**FINANCIAL INDUSTRY REGULATORY AUTHORITY**
**LETTER OF ACCEPTANCE, WAIVER AND CONSENT**
**NO. 2012035003201**

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

RE: Deutsche Bank Securities, Inc., Respondent
(CRD No. 2525)

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Deutsche Bank Securities, Inc. ("DBSI" or 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, FINRA will not bring any future actions against the Firm alleging violations based on the same factual findings described herein.

## I.

## ACCEPTANCE AND CONSENT

A. Respondent 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 FINRA, or to which FINRA 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 FINRA:

### BACKGROUND

The Firm has been a FINRA regulated member firm since 1940, and maintains its principal place of business in New York, New York. DBSI serves as the investment banking and securities arm of Deutsche Bank AG in the United States. It provides a comprehensive range of advisory, financial, securities research, and investment services to corporate and private clients and also provides investment banking services to corporate clients.

### RELEVANT DISCIPLINARY HISTORY

The Firm has previously been disciplined for conduct relating to its written supervisory procedures ("WSPs"), including the following:

- In June 2016 (Matter No. 2015044296601), the Firm accepted a censure, a fine of $6,000,000, and an undertaking to retain an independent consultant in connection with inaccurate blue sheet submissions and a failure to establish and implement WSPs relating to blue sheets or blue sheet validation.

- In November 2015 (Matter No. 2011027348801), the Firm accepted a censure, a fine of $1,400,000, and an undertaking to revise certain of its WSPs in connection with improperly reporting certain securities positions and a failure to establish and implement reasonable WSPs regarding short interest reporting.

- In December 2012 (Matter No. 2011029270401), the Firm accepted a censure and $125,000 fine in connection with mutual fund prospectus delivery failures and a failure to establish adequate WSPs to supervise mutual fund prospectus delivery.

## OVERVIEW

The Firm disseminates information to certain employees over internal broadcast system speakers in transmissions known as "Hoots." From January 2008 until the present (the "Relevant Period"), the Firm failed to establish, maintain, and enforce adequate supervisory systems, written policies, and procedures, including WSPs, reasonably designed to supervise certain registered representatives' access to Hoots or their communications with customers regarding Hoots. The Firm repeatedly ignored red flags indicating that its supervision was inadequate, including internal audit findings and recommendations, multiple internal warnings from members of the Firm's compliance department, and internal risk assessments. As a result of the Firm's supervisory deficiencies, at least one Firm registered representative communicated potentially confidential and/or material nonpublic information to customers. Those communications provided the recipients with a potential informational advantage over other market participants.

## FACTS AND VIOLATIVE CONDUCT

DBSI Hoots are disseminated through an internal intercom system (known as a "Squawk Box") with several channels originating in different Firm divisions and/or departments. For example, the Equity Research department uses a Hoot to disseminate information to certain employees about research and reactions to market news, including breaking news. Certain information transmitted over the Equity Research department's Hoot, such as changes in the Research department's views or new information learned by a research analyst, risked improper dissemination of material nonpublic information if communicated over the Hoot before it was published. In addition, the Firm's "Markets" division, which is responsible for the Firm's sales and trading of securities, uses a Hoot to provide certain employees with real-time information about market activity, including information about sales and purchases of blocks of stock. Information relating to block orders may be material nonpublic information if the order could result in market-moving activity.

Before 2009, DBSI had a U.S. policy that specifically addressed Hoots and acknowledged that they could contain proprietary or confidential information. For example, information concerning block orders was defined as proprietary and confidential. This policy expressly prohibited sharing proprietary or confidential information communicated over Hoots with employees or non-employees who lacked a legitimate need to know the information.

In 2009, DBSI retired this U.S. policy and the specific guidance regarding Hoots. It implemented a new global policy that broadly prohibited employees from sharing confidential

information with anyone, other than fellow employees with a legitimate need to know the information in connection with their work at the Firm. At the time it retired the U.S. policy, the Firm issued a compliance alert to U.S. employees and advised its various business divisions to review their individual procedures and ensure they addressed specific issues, including the handling of confidential and proprietary information transmitted over Hoots.

In response to this compliance alert, DBSI's Markets division (which serviced institutional clients) updated its policies to include specific guidance regarding communication of information transmitted over Hoots. In 2014, DBSI's Markets division further updated its policies to address the content of and access to Hoots. DBSI's Private Client Services ("PCS") division (which serviced high- and ultra-high-net worth retail customers), however, did not update its policies to include specific guidance regarding Hoots until 2014. During the Relevant Period, neither Markets nor PCS established and maintained a reasonably designed system to supervise or written procedures to ensure that only employees with a legitimate need to know certain information had access to the corresponding Hoots, or to ensure that employees would not communicate confidential information learned over Hoots to customers or other third parties.

These failures to implement a reasonable supervisory system were aggravated by the red flags that alerted the Firm to its supervisory inadequacies as early as 2008. These red flags included:

(i) A July 2008 internal audit report sent to the heads of the relevant businesses identifying an issue regarding access to certain discussions on the Hoots, "some of which may involve material, nonpublic or confidential information." The audit report noted that no surveillance of "access is being performed to ensure that only individuals with a 'need to know' are accessing certain [Hoots] where private or otherwise confidential information may be shared." The audit report recommended, among other things, "the drafting of procedures should be considered, detailing, among other things, guidelines and steps for granting of access" to certain Hoot channels. The audit report further recommended the establishment of a working group "to take an inventory of the areas and business lines using [Hoots]," to assess "the appropriateness of [certain Hoot channels] for certain desks or business areas," and to "address how monitoring of access to [Hoots] will be performed ... including identifying the parties who will perform the surveillance as well as whether training on access and proper use of the [Hoot] network is warranted." The Firm did not undertake many of the recommended actions at that time.

(ii) A February 2009 compliance alert (referenced above) sent to all U.S. personnel and directing the business divisions to review their specific procedures to ensure they addressed the handling of confidential information, including confidential information communicated via Hoots.

(iii) A March 2009 regulatory action against another large broker-dealer in connection with its lack of supervision surrounding registered representatives' improper access to and misuse of information transmitted over Squawk Boxes. Discussing the application of that case to DBSI's Private Client Services group, Firm compliance personnel noted that "this may still warrant some consideration as to PCS re access to the institutional desks' info/commentary/trade flow..." and stated, "We should add something to the [policies and procedures] to that effect...." The Firm formed a working group for this purpose, but did not develop any new written policies or WSPs.

(iv) An August 2009 internal risk assessment from the Firm's Markets compliance group that identified supervisory deficiencies in vetting and monitoring registered representatives' access to

certain Hoots, acknowledging the risk that registered representatives could front-run large block orders based on block order information conveyed over the Hoots.

(v) A November 2011 project to assess which employees had access to which Hoots (in order to facilitate an office move), in which a Firm compliance officer advised, "I don't think there's an effective process in place to monitor who is accessing who's hoot, and the kind of info that might be shared with retail and potentially their customers. Front-running could be a concern, proprietary customer info is another." A senior compliance officer escalated his concerns to Firm senior personnel.

(vi) A December 2011 email from a senior compliance officer stating that concerns regarding the Firm's lack of controls regarding access to Hoots have been "expressed repeatedly over time" and that the "primary concern is that information on open institutional orders will be announced and that [Private Client Services employees] may share such with their clients who may trade on it." He further expressed that "I know of no way to control what is broadcast on the hoot, so that will always be a risk."

(vii) A November 2013 Compliance assessment stating that within the Markets division "there does not seem to be adequate controls around the use of and access to Hoots/Squawks." This finding was described in an April 2014 presentation to Firm senior management, explaining there were "[s]ignificant gaps cited around improved controls for hoots/squawk boxes," and describing the gaps as "[l]ack of controls and written supervisory procedures for the use of/access to Hoots/Squawk boxes." This finding was assigned a "Risk Rating" of "Significant," indicating that it required prompt attention. However, the Firm failed to take action and the finding was repeated in the following year's presentation.

The Firm was aware that the Research Hoots and the Trading Hoots might contain confidential, price-sensitive information, and that there was a risk that material nonpublic information could be communicated over those Hoots. It knew that a majority of the PCS registered representatives had access to the Research Hoots, and a smaller number of registered representatives had access to the Trading Hoots. It knew that in 2009 when it issued the above-referenced compliance alert, it had retired the only U.S. policy that addressed how to handle confidential information conveyed over Hoots. But the Firm still failed to implement reasonable written policies or procedures governing who should have access to Hoot information, how they should handle Hoot information, and how supervisors should supervise employees to ensure compliance and protect confidential and material nonpublic information potentially communicated over the Hoots.

In some cases, that information was not protected from public dissemination. For example, in one instance, a registered representative contemporaneously relayed to at least one customer information from a Research Hoot which indicated that the impact of a positive news announcement had not been factored into the price of the company's security. The Firm subsequently issued a research update substantially increasing its price target on the company based on the impact of the news event. In another instance, a registered representative was provided access to a Hoot, and contemporaneously shared confidential information contained in the Hoot with a customer who traded on that information through an outside broker dealer.

NASD Rule 3010(a), and its successor rule, FINRA Rule 3110(a), require each member to establish and maintain a system to supervise the activities of each registered representative, registered principal, and other associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable NASD and FINRA rules. The duty of supervision includes the responsibility to investigate and act upon "red flags" that suggest ongoing misconduct or supervisory inadequacies.

NASD Rule 3010(b), and its successor rule, FINRA Rule 3110(b), require each member to establish, maintain, and enforce written procedures to supervise the types of business in which it engages and supervise the activities of registered representatives, registered principals, and other associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with the applicable NASD and FINRA rules. The procedures must be tailored to the specific nature of the business engaged in by the firm, and must set out mechanisms for ensuring compliance and for detecting violations, and not merely set out what conduct is prohibited.

A violation of NASD Rule 3010, and its successor rule, FINRA Rule 3110, constitutes a violation of NASD Rule 2110, and its successor rule, FINRA Rule 2010.

Accordingly, the Firm violated NASD Rules 3010 (for violations occurring before December 1, 2014) and 2110 (for violations occurring on or before December 14, 2008) and FINRA Rules 3110 (for violations occurring on or after December 1, 2014) and 2010 (for violations occurring on or after December 15, 2008).

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

1. A censure;

2. A fine in the total amount of $12.5 million; and

3. To comply with the following undertaking:

   DBSI undertakes within 120 days of Notice of Acceptance of this AWC to provide a written certification by a duly authorized Senior Officer that it has adopted and implemented supervisory systems and written procedures reasonably designed to achieve compliance with FINRA Rules and federal securities laws with respect to Hoots.

Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Respondent has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim 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

Respondent specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

A. To have a Complaint issued specifying the allegations against the Respondent;

B. To be notified of the Complaint and have the opportunity to answer the allegations in writing;

C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and

D. To appeal any such decision to the National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Respondent specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Legal Officer, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

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

## III.

## OTHER MATTERS

Respondent understands that:

A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;

B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against Respondent; and

C. If accepted:

1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against Respondent;

2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;

3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and

4. Respondent may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Respondent may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects Respondent's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

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

Deutsche Bank Securities, Inc., Respondent

8-4-16
Date

By: _____
Name:
Title:
Steven F. Reich
General Counsel - Americas

8-4-16
Date

By: _____
Name:
Title:
David M. Levine
Managing Director &
Associate General Counsel

Reviewed by:

Neal E. Sullivan
Counsel for Respondent
Sidley Austin LLP
1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8471

Accepted by FINRA:

8/8/16
Date

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

Richard Chin
Chief Counsel
FINRA Department of Enforcement
One World Financial Center
200 Liberty Street
New York, NY 10281-1003
Tel: 646-315-7322

## ELECTION OF PAYMENT FORM

I intend to pay the fine set forth in the attached Letter of Acceptance, Waiver and Consent by the following method (check one):

- ☐ A personal, business or bank check for the full amount;
- ☒ Wire transfer;
- ☐ Credit card authorization for the full amount;[1] or
- ☐ The installment payment plan (only if approved by FINRA staff and the Office of Disciplinary Affairs).[2]

Respectfully submitted,

8-4-16
Date

Deutsche Bank Securities, Inc., Respondent

By: _____

Steven F. Reich
General Counsel - Americas

By: _____

David M. Levine
Managing Director &
Associate General Counsel

[1] You may pay a fine of $50,000.00 or less using a credit card. Only Mastercard, Visa and American Express are accepted for payment by credit card. If this option is chosen, the appropriate forms will be mailed to you, with an invoice, by FINRA's Finance Department. Do not include your credit card number on this form.

[2] The installment payment plan is only available for fines of $5,000 or more. Certain interest payments, minimum initial and monthly payments, and other requirements apply. You must discuss these terms with FINRA staff prior to requesting this method of payment.