill Lynch*, NASD Case No. 93-04516; *Charles v. Marais v. Barclays De Zoete Wedd, Inc. and Barclays Capital*, NASD Case No. 00-02520; *Doug Shaw v. Salomon Smith Barney, Inc.*, NYSE Docket No. 2007-016780; *Stephen B. Sawtelle v. Waddell & Reed, Inc., et al.*, NASD Case No. 97-03642; *Varga v. Countrywide Securities Corp.*, JAMS No. 1425001975. Passaretta claims that in each of these decisions the arbitrators relied upon the *Agron* decision to award damages for wrongful termination. However, a review of the cited decisions reveals that *Agron* is not mentioned once as the basis for awarding damages.

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and Indus. Workers v. Missoula White Pine Sash Co., 734 F.2d 1384, 1387 (9th Cir. 1984) (refusing to imply “just cause” requirement based on grievance procedures where employment agreement also contained a “management rights” clause); *Bradford v. KFC Nat’l Mgmt. Co.*, 5 F. Supp.2d 1311, 1313 (M.D. Ala. 1998) (holding that “arbitration agreements . . . in no way violate a prohibition, or limitation, on employment at other than at-will status”); *Int’l Bhd of Teamsters, Local 371 v. Logistics Support Group*, 999 F.2d 227, 229 (7th Cir. 1993) (despite existence of arbitration remedy, express “management rights” clause in agreement meant that no “just cause” requirement for termination could be implied); *Local Union No. 2812, Lumber Prod. And Indus. Workers v. Missoula White Pine Sash Co.*, 734 F.2d 1384, 1387 (9th Cir. 1984) (refusing to imply “just cause” requirement based on grievance procedures where employment agreement also contained a “management rights” clause).

VII. Passaretta’s Claim for Attorneys’ Fees Fails.

New York follows the “American Rule” on fee-shifting. Under that rule, each party bears its own attorney’s fees in a legal proceeding, except where an award of attorney’s fees to the prevailing party is “specifically provided for by statute or contract.” *Asturiana De Zinc Marketing, Inc. v. LaSalle Rolling Mills, Inc.*, 20 F. Supp. 2d 670, 674 (S.D.N.Y. 1998) (quoting *Marotta v. Blau*, 659 N.Y.S.2d 586, 586 (3d Dep’t 1997)); *see also Hooper Assocs., Ltd. v. AGS Computers, Inc.*, 74 N.Y.2d 487, 491 (N.Y. 1989) (prevailing party may not collect attorney’s fees “unless an award is authorized by agreement between the parties, statute or court rule”); *CIT Project Finance, L.L.C. v. Credit Suisse First Boston LLC*, 5 Misc. 3d 1030(A), at *5 (N.Y. Sup. Ct. 2004) (New York follows “American Rule” requiring “either an authorizing statute or express agreement to arbitrate attorney’s fees”). The “American Rule” applies equally to arbitration as it does to matters litigated in court. In fact, CPLR § 7513 provides: “Unless otherwise provided in the agreement to arbitrate, the arbitrators’ expenses and fees, together with other expenses, *not including attorney’s fees*, incurred in the conduct of the arbitration, shall be paid as provided in the award.” (Emphasis added.)

FINRA recognizes and enforces the American Rule through its Arbitrator Guide. The Arbitrator’s Guide describes only “three situations when parties may pursue attorney’s fees”: (i) “A contract includes a clause that provides for the fees”; (ii) “the fees are allowed as part of a statutory claim”; or (iii) all of the parties request or agree to such fees.” *Arbitrator’s Guide* at 66.

New York state and federal courts have not hesitated to vacate arbitration decisions that award attorney’s fees in violation of this rule. *See, e.g., Asturiana De Zinc Marketing*, 20 F. Supp. 2d at 674 (as New York law follows the “American Rule,” arbitrator’s award of attorney’s fees absent an agreement by the parties “was in ‘manifest disregard’ of New York substantive law”); *Grand & Mercer St. Corp. v. Eisenberg*, 773 N.Y.S.2d 347, 348 (1st Dep’t 2004) (“The award of attorneys’ fees should be vacated given an arbitration clause that does not expressly provide therefor.”); *In re Arbitration Between UBS Warburg LLC*, 744 N.Y.S.2d 364, 365 (1st Dep’t 2002) (affirming vacatur of arbitration award where arbitrators had no authority to award attorney’s fees). Passaretta’s claim for attorney’s fees should be denied.

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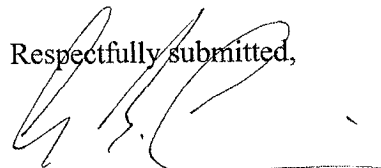
Affirmative Defenses

In addition to the foregoing, we note that Passaretta's claims are barred, in whole or in part, by the following affirmative defenses: (i) the Statement of Claim fails to state a cause of action or claim upon which relief may be granted; (ii) the Statement of Claim fails to state a cause of action or a claim upon which an award of attorneys' fees, cost or disbursements may be granted; (iii) the Statement of Claim fails to state a cause of action or a claim upon which an award of punitive damages may be granted; (iv) the doctrines of estoppel and/or unclean hands; (v) any failure by Respondent to perform any obligation owed to Claimant (which Respondent denies) resulted from Claimant's failure to first perform his obligations, which performance was a condition precedent to the performance of Respondent's obligations; (vi) failure to exhaust administrative remedies; (vii) to the extent Claimant's claim for breach of contract is based on alleged oral statements, it is barred by the Statute of Frauds; and (viii) Claimant is not entitled to damages because of Respondent's after-acquired evidence.

CONCLUSION

For the foregoing reasons and those to be presented at the hearing, Passaretta's claims should be denied.

Respectfully submitted,



Lloyd B. Chinn

Attachments

cc: Blaine H. Bortnick, Esq.

Exhibit A



UBS Securities LLC
677 Washington Boulevard
Stamford, CT 06901
www.ubs.com

10/14

September 8, 2009

Mr. Gianluca Passaretta
56 Sycamore Road
Scarsdale, NY 10583

Dear Gianluca:

We are pleased to confirm our offer as Head of Latin American Derivatives within the FICC Area of UBS Securities LLC ('the Firm'). Your official title will be Managing Director. You will initially report to James Lanzilotti, Managing Director, and be located in our Stamford office. We look forward to having you start work on or about October 13, 2009 ('Start Date').

This offer letter sets forth the terms of our offer and describes your compensation and benefits package. All compensation payments set forth herein and during your employment will be subject to any necessary withholdings and authorized and/or required deductions.

Base Salary Compensation

Your base salary will be at an annual rate of \$400,000, and will be payable semi-monthly. We have included the direct deposit form to complete for your convenience.

Incentive Compensation Award Overview

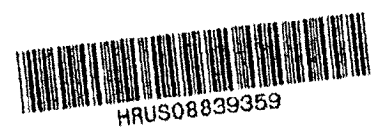
In addition to a salary, you may be eligible for a discretionary incentive compensation award, which may take into account a variety of factors including, without limitation, financial results of UBS AG, the Investment Bank division and your business area, and discretionary judgments of individual performance and contributions to business results and objectives, as well as legal and/or regulatory restrictions, which may affect individual incentive compensation award decisions. Incentive awards may be awarded in cash or in deferred instruments (which may include, without limitation, restricted shares, conditional future payments, or debt instruments) subject to certain vesting and/or forfeiture conditions, which may be linked to and conditioned upon a variety of factors including, without limitation, individual and firm performance factors and will be subject to the terms and conditions of any such incentive award plan as the Firm may implement, from time to time, in its sole and exclusive discretion. A future incentive compensation award, if any, may be higher or lower in future years and remains in the sole and exclusive discretion of management.

Subject to applicable law, incentive compensation awards are contingent upon your continued employment with the Firm on the incentive compensation award payment date ('Payment Date'), which is generally in or around mid-February, but not later than March 15th of each subsequent calendar year. You will not be considered 'employed' if you have given notice of termination prior to the Payment Date.

As set forth herein, if you receive an incentive award that will be subject to the UBS Equity Ownership Plan ('EOP') (for example, US\$125,000 for 2008 incentive compensation awards), a portion of the incentive award will be granted in the form of an EOP award, subject to the terms and conditions of EOP. EOP awards are granted 100% in the form of UBS AG shares, and are subject to a [redacted] vesting requirement, with [redacted] of the award vesting and payable each year, assuming all terms and conditions under the applicable EOP Plan Rules and EOP Award Agreement are met. UBS AG reserves the right to modify or discontinue the terms or design of EOP in the future. If you have any questions regarding EOP, please contact the Compensation Team at 203-719-8877.

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USA
03 Contracts





Year 2009 Incentive Compensation Award

Your incentive compensation award for the 2009 calendar year will be \$500,000 ('Year 2009 Guarantee'), provided that you remain employed on the 2009 Payment Date. A portion of this incentive compensation award shall be granted in the form of an EOP award (as detailed in the EOP Award Schedule Table below), which shall vest in [REDACTED] and shall be subject to the terms and conditions in the applicable EOP plan rules.

EOP Award Schedule	
Once Incentive Reaches US\$125,000	
Annual Incentive (USD) Between:	Is deferred at a rate of:
[REDACTED]	[REDACTED]

Should you terminate your employment voluntarily, provide notice of your intent to terminate your employment voluntarily, or should we terminate your employment for Cause (as defined in this letter) before the 2009 Payment Date, you will be paid only base salary earned through the date of termination and shall not be eligible to receive unpaid incentive compensation award payment(s). However, should we terminate you other than for Cause before the 2009 Payment Date, you will be entitled to the Year 2009 Guarantee in cash (less applicable withholdings and deductions) on the earlier of the ninetieth (90th) day following the date of your 409A Separation from Service and March 15, 2010, provided you have executed a separation agreement and general release in a form then provided by the Firm by the earlier of within sixty (60) days following the date of your 409A Separation from Service and March 7, 2010 (it being understood that you will have not less than 21 days to review any such release before signature). If you fail to execute a separation agreement and general release provided by the Firm within the specified time period, you will forfeit the cash payment of your Year 2009 Guarantee (unless you have initiated a formal appeal process under the Firm's severance policy as may be in effect at the time in a timely manner in which case any amounts payable to you will be made in accordance with and as specified in such severance policy.)

For purposes of this letter, the phrase '409A Separation from Service' will refer to your 'separation from service' within the meaning of Section 409A of the U.S. Internal Revenue Code ('Section 409A') and the regulations promulgated thereunder. Your 409A Separation from Service will generally be deemed to occur on your first off-premises date, or such other time as Section 409A provides, even if you remain on payroll as of such date.

The terms of your Year 2009 incentive compensation award only apply to the corresponding incentive year. Future incentive compensation award(s), if any, may be higher or lower and are in the sole and exclusive discretion of management.

Definition of 'Cause'

For purposes of this offer letter, the term 'Cause' shall mean any of the following: (i) you are convicted, or pleaded guilty or no contest to any felony or a crime involving fraud, misrepresentation, dishonesty or moral turpitude; (ii) gross negligence or gross misconduct; (iii) you commit a reportable violation of securities or banking industry laws, rules, or regulations, including the rules and regulations of a national or international self-regulatory organization or regulatory body, or an act that results in a sanction by a regulatory or governmental agency or court; (iv) in the reasonable judgment of your management, you commit or have committed an act (including any act of omission) that could reasonably be expected to detrimentally affect the reputation, business or business relationships of the Firm or you; (v) you fail to act in a manner consistent with policies, directives and practices set forth by the Firm's management; or (vi) you breach the terms of this letter. This definition of Cause shall be incorporated by reference and made a part of the definition of cause in any EOP document applicable to you.

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Benefits & Policies

You will be eligible to participate in our employee benefit plans generally available to employees subject to the terms and conditions of those plans. Detailed information about the benefit plans and about our Human Resources policies and programs will be provided to you.

You agree that you will abide by and adhere to all federal laws and rules and regulations of the various exchanges or other regulatory and/or self-regulatory organizations of which the Firm or any of its affiliates or related entities are members, as well as all internal rules, regulations, policies and codes of conduct that the Firm has established. Without limiting the generality of the foregoing, you further agree that your employment is contingent upon your signing and adhering to the Firm's Agreement Concerning the Handling of Confidential Information and the Assignment of Employee Inventions. In addition, you will be required to complete all training mandated by the Firm, including but not limited to Workplace Sexual Harassment, Discrimination and Retaliation Prevention Training (to be completed within the first six (6) months of your employment), and several Compliance-related computer-based training courses, including courses dealing with the importance of confidentiality of UBS information and Anti-Money Laundering principles and procedures (some of these are required to be completed within the first thirty (30) days of your employment). In addition, you will be required to complete all training mandated by the Firm.

Compliance

All employees must follow UBS Investment Bank's Personal Investment Dealing Policy. This policy can be accessed upon your Start Date by visiting the Compliance Department's intranet web site (type 'Compliance' into your browser's address bar) or the Firm's Policies Online web site (type 'POLO' into your browser's address bar). Generally, the policy requires you to: 1) disclose to the Compliance Department all of your and your immediate family's personal securities accounts, including accounts where you have a beneficial interest or the ability to influence or control investment decisions; 2) transfer accounts to UBS Financial Services, Inc. (unless the account falls within an exception); and 3) obtain trade pre-clearance on all securities transactions (prior to placing the order with your broker) through the Firm's online system, ETWeb, and, in some instances, approval from your manager. To centralize your securities accounts, call the UBS Financial Services Employee Investor Branch at (800) 253-0709.

Federal laws and the Firm's regulators require that you be fingerprinted as an employee of UBS Securities LLC. Fingerprints will be used to check FBI Records for any criminal history. Please ensure that you are fingerprinted at the Welcome Day session; you are responsible for arranging to be fingerprinted. If you are not fingerprinted at the Welcome Day session, you should make arrangements to be fingerprinted through Compliance immediately after your Start Date. Failure to be properly fingerprinted may be cause for disciplinary action or termination of employment.

By signing this offer letter you agree that your continued employment is contingent upon compliance with applicable regulatory and state registration and continuing education requirements.

Please contact the Compliance Department Hotline at (203-719-5590) if you have questions related to the Personal Investment Dealing Policy or to arrange for fingerprinting, or if you have other Compliance-related questions.

As a senior employee of the Firm, we invite you to work with Private Wealth Management within UBS Wealth Management US. You will receive information about Private Wealth Management's services and capabilities in detail under separate cover.

Notice of Termination

You understand and agree that you have access to the Firm's confidential and proprietary information and valued client relationships (collectively the 'Information'). You recognize and agree that it is reasonable and necessary to protect the Firm's Information and to provide a smooth transition if you choose to leave the Firm. Consequently, you agree to provide the Firm with 60 Day(s) prior written notice of your intent to terminate your employment with the Firm (the 'Notice Period'). The Firm may elect in its sole discretion to waive or place you on paid leave for all or any part of such Notice Period, subject to applicable law. If such



notice is provided to the Firm prior to the Payment Date, you shall not be entitled to receive any incentive compensation award that you may have otherwise been eligible for on the Payment Date. In addition, the Firm retains the right to terminate you for Cause, as defined above; provided, however, the Firm may not terminate you for Cause during the Notice Period based on your failure to work should the Firm not require you to report to work.

During your employment (including the Notice Period), you will: (i) perform any reasonable duties and responsibilities the Firm requests; (ii) devote all of your labor, skill and energies during regular working hours to the business and affairs of the Firm; (iii) be paid your base salary; and (iv) be entitled to continue to participate in the Firm's employee benefit plans as provided for herein.

If the Firm does not require you to work during the Notice Period, you agree that during the Notice Period you will not provide services for any Competitive Enterprise including, without limitation, engaging in, directly or indirectly, or managing or supervising personnel engaged in, any activity (i) that is similar or substantially related to any activity in which you were engaged, in whole or in part, at the Firm; (ii) for which you had direct or indirect managerial or supervisory responsibility at the Firm; or (iii) that calls for the application of the same or similar specialized knowledge or skills as those used by you in your activities with the Firm.

'Competitive Enterprise' means a business enterprise that (i) engages in any activity, or (ii) owns or controls a significant interest in any entity, that, in either case, competes with any activity in which the Firm or UBS AG is engaged in any place in the world. The activities covered by the previous sentence include, without limitation, financial services such as investment banking, public or private finance, lending, financial advisory services, private investing (for anyone other than you or members of your family), merchant banking, asset or hedge fund management, insurance or reinsurance underwriting or brokerage, property management, or securities, futures, commodities, energy, derivatives or currency brokerage, sales, lending, custody, clearance, settlement or trading.

Protection of Confidential Information

You agree that certain information you obtain during your employment with the Firm that relates to intellectual property, financial information, personnel, projections, strategic planning, client information, or any other work product not readily available to the public is considered by the Firm to be trade secret and confidential information and that the Firm takes reasonable steps to maintain the confidentiality of such information (hereafter collectively 'Confidential Information'). During your employment with the Firm and thereafter upon your termination of employment with the Firm you agree, whether or not requested, to return any and all copies of such Confidential Information, in whatever medium and form, and further to refrain forever from using or disclosing the Firm's Confidential Information for any reason, except as may be required by law.

You will give immediate written notice to the Firm of any disclosure of the Firm's Confidential Information required by a court, government agency, or regulatory authority in order to allow the Firm the opportunity to respond to such a request. Your obligations under this section will survive the termination of your employment.

Non-Solicitation

You agree that during your employment, and for a period of 6 month(s) from the termination date of your employment for whatever reason, you will not, directly or indirectly, for yourself or for any third party, solicit, influence, induce, recruit or cause any employee of UBS AG, its subsidiaries or affiliates (hereafter referred to in this section collectively as 'UBS') to terminate his or her employment with UBS for the purpose of joining, associating or becoming employed with any business wherever located, with which or of which you are or anticipate becoming an employee, owner, partner, investor, member, agent, director, consultant, independent contractor or otherwise associated in any way whatsoever.

You agree that during your employment, and for a period of 6 month(s) after your employment is terminated for whatever reason, you will not directly or indirectly solicit or interfere with any of the UBS clients or client relationships that you either performed work for or actively solicited work from during the 6 month(s) prior to the termination of your employment or whose name became known to you during

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your employment. Your agreement 'not to solicit' includes but is not limited to your agreement not to ask such UBS clients to transfer any account from UBS to you or your new employer; to open a new account with you or your new employer; or to discontinue its business relationship with UBS.

You acknowledge and agree that UBS is global and includes offices throughout the world. You therefore acknowledge and agree that the foregoing provisions are not overly broad, and that they are reasonable and fair.

You understand that the terms of this section are material to UBS and, therefore, if a court or arbitration panel of competent jurisdiction rules that you have breached the terms of this section, you agree that damages in the event of breach of this section would not be possible to ascertain. Therefore, you further agree that in addition to and without limiting any other remedy or right UBS may have, it shall have a right to an injunction or other equitable relief enjoining any such breach or prospective breach. The existence of this right shall not preclude any other rights and remedies at law or in equity. UBS shall not be required to post any bond in connection with the foregoing.

You agree that if any restriction set forth in this section is found by any court or arbitrator of competent jurisdiction to be unenforceable because it extends for too long a period of time or over too great a range of activities or in too broad a geographic area, it shall be interpreted to extend only over the maximum period of time, range of activities or geographic areas to which it may be enforceable.

The restrictions contained in this section are necessary for the protection of the business and goodwill of UBS and are considered by you to be reasonable for this purpose.

Arbitration of Disputes

You and the Firm hereby knowingly and voluntarily agree that any dispute, controversy or claim (including but not limited to those arising out of or relating to this Agreement, the employment relationship between you and the Firm or the termination thereof) will be settled by final and binding arbitration. The parties' agreement to arbitrate disputes includes, but is not limited to, any claims of unlawful discrimination, harassment or retaliation under Title VII of the Civil Rights Act of 1964, the Civil Rights Acts of 1866 and 1991, the Age Discrimination in Employment Act of 1967, the Older Workers Benefit Protection Act of 1990, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Family and Medical Leave Act of 1993, the Fair Labor Standards Act of 1938, the Equal Pay Act of 1963, the Worker Adjustment and Retraining Notification Act, the Sarbanes-Oxley Act of 2002, and all amendments thereto, or any other federal, state or local law relating to discrimination in employment, any claims relating to wage and hour disputes, compensation or remuneration, any claims arising under the UBS Separation Program, any claims for breach of contract and any other statutory or common law claims. Arbitration under this agreement will be conducted pursuant to the Firm's employment arbitration procedures in effect at the time of the filing of a claim. A copy of the employment arbitration procedures as currently in effect is attached hereto as Exhibit A.

Specified Employees

You understand and agree that the UBS Section 409A Specified Employee Policy (and any successor policy) may apply to you.

Notwithstanding anything in this letter to the contrary, if you experience a 409A Separation from Service and UBS determines that you are a 'specified employee' under the terms of the UBS Section 409A Specified Employee Policy (or any successor policy or, if no such policy is then in effect, within the meaning of Section 409A) on the date of your 409A Separation from Service any base salary, bonus or other benefits or compensation scheduled to be paid to you following your 409A Separation from Service will be delayed until, and will be paid on the first business day following the six month anniversary of your separation from service to the extent necessary to comply with, and avoid imposition on you of any additional tax or penalty under, Section 409A.

For purposes of this letter, the phrase '409A Separation from Service' will refer to your 'separation from service' within the meaning of Section 409A of the U.S. Internal Revenue Code ('Section 409A') and the regulations promulgated thereunder. Your 409A Separation from Service will generally be deemed to

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occur on your first off-premises date, or such other time as Section 409A provides, even if you remain on payroll as of such date.

Immigration Compliance

Federal law requires U.S. employers to verify that all new employees are eligible to work in the United States pursuant to the Immigration Reform and Control Act of 1986. As a condition of your employment, as set forth by the Act, you will be required to provide proof of identity and employment authorization within three (3) days of your Start Date.

If your employment authorization is based upon a non-immigrant visa status, the Firm may file an employment-based non-immigrant visa petition and request for a change of or an extension of visa status on your behalf. There is no guarantee and/or assurance that such petition will be sought or filed or that such application will be granted and, accordingly, your continued employment is subject to a determination of your eligibility for such status by the U.S. Citizenship and Immigration Service ("USCIS"). By accepting this offer, you represent you are not aware of any circumstances that would restrict your eligibility for such immigration status.

References and Background Check

Your employment will be contingent upon satisfactory completion of all pre-employment and post-employment processing, including, but not limited to, the employment application; background screening, involving the verification of work history and education; fingerprinting and a pre-employment drug screen. Please note that you may be required to provide the Firm with written documentation (such as tax and/or payroll records) confirming your current and/or prior compensation, including base salary and/or incentive bonus amounts.

Drug Screen Instructions

You are required to undergo a drug screening at least seven (7) days (but not more than 30 days) prior to your Start Date. Enclosed with this letter are a chain of custody form and directions for locating a screening center. You must take the chain of custody form with you to the screening center. Your screening results must be received and approved by Human Resources BEFORE your Start Date.

If you have any questions, please contact the HR Advisory Service Center at (203-719-4787).

Representations and Warranties

You represent and warrant that (1) you will not possess as of your Start Date and during your employment with the Firm, any material, tangible, confidential or proprietary information, including documents, files, disks, or other materials, belonging to your former employer or its affiliates; (2) as of your Start Date, you have not solicited any employees or clients of your former employer or its affiliates to change their association with your former employer or its affiliates; (3) you are not subject to any restrictive covenant, notice of termination requirement, non-competition or non-solicitation provision with any former employer or any agreement that prevents your entering into employment by the Firm and that you conducted a due diligence review of copies of all agreements you may have entered into with your former employer to ensure that this is correct; (4) you have not made any material misrepresentation or omission in the course of your application to the Firm regarding employment or your ability to perform the position offered; and (5) no representations were made to you concerning this offer or the terms or conditions of your anticipated employment except as expressly set out in this letter.

Due to the diverse and sensitive nature of UBS's business relationships with certain state governments, including the State of Illinois, you further represent and warrant that you have not been employed by the State of Illinois at any time during the period from January 1, 2003, to present.

At-Will Employment

Your employment remains 'at will', and this letter (including, without limitation, any provisions relating to your incentive compensation in future years) is not, and shall not be construed as a contract of

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employment for a definite term. The Firm reserves the right to terminate your employment at any time with or without Cause and with or without notice. Subject to the terms of this letter, you are free to terminate your employment at any time for any reason. The terms and subject matter of this letter may not be modified, supplemented or amended orally or in any way unless such modification, supplementation or amendment is agreed to in writing and signed by you and two authorized officers of the Firm.

Entire Agreement

This letter contains the entire understanding and agreement between the parties concerning the subject matter hereof, and supersedes all prior agreements, understandings, discussions, negotiations, and undertakings, whether written or oral, between the parties with respect thereof. No waiver by either party of any breach by the other party of any condition or provision contained in this letter to be performed by such other party shall be deemed a waiver of a similar or dissimilar condition or provision at the same or any prior or subsequent time. Any waiver must be in writing and signed by two authorized officers of the Firm.

Governing Law

This offer letter shall be governed, construed and enforced in accordance with the laws of the State of New York without regard to conflict of law principles. In the event that any provision or portion of this letter shall be determined to be invalid or unenforceable for any reason, in whole or in part, the remaining provisions of this letter shall be unaffected thereby and shall remain in full force and effect to the fullest extent permitted by law. You may not assign this letter; however, the Firm may assign this letter to any entity within the UBS Group.

Confidentiality

You agree to keep the terms of this letter strictly confidential in whole and in part and further agree not to disclose the terms of this letter to any person or entity except as permitted by law or legal process, and except for disclosure to your attorneys, accountants and/or immediate family, provided that those individuals are advised of the confidential nature of such disclosure. Notwithstanding the foregoing, if you disclose the contents of this letter other than as permitted by this paragraph without prior authorization, the Firm reserves the right to rescind all of the terms of this letter and subject you to disciplinary action, including termination of your employment. You may disclose the terms of the paragraphs entitled Notice of Termination, Non-Solicitation and Protection of Confidential Information to any prospective or future employer.

If the foregoing accurately reflects our understanding, please sign the enclosed duplicate original of this letter and return one fully executed copy and the completed data form by September 18, 2009 to:

UBS AG
Human Resources Department
Attn: HR ASC
One Stamford Forum
201 Tresser Blvd. 4th Floor
Stamford, CT 06901-3707

In addition, please immediately fax a copy of your signed letter (including the completed data form) to the HR ASC - Stamford at 203-719-8692. Please note that you will not be entered on payroll until we have received both of these documents. All new employees are required to attend the Firm's Welcome Day. The Welcome Day is offered every Monday in our UBS offices in Stamford and Chicago. For staff in other locations, telephonic participation in Welcome Day can be arranged on a case-by-case basis if in-person attendance is not possible. Employees starting in other locations who are not able to attend Welcome Day in Stamford or Chicago will need to contact HR ASC - Stamford (203-719-4787) on their first day of employment. In the event that Monday is a banking holiday, the Welcome Day will take place on Tuesday. Further details regarding the Welcome Day are included with this letter, including driving directions and train information. Please contact HR ASC - Stamford (203-719-4787) with any questions regarding the Welcome Day.

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Gianluca, we are all looking forward to working with you.

Sincerely,

UBS Securities LLC

Katie Dresch

Katie Dresch
Associate Director
Human Resources

James Lanzilotti

James Lanzilotti
Managing Director
FICC

Accepted and agreed to this

11th day of September 2009

Gianluca Passaretta

Gianluca Passaretta



Exhibit A
Employment Arbitration Procedures

The following employment arbitration procedures shall govern the resolution of any employment-related disputes between you and the Firm. Such disputes include, but are not limited to, any claims of unlawful discrimination, harassment or retaliation under Title VII of the Civil Rights Act of 1964, the Civil Rights Acts of 1866 and 1991, the Age Discrimination in Employment Act of 1967, the Older Workers Benefit Protection Act of 1990, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Family and Medical Leave Act of 1993, the Fair Labor Standards Act of 1938, the Equal Pay Act of 1963, the Worker Adjustment and Retraining Notification Act, the Sarbanes-Oxley Act of 2002, and all amendments pertaining to any of them, or any other federal, state or local law relating to discrimination in employment, any claims relating to wage and hour disputes, compensation or remuneration, any claims arising under the UBS Separation Program, any claims for breach of contract and any other statutory or common law claims.

Claims arising under the National Labor Relations Act, claims for workers' compensation and claims for unemployment benefits are not covered by these procedures and will continue to be addressed in accordance with applicable law. In addition, neither you nor the Firm may submit a class action, collective action, or other representative action for arbitration, except to the extent that this provision is unenforceable under applicable law. These procedures do not affect your right to pursue, in accordance with applicable law, any Equal Employment Opportunity Commission or state and local human rights agency process that may be available to you.

The arbitration, as well as any voluntary mediation, will be conducted by an independent service provider, JAMS (or its successor), in the city and county where you work or last worked for the Firm, or if JAMS has no office there, in the city of the closest JAMS office. The arbitration will be conducted pursuant to the JAMS Employment Arbitration Rules & Procedures (including those related to discovery) then in effect. Any arbitration request must be filed with JAMS within the statute of limitations period applicable to the employment-related claim(s) set forth in the request. To initiate arbitration, you must send a written request for arbitration to JAMS, together with a filing fee of \$150, and to your Human Resources Client Relationship Manager ("CRM"). You may obtain a copy of the request form, together with the JAMS Employment Arbitration Rules & Procedures then in effect, from the Human Resources department.

The Firm, with your consent, will bear all of the expenses charged by JAMS (except for the initial filing fee); however, each party will be responsible for the fees and disbursements of its own counsel and the expenses relating to the production of witnesses or other evidence (except to the extent that by statute fees and other expenses may be shifted to the prevailing party following a final judgment).

In the course of any arbitration pursuant to this Agreement, you and the Firm agree: (a) to request that a written award be issued by the arbitration panel, and (b) that each party is entitled to receive any and all relief to which it otherwise would be entitled to receive in a court proceeding. You and the Firm hereby knowingly and voluntarily agree to waive any rights that might otherwise exist to request a jury trial or other court proceeding, except that you agree that any party has the right to seek temporary injunctive relief in aid of arbitration, with the final decision on the merits (including any issue of permanent injunctive relief) to be made by the arbitrator. Judgment on an arbitral award, if one is made, may be entered by any court having competent jurisdiction.

Exhibit B

US Employee Handbook

Section 1: US Human Resources Policies

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Compensation

Pay Period

UBS employees are paid on the 15th and 30th of each month. In the event that the 15th or the 30th falls on a weekend or on an Organization holiday, employees will be paid on the last business day before that date.

Employees are strongly encouraged to take advantage of our direct deposit option. With your written authorization, your salary can be deposited directly into your bank account(s) without charge. Please complete the enrollment form available in the Download Forms – Payroll section of the HR ASC website (<http://stmntwf.swissbank.com/hrcentral/>).

In you are eligible for overtime or premium compensation, you must complete an accurate time sheet and obtain your supervisor's approval. Under no circumstances may you approve a timesheet on behalf of your supervisor. If a timesheet is submitted in a timely manner, such, compensation is paid in the pay period following the period in which it is earned.

Salary Reviews

Salary reviews are conducted on an annual basis. Any change in your salary is at the discretion of UBS Management and is based on competitive market conditions as well as your overall performance. The Organization does not grant general cost-of-living increases.

Deductions from Salary

It is UBS's policy to comply with all applicable wage and hour laws and regulations, including prohibitions on improper deductions from pay or salary. If you believe that any deduction has been made from your pay that is improper or inconsistent with your salaried status, please contact your Human Resources Client Relationship Manager immediately. Any complaint will be resolved within a reasonable time given all the facts and circumstances. If an investigation reveals that you were subjected to an improper deduction from pay, you will be reimbursed and UBS will take whatever action it deems necessary to prevent improper deductions from pay in the future.

Incentive Compensation

Incentive compensation may be awarded to you once a year in the Organization's sole discretion. If an award is granted, the amount of such award is entirely subjective and may be influenced by factors such as individual performance, the performance of the work unit and the performance of the Organization as a whole. The fact that you received an incentive compensation award in a prior year or the amount of such award does not guarantee or influence future awards.

In order to be eligible for incentive compensation, you must be employed by the Organization on or before September 30 in the calendar year for which the incentive compensation is paid. You also must be employed on the date the incentive compensation is paid.

CONFIDENTIAL All commitments regarding compensation of any type must be in writing and be signed by the appropriate line manager and Human Resources Client Relationship

Compensation

Page 2 of 2

Manager.

Confidentiality

As compensation is a personal matter between each employee and the Organization, you are expected to treat compensation issues with appropriate confidentiality.

Last Updated: January 2008

CONFIDENTIAL

Exhibit C



U.S. POLICIES ACKNOWLEDGEMENT FORM

I acknowledge and understand that as of my first day of employment I will have access to the UBS AG ('the Organization') Employment and Operational Policies located on UBS Policies Online (POLO) and I will promptly undertake to read and agree to be bound by all such policies.

I understand that the Employee Handbook, and the Organization's other employment policies, are not intended to create a contract and that the Organization may change, terminate, or add to any policies, benefits, or practices described in the Employee Handbook or elsewhere from time to time in its sole discretion, with or without prior notice. I understand that all future updates to these policies may be found on the UBS Investment Bank website at http://wf-shared-tp.stm.swissbank.com/usa_handbook/ and that I am responsible for familiarizing myself with updates to these policies.

I understand that employment with the Organization is not for a specified term and is at the mutual consent of the employee and the Organization. I understand that unless I have entered into a written contract with the Organization that provides to the contrary, either the employee or the Organization can terminate the employment relationship at will, with or without cause, at any time.

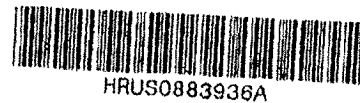
I understand that the Employee Handbook and other employment policies that reside on the UBS Investment Bank intranet supersede any and all previous employee handbooks and policy pamphlets.

Please sign and print your name:

Gianluca Passaretta
Signature

11 September 2009
Date

GIANLUCA PASSARETTA
Print Name



USA 03
Contracts

Exhibit D



Equity Ownership Plan (EOP) 2009/10

(applies to On and Off-Cycle Awards)

Effective from 26 February 2010



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1 SCOPE

These Plan Rules set out the terms upon which the Plan is operated and are the terms of the contract relating to an Award between the Grantor and the Employees who are granted Awards by the Grantor at its sole discretion.

The Common Terms are deemed to form part of these Plan Rules, except to the extent that they are varied, deleted or superseded by the Plan Rules. In the event of any conflict between these Plan Rules and the Common Terms, the Plan Rules will prevail.

Where an Award is made to an Employee who is resident in or otherwise subject to a particular jurisdiction covered by an appendix to these Plan Rules, the provisions of the relevant appendix modify the Plan Rules.

2 GRANT OF AWARDS

2.1 Notification of Award

An Employee to whom the Grantor intends to grant an Award will receive a notification of the intended grant of the Award. The notification does not constitute an Award or give the Employee a right to be granted an Award, which is granted by the Grantor at its sole discretion under Rule 2.2.

2.2 Grant of Award

Subject to Rule 2.3, the Grantor will, at its discretion, grant Awards to Employees in accordance with and subject to the Plan Rules. By continuing in Employment after the notification of the Award, the Employee will be taken to have accepted the grant of the Award under the terms and conditions as set out in these Plan Rules.

2.3 Period for granting Awards

Awards will generally be granted on the last trading day of [REDACTED] of the relevant calendar year, but may be granted at any time the Committee considers appropriate. However, no Award may be granted at any time an Employee is prohibited from being granted an Award under any dealing restrictions contained in any statute, regulation or code applicable to the Corporation or the Employee.

2.4 No payment for grant of Awards

The Employee does not have to pay for the grant of an Award.

2.5 Award personal to Employee

An Award is personal to the Employee. To the extent an Award has not Vested, neither the Award nor the UBS Shares or Notional Shares, as applicable, which are subject to it can be sold, transferred, assigned, hedged, charged or otherwise be encumbered. An Employee may not enter into any transaction which hedges or otherwise transfers the risk of price movements with regard to the UBS Shares subject to the Award while the



Award has not Vested. Any of the foregoing actions will result in the Forfeiture of the Award. Awards held by an Employee may be transferred to that Employee's personal representatives on the death of the Employee.

2.6 Confidentiality

An Employee will maintain his participation in the Plan in confidence and will not disclose the provisions of the Plan, the Award or the amount of the Award to any Person, except to his immediate family, his tax or financial advisor or to the extent legally required to do so, without prior authorisation from the Grantor.

2.7 Award Agreement

The Grantor may require the Employee to submit an Award Agreement in which the Employee confirms acceptance of certain terms of the Plan.

2.8 Account

As soon as practicable after the Grant Date an Employee's Account will be amended to show the number of UBS Shares or Notional Shares, as applicable, which are subject to the Award, the Grant Date and the Vesting Period(s). An Employee's Account will be made available to the Employee on the Corporation's website.

2.9 Number of Notional Shares or UBS Shares subject to an Award

The number of Notional Shares or UBS Shares subject to an Award will, unless the Committee determines otherwise, be determined as follows:

2.9.1 in the case of Notional Shares, by dividing an amount determined in respect of the Employee by the average closing price per UBS Share reported on any Applicable Exchange, on the last ten Dealing Days of [REDACTED] of the year in which the Award is made, as adjusted for the estimated value of dividends paid on UBS Shares until Vesting of the Notional Shares; and

2.9.2 in the case of UBS Shares, by dividing an amount determined in respect of the Employee by the average closing price per UBS Share reported on any Applicable Exchange on the last ten Dealing Days of February of the year in which the Award is made.

2.10 Currency

if the UBS Shares (or, in the case of Notional Shares, the UBS Shares underlying the Notional Shares) subject to an Employee's Award are denominated in a currency other than the Employee's payroll currency, the number of UBS Shares or Notional Shares subject to an Award will be determined by converting the value of the Award to the appropriate currency using the spot exchange rate on a Dealing Day on or shortly before the Grant Date, unless the Committee determines otherwise.

2.11 Rights following grant of an Award of Notional Shares

An Award of Notional Shares represents a contingent right, subject to the Plan Rules, to receive such number of UBS Shares (or cash, at the discretion of the Committee) as are



equal to the number of Notional Shares which Vest on and have not been Forfeited on or prior to a Vesting Date. The Employee will have no right or interest in any of the UBS Shares underlying the Notional Shares subject to the Award. The Employee will have no voting rights and no rights to dividends with respect to the UBS Shares underlying the Notional Shares and no dividend equivalents or notional dividends will be paid or re-invested with respect to any dividends paid on the underlying UBS Shares.

2.12 **Rights following grant of an Award of UBS Shares**

The Employee will be the owner of the UBS Shares comprised in an Award of UBS Shares from the Grant Date and the Grantor will arrange for the Employee to be registered in the share registry of the Corporation as soon as administratively practicable after the Grant Date. By submitting the Award Agreement the Employee applies for registration in the share registry of the Corporation. The Employee may exercise voting rights with respect to the UBS Shares which are subject to the Employee's Award and will receive dividends and other distributions, if any, payable on them, net of any applicable taxes (and social security contributions, if applicable) during the Vesting Period. The Grantor or any other Person as determined by the Committee will hold the UBS Shares subject to the Award for the Employee under the terms of the Plan during the Vesting Period.

2.13 **Funding**

No provision of the Plan shall be construed to require the Corporation, the Grantor or any member of the Group as having any obligation to fund or otherwise segregate any assets for payment of an Award over Notional Share under the Plan. Nothing contained herein shall prevent the Grantor or the Corporation, in its sole discretion, from making investments for its own account to assist it in meeting its obligations to the Employees hereunder. No Employee shall have any interest whatsoever in any such investments made by the Grantor or the Corporation or to any specific assets of the Group as a result of participation in the Plan. To the extent that any person acquires a right to receive any UBS Shares or payments under the Plan, such right will be no greater than the right of any unsecured general creditor.

3 **VESTING OF AWARDS – GENERAL RULE**

An Award will be subject to a Vesting Period of [REDACTED] to [REDACTED] years from the Grant Date. Except as may otherwise be provided in the notification relating to an Award and/or the Award Agreement, on each Vesting Date an equal portion of the Award will, subject to Rules 4 and 5, Vest and cease to be subject to Forfeiture and at the end of the last Vesting Period the Award will be Vested in full.

4 **TERMINATION OF EMPLOYMENT – EXCEPTIONS TO THE GENERAL RULE**

4.1 **Termination for Cause**

If an Employee's Employment terminates for Cause or if, following termination of Employment, a discovery is made that, in the discretion of the Committee, would have led to the Employee's termination of Employment for Cause, any Unvested Awards will be Forfeited, the UBS Shares subject to the Unvested Awards will immediately be



retransferred to the Grantor without any compensation and the Notional Shares subject to the Unvested Awards will immediately be Forfeited.

4.2 Other termination events

If an Employee's Employment terminates:

- 4.2.1 for Retirement or Full Career Retirement and the Employee does not join a Financial Services Organisation or due to Redundancy (as determined by the Committee) or by written mutual agreement (approved by the Committee), any Unvested Awards will not be Forfeited and will continue to Vest in accordance with the terms of the Plan Rules;
- 4.2.2 for death or Disability, the Vesting Date(s) will be accelerated and the Vesting Period will end on the date that the Employee's Employment terminates for death or Disability. The Award will be settled in accordance with Rule 6 and the Employee (or the heirs or estate of the Employee, if applicable) will be liable for any additional tax or social security liability arising from the acceleration of Vesting of the Award;
- 4.2.3 voluntarily (whether lawfully or unlawfully) or for any reason other than death, Disability, Retirement (without joining a Financial Services Organisation), Redundancy and written mutual agreement (regardless of the legal qualification of the termination) any Unvested Awards will be Forfeited, the UBS Shares subject to the Unvested Awards will immediately be retransferred to the Grantor without any compensation and the Notional Shares subject to the Unvested Awards will immediately be Forfeited; or
- 4.2.4 for Retirement and the Employee, on or at any time after Retirement joins a Financial Services Organisation without the express prior written consent of the Committee to join that specified Financial Services Organisation, any Unvested Awards will be Forfeited, the UBS Shares subject to the Unvested Awards will immediately be retransferred to the Grantor without any compensation and the Notional Shares subject to the Unvested Awards will immediately be Forfeited.

4.3 Joining a Financial Services Organisation

For the purposes of Rule 4.2, an Employee will be deemed to have joined a Financial Services Organisation if he is involved in any way in the establishment of a Financial Services Organisation and/or provides services to that Financial Services Organisation, either directly or indirectly, on his own behalf or in the service of or on behalf of others, as an officer, employee, consultant, partner, independent contractor, agent, fiduciary, or in any other capacity, whether remunerated or not.

4.4 Leave of absence

An Employee who is on an approved leave of absence will be deemed to remain in Employment until any date on which the Employee indicates that he will not be returning to work or otherwise leaves Employment on a permanent basis. At the time of any such notification or if the Employee otherwise ceases Employment on a permanent basis, the Employee's Employment will be treated as having terminated and the Employee's Award will be dealt with accordingly under the Plan.



5 ADDITIONAL FORFEITURE PROVISIONS

5.1 Forfeiture

Any Unvested Awards will be Forfeited in whole, or in respect of Rules 5.1.4 to 5.1.8, in whole or in part, the UBS Shares subject to the Unvested Awards will immediately be retransferred to the Grantor without any compensation and the Notional Shares subject to the Unvested Awards will immediately be Forfeited in the event that:

- 5.1.1 the Employee directly or indirectly induces, solicits, aids or encourages any other Person who is employed by any member of the Group to leave that employment and join a Person other than a member of the Group;
- 5.1.2 the Employee directly or indirectly solicits any other Person who was a customer or client of the Group at any time in order to render to that Person services similar to, competitive with, or intended to replace or serve as an alternative to, the services provided to that Person by the Group;
- 5.1.3 the Employee directly or indirectly uses, discloses or disseminates to any other Person or otherwise employs Proprietary Information, except as specifically required in the performance of the Employee's Employment;
- 5.1.4 the Employee's individual performance is deemed to contribute substantially to the Group or part of the Group incurring significant financial losses;
- 5.1.5 the Employee's individual performance is deemed to contribute substantially to a significant downward restatement of any published results of the Group or any business division of the Group;
- 5.1.6 the Employee engages in conduct which results in or contributes substantially to significant reputational harm to the Group;
- 5.1.7 the Employee materially breaches or contributes substantially to a material breach of applicable legal and regulatory requirements;
- 5.1.8 the Employee engages in conduct which results in or contributes substantially to a material breach of the Group's applicable internal policies and procedures, including those policies in respect of risk management, compliance and any applicable supervisory practices;
- 5.1.9 the Employee fails to submit a completed Award Agreement in which the Employee confirms, without limitation, acceptance of the terms of the Award within the period stated on the Award Agreement;
- 5.1.10 the Employee fails to comply with Rules 2.5, 2.6 or 6.2; or
- 5.1.11 the Employee engages in any other conduct specifically prohibited by the Grantor at or prior to the Grant Date.



5.2 Forfeiture after termination of Employment

Rule 5.1 continues to apply after termination of the Employee's Employment, whether or not such termination is lawful or unlawful.

5.3 Committee determination

The Committee, in its discretion, determines whether an event under Rules 4 and 5 has occurred and in respect of Rules 5.1.4 to 5.1.8 whether an Unvested Award should be Forfeited in whole or in part.

6 SETTLEMENT OF AWARDS

6.1 Time and manner of settlement

6.1.1 Subject to Rule 5.2 (Withholding) of the Common Terms and Rule 6.2 below, as soon as administratively practicable following a Vesting Date, the Grantor will release the UBS Shares that have Vested or, for Awards over Notional Shares, transfer such number of UBS Shares as are equal to the number of Notional Shares that have Vested, net of any applicable taxes and social security contributions.

6.1.2 If the Employee's Employment terminates due to death, the Award will Vest in full pursuant to Rule 4.2.2, be settled in accordance with Rule 6 and distributed to the Employee's designated beneficiary or, if there is no designated beneficiary, to the Employee's estate or heirs.

6.1.3 The Grantor may, at its sole discretion, determine to sell the UBS Shares on behalf of the Employee and deliver the cash proceeds from the sale to the Employee if this is, in the opinion of the Grantor, appropriate or desirable to comply with local securities or other laws and regulations. The Grantor cannot guarantee and will not be liable for any movements in any price or foreign exchange rate received or obtained for calculating the cash amount to be paid to the Employee.

6.2 Information to be provided by the Employee

Before the settlement of the Award, to collect such information as determined necessary by the Grantor from the Employee, the Grantor may require the Employee (or beneficiary or heirs, if applicable) to complete:

6.2.1 an instruction payment form. If the Employee's Employment terminates before the end of the Vesting Period, the Grantor has the right to require the Employee, and the Employee is obliged to deliver to the Grantor, tax returns and all other relevant information and records from which the Grantor can determine the former Employment status of the Employee during the Vesting Period. The Grantor may withhold settlement of the Employee's Award until information deemed sufficient by the Grantor is delivered to it. The Unvested Award will be Forfeited, any UBS Shares subject to the Unvested Award will immediately be retransferred to the Grantor without any compensation and the Notional Shares will immediately be Forfeited if the requested information is not provided in sufficient detail to the Grantor within 90 calendar days after the issue of a request from the Grantor for such information; or



- 6.2.2 a forfeiture determination form. All of the Employee's Award which has not Vested or been settled at the date a forfeiture determination form has been required from the Employee will, in the case of UBS Shares, be immediately retransferred to the Grantor without compensation and in the case of Notional Shares be Forfeited if the Grantor does not receive the Employee's completed forfeiture determination form within 90 calendar days from the Vesting Date which occurs after the issue of the forfeiture determination form to the Employee.

**APPENDIX I - DEFINITIONS**

The definitions of the Common Terms and the definitions below apply to this Plan. To the extent that the Common Terms and these Plan Rules contain the same definitions, the definitions in the Plan Rules apply.

Account	the internal record established by the Grantor in respect of an Employee's Award pursuant to Rule 2.8;
Award	an award of UBS Shares or of Notional Shares, as determined by the Grantor at the Grant Date, made by the Grantor at its sole discretion pursuant to Rule 2.2;
Employee	an individual who, at the time of receipt of a notification and at the time of receipt of an Award Agreement, and subject to another determination by the Human Resources and Compensation Committee of the Board of Directors of the Corporation, is in Employment and where termination thereof has not been stipulated under a termination agreement with a Participating Corporation and who is eligible to participate in the Plan or, where the context requires, his personal representatives. References to the Employee shall include any former employee who holds an Award;
FA Award	an award over UBS Shares;
Financial Services Organisation	any Person other than a member of the Group, whether incorporated or not, which provides services in investment or asset management, wealth management, investment banking, business banking, private banking or any other type of financial services, unless the provision of such services is negligible or incidental to the organisation's principal business provided that such principal business does not consist of providing financial services, or as determined by the Committee;
Full Career Retirement	termination of an Employee's Employment and satisfaction of the requirements for Full Career Retirement, as determined by the Committee;
Grant Date	the date on which an Award is granted;
Off-Cycle Award	Awards granted under appendix II of these Plan Rules which do not form part of the Corporation's annual discretionary incentive award cycle and are granted any time after the last trading day of [REDACTED] of the relevant calendar year and the day prior to the last trading day of [REDACTED] of the following calendar year;



Plan the Equity Ownership Plan (EOP) 2009/10, as constituted by these Plan Rules and the Common Terms

Plan Rules the rules of the Equity Ownership Plan (EOP) 2009/10;

Vesting Date [REDACTED] as applicable;

Vesting Period the period of time between the Grant Date and each Vesting Date.



APPENDIX II – OFF-CYCLE AWARDS

The provisions of this appendix modify the Plan Rules in respect of any Awards granted to Employees which are designated by the Grantor as Off-Cycle Awards.

- 1 Any reference in the Plan Rules to an Award will be taken to be a reference to an Off-Cycle Award.

- 2 Rule 2.3 will be amended to read:

"2.3 Period for granting Awards

Off-Cycle Awards will generally be granted on the [REDACTED] trading day of any calendar month, but may be granted at any time the Committee considers appropriate. However, no Award may be granted at any time an Employee is prohibited from being granted an Award under any dealing restrictions contained in any statute, regulation or code applicable to the Corporation or the Employee."

- 3 Rule 2.9.1 will be amended to read:

"2.9.1 Number of UBS Shares or Notional Shares subject to an Award

The number of UBS Shares or Notional Shares subject to an Off-Cycle Award will be determined by the Grantor in its sole discretion."

- 4 Rule 3 will be amended to read:

"3 VESTING – GENERAL RULE

An Off-Cycle Award will be subject to a Vesting Period which begins on its Grant Date. The Grantor will determine the Vesting Date(s) in its absolute discretion and specify such Vesting Date(s) in the notification and/or Award Agreement relating to the Off-Cycle Award. The definition of "**Vesting Date**" in appendix I will be interpreted accordingly."

- 5 Rule 4.2.1 will be amended to read:

"for Retirement and the Employee does not join a Financial Services Organisation or due to Redundancy (as determined by the Committee) or by written mutual agreement (approved by the Committee), any Unvested Awards will not be Forfeited and will continue to Vest in accordance with the terms of the Plan Rules;"

- 6 Rule 4.2.4 will be amended to read:

"for Retirement and the Employee, on or at any time after Retirement joins a Financial Services Organisation, any Unvested Awards will be Forfeited, the UBS Shares subject to the Unvested Awards will immediately be retransferred to the Grantor without any compensation and the Notional Shares subject to the Unvested Awards will immediately be Forfeited."



APPENDIX III – FA AWARDS

The provisions of this appendix modify the Plan Rules in respect of any Awards granted to Employees which are designated by the Grantor as FA Awards.

1 Any reference in the Plan Rules to an Award will be taken to be a reference to a FA Award.

2 Rule 3 will be amended to read:

"3 Vesting of Awards – General Rule

An FA Award will be subject to a Vesting Period and, subject to Rules 4 and 5, will Vest in full on the Vesting Date and cease to be subject to Forfeiture."

3 Rule 4.2 will be amended to read:

"4.2 Other termination events

If an Employee's Employment terminates:

4.2.1 for Retirement, written mutual agreement (regardless of the legal qualification of the termination), voluntarily (whether lawfully or unlawfully) or for any reason other than death, Disability and Redundancy any Unvested Awards will be Forfeited, the UBS Shares subject to the Unvested Awards will immediately be retransferred to the Grantor without any compensation and the Notional Shares subject to the Unvested Awards will immediately be Forfeited;

4.2.2 for death or Disability, the Vesting Date(s) will be accelerated and the Vesting Period will end on the date that the Employee's Employment terminates for death or Disability. The Award will be settled in accordance with Rule 6 and the Employee (or the heirs or estate of the Employee, if applicable) will be liable for any additional tax or social security liability arising from the acceleration of Vesting of the Award; or

4.2.3 due to Redundancy, any Unvested Awards will not be Forfeited and will continue to Vest in accordance with the terms of the Plan Rules"

4 The definitions of "**Grant Date**" and "**Vesting Date**" will be amended in appendix I to read:

"**Grant Date** the [REDACTED] trading day in [REDACTED]

"**Vesting Date** [REDACTED]



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APPENDIX IV – AUSTRALIA (UBS SHARES)

The provisions of this appendix modify the Plan Rules in respect of any Award of UBS Shares granted to Employees who are working in Australia at the Grant Date(s) and/or are Australian tax residents at the Grant Date(s).

- 1 A new Rule 2.14 will be added:

"2.14 Duty of the Committee and exercise of discretion

Where the Committee is authorised to act, or has duties to perform or has discretion under the Plan Rules or the Common Terms, the Committee will act, perform those duties and/or exercise the discretion, as applicable, in consultation with the Grantor."

**APPENDIX V – AUSTRALIA (NOTIONAL SHARES)**

The provisions of this appendix modify the Plan Rules in respect of any Award of Notional Shares granted to Employees who are working in Australia at the Grant Date(s) and/or are Australian tax residents at the Grant Date(s).

1 A new Rule 2.14 will be added:

"2.14 Duty of the Committee and exercise of discretion

Where the Committee is authorised to act, or has duties to perform or has discretion under the Plan Rules or the Common Terms, the Committee will act, perform those duties and/or exercise the discretion, as applicable, in consultation with the Grantor."

2 Rule 6.1 will be amended to read:

"6.1 Time and manner of settlement

6.1.1 Subject to Rule 5.2 (withholding) of the Common Terms and Rule 6.2 below as soon as administratively practicable following a Vesting Date, the Grantor will settle any Vested Awards by delivery of a cash amount to the Employee, which corresponds to the value of such number of UBS Shares as are equal to the number of Notional Shares that have Vested, net of any applicable taxes and social security contributions. The Grantor cannot guarantee and will not be liable for any movements in any price or foreign exchange rate received or obtained for calculating the cash amount to be paid to the Employee."

3 Rule 6.1.3 will be deleted.

**APPENDIX VI – CALIFORNIA**

The provisions of this appendix modify the Plan Rules in respect of any Awards granted to Employees who: i) are tax residents of the State of California as that term is defined by California's Franchise Tax Board; or ii) are assigned by a member of the Group to regularly perform services for the Corporation or a member of the Group from an office in the State of California; or iii) otherwise seek protection under the laws of the State of California as to the Plan, the Plan Rules or the enforcement of those Rules.

- 1 Rule 4.2.1 will be amended to read:

"for Retirement or due to Redundancy (as determined by the Committee) or by written mutual agreement (approved by the Committee), any Unvested Awards will not be Forfeited and will continue to Vest in accordance with the terms of the Plan Rules;"
- 2 Rule 4.2.3 will be amended by deleting:

"(without joining a Financial Services Organisation)"
- 3 Rule 4.2.4 will be deleted.
- 4 Rule 4.3 will be deleted.
- 5 Rule 5 and Rule 6 of appendix II (Off-Cycle Awards) will be deleted.



APPENDIX VII – CANADA (NOTIONAL SHARES)

The provisions of this appendix modify the Plan Rules in respect of any Awards of Notional Shares granted to Employees who are resident in Canada.

1. A new Rule 6.1.4 will be added:

"UBS Shares delivered pursuant to this Rule 6.1 shall be delivered out of treasury."



APPENDIX VIII – FRANCE (NOTIONAL SHARES)

The provisions of this appendix modify the Plan Rules (including Off-Cycle Awards granted under appendix II) in respect of any Awards of Notional Shares granted to Employees who are resident in France.

1. In respect of Rule 4.2.2, Disability means where the Employee is recognised as a disabled employee of second or third category under the meaning of Article L. 341-4 of the Social Security Code.



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APPENDIX IX – NEW ZEALAND (NOTIONAL SHARES)

The provisions of this appendix modify the Plan Rules in respect of any Award of Notional Shares granted to Employees who are resident in New Zealand.

1. A new Rule 3.1 will be added:

"3.1 Consideration on Vesting

3.1.1 In consideration for the Vesting of an Award and the transfer of the UBS Shares to an Employee in accordance with Rule 6, the Employee shall pay to the Grantor NZ\$ 1 on the applicable Vesting Date.

3.1.2 The Grantor may, at its discretion, choose the method by which an Employee provides the consideration referred in Rule 3.1.1, including making a deduction from that Employee's salary on or around the Vesting Date. By agreeing to the terms of the Plan Rules pursuant to Rule 2.7 the Employee agrees to that deduction."

**APPENDIX X – PUERTO RICO (UBS SHARES)**

The provisions of this Appendix modify the Rules of the Plan in respect of any Award granted under it to Employees who participate in the Plan and who are bona-fide residents of Puerto Rico for US income tax purposes or foreign individuals domiciled in Puerto Rico who, or whose Awards, are otherwise subject to taxation in Puerto Rico.

- 1 Rule 2.13 (Rights following grant of an Award of UBS Shares) will be amended by adding the following sentence before the last sentence:

"Dividends and other distributions with respect to the UBS Shares subject to an Award will be made no later than the end of the calendar year in which the dividends and other distributions are paid to holders of UBS Shares."

- 2 Rule 9 (Governing Law and Jurisdiction) of the Common Terms will be amended to read:

"9 **GOVERNING LAW AND JURISDICTION**

The Plan Rules will be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico, without reference to principles of conflict of laws, which would require application of the law of another jurisdiction. The Plan is not intended to be subject to the Employee Retirement Income Security Act of 1974, as amended."

- 3 Clause (v) of the definition of "**Cause**" in the Common Terms will be amended by deleting the words "without notice".

- 4 The definition of "**Disability**" in the Common Terms will be amended to read:

"**Disability** a condition affecting an individual which qualifies for coverage under applicable long term disability benefit coverage and renders the individual unable to work with or without reasonable accommodation;"

- 5 Rule 4.1 (Amendment or Termination of a Plan) of the Common Terms will be amended by adding the following sentence at the end:

"Notwithstanding the foregoing, the Committee reserves the right to make any amendments to the Plan if, in the sole discretion of the Committee, such amendments become necessary or advisable as a result of changes in law or regulations."

**APPENDIX XI- RUSSIA (NOTIONAL SHARES)**

The provisions of this appendix modify the Plan Rules in respect of any Awards of Notional Shares granted to Employees who are resident for tax purposes in Russia.

1. The following sentence will be added at the end of Rule 1:

"Information contained in these Plan Rules and/or any other document relating to the Awards and/or any other benefits granted to Employees does not constitute advertisement of any securities in Russia and will not be passed on to any third parties or otherwise be made publicly available in Russia. The Awards and/or other benefits granted to Employees have not been and will not be registered in Russia and are not intended for "placement" or "circulation" in Russia."

2. Rule 6.1.1 will be amended to read:

"6.1.1 Subject to Rule 5.2 (Withholding) of the Common Terms and Rule 6.2 below, as soon as administratively practicable following a Vesting Date, the Grantor will settle any Vested Awards by delivery of a cash amount to the Employee, which corresponds to the value of such number of UBS Shares as are equal to the number of Notional Shares that have Vested, net of any applicable taxes and social security contributions. The Grantor cannot guarantee and will not be liable for any movements in any price or foreign exchange rate received or obtained for calculating the cash amount to be paid to the Employee."

3. Rule 6.1.3 will be deleted.

**APPENDIX XII - SWITZERLAND (UBS SHARES)**

The provisions of this appendix modify the Plan Rules in respect of any Award of UBS Shares granted to Employees who are resident in Switzerland or, with respect to Rule 6.3 below only, whose Awards are otherwise subject to taxation in Switzerland.

1. Rule 2.5 will be amended to read:

"2.5 Award personal to Employee

An Award is personal to the Employee. To the extent an Award has not Vested, neither the Award nor the UBS Shares subject to it can be sold, transferred, assigned, hedged, charged or otherwise be encumbered. An Employee may not enter into any transaction which hedges or otherwise transfers the risk of price movements with regard to the UBS Shares subject to the Award until the day following the end of the last Vesting Date of an Award. Any of the foregoing actions will result in the Forfeiture of the Award. Awards held by an Employee may be transferred to that Employee's heirs on the death of the Employee."

2. The following words will be inserted in Rule 2.12 (Rights following grant of an Award of UBS Shares) between the words "The Employee will be" and "the owner of the UBS Shares":

"contingent upon Vesting".

The following sentence will be added to the end of Rule 2.12 (Rights following grant of an Award of UBS Shares):

"The Employee will have no right to delivery of the UBS Shares before the end of the last Vesting Date of an Award."

3. The following words will be added after the last sentence of Rule 3 (Vesting of Awards – General Rule):

"Where an Award is Forfeited and the UBS Shares are retransferred to the Grantor, the retransfer will be to the Grantor in consideration for the payment to the Employee of CHF 0.01 in respect of any UBS Shares subject to an Award that are retransferred."

4. A new Rule 6.3 will be added:

"6.3 Salary statement

If an Award has not been Forfeited after termination of the Employee's Employment, the Employee consents that the Grantor will provide a copy of the salary statement of the Employee to the competent tax authorities."

5. The definition of "**Disability**" in the Common Terms will be amended to read:

"Disability retirement due to disability, provided that the Employee receives a full disability pension from the



UBS Pension Fund in which he participates, based on a final decision by the Swiss Federal Disability Insurance;"

6. The definition of "**Employee**" in appendix I will be amended to read:

"Employee

an individual who, at the time of receipt of a notification and at the time of receipt of an Award Agreement, and subject to another determination by the Human Resources and Compensation Committee of the Board of Directors of the Corporation, is in Employment in respect of which no notice has been given and where termination thereof has not been stipulated under a termination agreement with a Participating Corporation and who is eligible to participate in a Plan or, where the context requires, his personal representatives. References to the Employee shall include any former Employee who holds an Award;"

**APPENDIX XIII – SWITZERLAND (NOTIONAL SHARES)**

The provisions of this appendix modify the Plan Rules in respect of any Award of Notional Shares granted to Employees who are resident in Switzerland.

- 1 A new Rule 6.3 will be added:

"6.3 **Salary statement**

If an Award has not been Forfeited after termination of the Employee's Employment, the Employee consents that the Grantor will provide a copy of the salary statement of the Employee to the competent tax authorities."

- 2 The definition of "**Disability**" in the Common Terms will be amended to read:

"**Disability**

retirement due to disability, provided that the Employee receives a full disability pension from the UBS Pension Fund in which he participates, based on a final decision by the Swiss Federal Disability Insurance provided, however, that with respect to any Employee who is a US taxpayer, Disability shall mean an Employee who satisfies both the foregoing definition of disability and the definition of Disability contained in the appendix XIV (U.S.A – Notional Shares);"

3. The definition of "**Employee**" in appendix I will be amended to read:

"**Employee**

an individual who, at the time of receipt of a notification and at the time of receipt of an Award Agreement, and subject to another determination by the Human Resources and Compensation Committee of the Board of Directors of the Corporation, is in Employment in respect of which no notice has been given and where termination thereof has not been stipulated under a termination agreement with a Participating Corporation and who is eligible to participate in a Plan or, where the context requires, his personal representatives. References to the Employee shall include any former Employee who holds an Award;"



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APPENDIX XIV – UNITED KINGDOM (UBS SHARES)

The provisions of this appendix modify the Plan Rules in respect of any Awards of UBS Shares granted to Employees who are resident in the United Kingdom.

1. A new Rule 7 will be added to appendix II (Off-Cycle Awards):

"7 The Vesting Period will be less than ■ years."

**APPENDIX XV – U.S.A. (UBS SHARES)**

The provisions of this appendix modify the Plan Rules (including the other appendices) in respect of any Award of UBS Shares granted under it to Employees who are resident in the United States of America, and with respect to Rules 1 and 3 below only, Employees who participate in the Plan and who are US tax payers.

- 1 Rule 2.12 (Rights following grant of an Award of UBS Shares) will be amended by adding the following sentence before the last sentence:

"Dividends and other distributions with respect to the UBS Shares subject to an Award will be made no later than the end of the calendar year in which the dividends and other distributions are paid to holders of UBS Shares."

- 2 The following sentence will be added to the end of Rule 2.1 (Administration by the Committee) of the Common Terms:

"Notwithstanding anything contained to the contrary herein, it is intended that the Awards shall be administered in such a way as to be and remain exempt from Section 409A and any additional taxes, interest or penalties imposed thereunder and that the Plan Rules shall be interpreted and construed consistent with that intent."

- 3 Rule 9 (Governing Law and Jurisdiction) of the Common Terms will be amended to read:

"9 **GOVERNING LAW AND JURISDICTION**

The Plan Rules will be governed by and construed in accordance with the laws of the State of New York, without reference to principles of conflict of laws, which would require application of the law of another jurisdiction. The Plan is not intended to be subject to the Employee Retirement Income Security Act of 1974, as amended."

- 4 Clause (v) of the definition of "Cause" in the Common Terms will be amended by deleting the words "without notice".

- 5 The definition of "**Disability**" in the Common Terms will be amended to read:

"Disability a condition affecting an individual which qualifies for coverage under applicable long term disability benefit coverage and renders the individual unable to work with or without reasonable accommodation;"

- 6 Rule 4.1 (Amendment or Termination of a Plan) of the Common Terms will be amended by adding the following sentence at the end:

"Notwithstanding the foregoing, the Committee reserves the right to make any amendments to the Plan if, in the sole discretion of the Committee, such amendments



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become necessary or advisable as a result of changes in law or regulations including, but not limited to, changes necessary or advisable to comply with or take account of the provisions of Section 409A, as amended, and any regulations promulgated thereunder, if applicable."

**APPENDIX XVI – U.S.A. (NOTIONAL SHARES)**

The provisions of this appendix modify the Plan Rules (including the other appendices) in respect of any Award of Notional Shares granted under it to Employees who are U.S. citizens (other than bona-fide residents of Puerto Rico for US income tax purposes or foreign individuals domiciled in Puerto Rico who, or whose Awards, are otherwise subject to taxation in Puerto Rico) or who are tax resident in the United States of America or whose Awards of Notional Shares are otherwise subject to taxation in the United States.

- 1 Rules 4.2 and 4.2.2 will be amended to read:

"4.2 **Other termination events; Disability:**

If an Employee:

4.2.2 dies or experiences a Disability, the Vesting Date(s) will be accelerated and the Vesting Period will end on the date of such Employee's death or Disability. The Award will be settled in accordance with Rule 6 and the Employee (or the heirs or estate of the Employee, if applicable) will be liable for any additional tax or social security liability arising from the acceleration of Vesting of the Award;"
- 2 Rules 4.2.1, 4.2.3 and 4.2.4 will be amended by adding the following language to the beginning thereof:

"terminates Employment"
- 3 Rule 5.3 (Committee determination) will be amended by adding the following language at the end:

", other than pursuant to Rule 4.2.2."
- 4 Rule 6.1.1 will be amended to read:

"6.1.1 Subject to Rule 5.2 (Withholding) of the Common Terms and Rule 6.2 below, as soon as administratively practicable and in any event on such date within 90 days following each Vesting Date as the Grantor shall determine in its sole discretion, the Grantor will transfer to the Employee the number of UBS Shares equal to the number of Notional Shares subject to the Employee's Award that have Vested, net of any applicable taxes and social security contributions. Notwithstanding anything to the contrary contained herein, in no event shall the release of UBS Shares subject to an Award be accelerated, other than pursuant to Rule 4.2.2 or Rule 6 of the Common Terms."
- 5 Rule 6.2.1 will be amended by adding the following sentence at the end:

"To the extent the Grantor continues to block settlement of a portion of an Employee's Award in accordance with the provisions of this Rule 6.2.1 on the last day of the calendar year in which the applicable Vesting Date occurred, such Award will be Forfeited."



- 6 The following sentence will be added to the end of Rule 2.1 (Administration by the Committee) of the Common Terms:
- "Notwithstanding anything contained to the contrary herein, it is intended that the Awards not be subject to any additional tax imposed under Section 409A and that the Plan shall be administered, and the Plan Rules interpreted and construed, consistent with that intent."
- 7 The last sentence of Rule 4.1 (amendment or termination of a Plan) of the Common Terms will be amended to read:
- "Unless the Committee determines otherwise, the Vesting Period of all unvested Awards will end on termination of a Plan but no distribution or settlement of an Award will be made unless such distribution or settlement can be made in compliance with Section 409A and as otherwise permitted under the terms of a Plan. Notwithstanding any provisions of a Plan to the contrary, the Committee will not amend or terminate a Plan in any manner that would result in the imposition of an additional tax under Section 409A. In addition, notwithstanding a provision of a Plan to the contrary, the Committee reserves the right to make any amendments to a Plan if, in the sole discretion of the Committee, such amendments become necessary or advisable as a result of changes in law or regulations or are necessary or advisable to comply with or take into account the provisions of Section 409A or Section 457A of the Code."
- 8 The last sentence of Rule 5.2.3 of the Common Terms will be deleted and the penultimate sentence will be amended by adding the following at the end:
- ", provided, that in no event shall UBS Shares be sold pursuant to this Rule 5.2.3 (other than upon or immediately prior to settlement in accordance with Rule 6.1.1 of the Plan Rules) other than to pay taxes imposed under the U.S. Federal Insurance Contributions Act (FICA) and any associated U.S. federal withholding tax imposed under Section 3401 of the Code and in no event shall the value of such UBS Shares (other than upon immediately prior to settlement in accordance with Rule 6.1.1 of the Plan Rules) exceed the amount of the tax imposed under FICA and any associated U.S. federal withholding tax imposed under Section 3401 of the Code."
- 9 A new Rule 5.2.5 will be added to the end of Rule 5.2 (Withholding) of the Common Terms:
- "5.2.5 Notwithstanding the foregoing, the Relevant Person(s) may not take any action under this Rule 5.2 which would cause the Award to be subject to any additional tax imposed under Section 409A. To the extent any Relevant Person(s) continues to withhold settlement of a portion of an Employee's Award in accordance with this Rule 5.2 on the last day of the calendar year in which the applicable Vesting Date occurred, such Award will be Forfeited."
- 10 Rule 6.1 (Transfer Event) of the Common Terms will be amended by adding the following proviso to the end of the first sentence:
- ", provided that settlement in respect of any Award will not be accelerated and will occur on the date specified in Rule 6.1.1 of the Plan Rules."



- 11 Rule 6.2.1 of the Common Terms will be amended by adding the following proviso to the end of the first sentence:

", provided that settlement in respect of any Award will not be accelerated and will occur on the date specified in Rule 6.1.1 of the Plan Rules."

- 12 Rule 6.2.1 of the Common Terms will further be amended by adding the following at the end:

"Notwithstanding the foregoing, the Committee may in its discretion, within 30 days preceding or 12 months following a change in control event of the Corporation within the meaning of Section 409A, terminate the Plan in whole or in part and instruct the Grantor to accelerate the Vesting Date of any Award and immediately settle such Award, provided that such termination, acceleration and payment is effected in compliance with Section 409A.

Notwithstanding the foregoing, in the event of a change in control event of the Corporation within the meaning of Section 409A in which all of the outstanding UBS Shares are exchanged for or converted into cash or the right to receive cash or the holders thereof are otherwise entitled to receive cash in cancellation or exchange thereof such that the shareholders of the Corporation immediately prior to the change in Control event do not continue to be shareholders of the Corporation, the resulting corporation or entity of such transaction or the transferee of substantially all of the assets of the Corporation immediately after such change in Control event, the Vesting Date will be accelerated upon such change of Control and will be immediately settled in accordance with Rule 6 of the Plan Rules."

- 13 Rule 6.2.2 and Rule 6.4 (Reorganisation) of the Common Terms will be deleted.

- 14 Rule 7.1.6 of the Common Terms will be amended to add the following at the end:

"Any amounts paid under a Plan by the latest delayed payment date permitted under Section 409A shall be deemed to be paid on a timely basis."

- 15 Rule 7.1.6.2 of the Common Terms will be amended to add the following at the end:

"or any failure to make a payment or distribution in respect of an Award on a Vesting Date or such other date as may be required under the Plan, or for any taxes imposed on an Employee by reason of participation in the Plan as a result of anything done or omitted to be done by any such person in connection with the Plan; and"

- 16 Rule 7.2 (Outstanding obligations of the Employee) of the Common Terms will be amended by adding the following at the end:

"provided, that the UBS Shares subject to the Employee's Award will be issued in the Employee's name on the date specified in Rule 6.1.1."

- 17 Rule 9 (Governing Law and Jurisdiction) of the Common Terms will be amended to read:

"9. **GOVERNING LAW AND JURISDICTION**



The Plan Rules will be governed by and construed in accordance with the laws of the State of New York, without reference to principles of conflict of laws, which would require application of the law of another jurisdiction. The Plan is not intended to be subject to the Employee Retirement Income Security Act of 1974, as amended."

- 18 Clause (v) of the definition of "**Cause**" in the Common Terms will be amended by deleting the words "without notice".
- 19 The definition of "**Disability**" in the Common Terms will be amended to read:
- "Disability**
- (i) an Employee's inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than 12 months; or
 - (ii) by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, receipt by an Employee of income replacement benefits for a period of not less than three months under an accident and health plan covering employees of the Employee's employer; or
 - (iii) an Employee's having been determined to be totally disabled by the U.S. Social Security Administration;"
- 20 The definition of the word "**Employment**" in the Common Terms will be amended by adding the following proviso to the end of the first sentence: "provided that if an Employee has incurred a "separation from service" within the meaning of Section 409A, then such Employee shall no longer be deemed to be in Employment as of the date such "separation from service" occurs."

Exhibit E

From: UBS Investment Bank
Sent: Tuesday, January 24, 2012 4:26 PM
Subject: Compliance with Risk Control's CHF [REDACTED] notional pre-approval requirement ##Internal only##

Memorandum

To: All Securities, Equities, and FICC Sales & Trading

From: Tom Daula, IB COO

Cc: IB Executive Committee and Operating Committee

Compliance with Risk Control's CHF [REDACTED] notional pre-approval requirement

Per the attached Risk Control Authorities, this is a reminder that this Risk Control policy requires you to seek pre-approval for transactions that have a **notional value of greater than CHF [REDACTED] or a potential loss in excess of CHF [REDACTED] unless specifically excluded as a carve out** in the attached Specific Guidance for MR Control Authorities document. All personnel should know of, understand, and abide by this policy.

If there is doubt about whether a transaction is within the scope of this policy, consult your MRO.

Tom



Risk Authorities

Risk Management and Control

Risk Authorities approved by the Board of Directors on 03.12.2010

Risk Authorities

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Abbreviations

BoD	Board of Directors	GCRO	Group Chief Risk Officer
BA	Business Area	GEB	Group Executive Board
BD	Business Division	GI AM	Global Asset Management
CC	Corporate Center	IB	Investment Bank
BD CEO	Business Division Chief Executive Officer	RC	Risk Committee (of the BoD)
BD CRO	Business Division Chief Risk Officer	SB	Swiss Bank
BD CFO	Business Division Chief Financial Officer	WMA	Wealth Management Americas
ComCo	Commitment Committee	WM&SB	Wealth Management & Swiss Bank
GCEO	Group Chief Executive Officer	WM	Wealth Management
GCFO	Group Chief Financial Officer		
A	Approve		
P	Propose		
I	To be informed		
X	Proposal and approval authority attributed		

All amounts are in CHF million unless specified otherwise

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Primary Risks – Market Risk, Credit Risk, Investment Risks

1 Introduction

Market, credit and investment risks – as primary risks – are subject to independent control processes. Hence, joint approval from Risk Management and Risk Control is required for transactions, positions and exposures. Risk measurement methods are subject to Risk Control approval to ensure consistency and alignment with UBS's overall risk appetite.

The authority levels delegated to divisional Risk Management and Control should be commensurate with the risk capacity and appetite of the particular Business Division, and are intended to support autonomous decision making. The combination of these delegated authority levels together with the allocated portfolio limits are designed such that transactions, that either individually or collectively present significant risk concentrations to the UBS Group, are escalated to Group for consideration. It is recognised that the risk appetite may change over time, and as a consequence the portfolio limits and the risk authorities will be subject to periodic reviews and changes.

This document is owned by the GCRO. Any interpretation of these Risk Authorities requires GCRO approval. Please note, UBS internal engagements are subject to the governance of the GCFO (see policy UBS Group Internal Engagements 1-P-000357).

Risk management authority is vested with the [REDACTED] and the [REDACTED] (ex officio) who may partially delegate their authority to [REDACTED] [REDACTED] of the businesses and appoint deputies who exercise their authority in their absence (see Appendix).

Risk control authority is delegated by the [REDACTED] to the [REDACTED] the [REDACTED] and the [REDACTED] as set out in this document.

Portfolio and concentration limits: Utilization of portfolio limits is subject to approved Group and Business Division risk policies.

- The [REDACTED] with the agreement of the [REDACTED], may fully or partially release [REDACTED] approved portfolio limits.
- The [REDACTED] may approve temporary excesses over any portfolio limit approved by the [REDACTED] and notify the [REDACTED] at its next meeting following such temporary authorization, together with a report on action taken to eliminate the excess or a timeline for submission of a proposal for a permanent limit increase.

Transactions, positions and exposures: approval is subject to applicable portfolio limits and to approved policies.

- All exposures to individual counterparties and groups of related counterparties are subject to UBS's Internal Legal Lending Limit and regulatory Large Exposure restrictions across all exposure types (including Equity Holdings, see section 8).
- Limit excesses and policy exceptions must be escalated in accordance with the terms of the applicable portfolio limits and approved policies.
- The [REDACTED] may approve levels (for limits or transactions) below which Risk Control pre-approval is not required. Such cases must be documented in approved policies.

Further Delegation

- The designated deputies of the [REDACTED] (see Appendix) may exercise the full [REDACTED] authority specified in sections 3 and following, including the responsibilities in the [REDACTED] [REDACTED]
- The [REDACTED] is authorized to agree with the [REDACTED] the framework for further delegation of their ad personam authority. The [REDACTED] may also delegate to the [REDACTED] additional Credit Take & Hold authorities (set out in sections 3.1 and 3.2). These additional delegations apply to [REDACTED] approved counterparties only and are capped at the levels delegated to the [REDACTED]
- The [REDACTED] may nominate deputies who may exercise BD CRO authority in their absence (also for urgent transactions contemplated in other time zones).

Escalation and Intervention

- Both Risk Management and Risk Control have responsibility to identify and escalate transactions, positions or exposures which
 - carry increased reputation risk
 - consume substantial additional regulatory capital, balance sheet or risk capacity
 - are likely to remain on the books beyond the normal length of time for a position of its type

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- o constitute a significant deviation from the current risk profile of the BD or UBS
- o constitute a material exception to approved policies, or may require approval beyond that dictated by the quantitative authorities, even if they are within the pre-approved portfolio of businesses and activities.
- In case of major disagreement or concerns between Risk Control and Risk Management, including cases where Risk Management does not agree with a portfolio limit imposed by Risk Control, issues must be escalated to the next Risk Control and Risk Management authority levels or beyond, and ultimately to the [REDACTED] and [REDACTED]
- The [REDACTED] has the right to escalate transactional decisions by the [REDACTED] to the [REDACTED] and [REDACTED]

Reporting

All Risk Control decisions (including changes in portfolio limits and measurement methods) taken by authority holders listed in the Appendix must be reported through the periodic risk report.

Risk Authorities

2 Measurement Methods and Portfolio Limits

					Remarks
<p>2.1 Value at Risk (market risk only)</p> <p>Methodology, and material changes thereto ¹</p> <p>Group Limit</p> <p>BD Limits</p> <p>BD Sub-Limits</p> <p>Allocation to Business Units</p>					<p>* [redacted] approves principal characteristics of methodology and measurement. [redacted] approves detail</p>
<p>2.2 Portfolio and Concentration Limits</p> <p>Methodology and material ¹ changes thereto</p> <p>Group Limits</p> <p>BD Limits</p> <p>BD Sub-Limits</p> <p>Allocation to Business Units</p>					<p>Limit authority holder, or delegate, approves risk measurement methodology and changes thereto, unless methodology applies to limit / sub-limit which is subject to a corresponding Group limit. For [redacted] set limits, [redacted] approves principal characteristics of methodology and measurement. [redacted] approves detail</p>
<p>2.3 Stress Loss</p> <p>Methodology and scenarios, and material changes thereto ¹</p> <p>Group limit</p> <p>BD Limits</p> <p>BD Sub-Limits</p> <p>Allocation to Business Units</p>					<p>* [redacted] approves principal characteristics of measure and scenarios. [redacted] approves detail, including changes to input parameters which must be notified to [redacted]</p>
<p>2.4 Country Limits</p> <p>Definition of countries with no limits</p> <p>S00 – S02</p> <p>S03 – S04</p> <p>S05 – S07</p> <p>S08 – SDF</p>					<p>See Group policy Country Risk 1-P-000021</p> <p>The [redacted] may delegate some or all his authority for country risk limits to the designated deputies as set out in the Appendix.</p>

¹ Material is defined as changes resulting in +/-10% change in VaR limit utilization. To the extent practical this is measured on a cumulative basis across all methodology changes since the last review of VaR limits by the GCEO, but excludes changes in exposure resulting from routine updates to the historical time series

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3 Credit Take & Hold, Settlement and Issuer Risk**3.1 Credit Take and Hold**

Credit Take and Hold Exposure includes Banking Products and Traded Products (OTC Derivatives, Securities Financing and Exchange Traded Derivatives). While these authorities apply independently from the Equity Holdings authorities set out in section 7, decisions must be taken based on the presentation of all exposures.

For Banking Products (including Lombard loans), limits and exposure are expressed as the loan or commitment nominal amount without recognition of collateral or other credit support, but after recognition of credit hedges where covered by approved policies for credit hedging. The quantum varies with the internal counterparty credit rating, or the transaction rating, where applicable. When the counterparty is part of a group, the average internal group credit rating, weighted by the UBS limits for each counterparty, will determine the authority level. For counterparties risk domiciled in emerging market countries, the counterparty rating will determine credit authority, except that, for authority purposes, this rating may not exceed the country rating by more than 2 notches.

For Traded Products, limits and exposure are measured in accordance with documented methodology approved under 2 as follows:

- unsecured – Maximum Likely Exposure (MLE), after recognition of credit hedges where covered by approved policies.
- collateralized OTC Derivatives, including Securities Financing – Close Out Period (COP) Exposure after recognition of credit hedges where covered by approved policies.

Credit exposure resulting from Banking and Traded Products which is incurred conditional upon execution of credit hedges or syndication/distribution – Temporary Exposure – must be approved under authorities for Credit Temporary Exposures and in accordance with approved policies.

For the purposes of section 3.1.3, eligible collateral is defined as follows:

- Marketable collateral: cash, near cash (including precious metals and money market instruments), and securities (bonds, equities, etc) which are liquid, negotiable and actively traded, for which current market prices are available, and which are part of a diversified portfolio.
- Non-marketable collateral: standby letters of credit, guarantees issued by third party providers, securities not meeting the definition of marketable, and securities which would generally be considered marketable but which are part of a portfolio that cannot be considered diversified (e.g. single stock financing).
















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3.1 Credit Take and Hold (continued)

							Remarks
3.1.1 Corporates, brokers, investment banks, funds, insurance companies, public finance, SPEs* and structured transactions <i>Internal rating</i>	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	* Excludes UBS compensation and benefit vehicles which are treated as UBS Entities and subject to Annex B of the Organisation Regulations
3.1.2 Regulated savings & commercial banks (including central banks, sovereigns and sovereign wealth funds) <i>Internal rating</i>	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
3.1.3 Private individuals / privately owned investment companies Unsecured Secured against - Eligible collateral - marketable - non-marketable - Owner occupied real estate - Other real estate	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	For definitions of eligible collateral see text 3.1 above

Risk Authorities

3.2 Settlement Risk









								Remarks
<p>3.2.1 Corporates, insurance companies, public finance, SPEs* and structured transactions</p> <p><i>Internal rating</i></p> 								<p>* Excludes UBS compensation and benefit vehicles which are treated as UBS Entities and subject to Annex B of the Organisation Regulations</p> <p>** One-off authority for Regulated Savings and Commercial Banks can be extended beyond Settlement Risk in line with separate instructions</p> <p>One off approval in all other cases is only applicable for individual intra-day and overnight excesses. If excesses occur for a counterparty on a regular basis, a limit increase must be requested</p>
<p>3.2.2 Regulated savings & commercial banks, regulated brokers, investment banks, central banks, funds, sovereigns and sovereign wealth funds</p> <p><i>Internal rating</i></p> 								

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3.3 Issuer Risk

Issuer Risk positions require **explicit ex-post approval** (subject to thresholds specified in approved policies). Authorities are expressed as 'Loss Given Event' measured in accordance with approved policies.

Exposures to individual issuers arising from Large Transactions and Hard Underwriting commitments (including block trades) which are subject to immediate distribution are not aggregated with Issuer Risk exposures for authority purposes. Issuer Risk exposure which is expected to remain beyond the immediate distribution period (typically up to close of business on the next working day after commitment, but may be longer where specified in approved policies) must be added to Issuer Risk positions and explicitly approved at the time of commitment. If the resultant Issuer Risk exposure will require approval at a higher level than the Large Transaction / Hard Underwriting Commitment, the commitment must also be approved by the relevant Issuer Risk Authority.

								Remarks
<p>3.3 Issuer Risk Loss Given Event Per Issuer (external rating)</p> 								<p>Loss Given Event (LGE) based on approved methodology for exposure measurement per approved policies. Applicable rating is lower of the external rating and the credit spread implied rating, where available. For issuers where neither is available, the rating is determined per BD policy.</p>

Risk Authorities

4 Temporary Exposures

4.1 Modus Operandi

Certain transactions are of sufficient size or complexity to warrant consideration and approval by a [redacted] committee [redacted] have authority expressed in two ways – potential loss and nominal / market value. Whichever is the more restrictive is the constraint on the [redacted] authority. The authority shown for a [redacted] is the upper limit of its authority.

A transaction requiring [redacted] approval is generally presented directly to the [redacted] with the authority to approve it – consecutive approvals are not required. Transactions which require [redacted] approval must be submitted by and endorsed by the [redacted] and [redacted].

ComCo decisions must be unanimous and must be recorded.

4.2 [redacted] Committee Membership

	[redacted]	[redacted]	[redacted]	[redacted]
Permanent Members	[redacted]	[redacted]	[redacted]	[redacted]
Other members ¹	as determined by the chair	as determined by the chair	as determined by the chair	as determined by the chair

¹ [redacted] [redacted] may request or permit others to attend meetings to provide information or advice, for example representatives of origination, trading, distribution, legal, compliance, tax and/or treasury. Attendees do not have a vote.

4.3 Other Division [redacted]

The [redacted] may establish one or more [redacted] at a level below the [redacted] and partly delegate to them the authority of the [redacted], subject to the approval of the [redacted] (authority and membership) and the following restrictions:

- maximum of 4 voting members
- chair must be from the business / risk management
- at least one risk control member, nominated by the [redacted]
- all decisions must be unanimous but the chair of the [redacted] has a right to escalate to the [redacted]

At the request of the [redacted], the [redacted] may approve levels below which a [redacted] is not required and alternative ad personam authorities are to apply.

Risk Authorities

4.4 Authorities

4.4.1 Credit Temporary Exposures (Credit TE)

A Credit TE is any Banking Products or Traded Products exposure which is subject to immediate syndication or distribution (predominantly up to 180 days) and/or credit hedging (maximum 90 days). Exceptionally, Credit TEs may be held for longer periods subject to approved portfolio limits and approved policies. The most common form of credit TE is a loan underwriting commitment. Credit TEs are not aggregated with Take & Hold Exposures (3.1) in determining TE authority.

The **potential loss** authority applies to the transactional stress loss on the expected allocation and is the same for all ratings.

The **nominal** authority applies to the full legal commitment and varies by rating.

Whichever generates the higher approval authority applies.

	Group ComCo	IB ComCo	SB ComCo
Potential loss	[REDACTED]	[REDACTED]	[REDACTED]
Nominal <i>Internal rating</i>	[REDACTED]	[REDACTED]	[REDACTED]

Risk Authorities

4.4.2 Market Risk Temporary Exposures (Market Risk TE)

A Market Risk TE is a security hard underwriting commitment or an equity block trade which is subject to immediate distribution or syndication, generally by close of business on the working day following the commitment but over a longer period subject to approved policies or when specifically agreed by the [REDACTED] For the avoidance of doubt:

- book built / best efforts underwriting is not subject to these authorities except to the extent UBS wishes to or will be morally obliged to take up any unsold amount
- equity block trades include those bought from both insiders / connected parties (e.g. founding family) and unconnected third parties (e.g. institutional fund)

Exposures to individual issuers arising from Market Risk TEs are generally not aggregated with Issuer Risk exposures (3.3) for authority purposes. Issuer Risk exposure which is expected to remain beyond the approved distribution period must be added to Issuer Risk positions and explicitly approved at the time of commitment. If the resultant Issuer Risk exposure will require approval at a higher level than the TE authority, the commitment must also be approved by the relevant Issuer Risk Authority.

The **potential loss** authority applies to the potential loss based on shocks to the relevant risk sensitivities of UBS's commitment and applies to all ratings. The market value authority applies to the nominal amount of the commitment at the expected committed price or highest price in the range and varies by rating. Whichever generates the higher approval authority applies.

	Group ComCo	IB ComCo	WMA ComCo
Potential loss	[REDACTED]	[REDACTED]	[REDACTED]
Nominal * <i>External rating</i>	Debt / Equity [REDACTED]	Debt / Equity [REDACTED]	Municipal Securities [REDACTED]
<i>External rating</i>	Equity linked [REDACTED]	Equity linked [REDACTED]	
*Issuers with a risk domicile in countries rated below S05 (i.e. Emerging Market Countries) are subject to a nominal cap of [REDACTED]. Security underwriting commitments larger than [REDACTED] for these issuers must be submitted to the [REDACTED] for approval. The [REDACTED] may waive this country cap for sovereign issuers of countries rated below S05.			

Risk Authorities

5 Large Transactions and Structures – UBS Investment Bank

Large transactions, as defined below, must be referred by the Business to IB Risk Control for individual transaction approval. The [REDACTED] may fully or partially exempt specified highly liquid transactions from this market risk pre-approval requirement. All exceptions must be documented. Please note, credit risk approval requirements and counterparty limits still apply.

All risk management and control professionals and other control functions have the right to escalate any transaction, regardless of size (potential loss or value) on other risk grounds, including liquidity risks, to more senior levels within their function or to the [REDACTED] who will determine whether to escalate to the [REDACTED] or the [REDACTED]. Such referrals are neither covered nor precluded by the authorities below.

5.1 Definition

A large transaction is defined by its potential loss and/or a fully leveraged gross value above a certain threshold and requires pre-approval.

- **Potential loss** is measured on the total structure, including hedges, reflecting all risk factors on a risk factor shock basis
Large = potential loss > [REDACTED]
- **Value** is measured as the notional or market value equivalent of cash and synthetic positions, measured separately on long and short positions / legs, without netting or hedges, based on the fully levered amount (i.e. the amount to be hedged or risk managed).
Large = value > [REDACTED]

Repeat transactions executed over several days are deemed to be one transaction. All large transaction approvals must be appropriately documented.

5.2 Authorities

The more restrictive of Potential Loss or Value threshold determines approval authority.

	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Potential loss	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Value	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

a [REDACTED] may delegate authority to senior management members of Risk Control, subject to [REDACTED] approval

Risk Authorities

6 Impaired Assets (Recovery Portfolio) and Provisions / Allowances for Credit Loss Expense

Only applies to assets carried on an amortized cost basis. The [REDACTED] and [REDACTED] must be informed (I) about significant new recovery positions, and any positions which have substantial publicity risk.

	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Remarks
6.1 Impaired Counterparties and Assets							
6.1.1 Provisioning- cumulative - credit loss provisions - provisions for other real estate owned (OREO = foreclosed property)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
6.1.2 New facilities (exposure increase) - additional and/or new loans - loan purchase		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
6.1.3 Exposure extensions – credit renewals and stand-still agreements			[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
6.1.4 Investments – improvements in OREO		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
6.1.5 Within approved and established provisions / allowances - equity participation from restructuring - debt forgiveness - write-offs (subject to 6.1.1 if outside approved and established provisions)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	<u>Equity participation</u> must be recorded in Legal Structure Database. Must also be notified to Legal Structure Committee if UBS's holding or control will result in equity accounting or consolidation. <u>Debt forgiveness</u> includes possibility to swap from senior to subordinated and/or from secured to unsecured debt.
6.2 Impaired Portfolios Collective Loan Loss Provisions (CLLPs) New CLLPs, and increases or reductions in existing CLLPs	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	For authority purposes, all CLLPs are considered cumulatively, across all events subject to CLLPs. Authorities may be exercised for each calendar quarter, i.e. the [REDACTED] may approve new or additional CLLPs up to a total of [REDACTED] per calendar quarter. Specific counterparty provisions, even where already covered by CLLPs, must be approved under 6.1.1.

Risk Authorities

7 Equity Holdings – Commercial Holdings

Risk Management and Control authorities for Equity Holdings apply only to Commercial Holdings as defined in the Group policy Equity Holdings (1-P-000072).

Equity Holding limits and authorities are expressed and apply as follows:

- for Underwriting and Take and Hold positions – original cost plus additional investments at cost
- for Write Downs / Offs
 - for financial investments available for sale: cumulative amounts per investment charged to P&L as permanent reduction in value
 - for holdings which are consolidated or accounted for as associates: [aggregate cash invested – (interim capital returns + anticipated value of sale consideration)]
- for Divestments any write down / off at the time of divestment (i.e. not already provided) must be approved in accordance with Write Down / Off authorities

								Remarks
7.1 Private Equity								
7.1.1 Taking Positions								Only applies to positions taken under approved policies for the business line
- Underwriting								
- Final Hold Position								
7.1.2 Divestments ¹								
7.1.3 Write Downs / Offs per Holding								
7.2 Infrastructure Funds Management (IFM)								
7.2.1 Aggregate commitment to single asset								'Stage 1' investments made by and at the risk of IB Aggregate commitment includes all equity, quasi-equity and debt commitments (funded and unfunded) Conditional on approval of asset by [redacted] and [redacted] as suitable for transfer into an IFM fund
- holding up to 1 year								
- holding over 1 year								
7.2.2 Divestment ¹								
7.2.3 Write Downs/Offs per Holding								
7.3 Other Equity								
7.3.1 Aggregate holding in single entity or group of related entities								
7.3.2 Divestments ¹								
7.3.3 Write Downs / Offs per Holding								

¹ [redacted] and [redacted] to be pre-notified of any divestment which is potentially high profile in terms of, for example, financial outcome, context of divestment or reputational issues

Risk Authorities

8 Investment in UBS Funds

Authorities apply to Investments in UBS Funds for the purposes of seed money, co-investment or trading support as defined in Group policy Proprietary Capital Investment in UBS Funds 1-P-000034, regardless of accounting treatment (trading portfolio, financial investment available for sale, financial asset designated at fair value, associate or consolidated entity).

'UBS Funds' *excludes* UBS Compensation and Benefits Vehicles which are subject to Annex B to the Organization Regulations.

These Authorities do not apply to holdings taken to hedge trading positions or for market making in listed funds, which are subject to Issuer Risk authorities – see 3.3.

8.1 Volume and other Portfolio Limits

					Remarks
8.1.1	Volume limits, terms and conditions				Authorities apply to total volume limits per BD All volume limits to be accompanied by detailed terms and conditions, and delegated approval authorities within the Business Division
8.1.2	Other limits and controls				may impose other forms of limit such as VaR and/or stress measures or concentration limits within the volume limit

8.2 Specific Investments

									Remarks
8.2.1	Under approved volume limits								Any investment not complying with terms and conditions of a volume limit is subject to 8.2.2 or delegate has discretion to determine whether an investment which is within a volume limit but not fully compliant with its terms and conditions materially breaches the terms and conditions, and may approve amounts under 8.2.1 where breach is not material
8.2.1.1	Trading support – at cost								
8.2.1.2	Seed Money – at cost								
	- up to 1 year								
	- up to 5 years								
	- over 5 years								
8.2.1.3	Co-investment – percentage of fund								
8.2.2	Investments outside approved volume limits (at cost)								

UBS AG

Kaspar Villiger
Chairman

Sergio P. Ermotti
Group Chief Executive Officer

Risk Authorities

APPENDIX

APPROVED FUNCTION HOLDERS / DELEGATES AND DEPUTIES

This Appendix to the Risk Authorities contains the names of the office holders to whom risk authority has been delegated ad personam, and the names of the [REDACTED] who exercise Risk Management authority ex officio. Amendments to the Appendix must be approved in accordance with section 1 above but such amendments do not constitute changes to these Risk Authorities.

Organizational Unit	Function & Date of Delegation / Approval			
	[REDACTED]	Date	[REDACTED]	Date
Group <i>Deputy</i> <i>Deputy for WM&SB CH Proposals</i>	[REDACTED]	01 Dec 11	[REDACTED]	24 Sept 11
	[REDACTED]	04 Jun 08		
	[REDACTED]	18 Jan 06		
IB	[REDACTED]	19 May 11	[REDACTED]	28 Apr 09
SB	[REDACTED]	01 Feb 11	[REDACTED]	01 Apr 10
WM	[REDACTED]	01 Nov 10	[REDACTED]	10 Feb 09
WMA	[REDACTED]	28 Feb 11	[REDACTED]	27 Oct 09
GI AM	[REDACTED]	29 Nov 10	[REDACTED]	18 Jan 06
CC	[REDACTED]		[REDACTED]	01 Jun 11

1 For Corporate Center, the [REDACTED] authority" is delegated to the [REDACTED] who has line responsibility for Group Treasury where the relevant risks are carried

UBS INVESTMENT BANK

Market Risk Control (5-S-002948)

UBS-IB Specific Guidance for Market Risk Control Authorities**1 INTRODUCTION**

These instructions must be read in conjunction with the Risk Authorities (1-C-000004) and form an integral part of UBS-IB market risk delegated authorities for the approval of transactions and positions. (See also Market Risk Delegated Authorities, 5-S-003159.)

Under the Large Transactions rules in the Risk Authorities (1-C-000004) the Business must refer to Risk Control for pre-approval any transaction with a **Potential Loss in excess of** [REDACTED] or a **Notional Value¹ greater than** [REDACTED]. The more restrictive of Potential Loss and Notional Value applies.

These instructions set out exemptions and restrictions to the above Large Transaction rules in so far as they relate to Notional Values, as follows:

- **Exemptions** - Annex A contains transaction types which do not need to be referred to a market risk officer (MRO) even if they exceed the Large Transactions notional threshold of [REDACTED] set out in the Risk Authorities. There are, however, no exemptions from the Potential Loss trigger of [REDACTED]
- **Restrictions** - Annex B contains additional Notional Value restrictions in respect of Emerging Markets FX transactions.

MROs have the right to escalate trades with a lower Potential Loss or Notional Value than required by the Risk Authorities. The Business must use judgement as to whether to escalate to an MRO trades with a lower Potential Loss or Notional Value than required by the Risk Authorities and supporting documents.

Any changes to this document require [REDACTED] approval.

2 OTHER FRAMEWORKS TO CONSIDER

Security Underwriting transactions (hard or soft) are not included in the definition of 'Large Transactions' and are not in the scope of this guidance document; they are instead governed by the Security Underwriting policy (5-P-000307) and the [REDACTED] Committee ([REDACTED] requirements² in the Security Underwriting authorities document (5-S-002145).

In addition to the Large Transactions framework, market risk transactions are subject to the Portfolio and Position Limits framework (see Market Risk Limits policy, 5-P-000327), the Country Risk framework (Group Country Risk policy, 1-P-000021) and the Issuer Risk Framework (5-P-000332).

Before UBS-IB enters into or commits to a New Business Initiative or enters into a new structured or complex transaction, the New Business Initiatives and Complex Trade Approvals policy (5-P-000296) must be followed.

Note: certain transactions are subject to separately approved control frameworks. These include:

- Call-Spread Overlay Transactions in accordance with the framework agreed with Head of Firm-wide Portfolio Risk Control and Methodology
- Dividend re-investment plans (Australia only)
- Hedge Fund & Fund of Hedge Fund derivatives transactions in accordance with the framework agreed with Head of Firm-wide Risk Control and Methodology.

¹ **Notional Value** is measured as the notional or market value equivalent of cash and synthetic positions, measured separately on long and short positions / legs, without netting or hedges, based on the fully levered amount (i.e. the amount to be hedged or risk managed).

² The criteria for submission to the [REDACTED] are: Potential Loss of [REDACTED] or higher or as otherwise required by the Security Underwriting policy, 5-P-000307.

UBS INVESTMENT BANK

Market Risk Control

ANNEX A: Exemptions from referral to Risk Control based on Notional Value

A1. EQUITIES

Vanilla futures, options and swaps in all Approved OECD markets plus Singapore, South Korea and Hong Kong (including H shares)
Accelerated share repurchase (a.k.a. 'VWAP-minus') structures <u>without</u> caps or collars
Cash equity program trades where daily standard deviation [redacted] and average liquidity less than [redacted] of daily traded volume

A2. FIXED INCOME

GOVERNMENT BONDS and VANILLA RATES ³ Transactions		
	EUR/GBP/USD/JPY	Other Approved OECD ⁴ countries
Exempt notional provided trade is <i>either</i>	[redacted]	[redacted]
... long option with market value up to	[redacted]	[redacted]
... or transaction can be hedged intraday within bid offers in current market conditions, and sensitivities do not exceed	Delta: [redacted] Vega: [redacted]	Delta: [redacted] Vega: [redacted]
Rates US – secondary market in Agencies: [redacted] for uncommitted part of the issue		
Trades will need to be notified to Risk Control directly after execution		
Longer tenors are permitted with [redacted] approval		
An additional exemption applies for vanilla OIS/FRA transactions, denominated in EUR, GBP, USD or JPY, where PV01 [redacted] tenor [redacted] and portfolio limits are set per currency and 1-month forward bucket PV01 < [redacted]		
<ul style="list-style-type: none"> any transaction where PV01 [redacted] must be supported by a [redacted] and notified to MRC any transaction where PV01 [redacted] must be approved by a [redacted] all other transactions require approval from the Market Risk Head of UBS-IB Portfolio and Concentration Risk Control. 		
COLLATERAL		
	Tenor and Notional	
Approved OECD Government Bonds (Repo only)	[redacted]	
US Agency Debentures (excluding subordinate debt and strips) and MBS Pass-Throughs (near current coupon) (Repo only)	[redacted]	
Corporate Triparty Repo and Securities Lending (including Stock)	[redacted]	
CDS referencing the following credit indices		
- CDX (IG) – 5 years – limited to the 3 most recent series (currently 9,10 and 11)	[redacted]	
- Itraxx (ITX) – 5 years – limited to the 3 most recent series (currently 8, 9 and 10)	[redacted]	
Max [redacted] for maturities up to 10 years on the indices above. No exemption for older series, tranches, High Vol or Crossover		

³ Vanilla rates transactions include: interest rate swaps (IRS), futures, options, overnight indexed swaps (OIS), swaptions and forward rate agreements (FRAs).
⁴ As set out in the Approved OECD countries supplement, 5-S-000334.

UBS INVESTMENT BANK

Market Risk Control

A3. FOREIGN EXCHANGE – FX Approved OECD Countries

Country	FX Spot, FX Forwards Limit (USD'm)	Vanilla Options Limit (USD'm)
Denmark (DKK), Norway (NOK), Sweden (SEK)	████	████
Switzerland (CHF)	████	████
Eurozone member countries (EUR)	████	████
United Kingdom (GBP)	████	████
Canada (CAD)	████	████
Australia (AUD)	████	████
Japan (JPY)	████	████
New Zealand (NZD)	████	████

ANNEX B: Additional UBS-IB Restrictions to Large Transactions rules – Emerging Markets FX Transactions

The following countries are subject to a █████ notional threshold above which they require referral to Risk Control:

Tier 1	Tier 2
Argentina	Bahrain
Chile	Croatia
Colombia	Egypt
Iceland	Estonia
Indonesia	Kazakhstan
Malaysia	Kenya
Peru	Kuwait
Philippines	Latvia
Romania	Lithuania
Saudi Arabia	Morocco
Ukraine	Oman
United Arab Emirates	Qatar
	Thailand
	Tunisia
	Vietnam

Currencies not traded and not set up in the firm's infrastructure are subject to a threshold of █████.

A specific rule applies to Tier 1 Transactions: the relevant █████ and █████ can approve up to █████ notional.

MROs approve according to their Potential Loss authorities below these thresholds.

Exhibit F

From: Lanzilotti, James
Sent: Wednesday, February 29, 2012 9:29 AM
To: [REDACTED] Cohn, Eduardo
Cc: Iofin, Eugene; Ellison, Douglas
Subject: FW: Large Notional Transactions- FICC @ 17-Feb-2012

There is a hard rule that we need pre-approval for any trade notional over [REDACTED]

Dutta, Ritesh POLICY ALERT: any trade above [REDACTED] face needs pre-approval from MRC, does not matter the risk of the trade even if it is small, or a spread trade or a FRA trade etc etc.

It does not matter that the DV01 on these trades are not large. I am working on getting an exception but will take some time.

Please make sure you speak to MRC on any notional over [REDACTED]

From: Iofin, Eugene
Sent: Wednesday, February 29, 2012 9:19 AM
To: Lanzilotti, James; Zanini, Sergio; Poon, Tommy-H; Glower, Esteban
Cc: Ellison, Douglas; deCastro, Christina
Subject: FW: Large Notional Transactions- FICC @ 17-Feb-2012
Importance: High

Hi,

There were 2 BRL swap trades with notional > [REDACTED] in BRS2 under Rates Stamford desk this year (Jan 24 and 26). Those were not pre-approved by MRC.

Until we get the exemption approved for Brazil FXMM and Rates, which hasn't happened yet, please obtain MRC pre-approval prior to doing any trade [REDACTED] going fwd.

<<FW: Compliance with Risk Control's CHF [REDACTED] notional pre-approval requirement ##Internal only##>>
Thanks,
Eugene

From: Ellison, Douglas
Sent: 29 February 2012 08:35
To: Iofin, Eugene; Luo, Sherry
Subject: FW: Large Notional Transactions- FICC @ 17-Feb-2012

Did we get approval requests for the large notional trades on this report?

Thx

From: Gurrarn, Venkat
Sent: Monday, February 20, 2012 7:48 AM
To: Scholz, Bjoern; Tennant, Alistair; Freuler, Roman; Ovchinnikova, Natalia; Duenger, Volker; Salzmann, Adrian; Ellison, Douglas; Rey, Michael; Meyer, Michael-R (RiskControl); Higashiyama, Shinji; Parker, Grant; Lagrange, Julia+; van Eijck, Marc; Bitz, Andreas; SH-CRO-Macro-NLIR-Reporting

Cc: Walker, Nicola; Shah, Neelay
Subject: Large Notional Transactions- FICC @ 17-Feb-2012

Hi All,

Please find attached the latest large notional transaction reports for reporting date 17Feb 2012.

Rates Output

<<RatesOutput_20120217.xls>>

Credit Ouput

<<CreditOutput_20120217.xls>>

EM Output

<<EMOutput_20120217.xls>>

Policy

<<5-S-002948.pdf>>
Issue Log

1	13.01.2012	Roman,Freuler/Schoz,Bjoern	N/a	Trader details	Included to current sheet	Closed
2	13.01.2012	Roman,Freuler/Schoz,Bjoern	N/a	Underlying details	Included to current sheet	Closed
3	13.01.2012	Roman,Freuler/Schoz,Bjoern	N/a	FO trade ref	Included to current sheet	Closed
4	13.01.2012	Roman,Freuler/Schoz,Bjoern	N/a	Trioptima Compression field	Included to current sheet	Closed
5	13.01.2012	Roman,Freuler/Schoz,Bjoern	N/a	The inclusion of valuation system	Included to current sheet	Closed

6 - - N/a There is no mapping for DCEM Confirmation req'd Open
 7 - - N/a The revised carve-out rules from the latest policy where they can be applied are still to be applied.
 (Carve-out rules where they can be applied are pre the 2011 policy.) Yet to start Open
 8 - - N/a Duplicated Credit trade Under investigation Open
 9 13.01.2012 Volker,Duenger 81436695L0,81442337L0,81442316L0 and 81434590L0 Swaptions with
 notional < USDbn 10 and an IR delta < USDm 1.5 and IR BS vega < USDm 4 that can be hedged intraday (assuming
 proxy hedging with other expiry/tenor is also considered intraday hedge) were exempt from pre-approval in view of the
 carveout of the policy. will be reviewed in conjunction with point 7 Open
 10 13.01.2012 Adrian,Salzmann n0.72.102229786_1,1625525536,1623932672,1621409057 and
 81425261L0 1.BSIS is a 10yr vanilla swap on EURIBOR. (notional is < 10bln and delta is <\$1.5mln)

2. STIR - Cash: these 3 transactions are FRAs in Other approved OECD Countries (CHF) with Notional < 5bn and Delta < 0.5m (3M duration each).

3.JGB repo GC trade for 2 weeks with JPY 100bn notional (CHF 1.2bn)

will be reviewed in conjunction with point 7 Open

11 27.01.2012 Douglas,Elison N/a 1.Possible exceptions :Brazilian DI swaps and futures packages and BRL
 NDF rollover trades with UBS Asset Management will be reviewed in conjunction with point 7 Open

12 27.01.2012 Volker,Duenger "81510956","81509645","81509647","81509649","10708877","83131034","8150502
 0","83131087","83131650","81498764","83129269","83129273","83129277" As per Volker EUR, JPY and USD Vanilla
 Options as well as USD gamma were subject to the policy carveout and did not require MRC pre-approval. will be
 reviewed in conjunction with point 7 Open

Kind regards
 Venkat

From: van Eijck, Marc
To: Passaretta, Gianluca; Iofin, Eugene; Martinez, Javier; Poon, Tommy-H
Cc: Ellison, Douglas; deCastro, Christina; Mazzucato, Federica
Sent: Tue Apr 17 12:49:08 2012
Subject: Re: Large Notional Transactions- FICC @ 13-APR-2012

Gianluca, tks but unfortunately, until we have further streamlined the current policy which raises the notional for certain types of trades (which is something federica and myself are currently working on), the below simply doesn't fly (& esp not after the usd 2bn trading incident where had people followed the chf 1bn rule then we might have been able to catch it earlier) and the desk should have asked for approval.

Tks
Marc

From: Passaretta, Gianluca
To: Iofin, Eugene; Martinez, Javier; Poon, Tommy-H
Cc: Ellison, Douglas; deCastro, Christina; van Eijck, Marc
Sent: Tue Apr 17 07:09:49 2012
Subject: RE: Large Notional Transactions- FICC @ 13-APR-2012

Ladies/Gents, if you pay attention to what the trades are, you will realize that:

1. These are two almost offsetting trades, whereby the net risk is only MXN 5 billion
2. They are 3 MONTHS IRSs, where notional is not much relevant given that DV01 is tiny.
3. Notional is also not very relevant given that these are IRSs and not cross currency swaps or financing transactions, and therefore potential loss is tiny as well (only two rate fixings left).
4. This is part of flow trading business that is quoted live and continuously, and that can be covered on the broker screen on the same day.

I understand your concerns, however let's focus on what the actual trades really are in order to assess the quality of what we do.

Thank you

From: Iofin, Eugene
Sent: Monday, April 16, 2012 5:49 PM
To: Passaretta, Gianluca; Martinez, Javier; Poon, Tommy-H
Cc: Ellison, Douglas; deCastro, Christina; van Eijck, Marc
Subject: FW: Large Notional Transactions- FICC @ 13-APR-2012
Importance: High

Hi,
 Plz note that each trade with notional [REDACTED] USD needs to be pre-approved by MRC.
 I believe Ritesh communicated this earlier in the year on the biz side.

Regards,
 Eugene

From: van Eijck, Marc
Sent: 16 April 2012 08:33
To: Luo, Sherry; Rey, Michael; Iofin, Eugene
Cc: Ellison, Douglas
Subject: FW: Large Notional Transactions- FICC @ 13-APR-2012

Couple of EM deals to look at this time around

<< OLE Object: Picture (Metafile) >>

From: Gurrarn, Venkat
Sent: Monday, April 16, 2012 8:26 PM
To: Scholz, Bjoern; Tennant, Alistair; Freuler, Roman; Ovchinnikova, Natalia; Duenger, Volker; Salzmann, Adrian; Ellison, Douglas; Rey, Michael; Meyer, Michael-R (RiskControl); Higashiyama, Shinji; Parker, Grant; Lagrange, Julia+; van Eijck, Marc; Bitz, Andreas; SH-CRO-Macro-NLIR-Reporting

Cc: Shah, Neelay; Walker, Nicola
Subject: Large Notional Transactions- FICC @ 13-APR-2012

Hi All,

Please find attached the latest large notional transaction reports for reporting date 13 APR 2012.

Rates Output

<< File: RatesOutput_20120413.xls >>

Credit Output

<< File: CreditOutput_20120413.xls >>

EM Output

<< File: EMOutput_20120413.xls >>

Policy

<< File: 5-S-002948[1].pdf >>

Issue Log

1	13.01.2012	Roman,Freuler/Schoz,Bjoern	N/a	Trader details	Included to current sheet	Closed
2	13.01.2012	Roman,Freuler/Schoz,Bjoern	N/a	Underlying details	Included to current sheet	Closed
3	13.01.2012	Roman,Freuler/Schoz,Bjoern	N/a	FO trade ref	Included to current sheet	Closed
4	13.01.2012	Roman,Freuler/Schoz,Bjoern	N/a	Trioptima Compression field	Included to current sheet	Closed
5	13.01.2012	Roman,Freuler/Schoz,Bjoern	N/a	The inclusion of valuation system	Included to current sheet	Closed
6	-	-	N/a	Duplicated Credit trade	Currently duplicates not reported	Closed
7	-	-	N/a	The revised carve-out rules from the latest policy where they can be applied are still to be applied. (Carve-out rules where they can be applied are pre the 2011 policy.) Strategic tool to generate data from CUBE is pushed back to SEP 2012 from initial time line of March due to notional amount issues found during analysis by IT. Currently tactical tool is being reviewed to see what can be achieved as a work around till Strategic tool is built. In progress		
8	13.01.2012	Volker,Duenger	81436695L0,81442337L0,81442316L0 and 81434590L0	Swaptions with notional < USDbn 10 and an IR delta < USDm 1.5 and IR BS vega < USDm 4 that can be hedged intraday (assuming proxy hedging with other expiry/tenor is also considered intraday hedge) were exempt from pre-approval in view of the carve out of the policy. Strategic tool to generate data from CUBE is pushed back to SEP 2012 from initial time line of March due to notional amount issues found during analysis by IT. Currently tactical tool is being reviewed to see what can be achieved as a work around till Strategic tool is built. In progress		
9	13.01.2012	Adrian,Salzmann	n0.72.102229786_1,1625525536,1623932672,1621409057 and 81425261L0	1.BSIS is a 10yr vanilla swap on EURIBOR. (notional is < 10bn and delta is <\$1.5mln)		
2.	STIR - Cash: these 3 transactions are FRAs in Other approved OECD Countries (CHF) with Notional < 5bn and Delta < 0.5m (3M duration each).					
3.	JGB repo GC trade for 2 weeks with JPY 100bn notional (CHF 1.2bn) Strategic tool to generate data from CUBE is pushed back to SEP 2012 from initial time line of March due to notional amount issues found during analysis by IT. Currently tactical tool is being reviewed to see what can be achieved as a work around till Strategic tool is built. In progress					
10	27.01.2012	Douglas,Ellison	N/a	1.Possible exceptions :Brazilian DI swaps and futures packages and BRL		

NDF rollover trades with UBS Asset Management Strategic tool to generate data from CUBE is pushed back to SEP 2012 from initial time line of March due to notional amount issues found during analysis by IT. Currently tactical tool is being reviewed to see what can be achieved as a work around till Strategic tool is built. **In progress**

11 27.01.2012 Volker,Duenger "81510956","81509645","81509647","81509649","10708877","83131034","81505020","83131087","83131650","81498764","83129269","83129273","83129277" As per Volker EUR, JPY and USD Vanilla Options as well as USD gamma were subject to the policy carveout and did not require MRC pre-approval. Strategic tool to generate data from CUBE is pushed back to SEP 2012 from initial time line of March due to notional amount issues found during analysis by IT. Currently tactical tool is being reviewed to see what can be achieved as a work around till Strategic tool is built. **In progress**

12 17-02.2012 Romain,Barnezet 174933945174933980EXOT and 174870199174870202EXOT As per Romain notional on these trades is small and should not be reported. Issue has been raised with Finance team to understand how notional is calculated on these trades **In progress**

13 - - N/a There is no mapping for DCEM Confirmation req'd **Not yet started**

14 02.03.2012 Sherry,Luo / Marc,van Eijck - As per Sherry Luo and Marc, Van Eijck report should provide notional in CHF instead of USD because as per policy limit is CHF [REDACTED] All the reports are currently extracted from Meridian finance system which provides notional in USD. Strategic tool to generate data from CUBE is pushed back to SEP 2012 from initial time line of March due to notional amount issues found during analysis by IT. Currently tactical tool is being reviewed to see what can be achieved as a work around till Strategic tool is built. **In progress**

15 16.03.2012 -
A2CPS008235999RV,A2CNM022096999RV,A2CNM022103999RV,A2CNM022109999RV,A2CNM022113999RV
Missing settle dates and Risk class details for these trades. Reported as validation errors in the report Pending with GGL support to advise why details of these fields are missing. Ticket ref INC0001218270 **In progress**

16 03.04.2012 Christian,Balderer Exchange traded options Exchange traded options - The corresponding trades are valued in Broil, but are not available in the Broil trade repository. They are booked in a service called ION which then writes a trade XML for the Broil overnight runs Awaiting for trade details from Finance team - 16 April **In progress**

Kind regards
Venkat

From: Passaretta, Gianluca
Sent: Friday, February 15, 2013 4:03 PM
To: Ellison, Douglas
Subject: RE: Trade over [REDACTED] CHF

Fine. Can you please get the approval from [REDACTED] or [REDACTED] and reply to everybody ?

Thanks a lot

From: Ellison, Douglas
Sent: Friday, February 15, 2013 3:58 PM
To: Passaretta, Gianluca
Subject: Re: Trade over [REDACTED] CHF

[REDACTED]

But [REDACTED] is on line.

From: Passaretta, Gianluca
Sent: Friday, February 15, 2013 01:41 PM
To: Ellison, Douglas
Subject: RE: Trade over [REDACTED] CHF

So when [REDACTED] is out, what happens ?

From: Ellison, Douglas
Sent: Friday, February 15, 2013 1:41 PM
To: Passaretta, Gianluca
Subject: Re: Trade over [REDACTED] CHF

I can't. If in policy has to go to [REDACTED]

From: Passaretta, Gianluca
Sent: Friday, February 15, 2013 01:19 PM
To: Ellison, Douglas
Subject: RE: Trade over [REDACTED] CHF

Can you approve it in any case please ?

From: Ellison, Douglas
Sent: Friday, February 15, 2013 12:55 PM
To: Passaretta, Gianluca; Queiroz, Rafael; Venema, Willem
Cc: [REDACTED] Cohn, Eduardo
Subject: Re: Trade over [REDACTED] CHF

I'll have to chk new rules. Am doing FINRA continuing ed today. Do u need an answer today?

From: Passaretta, Gianluca
Sent: Friday, February 15, 2013 08:10 AM
To: Queiroz, Rafael; Ellison, Douglas; Venema, Willem
Cc: [REDACTED] Cohn, Eduardo
Subject: RE: Trade over [REDACTED] CHF

Does the [REDACTED] notional rule apply to an IRS, in particular when it is a 6 month tenor ?

There is no real cash out at risk.

From: Queiroz, Rafael
Sent: Friday, February 15, 2013 8:09 AM
To: Ellison, Douglas; Venema, Willem
Cc: Passaretta, Gianluca; [REDACTED] Cohn, Eduardo
Subject: Trade over [REDACTED] CHF

Hi all,

We did the following trade against Bluecrest:
Notional: CHF 1,374,407,758.94 = US\$ 50k DV/01
Maturity: July 1st 2013
Rate: 7.14%

Is that ok?

Thanks,

Rafael Queiroz
UBS Brasil Serviços de Assessoria Financeira Ltda.
FICC Trading
Av. Brigadeiro Faria Lima, 4440, 9º andar - Itaim Bibi
CEP 04538-132
São Paulo - SP
☎ +55 11 2050-6682
☎ +55 11 98105-9014
✉ rafael.queiroz@ubs.com
www.ubs.com

From: Ellison, Douglas
Sent: Tuesday, February 19, 2013 4:53 PM
To: Queiroz, Rafael; Venema, Willem
Cc: Passaretta, Gianluca; [REDACTED] Cohn, Eduardo
Subject: RE: Trade over [REDACTED] CHF

Yes

Exemption from large notional below.

A5. Emerging Markets

Vanilla Rates	BRL and MXN	BRL, HKD, HUF, ILS, INR, SGD, ZAR
IRA		Sensitivity < USD 10k
IR Products (IR swaps, IR futures include local yield curve)	USD 2bn (< 1 yr)	
FX (see also Annex B)	CHF & HKD (excluding CHF)	BRL, MXN, SGD, TRY, ZAR
FX Swaps ⁴⁰		USD 2bn (< 1 yr)
FX Options (vanilla)	USD 2bn	

From: Queiroz, Rafael
Sent: Tuesday, February 19, 2013 12:22 PM
To: Queiroz, Rafael; Ellison, Douglas; Venema, Willem
Cc: Passaretta, Gianluca; [REDACTED] Cohn, Eduardo
Subject: Trade over [REDACTED] CHF
Importance: High

Hi all,

We did the following trade against Bluecrest:
 Notional: CHF 1,337,640,000.00 = US\$ 50k DV/01
 Maturity: July 1st 2013
 Rate: 7.19%

Is that ok?

Thanks,

Rafael Queiroz
UBS Brasil Serviços de Assessoria Financeira Ltda.
FICC Trading
Av. Brigadeiro Faria Lima, 4440, 9º andar - Itaim Bibi
CEP 04538-132
São Paulo - SP
☎ +55 11 2050-6682
☎ +55 11 98105-9014
✉ rafael.queiroz@ubs.com
www.ubs.com

From: Rafael.Queiroz@ubs.com
Sent: Tuesday, March 12, 2013 3:58 PM
To: gianluca.passaretta@ubs.com; Douglas.Ellison@ubs.com; willem.venema@ubs.com
Cc: [REDACTED]@ubs.com; eduardo.cohn@ubs.com
Subject: Trade over [REDACTED]

Importance: High

Hi all,

We did the following trade. It reduces our onoff position on this tenor. Please let me know if it is ok.

Counterparty: SANTANDER
FV: BRL 4,000,000,000.00 (USD 2,035,623,410.00)
DV01: USD 56k
Maturity: 1st July 2013

Regards,

Rafael Queiroz
UBS Investment Bank
FICC Trading
Av. Brigadeiro Faria Lima, 4440, 9º andar - Itaim Bibi
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São Paulo - SP
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☎ +55 11 98105-9014
✉ rafael.queiroz@ubs.com
www.ubs.com

</HTM

From: Rafael.Queiroz@ubs.com
Sent: Tuesday, April 16, 2013 3:09 PM
To: gianluca.passaretta@ubs.com; Douglas.Ellison@ubs.com; Michael-R.Meyer@ubs.com
Cc: eduardo.cohn@ubs.com; [REDACTED]@ubs.com
Subject: Urgent - large notional trade

Importance: High

Please approve the below transaction under the large notional policy with Bluecrest:

Type: BRL interest rate swap
Notional: CHF 1,940,000,000.00 = US\$ 40k DV/01
Maturity: July 1st 2013
Rate: 7.615%

Thanks,

Rafael Queiroz
UBS Investment Bank
FICC Trading
Av. Brigadeiro Faria Lima, 4440, 9º andar - Itaim Bibi
CEP 04538-132
São Paulo - SP
☎ +55 11 2050-6682
☎ +55 11 98105-9014
✉ rafael.queiroz@ubs.com
www.ubs.com

</HTM

From: Rafael.Queiroz@ubs.com
Sent: Tuesday, April 16, 2013 3:11 PM
To: Rafael.Queiroz@ubs.com; gianluca.passaretta@ubs.com; Douglas.Ellison@ubs.com; Michael-R.Meyer@ubs.com
Cc: eduardo.cohn@ubs.com; [REDACTED]@ubs.com
Subject: Urgent - large notional trade

Importance: High

Please approve the below transaction under the large notional policy with Bluecrest:

Type: BRL interest rate swap
Notional: CHF 1,148,000,000.00 = US\$ 25k DV/01
Maturity: July 1st 2013
Rate: 7.62%

Thanks,

Rafael Queiroz
UBS Investment Bank
FICC Trading
Av. Brigadeiro Faria Lima, 4440, 9º andar - Itaim Bibi
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São Paulo - SP
☎ +55 11 2050-6682
☎ +55 11 98105-9014
✉ rafael.queiroz@ubs.com
www.ubs.com

</HTM

From: Ellison, Douglas
Sent: Tuesday, April 16, 2013 3:16 PM
To: Queiroz, Rafael; Passaretta, Gianluca; Meyer, Michael-R (RiskControl)
Cc: Cohn, Eduardo; [REDACTED]; Bitz, Andreas; Duenger, Volker; Ovchinnikova, Natalia; Venema, Willem; Tenev, Theodor; van Eijck, Marc; Lagrange, Julia+; Mahoney, William

Subject: RE: Urgent - large notional trade

I understand this is being booked into the books moving into Core tonight.

As such, approved under delegated authority from [REDACTED]

Thx

From: Queiroz, Rafael
Sent: Tuesday, April 16, 2013 3:09 PM
To: Passaretta, Gianluca; Ellison, Douglas; Meyer, Michael-R (RiskControl)
Cc: Cohn, Eduardo; [REDACTED]
Subject: Urgent - large notional trade
Importance: High

Please approve the below transaction under the large notional policy with Bluecrest:

Type: BRL interest rate swap
Notional: CHF 1,940,000,000.00 = US\$ 40k DV/01
Maturity: July 1st 2013
Rate: 7.615%

Thanks,

Rafael Queiroz
UBS Investment Bank
FICC Trading
Av. Brigadeiro Faria Lima, 4440, 9º andar - Itaim Bibi
CEP 04538-132
São Paulo - SP
☎ +55 11 2050-6682
☎ +55 11 98105-9014
✉ rafael.queiroz@ubs.com
www.ubs.com

Exhibit G

-----Original Message-----

From: Gianluca Passaretta [mailto:gianluca@passaretta.com]

Sent: Tuesday, June 25, 2013 8:06 PM

To: Mara, Aidan; Zola, Matthew

Subject: Next steps

Hi,

Following today's events, I believe there are certain facts, elements and circumstances that you are unaware of and that are relevant to my U-5. Please give me the opportunity to present them before you file it, because that has an impact on my career.

I know that you have 30 days or potentially more to do it.

I am seeking an attorney, but I am hoping it can be resolved without.

Let's discuss tomorrow.

Thank you,
Gianluca

Exhibit H

Velez, Andy

From: Gianluca Passaretta <gianluca@passaretta.com>
Sent: Monday, July 01, 2013 5:54 PM
To: Mara, Aidan
Subject: Re: Update

Thank you sir, I appreciate it.

On Jul 1, 2013, at 5:52 PM, <aidan.mara@ubs.com> wrote:

> Not yet, but getting close. Will have an answer tomorrow.
>
> I will be online - and you can call me 203 727 0295.
>
> Aidan
>
> -----Original Message-----
> From: Gianluca Passaretta [<mailto:gianluca@passaretta.com>]
> Sent: Monday, July 01, 2013 5:51 PM
> To: Mara, Aidan
> Subject: Re: Update
>
> Hi Aidan, any news on this issue today ?
>
> Thank you.
>
>
> On Jun 28, 2013, at 4:51 PM, <aidan.mara@ubs.com> <aidan.mara@ubs.com>
> wrote:
>
>> Gianluca - sorry, no answer on the topic.
>>
>> Aidan
>>
>>
>> Aidan Mara
>> Director, Human Resources
>> UBS Investment Bank
>> Ph. 203 727 0295
>>
>> Sent from my Blackberry
>>
>>
>> ----- Original Message -----
>> From: Gianluca Passaretta [<mailto:gianluca@passaretta.com>]
>> Sent: Friday, June 28, 2013 09:56 AM Central Standard Time
>> To: Mara, Aidan
>> Subject: Update

>>
>> Hi Aldan,
>>
>> A couple of things.
>>
>> First, I just realized I still have the corporate credit card with me.
> Shall I bring it to you or can I just destroy it ?
>>
>> Secondly, can you please give me an update on the topic we discussed
> yesterday ?
>>
>> Thank you.
>>
>> Visit our website at <http://www.ubs.com>
>>
>> This message contains confidential information and is intended only
>> for the individual named. If you are not the named addressee you
>> should not disseminate, distribute or copy this e-mail. Please
>> notify
>
>> the sender immediately by e-mail if you have received this e-mail by
>> mistake and delete this e-mail from your system.
>>
>> E-mails are not encrypted and cannot be guaranteed to be secure or
>> error-free as information could be intercepted, corrupted, lost,
>> destroyed, arrive late or incomplete, or contain viruses. The sender
>> therefore does not accept liability for any errors or omissions in
>> the
>
>> contents of this message which arise as a result of e-mail
> transmission.
>> If verification is required please request a hard-copy version. This
>> message is provided for informational purposes and should not be
>> construed as a solicitation or offer to buy or sell any securities or
>> related financial instruments.
>>
>>
>> UBS reserves the right to retain all messages. Messages are protected
>> and accessed only in legally justified cases.
>>
>
> Visit our website at <http://www.ubs.com>
>
> This message contains confidential information and is intended only
> for the individual named. If you are not the named addressee you
> should not disseminate, distribute or copy this e-mail. Please notify
> the sender immediately by e-mail if you have received this e-mail by
> mistake and delete this e-mail from your system.
>
> E-mails are not encrypted and cannot be guaranteed to be secure or
> error-free as information could be intercepted, corrupted, lost,
> destroyed, arrive late or incomplete, or contain viruses. The sender

- > therefore does not accept liability for any errors or omissions in the
- > contents of this message which arise as a result of e-mail transmission.
- > If verification is required please request a hard-copy version. This
- > message is provided for informational purposes and should not be
- > construed as a solicitation or offer to buy or sell any securities or
- > related financial instruments.
- >
- >
- > UBS reserves the right to retain all messages. Messages are protected
- > and accessed only in legally justified cases.
- >

Exhibit I

Web CRD U5 Historical Filing » All Sections [User Name cvassell] https://crd.finra.org/firm/u4u5/CRD_FRM_U4U5ViewHist.aspx?FR

FORM U5 UNIFORM TERMINATION NOTICE FOR SECURITIES INDUSTRY REGISTRATION

U5 - FULL 07/25/2013

Rev Form U5 (05/2009)

Individual Name PASSARETTA, GIANLUCA (2917523)

Firm Name UBS SECURITIES LLC (7654)

NOTICE TO THE INDIVIDUAL WHO IS THE SUBJECT OF THIS FILING

Even if you are no longer registered you continue to be subject to the jurisdiction of regulators for at least two years after your registration is terminated and may have to provide information about your activities while associated with this firm. Therefore, you must forward any residential address changes for two years following your termination date or last Form U5 amendment to CRD Address Changes, P O Box 9495, Gaithersburg, MD 20898-9495

1 GENERAL INFORMATION

First Name GIANLUCA	Middle Name	Last Name PASSARETTA	Suffix
Firm CRD # 7654	Firm Name UBS SECURITIES LLC	Firm NFA #	
Individual CRD # 2917523	Individual SSN [REDACTED]	Individual NFA #	Firm Billing Code 19745

Office of Employment Address

CRD	NYSE	Firm	Address	Private	Type of	Start Date	End Date
Branch #	Branch	Billing		Residence	Office		
	Code #	Code					
BD Main	MAIN		1285 AVENUE OF THE AMERICAS	N	Located At	10/19/2009	06/25/2013
	OFFICE		NEW YORK , NY 10019				

2 CURRENT RESIDENTIAL ADDRESS

NOTICE TO THE FIRM

This is the last reported residential address. If this is not current, please enter the current residential address.

From	To	Street	City	State	Country	Postal Code
05/2008	PRESENT	56 SYCAMORE ROAD	SCARSDALE	NY	USA	10583

3 FULL TERMINATION

Is this a **FULL TERMINATION?** Yes No

Note: A Yes response will terminate ALL registrations with all SROs and all jurisdictions

Reason for Termination Permitted to Resign

Web CRD U5 Historical Filing » All Sections [User Name cvassell https://crd.finra.org/firm/u4u5/CRD_FRM_U4U5ViewHist.aspx?FR

Termination Explanation

If the Reason for Termination entered above is Permitted to Resign, Discharged or Other, provide an explanation below

EMPLOYEE WAS PERMITTED TO RESIGN AFTER THE FIRM DETERMINED HIS PERFORMANCE AS A SUPERVISOR DID NOT MEET THE FIRM S EXPECTATIONS

4 DATE OF TERMINATION

Date Terminated (MM/DD/YYYY) 06/25/2013

A complete date of termination is required for full termination This date represents the date the firm terminated the individual s association with the firm in a capacity for which registration is required

For partial termination, the date of termination is only applicable to post dated termination requests during the renewal period

Notes For full termination, this date is used by jurisdictions/SROs to determine whether an individual is required to requalify by examination or obtain an appropriate waiver upon reassociating with another firm

The SRO/jurisdiction determines the effective date of termination of registration

6 AFFILIATED FIRM TERMINATION

No Information Filed

7 DISCLOSURE QUESTIONS

IF THE ANSWER TO ANY OF THE FOLLOWING QUESTIONS IN SECTION 7 IS YES , COMPLETE DETAILS OF ALL EVENTS OR PROCEEDINGS ON APPROPRIATE DRP(S) IF THE INFORMATION IN SECTION 7 HAS ALREADY BEEN REPORTED ON FORM U4 OR FORM U5, DO NOT RESUBMIT DRPs FOR THESE ITEMS REFER TO THE EXPLANATION OF TERMS SECTION OF FORM U5 INSTRUCTIONS FOR EXPLANATION OF ITALICIZED WORDS

Disclosure Certification Checkbox (optional) []

By selecting the Disclosure Certification Checkbox, the firm certifies that (1) there is no additional information to be reported at this time, (2) details relating to Questions 7A 7C 7D and 7E have been previously reported on behalf of the individual via Form U4 and/or amendments to Form U4 (if applicable), and (3) updated information will be provided if needed as it becomes available to the firm Note Use of Disclosure Certification Checkbox is optional

Investigation Disclosure

YES NO

7A Currently is or at termination was the individual the subject of an investigation or proceeding by a domestic or foreign governmental body or self regulatory organization with jurisdiction over investment related businesses? (Note Provide details of an investigation on an Investigation Disclosure Reporting Page and details regarding a proceeding on a Regulatory Action Disclosure Reporting Page)

[] []

Internal Review Disclosure

YES NO

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- 7B** Currently is or at termination was the individual under internal review for fraud or wrongful taking of property, or violating *investment related* statutes, regulations, rules or industry standards of conduct?

Criminal Disclosure

- 7C** While employed by or associated with your *firm*, or in connection with events that occurred while the individual was employed by or associated with your *firm* was the individual
- | | YES | NO |
|---|-----------------------|-----------------------|
| 1 convicted of or did the individual plead guilty or nolo contendere (no contest) in a domestic, foreign or military court to any <i>felony</i> ? | <input type="radio"/> | <input type="radio"/> |
| 2 charged with any <i>felony</i> ? | <input type="radio"/> | <input type="radio"/> |
| 3 convicted of or did the individual plead guilty or nolo contendere (no contest) in a domestic foreign or military court to a <i>misdemeanor involving</i> investments or an <i>investment related</i> business, or any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses? | <input type="radio"/> | <input type="radio"/> |
| 4 charged with a <i>misdemeanor</i> specified in 7(C)(3)? | <input type="radio"/> | <input type="radio"/> |

Regulatory Action Disclosure

- 7D** While employed by or associated with your *firm* or in connection with events that occurred while the individual was employed by or associated with your *firm* was the individual involved in any *disciplinary action* by a domestic or foreign governmental body or *self-regulatory organization* (other than those designated as a *minor rule violation* under a plan approved by the U S Securities and Exchange Commission) with jurisdiction over the *investment related* businesses?

Customer Complaint/Arbitration/Civil Litigation Disclosure

- 7E**
- | | YES | NO |
|--|-----------------------|-----------------------|
| 1 In connection with events that occurred while the individual was employed by or associated with your <i>firm</i> , was the individual <u>named</u> as a respondent/defendant in an <i>investment related</i> , consumer initiated arbitration or civil litigation which alleged that the individual was <i>involved</i> in one or more <i>sales practice violations</i> and which | | |
| (a) is still pending or, | <input type="radio"/> | <input type="radio"/> |
| (b) resulted in an arbitration award or civil judgment against the individual, regardless of amount, or, | <input type="radio"/> | <input type="radio"/> |
| (c) was settled prior to 05/18/2009 for an amount of \$10 000 or more or, | <input type="radio"/> | <input type="radio"/> |
| (d) was settled on or after 05/18/2009 for an amount of \$15 000 or more? | <input type="radio"/> | <input type="radio"/> |
| 2 In connection with events that occurred while the individual was employed by or associated with your <i>firm</i> was the individual the subject of an <i>investment related</i> consumer initiated (written or oral) complaint which alleged that the individual was <i>involved</i> in one or more <i>sales practice violations</i> and which | | |
| (a) was settled prior to 05/18/2009 for an amount of \$10 000 or more or | <input type="radio"/> | <input type="radio"/> |
| (b) was settled on or after 05/18/2009 for an amount of \$15 000 or more? | <input type="radio"/> | <input type="radio"/> |
| 3 In connection with events that occurred while the individual was employed by or associated with your <i>firm</i> was the individual the subject of an <i>investment related</i> consumer initiated written complaint not otherwise reported under questions 7(E)(2) above, which | | |
| (a) would be reportable under question 14I(3)(a) on Form U4, if the individual were still employed by your <i>firm</i> , but which has not previously been reported on the individual's Form U4 by your <i>firm</i> , or | <input type="radio"/> | <input type="radio"/> |

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- (b) would be reportable under question 14I(3)(b) on Form U4 if the individual were still employed by your *firm* but which has not previously been reported on the individual's Form U4 by your *firm*

Answer questions (4) and (5) below only for arbitration claims or civil litigation filed on or after 05/18/2009

- 4 In connection with events that occurred while the individual was employed by or associated with your *firm*, was the individual the subject of an *investment related*, consumer initiated, arbitration claim or civil litigation which alleged that the individual was *involved* in one or more *sales practice violations* and which
- (a) was settled for an amount of \$15,000 or more, or,
- (b) resulted in an arbitration award of civil judgment against any named respondent(s)/defendant(s), regardless of amount?
- 5 In connection with events that occurred while the individual was employed by or associated with your *firm*, was the individual the subject of an *investment related* consumer initiated arbitration claim or civil litigation not otherwise reported under question 7E(4) above which
- (a) would be reportable under question 14I(5)(a) on Form U4 if the individual were still employed by your *firm* but which has not previously been reported on the individual's Form U4 by your *firm*, or
- (b) would be reportable under question 14I(5)(b) on Form U4 if the individual were still employed by your *firm* but which has not previously been reported on the individual's Form U4 by your *firm*

Termination Disclosure

- | | YES | NO |
|--|----------------------------------|----------------------------------|
| 7F Did the individual voluntarily <i>resign</i> from your <i>firm</i> or was the individual discharged or permitted to <i>resign</i> from your <i>firm</i> after allegations were made that accused the individual of | | |
| 1 violating <i>investment related</i> statutes, regulations, rules or industry standards of conduct? | <input type="radio"/> | <input checked="" type="radio"/> |
| 2 fraud or the wrongful taking of property? | <input type="radio"/> | <input checked="" type="radio"/> |
| 3 failure to supervise in connection with <i>investment related</i> statutes, regulations, rules or industry standards of conduct? | <input checked="" type="radio"/> | <input type="radio"/> |

8 SIGNATURE

Please Read Carefully

All signatures required on this Form U5 filing must be made in this section

A Signature includes a manual signature or an electronically transmitted equivalent. For purposes of an electronic form filing, a signature is effected by typing a name in the designated signature field. By typing a name in this field, the signatory acknowledges and represents that the entry constitutes in every way, use or aspect, his or her legally binding signature.

8A FIRM ACKNOWLEDGMENT

This section must be completed on all U5 form filings submitted by the *firm*.

8B INDIVIDUAL ACKNOWLEDGMENT AND CONSENT

This section must be completed on amendment U5 form filings where the individual is submitting changes to Part II of the INTERNAL REVIEW (DRP) or changes to Section 2 (CURRENT RESIDENTIAL ADDRESS).

8A FIRM ACKNOWLEDGMENT

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I VERIFY THE ACCURACY AND COMPLETENESS OF THE INFORMATION CONTAINED IN AND WITH THIS FORM

Person to contact for further information
JODY NEJAIME

Telephone # of person to contact
203 719 3998

Signature of Appropriate Signatory
CLAUDETTE SIMMONDS/CV

Date (MM/DD/YYYY)
07/25/2013

Signature 

CRIMINAL DRP

No Information Filed

CUSTOMER COMPLAINT/ARBITRATION/CIVIL LITIGATION DRP

No Information Filed

INTERNAL REVIEW DRP

No Information Filed

INVESTIGATION DRP

No Information Filed

REGULATORY ACTION DRP

No Information Filed

TERMINATION DRP

This Disclosure Reporting Page is an **INITIAL** or **AMENDED** response to report details for affirmative response(s) to **Question(s) 7F** on Form U5

Check the question(s) you are responding to, regardless of whether you are answering the question(s) yes or amending the answer(s) to no

7F(1) **7F(2)** **7F(3)** Rev DRP (05/2009)

One event may result in more than one affirmative answer to the above items. Use only one DRP to report details related to the same termination.

- 1 Firm Name
UBS SECURITIES LLC
- 2 Termination Type
Permitted to Resign
- 3 Termination Date
06/25/2013 Exact Explanation
If not exact, provide explanation
- 4 Allegation(s)
FIRM INVESTIGATED FAILURE TO COMPLY WITH AN INTERNAL TRADE PRE APPROVAL POLICY

Web CRD U5 Historical Filing » All Sections [User Name cvassell] https://crd.finra.org/firm/u4u5/CRD_FRM_U4U5ViewHist.aspx?FR

5 Product Type(s) (select all that apply)

- No Product
- Annuity Charitable
- Annuity Fixed
- Annuity Variable
- Banking Products (other than CDs)
- CD
- Commodity Option
- Debt Asset Backed
- Debt Corporate
- Debt Government
- Debt Municipal
- Derivative
- Direct Investment DPP & LP Interests
- Equipment Leasing
- Equity Listed (Common & Preferred Stock)
- Equity OTC
- Futures Commodity
- Futures Financial
- Index Option
- Insurance
- Investment Contract
- Money Market Fund
- Mutual Fund
- Oil & Gas
- Options
- Penny Stock
- Prime Bank Instrument
- Promissory Note
- Real Estate Security
- Security Futures
- Unit Investment Trust
- Viatical Settlement
- Other

6 Comment (Optional) You may use this field to provide a brief summary of the circumstances leading to the termination. Your information must fit within the space provided.

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Online Registration System Individual Withdrawal

https://www.nfa.futures.org/eReg/Withdrawal/indvwith/Filed.asp



Online Registration System

[NFA Home](#) | [BASIC](#) | [Log Off](#)

[Apply for Registration](#) | [Update/Withdraw Registration Information](#) | [Report Center](#)

[Search for an NFA ID](#) | [View Registration Information](#)

[Payment Request/Accounting Information](#) | [ORS News](#) | [Help](#)

Registration and Membership
• Principal Title and Financial Interest

Fitness Information
Disciplinary Information

Personal Profile
• Name
• Home Address
• Date and Place of Birth
• Social Security Number
• Fingerprint Card
• Demographic Information
• E-mail Address
• CRD/IARD Number
• Education
• Employment & Residential History
• Other Names Used

Firm Profile
• Name
• Firm Principal Information
• Firm Swap Associated Person Information
• Form of Organization
• Swap Firm Exclusive
• Membership Voting Category
• Other Business Names
• Website/URL
• Federal EIN
• CRD/IARD Number
• Regulator Information
• Agent Information
• Doing Business With

Business Locations
• Firm's Main Office Location
• Location of Business Records

Withdrawal Notice Filed

NFA ID 0457209 GIANLUCA PASSARETTA
Sponsor ID 0223988 UBS SECURITIES LLC

The withdrawal notice has been filed

To view this withdrawal notice, go to the [Filing History](#) page

Withdrawn Categories

- ASSOCIATED PERSON
- NFA ASSOCIATE MEMBER
- SWAP ASSOCIATED PERSON

Additional Filings

DOCUMENTS REQUIRED FOR WITHDRAWAL NOTICE DISCIPLINARY DISCLOSURES

Exhibit J

Regulatory Notice

10-39

Form U5

September 2010

Obligation to Provide Timely, Complete and Accurate Information on Form U5

Executive Summary

This *Notice* reminds firms of their obligation to provide timely, complete and accurate information on Form U5 (Uniform Termination Notice for Securities Industry Registration).¹

Questions concerning this *Notice* should be directed to the FINRA Gateway Call Center at (301) 590-6500.

Background and Discussion

Under Article V, Section 3 of the FINRA By-Laws, firms are required to file Form U5 no later than 30 days after terminating an associated person's registration. In addition, firms must file an amended Form U5 when they learn of facts or circumstances that make a previously filed Form U5 inaccurate or incomplete.² Further, firms are required to provide the person whose registration has been terminated with a copy of any Form U5 (initial or amended) at the same time that it is filed with FINRA.

Form U5 requires an appropriate signatory of a firm to verify the accuracy and completeness of the information contained in it prior to filing with FINRA. It is imperative that firms file complete and accurate Forms U5 in a timely manner because the reported information is used by a number of constituencies for a variety of reasons. For instance, FINRA uses the information to help identify and sanction individuals who violate FINRA rules and applicable federal statutes and regulations. FINRA, other self-regulatory organizations and state regulatory and licensing authorities also use the information to make informed registration and licensing decisions. Firms use the information to help them make informed employment decisions. Further, investors use the Form U5 information that is displayed through BrokerCheck when considering whether to do business with a registered (or formerly registered) person.

Notice Type

- Guidance

Suggested Routing

- Compliance
- Legal
- Operations
- Registered Representatives
- Registration
- Senior Management
- Training

Key Topic(s)

- Form U5

Referenced Rules & Notices

- NTM 04-09
- Article V, Section 2 of the FINRA By-Laws
- Article V, Section 3 of the FINRA By-Laws



10-39 September 2010

FINRA notes that each question on Form U5 stands on its own, and firms should carefully read each question on the form and respond appropriately to each question. For example, when reporting information relating to the reason for termination, firms must separately consider and respond to both Section 3 of the form and any of the disclosure-related questions found in Section 7. FINRA emphasizes that reporting the reason for termination in Section 3 does not abrogate the requirement that a firm complete any of the questions in Section 7 appropriately, including, in particular, Questions 7B and 7F. ***In this regard, FINRA notes that, with respect to factual situations that would cause a reasonable person to answer affirmatively any disclosure question in Form U5, a firm may not parse through the questions in a manner that would allow the firm to avoid responding affirmatively to a question.*** FINRA further notes that:

- A firm must provide sufficient detail when responding to Form U5 questions such that a reasonable person may understand the circumstances that triggered the affirmative response. For example, for purposes of Section 3 on Form U5, it is not sufficient for a firm to report only that a person's registration was terminated because that person violated "firm policy." If a firm is obligated to report that a registered person was terminated because he or she violated a firm policy, the firm must identify the policy, provide sufficient facts and circumstances to enable the reader to understand what conduct was involved, and review other questions on the form to determine whether an affirmative response to any other question is required.
- A firm that is terminating a registered person for misconduct subject to disclosure specified in Question 7F is required to answer that question in the affirmative, irrespective of whether or not the firm is the entity making the allegations of misconduct. Question 7F asks whether the individual who is the subject of the Form U5 voluntarily resigned, or was discharged or permitted to resign, after allegations were made that accused the individual of certain types of misconduct. Question 7F does not specify or require that the terminating firm be the source of those allegations. For example, if an affiliate of a firm employing a registered person discharges the registered person after making allegations of fraud against that person and the firm thereafter discharges the person, the firm would need to provide an affirmative answer to the appropriate part of Question 7F and indicate that it was discharging the person after allegations of fraud had been made against him or her.
- A firm should err on the side of interpreting the term "investment-related" in an expansive manner in line with the scope of the term when reporting information on Form U5. The scope of the term pertains to securities, commodities, banking, insurance or real estate (including, but not limited to, acting as or being associated with a broker-dealer, issuer, investment company, investment adviser, futures

September 2010 10-39

sponsor, bank or savings association). Accordingly, a firm may be required to provide an affirmative answer to a question even if the matter is not securities-related. Furthermore, the type of conduct described in Form U5 questions need not always pertain to or involve a customer of the terminating firm in order to require an affirmative answer. Several questions ask about specific types of misconduct without regard to whether such misconduct involved a customer of the terminating firm. Therefore, the issue of whether the conduct involved a customer of the terminating firm is not necessarily determinative as to whether the conduct may require an affirmative answer to a Form U5 question.

FINRA notes that firms may be subject to administrative and civil penalties for failing to provide complete and accurate information on Form U5 in a timely manner.³

Endnotes

1. See Article V, Section 3(a) of the FINRA By-Laws; *Notice to Members (NTM) 04-09* (SEC Announces Immediate Effectiveness of Amendments to Section 4 of Schedule A to the NASD By-Laws). Although this Notice focuses on Form U5, FINRA notes that firms also must provide timely, complete and accurate disclosure on Form U4 (Uniform Application for Securities Industry Registration or Transfer). See Article V, Section 2(c) of the FINRA By-Laws.
2. FINRA reminds firms that this obligation to file an amended Form U5 when it learns of facts or circumstances that make a previously filed Form U5 inaccurate or incomplete applies to those instances when a firm has reported that it has initiated an internal review in response to Question 7B. In such instances, FINRA expects a firm to file an amended Form U5 to report, at a minimum, the date the internal review was concluded and the findings of such review, and to respond to any other questions on the form as appropriate.
3. See, e.g., *DBCC v. Nichols*, Complaint No. C01950004, 1996 NASD Discip. LEXIS 30 at *30 (NASD NBCC Nov. 13, 1996); see also *NTM 04-09*, which reminds firms, among other things, that they may be assessed late fees for failure to timely file accurate and complete Forms U5.

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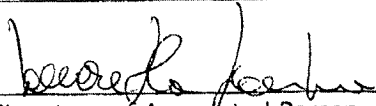
Exhibit K

FINRA Rule 2263. Disclosure to Associated Persons When Signing Form U-4

UBS Securities LLC per FINRA requirements must provide you (associated person) with the following written statement whenever a New Form U4 is completed by a associated person or when a Form U4 requires a Disclosure amendment.

The Form U4 contains a predispute arbitration clause. It is in item 5 of Section 15A of the Form U4. You should read that clause now. Before signing the Form U4, you should understand the following:

- (1) You are agreeing to arbitrate any dispute, claim or controversy that may arise between you and your firm, or a customer, or any other person, that is required to be arbitrated under the rules of the self-regulatory organizations with which you are registering. This means you are giving up the right to sue a member, customer, or another associated person in court, including the right to a trial by jury, except as provided by the rules of the arbitration forum in which a claim is filed.
- (2) A claim alleging employment discrimination, including a sexual harassment claim, in violation of a statute is not required to be arbitrated under NASD rules. Such a claim may be arbitrated at the NASD only if the parties have agreed to arbitrate it, either before or after the dispute arose. The rules of other arbitration forums may be different.
- (3) Arbitration awards are generally final and binding; a party's ability to have a court reverse or modify an arbitration award is very limited.
- (4) The ability of the parties to obtain documents, witness statements and other discovery is generally more limited in arbitration than in court proceedings.
- (5) The arbitrators do not have to explain the reason(s) for their award unless, in an eligible case, a joint request for an explained decision has been submitted by all parties to the panel at least 20 days prior to the first scheduled hearing date.
- (6) The panel of arbitrators may include arbitrators who were or are affiliated with the securities industry, or public arbitrators, as provided by the rules of the arbitration forum in which a claim is filed.
- (7) The rules of some arbitration forums may impose time limits for bringing a claim in arbitration. In some cases, a claim that is ineligible for arbitration may be brought in court.



Signature of Associated Person

10/13/2009
Date

GIANLUCA PASSARETTA

Print Name





Proskauer Rose LLP 1585 Broadway New York, NY 10038-8299

Lloyd B. Chinn
Member of the Firm
d 212.969.3341
f 212.969.2900
lchinn@proskauer.com
www.proskauer.com

June 22, 2015

By E-Mail and Overnight Mail

Ms. Nicole C. Haynes
Case Assistant Manager
FINRA Dispute Resolution
One Liberty Plaza
165 Broadway, 27th Floor
New York, New York 10006

Re: Gianluca Passaretta v. UBS Securities, LLC
FINRA No. 14-00740

AMENDED ANSWERING STATEMENT

Dear Ms. Haynes:

This firm represents respondent UBS Securities LLC (“UBS”, “UBS Securities” or the “Firm”) in the above-referenced matter. This letter constitutes UBS Securities’ Amended Answer to the Statement of Claim submitted on behalf of claimant Gianluca Passaretta (“Claimant” or “Passaretta”).¹ In accordance with FINRA Arbitration Rules 13300 and 13303, an original and three copies of Respondent’s Amended Statement of Answer are included with this filing. A copy of the Amended Statement of Answer is also being served on counsel for Claimant.

In this arbitration Claimant pursues frivolous claims that are in direct contradiction to well-established New York law. Even more significantly, Claimant asks not only that FINRA ignore his role in covering up a breach of the Firm's internal trade policy, he asks that FINRA reward him for his improper conduct. As outlined below, UBS Securities permitted Passaretta to resign his employment after it discovered that he had failed to notify timely and properly the Firm of an \$18 billion trade that had been booked without the necessary approvals and then lied when questioned about the trade afterwards. Passaretta’s poor judgment and unethical behavior mandated his separation from the Firm and the Firm’s disclosure of his improper behavior on his Form U-5, a disclosure which is protected by absolute immunity under New York law.

¹ Except as otherwise expressly admitted herein, Respondent denies all the allegations contained in the Statement of Claim and reserves all defenses as to those claims.

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Although Passaretta claims that he is entitled to discretionary incentive compensation, the express writings provided to Passaretta – including his September 8, 2009 offer letter and UBS Securities’ incentive compensation policy – expressly provide that after 2009, any incentive compensation awarded to Passaretta would be payable solely at the discretion of UBS Securities and contingent upon Passaretta’s continued employment on the day of payment. Passaretta never had a guarantee that he would receive any incentive compensation for 2013, and given the circumstances of his departure, any claim for a 2013 bonus is preposterous. Under clear New York law – as set forth in court cases and arbitration awards applying the very UBS policy language at issue here – Passaretta simply has no cognizable claim.

In the wake of Passaretta’s unethical behavior and at Passaretta’s request, UBS permitted Passaretta to resign from the firm rather than face the possibility that UBS would terminate his employment for his misconduct, which could constitute cause. By the express terms of UBS’s policy, Passaretta’s resignation triggered the forfeiture of any unvested deferred compensation. While Passaretta now attempts to rewrite history by claiming that he did not resign, his argument is not only false but immaterial, as he would still have forfeited any unvested deferred compensation had UBS Securities terminated him as originally planned.

Lastly, Passaretta asserts a claim for “wrongful discharge”, even though well-established New York law makes it plain that no such claim exists. As stated in Passaretta’s offer letter and the Firm’s handbook, Passaretta’s employment with UBS Securities was at-will. Nothing about Passaretta’s signing of a Form U-4 changes New York law or the terms of the express agreements between Passaretta and UBS on this point.

Under the facts and law specified below and those to be presented at the hearing, the Panel should deny Passaretta’s claims.

FACTUAL SUMMARY

The UBS Offer Letter

UBS Securities² hired Passaretta on or about September 8, 2009 as a Managing Director and Head of the Latin American Derivatives desk within the Firm’s Fixed Income Currencies and Commodities (“FICC”) department. UBS presented Passaretta with a September 8, 2009 offer letter (the “Offer Letter”), which described the terms of his employment, including that UBS would pay him \$400,000 annually in base salary. (*See Exhibit A.*)

² UBS Securities LLC is the U.S. broker dealer within UBS Investment Bank and is a subsidiary of UBS AG.

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The plain language of the Offer Letter requires the dismissal of Passaretta's claim for incentive compensation and his so-called claim for "wrongful discharge."

With respect to incentive compensation, the Offer Letter provides that, for years after 2009, Passaretta was merely eligible for discretionary bonuses. Under long-standing and unequivocal New York law on this subject, such language precludes any legal claim for a bonus. The discretionary nature of incentive compensation is announced on the first page of the Offer Letter in a section entitled "Incentive Compensation Award Overview."³ That section provides, in relevant part:

In addition to a salary, you may be eligible for a discretionary incentive compensation award, which may take into account a variety of factors including, without limitation, financial results of UBS AG, the Investment Bank division and your business area, and discretionary judgments of individual performance and contributions to business results and objectives, as well as legal and/or regulatory restrictions, which may affect individual incentive compensation award decisions.

...

A future incentive compensation award, if any, may be higher or lower in future years and remains in the sole and exclusive discretion of management.

The Offer Letter further specified for the year 2009 only that Passaretta's incentive compensation would be guaranteed, "Your incentive compensation award for the 2009 calendar year will be \$500,000 ("2009 Guarantee"), provided that you remain employed on the 2009 Payment Date." But the Offer Letter made plain that the 2009 Guarantee was for that year only:

³ The discretionary nature of UBS Securities' incentive compensation was also made clear in the Incentive Compensation Policy contained in the UBS U.S. Human Resources Policies handbook, applicable to employees of UBS Securities, which stated:

Incentive compensation may be awarded to you once a year in the Organization's sole discretion. If an award is granted, the amount of such an award is entirely subjective and may be influenced by factors such as individual performance, the performance of the work unit and the performance of the Organization as a whole.

(See Exhibit B). Significantly, the Incentive Compensation Policy also provided that, "All commitments regarding compensation of any type must be in writing and be signed by the appropriate line manager and HRM." Passaretta acknowledged his receipt of the employee handbook in 2009, shortly after the start of his employment. (See Exhibit C).

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The terms of your Year 2009 incentive compensation award only apply to the corresponding incentive year. Future incentive compensation award(s), if any, may be higher or lower and are in the sole and exclusive direction of management.

Indeed, given that Passaretta had a written 2009 Guarantee, he was fully aware of the stark distinction drawn by UBS between guaranteed and discretionary incentive compensation. After 2009, Passaretta never again had any sort of guaranteed incentive compensation; he was merely eligible for a discretionary bonus.

The Offer Letter specified that a portion of incentive awards above a certain threshold were subject to the UBS Equity Ownership Plan and a three-year vesting period “assuming all terms and conditions” under the Plan were met, including Passaretta’s continued employment on the date of vesting. (*Id.*)

Lastly, the language of the Offer Letter absolutely precludes the assertion of any sort of claim for “wrongful discharge.” The Offer Letter confirmed that Passaretta’s employment was “at will” meaning he could resign or be terminated at any time, with or without cause:

Your employment remains ‘at will’, and this letter . . . is not, and shall not be construed as a contract of employment for a definite term. The Firm reserves the right to terminate your employment at any time with or without Cause and with or without notice.

Significantly, the Offer Letter made it clear that was the “last word” on the subjects that it addressed, unless it was modified in a writing signed by UBS and by Passaretta. In a section entitled “Entire Agreement”, the Offer Letter provides

This offer letter contains the entire understanding and agreement between the parties concerning the subject matter hereof, and supersedes all prior agreements, understandings, discussions, negotiations, and undertakings, whether written or oral, between the parties with respect hereof.

The Offer Letter further states:

The terms and subject matter of this letter may not be modified, supplemented or amended orally or in any way unless such modification, supplementation or amendment is agreed to in writing and signed by you and two authorized officers of the Firm.

Passaretta does not (and cannot) claim that he ever entered into any agreement with UBS to alter the discretionary incentive compensation or employment at-will provisions of his Offer Letter.

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They thus remained in full force in effect throughout his employment and require the dismissal of these claims.

The Offer Letter also provides that the terms of Passaretta's employment were "governed, construed and enforced in accordance with the laws of the State of New York." (*See Exhibit A*.) Passaretta signed the Offer Letter three days later on September 11, 2009.

Deferred Compensation at UBS – Governed by the Equity Ownership Plan

As indicated in Passaretta's Offer Letter, UBS incentive compensation awards above a certain threshold are issued as restricted stock shares and subject to the UBS Equity Ownership Plan ("EOP"). (*See Exhibit D*).

The UBS EOP 2009/10 specifies a [REDACTED] vesting period. The EOP also defines the circumstances under which an employee forfeits any unvested award. "If an Employee's Employment terminates voluntarily ... or for any reason other than death, Disability, Retirement . . . Redundancy and written mutual agreement . . . any Unvested Awards will be Forfeited..." (*Id* at pg 6). Although the EOP also specifies the same result if an employee's employment terminates "for Cause" (*Id* at pgs 5-6), any termination results in forfeiture unless it falls within one of the limited exceptions in the prior sentence.

Passaretta's Offer Letter defines "cause" to include, *inter alia*, "gross negligence or gross misconduct," any act that "in the reasonable judgment of your management . . . could reasonably be expected to detrimentally affect the reputation, business or business relationships of the Firm or [the employee]," or any act inconsistent with "policies, directives and practices set forth by the Firm's management." (*See Exhibit A*). The Offer Letter states that "[t]his definition of Cause shall be incorporated by reference and made a part of the definition of cause in any EOP document applicable to you." *Id*.

Risk Management & Control Function and Policies

As the Managing Director and Head of the Latin American Derivatives desk within FICC, Passaretta was responsible for ensuring that the trades executed by his traders complied with the policies established by the Firm's Risk Management and Control department ("Risk Management"). Specifically, Passaretta was responsible for ensuring that any proposed trade was in the best interest of the Firm and authorized by Risk Management.

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To maintain control over the risks associated with certain trading activity, Risk Management established policies outlining pre-approval requirements for trades that exceeded certain thresholds. For example, under the Large Transactions rule in the then-applicable Firm's Risk Authorities policy, traders were required to seek pre-approval for any transaction with a potential loss in excess of [REDACTED] or a notional value greater than [REDACTED].⁴ (See Exhibit E).

On January 24, 2012, "All Securities, Equities, and FICC Sales & Trading" personnel received a copy of the policy which included an outline of the Firm's pre-approval requirement for Large Transactions. (See Exhibit E). Passaretta was amongst the recipients of the Risk Authorities policy.

In addition, and prior to the May 2013 events which led to Passaretta's discharge (as discussed below), Passaretta had numerous conversations with the Risk Management department concerning the pre-authorization requirement and its application to trades with a notional value above [REDACTED]. It is beyond dispute that Passaretta was well-aware of the pre-approval requirement for Large Transactions prior to May 2013.

Passaretta's Involvement in the May 2, 2013 Compliance Breach

On May 2, 2013, [REDACTED], a Rates trader on the Latin American Derivatives Desk and one of Passaretta's subordinates, sought permission from Passaretta to execute an interest rate swap trade with a notional value of \$18 billion. According to UBS's Risk Authorities policy, [REDACTED] was required to receive Risk Management approval prior to executing a trade of that notional magnitude. Passaretta advised [REDACTED] that he would seek the necessary pre-trade approval.

Passaretta consulted with Natalia Ovchinnokova, Executive Director, Risk Management, to obtain the necessary pre-trade approval. Given the size of the transaction, Ovchinnokova escalated the discussion to Mark Sanborn, Chief Risk Officer, Risk Management. During a telephone conference between Passaretta, Ovchinnokova and Sanborn, Sanborn stated that further research would have to be done concerning the limits of his approval authority and whether it was in the best interests of UBS Securities to engage in this type of trade.

By 3:30 p.m. approval for the trade still had not been obtained. When Passaretta advised [REDACTED] that Risk Management had not yet approved the transaction because the matter had to be escalated above Sanborn's authority, [REDACTED] responded, "don't bother," and informed Passaretta that he had already booked the trade.

⁴ In the Statement of Claim Passaretta alleges that after his departure from UBS, the Firm amended its Risk Authorities policy with respect to Large Transactions originating out of Brazil which would have made the unauthorized May 2, 2013 trade permissible without pre-approval. Passaretta is wrong. While UBS did amend its Risk Authorities policy in July 2013, given the exceptionally large notional size of the May 2, 2013 trade, even under the revised Risk Authorities policy, the May 2, 2013 trade still would have required pre-trade approval from Risk Management.

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As a Managing Director and the Head of the Desk, it was Passaretta's duty and obligation to inform Risk Management of [REDACTED] unauthorized action as soon as Passaretta learned of it. Instead, however, Passaretta continued to discuss with Sanborn and other Risk Management personnel the reasons for approving the trade, as if it had not already been executed. Passaretta cited the lack of risk associated with the trade, the fact that similar trades had been approved over the prior year and the short term duration of the trade, all for the purpose of seeking "approval" – knowing all the while that the trade had already been consummated. During one of these conversations, Douglas Ellison, Market Risk Officer, directly asked Passaretta if there was enough time to process the trade given that the relevant market was about to close. Passaretta responded that there was still time, plainly indicating that the trade had not been executed – and knowing full well that this was a lie.

At around 4 p.m., Sanborn confirmed that his notional approval limit was [REDACTED] and that Passaretta only had authority for a trade of this amount. In order to book the desired trade of \$18 billion, Passaretta would be required to obtain approval from a higher authority within UBS. After being so advised – and knowing that there was not enough time left in the trading day to seek this higher level approval – Passaretta and [REDACTED] scrambled to unwind the unauthorized trade.

By the close of the markets, Passaretta and [REDACTED] had reduced the trade from its original \$18 billion notional value to \$9 billion. However, Passaretta still had not informed anyone of the unauthorized activity.

Once the markets had closed and Passaretta was left with the \$9 billion trade, only then did he report the unauthorized activity to his superior Chris Murphy, Global Head of Rates and Credit. Murphy specifically asked Passaretta whether he had been aware that the trade had already been executed while he had been seeking approval for it. In response, Passaretta denied having had any such knowledge. This was a lie. Murphy immediately informed Sanborn that a trade had been made without the necessary approval.

Ultimately, UBS decided to terminate Passaretta's employment. While he initially sought to follow the proper protocol by seeking pre-trade approval from Risk Management, once Passaretta learned that the trade had been booked prior to receiving authorization, he failed to disclose this information to Risk Management or his supervisor.⁵ Even more disturbing, Passaretta failed to advise Ellison that the trade had already been executed even when Ellison questioned him as to whether there was still sufficient time in the day for the trade to occur. Passaretta was again

⁵ Passaretta's initial attempt to seek approval for the trade demonstrates that he had knowledge and understood the policy. Indeed, in addition to Passaretta's receipt of the January 24, 2012 communication regarding the Firm's Risk Authorities policy, during 2012 and early 2013, Passaretta and his team had numerous communications with members of the Risk Management team regarding pre-approval for other large trades. (See Exhibit F.) Thus, it is without doubt that Passaretta knew of the pre-authorization requirement and knowingly decided not to inform his superiors once he learned that a breach had occurred. Moreover, Passaretta's status as a desk supervisor calls his conduct into even greater question, as it was his duty to convey the importance of this policy to his team and ensure that they adhered to its requirements.

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dishonest when he lied to Murphy about whether he had known that the trade had been executed at the time he sought approval for it. In addition, the Firm had other concerns regarding Passaretta's professionalism, including the fact that he had permitted an "intern" from Brazil to perform trade entry tasks in the United States.

Matthew Zola, then UBS's Head of Fixed Income Currencies and Commodities for the Americas, reviewed the facts surrounding the May 2, 2013 trade. Given Passaretta's failure to report the unauthorized May 2 trade once he learned it had been booked, his lies to Firm management thereafter, and other concerns regarding Passaretta's judgment, Zola (in consultation with others) decided to terminate Passaretta's employment.

Passaretta's Notification of Termination and Subsequent Negotiations

On June 25, 2010, Zola along with Aidan Mara, UBS Director of Human Resources, notified Passaretta that as a result of the May 2 trade incident, and specifically Passaretta's failure to inform Risk Management or his superiors of the unauthorized trade – including his lack of candor once he knew of the unauthorized activity – his employment was being terminated.

Later that day, Passaretta sent an email to Mara and Zola stating, "Following today's events, I believe there are certain facts, elements and circumstances that you are unaware of and that are relevant to my U-5. Please give me the opportunity to present them before you file it, because that has an impact on my career." (See Exhibit G).

Mara contacted Passaretta to discuss his email. On June 27, 2013, Passaretta and Mara had a telephone conversation during which time Passaretta asked if the Firm would consider classifying his separation as "permitted to resign" rather than terminated. Mara said that he would discuss Passaretta's request with the legal department and revert back to him. Over the next week, Passaretta emailed Mara numerous times to inquire as to the status of his request, discreetly asking if there was "an update on the topic we discussed yesterday" or "any news on this issue today." (See Exhibit H). On July 3, 2013, the Firm decided to honor Passaretta's request and classify his separation as "permitted to resign." Mara called Passaretta the next day, on July 4, to notify him that the Firm would honor his request and permit him to resign. Mara informed Passaretta that the Firm would still make all necessary U-5 disclosures.

UBS's Truthful and Accurate Disclosures in Accordance with Form U-5 Obligations

Article V, Section 3 of the FINRA By-Laws requires member firms to file a Form U-5 within thirty (30) days of terminating any associated person's registration. Specifically, the Form U-5 requires the member firm to provide a reason and explanation for why the associated person is no longer with the firm. Indeed, it is because the completion of the Form U-5 is mandatory that employer disclosures on the Form U-5 are absolutely privileged in the State of New York and cannot give rise to a claim for damages.

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On July 25, 2013 UBS Securities filed a Form U-5 with respect to Passaretta's separation from the Firm. UBS Securities truthfully classified Passaretta's separation as "permitted to resign" and, as required by FINRA's reporting obligations, provided the following explanation: "Employee was permitted to resign after the Firm determined his performance as a supervisor did not meet the firm's expectations." (*See Exhibit I*).

The Form U-5 also requires the employer to complete several "Disclosure Questions," including inquiries focused on whether the separation arose from allegations of conduct that violate "investment-related statutes, regulations, rules or industry standards of conduct." (*Id.* (emphasis in original).) Guidance issued by FINRA explains that simply stating the reason and explanation for a discharge or termination is not sufficient, and does not "abrogate the requirement that a firm complete any of the questions . . . appropriately, including, in particular, Questions 7B and 7F." (*Annexed hereto as Exhibit J is a true and correct copy of FINRA Regulatory Notice 10-39*.)

FINRA guidance notes that member firms have an obligation to provide truthful answers to the Disclosure Questions, and "**may not parse through the questions in a manner that would allow the firm to avoid responding affirmative to a question.**" *Id.* (emphasis in original). Failure to answer Disclosure Questions or failure to do so in a truthful manner can result in administrative and/or civil penalties against the member firm. FINRA guidance also specifically provides that the phrase "investment related" must be interpreted broadly: "**A firm should err on the side of interpreting the term "investment-related" in an expansive manner.**" *Id.* (emphasis added). "A firm may be required to provide an affirmative answer to a question even if the matter is not securities related." *Id.* Nor does not conduct need to involve a firm customer: "[T]he issue of whether the conduct involved a customer . . . is not necessarily determinative as to whether the conduct may require an affirmative answer." *Id.*

UBS Securities truthfully answered "yes" to Question 7F(3) on Passaretta's Form U-5, which asked whether the "individual voluntarily resign(ed) from your firm, or was the individual discharged or *permitted to resign from your firm*, after allegations were made that accused the individual of failure to supervise in connection with investment related statutes, regulations, rules or industry standards of conduct." (*See Exhibit I*). UBS Securities provided the following additional information: "Firm investigated failure to comply with an internal trade pre approval policy." (*Id.*)

ARGUMENT

Passaretta's purported claims all fail based on well-established legal principles and indisputable facts. UBS Securities did not have any obligation, express or implied, to pay Passaretta incentive compensation for 2013 based on the explicit terms of his Offer Letter and the Firm's incentive compensation policy. Passaretta forfeited any unvested deferred compensation when he resigned after failing to notify Risk Management of the unauthorized \$18 billion trade executed by one of his traders and subsequently lying to Risk Management as to the status of the trade. UBS

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answered the questions on Passaretta's Form U5 truthfully – but, even if it had not, answers to Form U5 questions are absolutely privileged and cannot give rise to any liability. It is similarly clear that at all times Passaretta remained an at-will employee and that he cannot assert a claim for wrongful termination under New York law.

As is set forth in further detail below, Passaretta's purported claims are not only factually meritless, they are legally deficient.

I. FINRA Arbitrators Must Apply Clear Legal Principles.

Passaretta's Statement of Claim is filled with vague assertions as to his purported rights and entitlements, all of which lack any legal grounding whatsoever. For example, Passaretta claims he is "entitled" to a bonus and deferred compensation without any contract or documentation stating as much. (*See Statement of Claim pg. 7.*) Similarly, Passaretta also claims that he is "entitled" to damages because his employment was protected by a "just cause" termination provision without pointing to any contract establishing any such right. Passaretta's failure to provide any applicable legal basis for these claims underscores their lack of merit.

The FINRA Dispute Resolution Arbitrator's Guide is clear that the panel should "apply the law to the facts" and instructs that "if the parties have provided the panel with the law, the law is clear, and it applies to the facts of the case, the arbitrators should not disregard it." *See Arbitrator's Guide* at 52.

As set forth below, UBS Securities acted in accordance with the well-settled laws of the state of New York, the plain language in Passaretta's Offer Letter and the relevant UBS policies. The legal precedents applied to the facts discussed herein require that each of Passaretta's claims be dismissed.

II. Passaretta's Breach of Contract Claim Fails as A Matter of Law.

Passaretta cannot establish that UBS had any contractual obligation to pay him discretionary incentive compensation and/or additional deferred compensation. First and foremost, UBS's incentive compensation policy is strictly discretionary and Passaretta cannot establish that there is any contract entitling him to incentive compensation for 2013. Furthermore, UBS's deferred compensation plan, EOP, makes clear that Passaretta forfeited any entitlement to deferred compensation when he resigned (in lieu of being terminated by the Firm, which also would have triggered forfeiture, regardless of whether such termination constituted cause).

A. Passaretta's Breach of Contract Claim for 2013 Incentive Compensation Fails.

Passaretta's claim that he is contractually entitled to incentive compensation for 2013 fails on multiple grounds. As a threshold matter, the Statement of Claim is utterly devoid of any citation to a contractual provision requiring the payment of any incentive compensation to Passaretta for

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2013. Indeed, all of the relevant writings establish that UBS made no guarantee whatsoever to Passaretta regarding incentive compensation for any year other than 2009, which Passaretta was unquestionably paid.⁶

In addition, Passaretta's Offer Letter also provided that "incentive compensation awards are contingent upon your continued employment with the Firm on the incentive compensation award payment date," meaning that to receive a discretionary award, if any, Passaretta had to be an employee of UBS Securities when the award was paid. Discretionary awards for 2013 were not paid until 2014, well after Passaretta's departure. (*See Exhibit B*). Passaretta's employment with UBS ended because he resigned in an effort to avoid being terminated by the Firm for his misconduct. Because Passaretta was not employed on the date UBS Securities made its 2013 discretionary bonus payment and he cannot prove the existence of a contract under which he was guaranteed an award of incentive compensation for 2013, his claim fails as a matter of law.

Claims for a discretionary bonus, such as that presented by Passaretta, are routinely dismissed by New York Courts.⁷ In a very recent case, addressing UBS policy language identical to that at issue here, New York Supreme Court Justice Jeffrey Oing granted (from the bench during oral argument) UBS Securities' motion to dismiss Plaintiff Richard Homan's breach of contract claims. In *Homan v. UBS Securities LLC and Dillon Read Capital Management, LLC*, N.Y. Supreme Court, New York County, Index No. 155309/2013, the plaintiff (represented by the same law firm that is representing the Claimant here) based his claim for relief on a verbal promise made by the then-Chairman of UBS Securities for a \$1,000,000 bonus in 2008. However, Homan's offer letter – much like Passaretta's – expressly provided that his bonus was discretionary and that any guarantee would have to be in writing. In granting UBS Securities' motion, Justice Oing stated:

What was screaming out from the record is discretionary, discretionary, discretionary. There is no word that says guarantee in there because we know in the industry there are two kinds of bonuses, guaranteed versus the discretionary and this one here the record is replete with simply saying, Judge, there is no way you can look around the word discretionary unless you are going to redefine discretionary. (Motion Tr. 4:6-18).

⁶ As expressly stated in Passaretta's Offer Letter, "Future incentive compensation award(s), if any, may be higher or lower and are in the sole and exclusive direction of management." (*See Exhibit A*.)

⁷ The express terms of Passaretta's Offer Letter make clear that the terms of his employment were governed by New York law. (*See Exhibit A*.)

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The *Homan* decision follows case after case decided under New York law: where, as here, the terms of a compensation policy or other agreement give the employer “discretion,” an employee has no claim for breach of contract (express or implied) based on the employer’s alleged failure to pay incentive compensation. *See Hall v. United Parcel Serv.*, 76 N.Y.2d 27, 36 (1990) (an employee’s entitlement to incentive compensation is governed by the terms of the employer’s incentive compensation policies); *Zolotar v. New York Life Ins. Co.*, 172 A.D.2d 27, 32 (1st Dep’t 1991); *Weiner v. Diebold Group, Inc.*, 173 A.D.2d 166, 167 (1st Dep’t 1991); *see, e.g., Bessemer Trust Co. v. Branin*, 498 F. Supp. 2d 632, 638-39 (S.D.N.Y. 2007); *Arrouet v. Brown Brothers Harriman & Co.*, No. 02 Civ. 9061 (TPG), 2005 U.S. Dist. LEXIS 4327, at *10-11 (S.D.N.Y. Mar. 18, 2005); *Gorey v. Allion Healthcare Inc.*, 2008 NY Slip Op 50125U, 18 Misc.3d 1118A (N.Y. Sup. Ct. Jan. 7, 2008); *Plantier v. Cordiant plc*, No. 97 Civ. 8696, 1998 U.S. Dist. LEXIS 15037, at *8 (S.D.N.Y. Sept. 24, 1998) (stating that if a bonus is “discretionary,” the bonus is not owed to the employee).

Recent arbitration decisions involving similar claims, including identical claims against UBS, have followed New York law on this point and reached similar results.

In an arbitration arising under similar circumstances, *Garner v. Dillon Read Capital Management, LLC and UBS Global Asset Management (U.S.), Inc.*, JAMS No. 1425003064 (July 13, 2011), claimant Ronald Garner – who was represented by the same law firm that represents Passaretta here – purported to advance a claim for an unpaid incentive compensation award. Arbitrator Hon. Stephen G. Crane (Ret.), former Senior Associate Justice of the New York Appellate Division, Second Department, denied Garner’s claims on a Motion for Summary Disposition by respondents, ruling:

A contract implied-in-fact arises in the absence of an express agreement.... If a bonus plan existed, however, the Claimant’s entitlement to his incentive compensation award is governed by the terms of that plan. ***If that bonus plan vested absolute discretion with the employer whether to award incentive compensation, then a claim fails for breach of implied contract for the payment of that incentive compensation.***”

Garner, JAMS No. 1425003064 at *10 (citations omitted; emphasis added). Justice Crane held that because Garner’s offer letter and the applicable incentive compensation policies provided discretion to UBS, Garner’s claim that he had an implied right to an award of incentive compensation must be denied. In addressing Garner’s implied contract claim, Justice Crane similarly stated in his decision:

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The plain language of the handbooks also prevents Claimant from relying on the payment of a yearly bonus to establish a pattern and, thus, entitlement to the bonus. The handbooks both specifically state that Claimant is not entitled to a bonus merely because one had been paid in the past. Even without this language, “the fact that an employee received bonuses throughout an employment relationship does not vitiate the employer’s right to retain discretion in determining the amount, if any, of an employee’s bonus.” *Thus, merely because the Claimant was paid a bonus year after year does not entitle him to a bonus for 2007 or 2008.*

Id. at *30 (citations omitted; emphasis added). *See also, Mendillo*, 2001 WL 1615208 (dismissing claim for breach of implied contract because employment agreement stated that bonus was to be discretionary); *Ferrand v. Credit Lyonnais*, No. 02 Civ. 5191, 2003 U.S. Dist. LEXIS 17202 (S.D.N.Y. Sept. 30, 2003) (dismissing “a claim for a implied contract for a guaranteed bonus where there was an explicit policy in the Bank’s Employee Handbook setting forth a policy of discretionary bonuses”). Other recent FINRA arbitrations involving the same claims against UBS Securities (also involving Passaretta’s counsel) have yielded identical results. *See, e.g., Sparks v. UBS Securities LLC*, FINRA Case No. 13-00141 (decided March 6, 2014); *Saib v. UBS Securities LLC*, FINRA Case No. 11-03855 (decided June 27, 2013).

In a very recent FINRA arbitration, *Shaia v. Moelis & Co. LLC*, FINRA Case No. 13-01319 (decided March 27, 2014), Claimant Gregory Shaia brought claims for breach of contract based on an unpaid discretionary bonus and forfeiture of unvested stock awards. In a 36 page opinion denying Shaia’s claims, the FINRA arbitrator found that the parties had a written agreement which “unambiguously” provided that Shaia would be eligible to receive “discretionary incentive compensation” and made no promise of a guaranteed bonus for the specific year in question. Further, the parties’ agreement had a broad integration clause in which the parties expressly disclaimed reliance on representations outside the agreement. (*Id.* at 18) In similarly denying Shaia’s implied contractual claims, the arbitrator stated, “the law is well-settled, that a ‘contract cannot be implied in fact when there is an express contract covering the subject matter’” citing *Julien J. Studley, Inc. v. New York News, Inc.*, 70 N.Y.2d 628 (1987).

Here, the plain language of Passaretta’s Offer Letter and the incentive compensation policy expressly negate any claim to a specific award of incentive compensation for 2013. Passaretta’s claim with respect to a 2013 bonus should be denied.

B. Passaretta’s Breach of Contract Claim for Deferred Compensation Fails.

Passaretta’s claim for \$1.173 million of forfeited deferred compensation similarly fails as a matter of law because Passaretta has not and cannot advance any basis to recover the forfeited amounts. The terms of UBS’s EOP expressly provide that if an employee resigns prior to the vesting date, he forfeits any unpaid amounts. (*See Exhibit D.*)

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Once Passaretta learned that his employment was about to be terminated, he specifically requested that the Firm permit him to resign so that he would be able to find subsequent employment and avoid the consequences of a "discharge" notation on his Form U-5. While UBS undoubtedly had grounds to discharge Passaretta based on his failure to immediately disclose that an \$18 billion trade had been made prior to receiving authorization and his subsequent lies to Ellison and Murphy about whether the trade had occurred, the Firm acquiesced to Passaretta's request on the condition that the Firm would still make the necessary U-5 disclosures to FINRA.

Passaretta now seeks to re-write history by claiming that he did not resign, but rather, that UBS terminated his employment to avoid paying his deferred compensation. While blatantly false, Passaretta's argument is of no moment as the express terms of the EOP, which govern Passaretta's entitlement to deferred compensation, provide that if an employee's employment terminates voluntarily or for any reason other than death, Disability, Retirement, Redundancy or written mutual agreement, he similarly forfeits any unpaid deferred compensation. Even if Passaretta had not resigned, his termination would have been for a reason other than death, Disability, Retirement, Redundancy, or written mutual agreement, and Passaretta would have forfeited any unpaid awards had the firm moved ahead with his termination as planned rather than having permitted him to resign. Had Passaretta not resigned, UBS certainly would have had cause to terminate his employment (as that term is defined in his offer letter), but as is plain from the language in UBS's EOP, UBS does not have to make any such showing. (*See Exhibit D*).

III. Passaretta's *Quantum Meruit*/Unjust Enrichment Claim Should Be Dismissed.

Knowing that he cannot state a cognizable contractual claim, Passaretta resorts to a quasi-contract theory of *quantum meruit*/unjust enrichment, for which there also is no legal or factual support.

Courts routinely dismiss quasi-contract bonus claims where valid agreements – like the 2009 Offer Letter here – and written policy documents – like the incentive compensation policy and EOP – govern the payment of incentive compensation. *See, e.g., Ferrand v. Credit Lyonnais*, No. 02-5191, 2003 WL 22251313, at *14 (S.D.N.Y. Sept. 30, 2003); *Kaplan v. Capital Co. of Am. LLC*, 298 A.D.2d 110, 111 (1st Dep't 2002), *appeal denied*, 99 N.Y.2d 510, 760 N.Y.S.2d 101 (2003); *DeSantis v. Deutsche Bank Trust Co. Ams., Inc.*, 501 F. Supp. 2d 593, 601 (S.D.N.Y. 2007) (dismissing plaintiff's *quantum meruit* claim for extra bonus compensation because "there is an express provision in the Deutsche Bank Handbook governing the payment of bonuses"). Since Passaretta's entitlement to incentive compensation was governed by express writings that set forth the discretionary nature of his awards after 2009 and the circumstances under which he would forfeit an award, Passaretta cannot state a claim for *quantum meruit*/unjust enrichment as a matter of law.

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Even if Passaretta were able to put forth a legally cognizable claim to recover under a *quantum meruit*/unjust enrichment theory – which he cannot – his claim also fails because he cannot demonstrate that he had a reasonable expectation of the compensation requested. *See Argo Marine Sys., Inc. v. Camar Corp.*, 755 F.2d 1006, 1011 (2d Cir. 1985) (affirming dismissal of plaintiff's *quantum meruit* claim for extra compensation in proportion to certain transactions claimant was responsible for because claimant did not “establish that he had a reasonable expectancy of receiving such compensation”). In light of the circumstances of his departure, the clear discretionary language in his Offer Letter and the UBS incentive compensation policy and EOP, Passaretta cannot establish a reasonable expectation of his entitlement to additional incentive compensation.

Furthermore, Passaretta cannot state a claim under a *quantum meruit* theory because he cannot establish that he performed services for UBS above and beyond those which he had previously agreed to perform as part of his typical job duties. *See Freedman v. Pearlman*, 271 A.D.2d 301, 304 (1st Dep't 2000) (affirming dismissal of *quantum meruit* claim because plaintiff did not allege that he performed services “so distinct from the duties of his employment and of such nature that it would be unreasonable for the employer to assume that they were rendered without expectation of further pay”) (*citations omitted*). Passaretta's *quantum meruit*/unjust enrichment claim should therefore be dismissed.

IV. Passaretta's Defamation, Expungement and Tortious Interference Claims Are Meritless.

Passaretta's claims arising from the Firm's completion of his Form U5 are baseless. First and foremost, as Passaretta's Offer Letter expressly provides, the terms of his employment were governed by New York law, and not Connecticut. New York recognizes an absolute privilege with respect to Form U-5 disclosures (while the highest court in the state of Connecticut has yet to address this issue).

As explained by the New York Court of Appeals in *Rosenberg v. MetLife, Inc.*:

The public interests implicated by the filing of Forms U-5 are significant. The form is designated to alert the NASD to potential misconduct and, in turn, enable the NASD to investigate, sanction and deter misconduct by its registered representatives. The NASD's actions ultimately inure to the benefit of the general investing public, which faces the potential for substantial harm if exposed to unethical brokers. *Accurate and forthright responses on the Form U-5 are critical to achieving these objectives.*

Rosenberg v. MetLife, Inc., 8 N.Y.3d 359, 367-368 (2007) (emphasis added). For these reasons, the *Rosenberg* court concluded that the compulsory nature of a Form U-5, together with the imperative of full disclosure to protect the public interest, requires that statements made by an employer on a Form U5 receive absolute immunity. *Id.* (emphasis added) Thus, New York law

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mandates that Passaretta's U-5 be subject to an absolute privilege and, therefore, his defamation and tortious interference claims based on the language in his Form U-5, must be dismissed.

Connecticut's highest court has not yet decided whether to follow New York's lead with respect to the unqualified privilege. At a minimum, even if UBS's statements on Passaretta's Form U-5 are protected by only a qualified privilege (as has been applied by lower Connecticut courts), there are no facts supporting claims for defamation or tortious interference under either the common law or the Connecticut Unfair Trade Practices Act.⁸

Under Connecticut law, a plaintiff seeking to overcome a qualified privilege must demonstrate that the defendant acted with "actual malice." *See, e.g., Heldmann v. Tate*, No. CV 95591225, 1999 WL 353476, at *2 (Conn. Super. May 20, 1999) (Form U-5s are afforded "a qualified privilege which may be defeated if made with malice, knowledge of its falsity, or reckless disregard of its truth, or made in bad faith or an improper nature"). Similarly, a plaintiff seeking to establish that an employer tortiously interfered with his prospective employment must establish that the defendant acted with "malice." Malice requires a showing of clear and convincing evidence. *Id.*

Given the dishonest nature of Passaretta's actions following his discovery that the \$18 billion trade had been booked without authorization, it is patently absurd for Passaretta to suggest that the Form U-5 explanation UBS provided in connection with his resignation is false and malicious. There are no facts whatsoever to support such a contention.

UBS's affirmative answers to the Disclosure Questions were true, and there is no evidence that those answers were untrue or malicious. FINRA regulations require member firms to provide complete and truthful responses to the Disclosure Questions on the Form U-5 or risk being subject to punishment, penalties and fines. FINRA guidance expressly advises that firms cannot "parse through the questions" so as to "avoid responding affirmative to a question." In other words, firms cannot simply refuse to answer the questions or answer all the questions in the negative to avoid getting sued. Moreover, FINRA Guidance instructs member firms that the phrase "investment-related" be interpreted broadly and will often include allegations of conduct unrelated to securities and/or interactions with a customer.

Given this backdrop, it is clear that UBS answered the Disclosure Questions on Passaretta's Form U-5 in good faith and in reliance on guidance provided by FINRA itself. Passaretta cannot point to any evidence, much less clear and convincing evidence, that UBS acted with malice by answering these questions in the affirmative and providing the necessary explanation.

Thus, even if UBS were subject to potential liability – which it isn't as a matter of established New York law – it would be improper for a FINRA panel to award damages to Passaretta given that UBS merely did as required pursuant to FINRA regulations.

⁸ Passaretta's employment was governed by New York law, thus he has no standing to bring a claim under the Connecticut Unfair Trade Practices Act.

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V. Passaretta's Wrongful Termination Claim is Without Merit.

Passaretta cannot establish a claim for wrongful discharge because he was an employee at-will, and as such, his employment could be terminated by either party at any time, with or without cause. Passaretta's Offer Letter and the UBS Handbook clearly and unequivocally state that Passaretta's employment was at-will. (See *Exhibits A and B*.) Passaretta tries to transform his at-will status by pointing to the Form U-4 he signed when he started his UBS employment. Passaretta's argument is wholly without merit.

It is well-settled under New York law that a cause of action for wrongful discharge cannot exist where the claimant is employed at-will. Absent an agreement establishing a fixed duration of employment, an employment relationship is terminable at any time by either party, with or without cause. *Lobosco v. N. Y Tel. Co./NYNEX*, 727 N.Y.S.2d 383, 385 (2001); see also *Howard v. Kleinfeld Peat Marwick Goerdeler*, No. 98-9326, 1999 U.S. App. LEXIS 8402, at *3 (2d Cir. 1999); *De Petris v. Union Settlement Ass'n*, 633 N.Y.S.2d 274, 276 (1995). As the court summarized in *De Petris*, "[t]his State neither recognizes a tort of wrongful discharge nor requires good faith in an at-will employment relationship." 633 N.Y.S.2d at 276 (citations omitted); *Riccardi v. Cunningham*, 737 N.Y.S.2d 871, 871-72 (2d Dep't 2002) (upholding lower court's dismissal of an at-will employee's wrongful discharge action because New York does not recognize tort of wrongful discharge); *Poplawski v. Metro. Prop. & Cas. Ins. Co.*, 692 N.Y.S.2d 438, 439 (2d Dep't 1999) (at-will employee cannot maintain action to recover damages for wrongful termination).

Given that Passaretta's Offer Letter did not contain "a fixed duration of employment," a fact necessary to establish a claim for wrongful discharge, Passaretta alleges that by signing Form U-4 upon his hire, which compelled Passaretta and UBS to arbitrate any dispute relating to his employment, the parties entered into a "just cause" employment relationship. Passaretta's reliance upon *PaineWebber v. Agron*, an 8th Circuit case that has no force or effect in this jurisdiction, is misplaced.

In New York the employment relationship is presumptively at will. In addition to this presumption, and unlike the facts in *Agron*, the parties here had an express written agreement stating that Passaretta's employment was at-will, which meant that UBS retained "the right to terminate [his] employment at any time with or without Cause and with or without notice." (See *Exhibit A*).

Furthermore, the Offer Letter, which embodied the parties' agreement, stated that it contained "the entire understanding and agreement between the parties" and could "not be modified, supplemented or amended orally or in any way unless ... agreed to in writing and signed by [Passaretta] and two authorized officers of the Firm." Nothing in Form U-4 calls modifies or calls the parties agreement into question. (See *Exhibit K*).

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Moreover, no New York Court has ever adopted the holding of *PaineWebber v. Agron*.⁹ In fact, New York Courts have held that the signing of a U-4 agreement, without more, does not transform the “at-will” relationship to one requiring “just cause.” Courts and arbitrators have held that absent an express agreement to alter or change the at-will relationship, it will continue even in the presence of an arbitration agreement. *See Brady v. Calyon Secs.*, 406 F. Supp. 2d 307 (S.D.N.Y. 2005); *Bevis v. Paine Webber, Inc.*, NASD Case No. 97-03381 (Aug. 11, 1999) (“Claimant’s allegations that the execution of a U-4 gave rise to a right that his employment not be terminated but for ‘just cause’ is rejected as a matter of law.”); *Patel v. Credit Suisse First Boston Corp., et al.*, NASD Case No. 96-04716 (Oct. 22, 1998) (dismissing respondent, Goldman Sachs, as no just cause requirement exists under *Paine Webber Inc. v. Agron*). *See also Int’l Bhd of Teamsters, Local 371 v. Logistics Support Group*, 999 F.2d 227, 229 (7th Cir. 1993) (despite existence of arbitration remedy, express “management rights” clause in agreement meant that no “just cause” requirement for termination could be implied); *Local Union No. 2812, Lumber Prod. and Indus. Workers v. Missoula White Pine Sash Co.*, 734 F.2d 1384, 1387 (9th Cir. 1984) (refusing to imply “just cause” requirement based on grievance procedures where employment agreement also contained a “management rights” clause); *Bradford v. KFC Nat’l Mgmt. Co.*, 5 F. Supp.2d 1311, 1313 (M.D. Ala. 1998) (holding that “arbitration agreements . . . in no way violate a prohibition, or limitation, on employment at other than at-will status”); *Int’l Bhd of Teamsters, Local 371 v. Logistics Support Group*, 999 F.2d 227, 229 (7th Cir. 1993) (despite existence of arbitration remedy, express “management rights” clause in agreement meant that no “just cause” requirement for termination could be implied); *Local Union No. 2812, Lumber Prod. And Indus. Workers v. Missoula White Pine Sash Co.*, 734 F.2d 1384, 1387 (9th Cir. 1984) (refusing to imply “just cause” requirement based on grievance procedures where employment agreement also contained a “management rights” clause).

VI. Passaretta’s Claim for Attorneys’ Fees Fails.

New York follows the “American Rule” on fee-shifting. Under that rule, each party bears its own attorney’s fees in a legal proceeding, except where an award of attorney’s fees to the prevailing party is “specifically provided for by statute or contract.” *Asturiana De Zinc Marketing, Inc. v. LaSalle Rolling Mills, Inc.*, 20 F. Supp. 2d 670, 674 (S.D.N.Y. 1998) (quoting *Marotta v. Blau*, 659 N.Y.S.2d 586, 586 (3d Dep’t 1997)); *see also Hooper Assocs., Ltd. v. AGS Computers, Inc.*, 74 N.Y.2d 487, 491 (N.Y. 1989) (prevailing party may not collect attorney’s fees “unless an award is authorized by agreement between the parties, statute or court rule”); *CIT Project Finance, L.L.C. v. Credit Suisse First Boston LLC*, 5 Misc. 3d 1030(A), at *5 (N.Y. Sup.

⁹ To support his “just cause” argument, claimant relies only on six (mostly dated) arbitration decisions: *Kates v. Deutsche Bank*, NYSE Docket No. 1998-007498; *Svigos v. Merrill Lynch*, NASD Case No. 93-04516; *Charles v. Marais v. Barclays De Zoete Wedd, Inc. and Barclays Capital*, NASD Case No. 00-02520; *Doug Shaw v. Salomon Smith Barney, Inc.*, NYSE Docket No. 2007-016780; *Stephen B. Sawtelle v. Waddell & Reed, Inc., et al.*, NASD Case No. 97-03642; *Varga v. Countrywide Securities Corp.*, JAMS No. 1425001975. Passaretta claims that in each of these decisions the arbitrators relied upon the *Agron* decision to award damages for wrongful termination. However, a review of the cited decisions reveals that *Agron* is not mentioned once as the basis for awarding damages.

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Ct. 2004) (New York follows “American Rule” requiring “either an authorizing statute or express agreement to arbitrate attorney’s fees”). The “American Rule” applies equally to arbitration as it does to matters litigated in court. In fact, CPLR § 7513 provides: “Unless otherwise provided in the agreement to arbitrate, the arbitrators’ expenses and fees, together with other expenses, *not including attorney’s fees*, incurred in the conduct of the arbitration, shall be paid as provided in the award.” (Emphasis added.)

FINRA recognizes and enforces the American Rule through its Arbitrator Guide. The Arbitrator’s Guide describes only “three situations when parties may pursue attorney’s fees”: (i) “A contract includes a clause that provides for the fees”; (ii) “the fees are allowed as part of a statutory claim”; or (iii) all of the parties request or agree to such fees.” *Arbitrator’s Guide* at 66.

New York state and federal courts have not hesitated to vacate arbitration decisions that award attorney’s fees in violation of this rule. *See, e.g., Asturiana De Zinc Marketing*, 20 F. Supp. 2d at 674 (as New York law follows the “American Rule,” arbitrator’s award of attorney’s fees absent an agreement by the parties “was in ‘manifest disregard’ of New York substantive law”); *Grand & Mercer St. Corp. v. Eisenberg*, 773 N.Y.S.2d 347, 348 (1st Dep’t 2004) (“The award of attorneys’ fees should be vacated given an arbitration clause that does not expressly provide therefor.”); *In re Arbitration Between UBS Warburg LLC*, 744 N.Y.S.2d 364, 365 (1st Dep’t 2002) (affirming vacatur of arbitration award where arbitrators had no authority to award attorney’s fees). Passaretta’s claim for attorney’s fees should be denied.

Affirmative Defenses

In addition to the foregoing, we note that Passaretta’s claims are barred, in whole or in part, by the following affirmative defenses: (i) the Statement of Claim fails to state a cause of action or claim upon which relief may be granted; (ii) the Statement of Claim fails to state a cause of action or a claim upon which an award of attorneys’ fees, cost or disbursements may be granted; (iii) the Statement of Claim fails to state a cause of action or a claim upon which an award of punitive damages may be granted; (iv) the doctrines of estoppel and/or unclean hands; (v) any failure by Respondent to perform any obligation owed to Claimant (which Respondent denies) resulted from Claimant’s failure to first perform his obligations, which performance was a condition precedent to the performance of Respondent’s obligations; (vi) failure to exhaust administrative remedies; (vii) to the extent Claimant’s claim for breach of contract is based on alleged oral statements, it is barred by the Statute of Frauds; and (viii) Claimant is not entitled to damages because of Respondent’s after-acquired evidence.

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CONCLUSION

For the foregoing reasons and those to be presented at the hearing, Passaretta's claims should be denied.

Respectfully submitted,


Lloyd B. Chinn

Attachments

cc: Blaine H. Bortnick, Esq.



Proskauer Rose LLP Eleven Times Square New York, NY 10036-8299

July 8, 2015

By Email

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Re: Gianluca Passaretta v. UBS Securities LLC
FINRA No. 14-00740

Dear Blaine:

In accordance with Rule 13514 of the FINRA Code of Arbitration Procedure for Industry Disputes, Respondent hereby identifies documents it may present at the hearing:

At the present time, Respondent anticipates it may present any or all of the following documents:

- any and all documents previously exchanged in discovery or to be exchanged in discovery in this action;
- any and all documents obtained, or to be obtained, from third-parties in this action by subpoena or otherwise;
- any and all documents which the parties may be ordered to produce;
- all documents needed for the purpose of impeachment, cross-examination or rebuttal;
- any and all pleadings, including Claimant's Amended Statement of Claim, and any exhibits attached thereto; Respondent's Statement of Answer, and any exhibits attached thereto;
- any and all written discovery, including the parties' responses to document and information requests; and
- any and all documents included in Claimant's Document List.

Respondent expressly reserves its right to introduce demonstrative exhibits, charts, graphs and/or summaries of any testimony or exhibits.

Respondent also expressly confirms that the identification of any document or category of documents in this letter is not intended to be, and shall not be, construed as a waiver by Respondent of any part of any objection to any document or category of documents so identified.

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Blaine Bortnick, Esq.

July 8, 2015

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Very truly yours,

/s/ Lloyd B. Chinn

Lloyd B. Chinn

cc: Sherry Shore, Esq.

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July 8, 2015

*AWAITING ADMISSION

BY E-MAIL

Lloyd B. Chinn, Esq.
Rachel S. Fischer, Esq.
Proskauer Rose LLP
Eleven Times Square
New York, NY 10006

Re: Gianluca Passaretta v. UBS Securities LLC;
FINRA Dispute Resolution Arbitration No. 14-00740

Dear Lloyd and Rachel:

In accordance with Rule 13514 of the FINRA Code of Arbitration Procedure for Industry Disputes, Claimant Gianluca Passaretta designates the following for use as exhibits at the hearing:

1. Any and all exhibits identified or exchanged by Claimant and/or Respondent;
2. Any and all exhibits needed for impeachment, cross-examination and/or rebuttal purposes;
3. Any information or documents that were previously or will be produced by the parties in response to discovery requests in this matter;
4. Any information or documents requested but not produced by Respondent or any third parties;
5. Any and all information or documents disclosed and/or designated by Claimant and/or Respondent;

LIDDLE & ROBINSON, L.L.P.

Lloyd B. Chinn, Esq.
Rachel S. Fischer, Esq.

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6. All pleadings, including any documents attached thereto, and any papers and exhibits filed in this case;
7. Any document, chart, graph, summary, statistic and/or demonstrative exhibit that may be made for or by a witness to clarify or otherwise facilitate his/her testimony;
8. Any document, chart, graph, summary, statistic and/or demonstrative exhibit that may be made for or by Claimant to clarify or otherwise facilitate his position in this matter;
9. Any correspondence between the parties;
10. Any expert and/or consultant report, analysis, opinion, financial document and/or recommendation exchanged by the parties;
11. Any document in the public domain, including but not limited to news articles and SEC/regulatory filings;
12. Any information and/or document received from Respondent, or received in connection with any witness, that may be produced either prior to or during the hearing.

Claimant expressly states that the identification of any document or category of documents in this statement is not intended to be, and shall not be, construed as a waiver by Claimant of any objection to any document or category of documents so identified.

Very truly yours,



Sherry M. Shore