

**THE NASDAQ STOCK MARKET LLC  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2018058781102**

TO: The Nasdaq Stock Market LLC  
c/o Department of Enforcement  
Financial Industry Regulatory Authority (“FINRA”)

RE: UBS Securities, LLC, Respondent  
Broker-Dealer  
CRD No. 7654

Pursuant to Rule 9216 of the Nasdaq Stock Market LLC (“Nasdaq”) Code of Procedure, UBS Securities, LLC (the “firm”) submits this Letter of Acceptance, Waiver and Consent (“AWC”) for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, Nasdaq will not bring any future actions against the firm alleging violations based on the same factual findings described herein.

**I.**

**ACCEPTANCE AND CONSENT**

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

**BACKGROUND**

UBS has been a member of Nasdaq since July 2006. The firm is headquartered in New York, New York, and is a wholly owned subsidiary of UBS AG, a publicly owned Swiss banking company. UBS employs approximately 1,900 registered persons operating out of 25 branch office locations, and provides investment banking, research, and sales and trading services mainly to corporate and institutional clients.

**RELEVANT PRIOR DISCIPLINARY HISTORY**

In November 2015, in connection to STAR No. 20120323306, UBS consented to a censure and a fine of \$1.25 million imposed by nine self-regulatory organizations (“SROs”), including Nasdaq, for failing to have financial risk management controls reasonably designed to prevent the entry of erroneous equity or options orders, and orders that exceeded appropriate pre-set credit thresholds in the aggregate for customers, in violation of Section 15(c)(3) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 15c3-5 thereunder (“Exchange Act Rule 15c3-5”). Additionally, UBS failed to have a written description of its risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of market access in violation of Exchange Act Rule 15c3-5 and the related supervisory rules of the SROs.

## SUMMARY

From January 1, 2017 through June 8, 2018, the firm maintained a system of risk management controls and supervisory procedures designed to manage the financial risk of its market access activity. However, certain of the firm's controls and supervisory procedures within the firm's smart order router, the Oscar Smart Order Routing System ("Oscar SOR,"), were not reasonably designed to prevent the entry of erroneous orders. In addition, from January 1, 2017 through October 31, 2018, the firm's supervisory system was not reasonably designed with respect to the firm's documentation of soft block reviews of orders paused by the Oscar SOR erroneous order controls. As a result, the firm violated Section 15(c)(3) of the Exchange Act and Exchange Act Rule 15c3-5 thereunder, and Nasdaq Rules 2010A and 3010.

## FACTS AND VIOLATIVE CONDUCT

### Relevant Rules

1. Exchange Act § 15(c)(3) prohibits broker-dealers from contravening the rules and regulations prescribed by the Securities and Exchange Commission (SEC) to "provide safeguards with respect to the financial responsibility and related practices of brokers and dealers."
2. Exchange Act Rule 15c3-5(b) requires that a "broker or dealer with market access, or that provides a customer or any other person with access to an exchange or alternative trading system through use of its market participant identifier or otherwise, shall establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of this business activity."
3. Exchange Act Rule 15c3-5(c)(1) requires broker-dealers to establish financial risk management controls and supervisory procedures "reasonably designed to systematically limit the financial exposure of the broker or dealer that could arise as a result of market access...."
4. Exchange Act Rule 15c3-5(c)(1)(ii) requires broker-dealers to establish financial risk management controls and supervisory procedures reasonably designed to "[p]revent the entry of erroneous orders, by rejecting orders that exceed appropriate price or size parameters, on an order-by-order basis or over a short period of time, or that indicate duplicative orders."
5. Nasdaq Rule 3010 states: "[e]ach shall establish and maintain a system to supervise the activities of each registered representative and associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations and with applicable Nasdaq rules."
6. Nasdaq Rule 2010A provide that member firms, "in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade."

### Violative Conduct

### ***Unreasonably Designed Erroneous Order Controls***

7. Between January 1, 2017 and June 8, 2018, equity orders routed through the Oscar SOR to the firm's "high touch" desks were subjected to a single order notional control. This erroneous order control would pause or reject an order when the order exceeded a pre-configured limit, which ranged from \$75 to \$200 million, depending on which "high touch desk" received the order. UBS could not provide a reasonable basis or documentation to demonstrate the reasonableness of the thresholds.
8. In addition, between January 1, 2017 and June 8, 2018, equity orders routed through the Oscar SOR were subjected to a percentage of the security's 20-day average daily volume ("ADV") control. The ADV control would suspend orders for manual review if the order quantity was greater than the corresponding threshold, which ranged from 25% to 100% between January 1, 2017 and March 5, 2018, and 20% to 95% between March 6, 2018 and June 2018. The ADV thresholds were set too high to be reasonably designed to prevent the entry of erroneous orders, absent additional reasonably designed controls. Furthermore, the firm could not provide a reasonable basis or documentation to demonstrate that the thresholds were set at a level reasonably designed to prevent the entry of erroneous orders.
9. Between January 1, 2017 and May 3, 2017, the Oscar SOR employed various market access controls for limit orders, including, but not limited to, an ADV control and price controls that paused limit orders which exceeded thresholds based on certain percentages away from either the current National Best Bid and Offer ("NBBO") or the last trade. However, during this period, the Oscar SOR did not have any controls to address the potential price impact of erroneous market orders that could materially move the price of a security.
10. Beginning on May 4, 2017, the firm implemented a functionality to set limit prices on Direct Market Access ("DMA") orders within the Oscar SOR until the order was fully executed. The SOR functionality converted market orders to limit orders, which were priced based on a predetermined percentage from the NBBO at the time each child order was created, regardless of the NBBO when the order was received. However, this functionality, absent other controls, was not reasonably designed to prevent the entry of erroneous orders because it failed to include a price benchmark, such as the NBBO, at the time of order receipt. As such, the functionality could append limit prices at successively higher or lower prices on each child limit order, potentially causing an erroneous order with significant price impact.
11. In fact, those controls failed to prevent a market event that took place on June 8, 2018. On that date, a trader on the firm's U.S. Portfolio Sales Trading desk routed a customer basket order containing 174 securities (5,022,000 shares) using an incorrect trading strategy, which resulted in the erroneous basket order being routed to the market and receiving executions for all 174 securities in one second. Moreover, for many of the securities, the functionality appended successively higher or lower prices on the child limit orders created, causing significant price impact across those securities. Subsequently, UBS implemented an arrival control that pauses child limit orders if they are priced more than a certain percentage away from the NBBO price at the time the order arrived.

### ***Unreasonable Supervisory System Concerning the Review of Soft Blocks***

12. The firm also failed to establish a supervisory system reasonably designed to achieve compliance with Rule 15c3-5(c)(1)(ii)—specifically in connection with the firm’s use of soft blocks for the Oscar SOR erroneous order controls. From January 1, 2017 through October 31, 2018, the firm’s Market Access Procedures provided that if an erroneous order control triggered a soft block, the personnel reviewing the order must consider numerous specified factors, as relevant, and, if overriding the soft block, document the reason for resuming the order and allowing it to proceed to the market. They also provided that UBS supervisors must review on a weekly basis, reports of orders that were paused or rejected due to the firm’s erroneous and duplicative order controls and determine, among other things, the reasons for release or rejection of a paused order in the Oscar SOR.
13. However, the firm’s supervisory system for reviewing resumed orders was unreasonable because the system for documenting the resume reason offered a limited selection of reasons for allowing the order to proceed that did not capture the specified factors in the Firm’s procedures. For example, the majority of paused orders released to market had a reason of “reviewed by UBS” without additional basis or reason. As a result, the reports utilized by UBS supervisors did not enable them to determine the reason(s) supporting release of a paused order in the Oscar SOR or if the firm’s erroneous and duplicative order controls were functioning as intended. The Firm identified the issue and remediated it in November 2018.
14. By virtue of the foregoing, the firm violated Section 15(c)(3) of the Exchange Act, Exchange Act Rule 15c3-5(b) and (c)(1)(ii), and Nasdaq Rules 2010A and 3010.

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

Censure; and

A total fine of \$250,000 to be paid jointly to Nasdaq, FINRA, and the NYSE Arca, Inc., of which \$90,000 is allocated to Nasdaq.

The firm agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. It has submitted a Payment Information form showing the method by which it proposes to pay the fine imposed.

The firm specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

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

## II.

### WAIVER OF PROCEDURAL RIGHTS

The firm specifically and voluntarily waives the following rights granted under Nasdaq’s Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against the firm;

- B. To be notified of the Formal Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the Nasdaq Review Council and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, the firm specifically and voluntarily waives any right to claim bias or prejudice of the Chief Regulatory Officer, the Nasdaq Review Council, or any member of the Nasdaq Review Council, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

The firm further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of Rule 9143 or the separation of functions prohibitions of Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

### **III.**

#### **OTHER MATTERS**

The firm understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by FINRA's Department of Enforcement and the Nasdaq Review Council, the Review Subcommittee, or the Office of Disciplinary Affairs ("ODA"), pursuant to Nasdaq Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the firm; and
- C. If accepted:
  - 1. This AWC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by Nasdaq or any other regulator against the firm;
  - 2. Nasdaq may release this AWC or make a public announcement concerning this agreement and the subject matter thereof in accordance with Nasdaq Rule 8310 and IM-8310-3; and
  - 3. The firm may not take any action or make or permit to be made any public

statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. The firm may not take any position in any proceeding brought by or on behalf of Nasdaq, or to which Nasdaq is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the firm’s right to take legal or factual positions in litigation or other legal proceedings in which Nasdaq is not a party.

- D. The firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The firm understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by Nasdaq, nor does it reflect the views of Nasdaq or its staff.

The undersigned, on behalf of the firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that it has agreed to the AWC’s provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the firm to submit it.

April 8, 2022

\_\_\_\_\_  
Date

UBS Securities, LLC  
Respondent

By: Eric Bernstein

Name: Eric Bernstein

Title: Senior Regulatory Counsel

Accepted by Nasdaq:

May 3, 2022

\_\_\_\_\_  
Date

Luis A. Prieto

Luis A. Prieto  
Principal Counsel  
Department of Enforcement

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