

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

EZRA CATTAN, derivatively as a shareholder of
UBS GROUP AG on behalf of UBS GROUP AG,

Plaintiff,

vs.

SERGIO P. ERMOTTI, OSWALD J. GRÜBEL,
KASPAR VILLIGER, CARSTEN N. KENGETER,
AXEL A. WEBER, DAVID H. SIDWELL,
MARKUS U. DIETHELM, JOHN A. FRASER,
LUKAS GÄHWILER, PHILIP J. LOFTS, ROBERT
J. McCANN, THOMAS C. NARATIL, ROBERT B.
KAROFISKY, ROBERT W. SCULLY, JEANETTE
KAI JUAN WONG, DIETER WEMMER,
ISABELLE ROMY, JEREMY ANDERSON, JULIE
G. RICHARDSON, WILLIAM C. DUDLEY,
BEATRICE WEDER di MAURO, RETO
FRANCIONI, CHRISTIAN BLUHM, KIRT
GARDNER, SUNI P. HARFORD, MARKUS
RONNER, WILLIAM G. PARRETT, AXEL P.
LEHMANN, ANDREA ORCEL, UBS AG, UBS
AMERICAS HOLDING LLC and UBS AMERICAS
INC.,

Defendants,

- and -

UBS GROUP AG,

Nominal Defendant.

Index No. _____

**VERIFIED SHAREHOLDER
DERIVATIVE COMPLAINT**

DEMAND FOR JURY TRIAL

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1. Plaintiff Ezra Cattan (“Plaintiff”), an owner of UBS Group AG (“UBS Group” or the “Company”)¹ common stock, derivatively on behalf of UBS Group, files this verified shareholder derivative complaint against UBS Group’s Board of Directors (“Directors”) and UBS Group’s officers (“Officers” and, together with the Directors, the “Individual Defendants”) for, among other things, breaches of fiduciary duties owed to the Company. In support of these derivative claims, Plaintiff alleges the following upon personal knowledge with respect to those allegations pertaining to himself, and upon information and belief based upon, *inter alia*, a review of public filings, press releases, articles and reports, and investigations undertaken by counsel, as to all other allegations. Plaintiff believes that substantial evidentiary support will exist for the allegations set forth below after a reasonable opportunity for discovery.² This complaint speaks of and pleads events prior to and through as of March 1, 2020, before the global Covid-19 pandemic and the resulting stock market crash.

I. INTRODUCTION AND OVERVIEW OF ALLEGATIONS

2. By bringing this action derivatively on UBS Group’s behalf, Plaintiff seeks to recover for UBS Group: (a) damages caused to the Company by the Individual

¹ The term “UBS” will mean and include UBS Group and/or one or more of its subsidiaries, including UBS AG (which was also UBS Group’s predecessor as the top-level holding entity for all UBS businesses and subsidiaries).

² UBS is one of the largest and most high-profile banks in the world. The decline of and damage to the Company has been covered by sophisticated and reputable financial publications such as *The Financial Times* (“FT”), *Reuters*, *The New York Times* (“NYT”), *The Wall Street Journal* (“WSJ”), *Bloomberg*, *Forbes*, *The Guardian*, and *Swiss Info*, which have investigated and reported the misconduct of UBS’s Officers and Directors.

Because this reporting by reputable persons and publications is reliable, plaintiff relies on it. Also, because it was the worldwide coverage of UBS that has damaged its reputation, these articles are quoted at length. No Defendant has demanded retraction of what is asserted in these articles as fact, let alone sued any of these publications, authors or the others quoted for libel.

An acclaimed book by whistleblower Bradley C. Birkenfeld, “Lucifer’s Banker: The Untold Story of How I Destroyed Swiss Bank Secrecy” (Greenleaf Book Group Press 2016), has detailed some of the wrongdoing inside UBS.

Defendants' breaches of their fiduciary duties of care, diligence, prudence, loyalty and candor; (b) damage caused to the Company by the Individual Defendants' knowing and willful violations of law, failures to act in good faith, and breaches of trust; (c) damages caused to the Company by the Individual Defendants' breaches of the Company's Code of Conduct and Ethics; (d) damages caused to the Company by trading losses resulting from lack of and failure to implement necessary internal controls, governance and compliance procedures; (e) disgorgement of all monies/compensation, fees, bonuses, stock options and awards paid to the Individual Defendants; and (f) forfeiture or recapture of any pensions of the Individual Defendants.

A. The Systemic Misconduct, Illegality and Inadequate Accounting and Compliance Controls and Board Supervision at UBS

3. UBS Group AG is a holding company sitting astride a huge integrated global enterprise with Investment Banking and Wealth Management operations. Over the past decade and more, UBS has been embroiled in the United States and abroad in a seemingly endless train of scandals, lawsuits, prosecutions and regulatory proceedings that have resulted in over ***\$12 billion in fines, penalties and settlements, along with censures, criminal convictions, consent decrees and non-prosecution agreements, as well as billions of dollars of unauthorized trading losses in speculative and high-risk securities.*** All these have severely damaged UBS's reputation for probity, legal compliance, honesty and fair dealing. Lurching from crisis to crisis, UBS today is in shambles due to such egregious misconduct, including:

- Prosecutors in the United States have labeled UBS a "***recidivist***" with a "***rap sheet***" unlike any other bank, a company that has systemically engaged in "***aggravated money laundering***" – "***a league of its own given its record for scandals.***" UBS was a calculated, systemic, fully integrated business selling illegal products and services.
- UBS bankers routinely traveled to the United States to sign up United States-based clients interested in attempting to evade income taxes. In 2004 alone, its Swiss bankers traveled to the United States ***3,800 times*** to discuss their clients' Swiss bank accounts. UBS managers and employees ***used encrypted laptops and***

other counter-surveillance techniques to help prevent the detection of their marketing efforts and the identities and offshore assets of their United States-based clients. According to United States prosecutors, ***“This was not a mere compliance oversight, but rather a knowing crime motivated by greed and disrespect of the law.”***

- UBS’s Wealth Management division included as a core part of its business worldwide criminal tax-evasion and money-laundering operations. UBS ***“acted with reckless regard for the U.S. sanctions requirements,” “of which top officials had actual knowledge”*** but then ***“intentionally concealed”*** via ***“false reports”*** to the U.S. authorities — 13 years of ***“systemic deficiencies in anti-money laundering compliance”*** — as UBS ***“failed to implement any steps or measures to prevent these transfers”*** and falsified monthly reports to the United States Federal Reserve.
- UBS’s Investment Bank division systemically engaged in ***price fixing, bid-rigging and market-manipulation misconduct and violations of the securities laws*** of the United States and several other nations, involving repeated breaches of trust, conflicts of interest, ***“corrupt payments”*** and ***“rigged bids,”*** a ***“pervasive and epic”*** scheme involving ***“fraudulent misrepresentations and omissions”*** — a ***“how to for bid rigging and securities fraud.”*** It suffered a \$2.3 billion trading loss facilitated by ***“significant failures,”*** and utterly ***“inadequate compliance controls and risk management systems,”*** resulting from ***“significant organizational weaknesses that had grave consequences.”***
- UBS Group’s CEO, who presided over this disaster, is leaving shortly after having been implicated in a major European tax-avoidance scheme when he was a top executive at UniCredit Bank.
- The prosecutor in a recent multi-billion dollar tax evasion trial in France summed up UBS’s culture and conduct with these words: ***“The explanations given by the UBS representatives — past and present — were a veritable festival of hypocrisy.”***

4. As a result of such misconduct, UBS’s stock price, which was as high as \$15.50 per share at year end 2009, was only about \$11.00 per share at the end of February 2020 (before the Pandemic routed world markets), reflecting a decade of underperformance. All this damage, disruption and the current chaos at UBS is a result of the Directors’ breaches of their “non-transferable and inalienable duties,” i.e., ***“the overall management of the company”*** with ***“all due diligence and to safeguard the interests of the company in good faith”*** “in particular with regard to compliance with the law,” as required by the Swiss Code of Obligations/Company Law.

5. UBS was a product of the 1998 merger of Swiss Bank Corp (“SBC”) and Union Bank of Switzerland. Those banks had long exploited Swiss banking secrecy laws to become havens for deposits from all over the world, from people who were seeking to avoid paying taxes in their own countries — hence the term “Swiss bank account.” Shortly after the merger, as part of expanding its Investment Banking/Wealth Management operations in the United States, UBS acquired Paine Webber, a Wall Street firm with a large wealth management operation. Because of the “open secret” of Swiss banks being used for tax-evasion purposes, regulators in the United States demanded that UBS specifically agree to comply with tax laws as a condition of approving the Paine Webber acquisition. UBS’s directors agreed to do so.

6. UBS had long projected an image of financial expertise, a rock-solid bank with a conservative culture, earning and reporting large profits. These profits were due to the apparent profitability of its Investment Bank and its Wealth Management businesses. This apparent success yielded huge multi-million-dollar salaries and bonuses for UBS’s “top officials,” who pocketed hundreds of millions between 2010–2019. But the profits — and the image — were lies. And the compensation is undeserved and unearned.

7. As the great financial crisis unfolded in 2007–2008, UBS’s Investment Bank was exposed to be an out-of-control operation that had taken extraordinarily large, risky bets involving sub-prime mortgage-backed securities and lost big time. UBS held and had sold to its customers billions of dollars of overvalued mortgage-backed securities, losing billions of dollars for itself, while causing even larger losses to its customers. UBS’s gigantic subprime losses were more than those of virtually any other bank. This scandal in UBS’s Investment Banking operations was due to the complete absence of necessary and customary financial/accounting, legal/regulatory and compliance controls, as well as risk-management procedures.

8. Because of the enormity of the losses suffered and the reckless risk-taking and wrongdoing within the Investment Banking operations, UBS Group’s CEO and top

executives were ousted. Expressions of regret and promises of repair and reform were issued. In order to save UBS from collapse, the Swiss government infused huge amounts of rescue capital. ***However, unlike the government funded rescues of other large banks, the Swiss government did not impose additional oversight of, or insist on additional compliance controls and risk-management procedures being implemented over UBS's operations.***

9. As UBS was attempting to regain its equilibrium after being pushed to the brink of collapse by the disastrous 2007–2008 subprime toxic securities losses, it was swamped by a new crisis — this time in its Wealth Management operation. This scandal would expose that part of UBS's Wealth Management business included a criminal tax-evasion operation. In 2008–2009, the U.S. Department of Justice (“DOJ”), the Securities & Exchange Commission (“SEC”), and the Internal Revenue Service (“IRS”) exposed UBS's vast illegal tax-evasion activities here in the United States, making it evident that UBS's Wealth Management division was also operating in countries assisting tax evaders in those countries break the law as well. Because these tax-evading customers were breaking the law for financial gain, they were willing to pay premium fees for the expert assistance UBS provided to pursue the illegal tax avoidance and associated money-laundering activities. Those illicit activities were a core part of the business model of UBS Wealth Management, enabling the Directors and Officers to enjoy lush pay packages and huge bonuses and to entrench themselves in their positions of power, prestige and profit. Because the Swiss government had always been a steadfast ally of its banks in maintaining iron clad state-sanctioned secrecy over the identities of “Swiss Bank account” holders, ***no one had ever successfully penetrated this illicit public-private partnership.***

10. Based on revelations of a UBS whistleblower, the investigation in the United States uncovered widespread surreptitious and illegal activities. UBS Wealth Management officials had deliberately defied the agreement that UBS's directors had made when it acquired Paine Webber to obey tax-reporting and withholding rules in the

United States. The United States imposed a massive \$780 million fine on UBS for its Wealth Management officials' illegal activity, but allowed UBS to avoid a criminal conviction and instead enter into a deferred prosecution agreement ("DPA"). The Government did this because at the time it was feared a criminal **conviction** could have had catastrophic consequences for the continued operation of the Company. But as a result of the DPA — and subsequent pressure brought to bear on the Swiss government — **the DOJ forced UBS and the Swiss government to agree, for the first time ever, that the Company would actually give up the identities of some of its tax-cheating customers in the United States. For the first time in history, a large Swiss bank had been fined for illegal tax evasion conduct and was forced to give up names of its customers.** The impenetrable wall of Swiss bank secrecy had been breached and a massive fine imposed on UBS for its Wealth Management division's illegal tax-evasion-assistance operation. This would not go unnoticed by other nations.

11. At the same time that the uproar over the tax-evasion scandal was taking place in the United States, another scandal of virtually unprecedented scope broke out — this time back in UBS's Investment Banking operations. In 2011, a 31-year-old trader — almost still a trainee — managed to **lose \$2.3 billion of UBS's money while trading for the Company's account.** This gigantic trading loss took place even though superiors had been alerted to the unauthorized activity which they ignored and concealed. The entire sordid episode was facilitated by "**significant failures**," "**inadequate systems**" and "**incomplete risk reporting**," resulting in "**significant organizational weaknesses that had grave consequences.**"

12. Again, expressions of regret, and promises of repair and reform were issued. As these scandals erupted at a highly regulated, publicly owned international financial institution in the two most important parts of its operations, the outcry in the financial press and complaints from UBS's stockholders and regulators required that something be

done. To this end, UBS's Directors adopted a corporate wide Code of Conduct and Ethics which restated, *i.e.*, "codified," levels of conduct already required by laws, regulations, and concepts of due care, diligence, prudence, common sense and loyalty, *i.e.*, the conduct necessary to preserve the assets and protect the reputation of a large publicly owned financial institution. The Code purported to set out UBS's "***principles and practices***" that "***define our ethical standards and the way we do business.***"

13. In relevant part, the Code stated:

- ***"The Code applies to everything and everyone ... From our Board of Directors down we live up to this Code at all times with no exceptions";***
- ***"We obey the laws, rules and regulations where we do business";***
- ***"When we are working across borders, we obey all laws, rules and regulations, both at home and abroad";***
- ***"We act fairly, honestly, and in good faith with everyone we deal with";***
- ***"We put our clients' best interests before our own We never let UBS's interests influence or impact our advice or our dealings with them";***
- "We act in the interest of fair competition and respect all the laws, rules, and regulations including anti-trust and competition laws";
- "We do whatever we can to combat money laundering. We have rigorous systems in place to detect, report and stop any suspected money laundering. We follow strict know your customer rules";
- ***"We follow all the laws, rules and regulations and treaties around tax that apply to us – all over the world – not just to the letter but in their true spirit. We will not help our clients or any other party avoid paying tax";***
- ***"Any form of retaliation against whistleblowers [is] unacceptable";*** and
- ***"We don't just follow the laws, rules and regulations in everything, we do what is right."***

14. Given the **historic misconduct** of UBS's officials and in light of the misconduct that was **then ongoing** and that **would continue to unfold** over the following years, these formal proclamations of good behavior, honesty, legal and regulatory compliance, fair and honest dealing with clients and respect for whistleblowers were nothing more than pious false promises by faithless fiduciaries. **The events pleaded in this complaint show defiance of every principle set forth in this Code of Conduct and Ethics, while top UBS Directors and Officers pocketed hundreds of millions of dollars in salaries and bonuses sitting in positions of power, prestige and profit atop a huge Bank at the pinnacle of Swiss/European financial and social aristocracy.** They permitted or engaged in a pattern of misconduct the consequence of which has been that UBS has been buried in a tsunami of regulatory proceedings, criminal investigations, and suits **that have cost UBS at least \$12 billion (and more if the huge unauthorized trading loss is included) and counting, while badly damaging the Company's credibility and reputation for honesty, fair dealing and legal compliance.**

15. Despite promises to enforce compliance with UBS's internal Code of Conduct and to put effective legal/regulatory compliance controls and risk-management procedures in place and impose a corporate culture of respect for an adherence to the law, UBS's Directors and Officers permitted business as usual to continue in the two most important and most corrupt control parts of the Company — the Wealth Management operation and Investment Banking operation. These two worldwide business operations are largely run out of New York, with the co-heads of Global Wealth Management and Investment Banking, respectively, stationed in Manhattan.

16. As a result, over the past several years UBS has had to pay fine after fine and penalty after penalty, often the **"largest"** ever before imposed by this regulator, or for that violation. The long pattern of its officials' misconduct has left UBS labeled **"a recidivist"** guilty of **"aggravated money laundering,"** a company in **"a league of**

its own given its record for scandals.” As an enraged DOJ prosecutor put it: *“unlike other banks, UBS has a rap sheet that simply cannot be ignored — enough simply is enough.”*

B. UBS’s Wealth Management Operation’s Business Model of Deceptive, Illegal and Reckless Activities

17. The UBS Directors’ and Officers’ continuation of the Wealth Management operation’s illegal tax-evasion activities was extraordinarily reckless and dangerous, especially after the worldwide publicity surrounding the \$780 million fine paid to the United States and the unprecedented and forced disclosure of cheat names in the tax scandal. *Tax evasion also requires the illegal money laundering that necessarily accompanies investing or transferring the fruits of illegal tax evasion — two sides of a corrupt coin.* Those seeking to evade taxes in their homelands are willing to pay lucrative fees to bankers with the “expertise” — and willingness to break the law — to help them do this. However, to pull off this kind of illegal business operation *around the world* requires deceptive conduct on an industrial-strength scale. And that was exactly what UBS’s Directors and Officers permitted the Wealth Management operation to do around the world, *because it was part of UBS’s business model.*

18. The tax-evasion-assistance operation in UBS’s Wealth Management business was a massive and sophisticated operation, involving hundreds of employees, thousands of illegal visits into a score of nations, extensive training of operatives, the creation and use of “How-To Manuals,” disguises, encrypted computers, secret compartments in suits and briefcases while sneaking across borders, even smuggling diamonds in toothpaste tubes. And all the while, the Company was maintaining a secret set of books to keep track of who *“got credit”* and *“bonuses”* for “finding, binding and minding” the thousands of tax-cheating customers all over the world, all what some have called *“James Bond”* stuff. *According to prosecutors in the United States,*

“UBS executives knew that UBS’s cross-border business violated law,” yet they refused to stop this activity, and, in fact, instructed their bankers to grow the business. The reason was money — the business was too profitable to give up. This was not a mere compliance oversight, but rather a knowing crime motivated by greed and disrespect of the law.

19. New York City was the **hub** of UBS’s criminal tax-evasion operation. As stated in UBS’s Annual Reports, the United States, is “the world’s largest wealth market” and is serviced by over 7,000 UBS financial advisors managing over a trillion dollars in invested assets. In 2018, as reported in the March 15, 2019 Form 20-F filed by UBS with the SEC, its Wealth Management operations in the Americas had \$9.2 billion of revenue out of a worldwide total of \$16.9 billion. While UBS originated and remains headquartered in Switzerland, it has also developed a very large footprint in the United States, and more specifically here in New York. In 2019, UBS generated 38% of its operating income in the United States, the highest by far from any country. Switzerland was a distant second with 23% of operating income. Within the Company’s Global Wealth Management business — the largest by far of its segments — the United States (again lead by New York) is dominant, with over 53% of worldwide invested assets and 65% of worldwide advisor headcount. UBS has more than 20,000 employees in the United States — about 30% of the worldwide total — with the preponderant number of employees working in New York. Positions on the 13-member Company’s Global Executive Board are split almost evenly between Americans (5) and Swiss (6).

20. In the post-great financial crisis era, as nations with cash-starved treasuries worldwide witnessed the unprecedented success of the investigative and enforcement efforts of the United States that exposed and sanctioned UBS officials’ tax-avoidance misconduct, investigations of UBS began to spread. Other nations began to arrest local UBS officials, searched UBS officials’ homes, and demanded “secret” account holder information from UBS ***and the Swiss government.***

21. Increasing exposure of UBS's illegal conduct and that of several other Swiss banks increased international pressure on Switzerland to do something to fix its image as a tax haven for tax evaders worldwide — not only “legitimate” rich people cheating on their taxes, but the international drug and arms dealers, dictators, corrupt political leaders and other miscreants who need such illicit services. This public pressure carried increased moral weight because of Switzerland's (and its banks') widely condemned collaboration in violation of international law during the Holocaust, the controversy and litigation over which had badly burned UBS (and its predecessor, SBC), and the Swiss government in the late 1990s in lawsuits brought by victims and heirs in the United States.

22. As the United States and more and more foreign nations began to probe UBS as a tax-evasion aider, UBS's home government's historic protective secrecy shield — which had been cracked in the tax-evasion prosecution in the United States — began to crumble. The Swiss government increasingly began making “secret” account holder information available to inquiring regulators, ***now even on a group basis***. The fines paid by UBS for its Wealth Management operatives' tax-avoidance/money-laundering activities began to ***escalate***: over \$100 million paid to Italy; over \$400 million paid to just two provinces in Germany. ***And most recently, an all-time world record \$5 billion criminal fine being imposed on UBS for its officials' illegal tax avoidance and aggravated money-laundering conduct in France. Other investigations continue.***

23. Echoing earlier the condemnation by the United States of UBS's Wealth Management officials' tax-evasion activities, more recently, regulators and prosecutors in other nations have condemned UBS's “***illicit financial and banking sales practices [and]... aggravated laundering/tax fraud***” as UBS was criminally convicted in France of “***aggravated money laundering of proceeds of tax fraud and illegal bank soliciting***.” UBS has also repeatedly been cited, sued and fined for illegal money laundering and/or violating terrorist sanction transfer prohibitions where UBS “***acted***

with reckless regard for the U.S. sanctions requirements,” “of which top officials had actual knowledge” but then “intentionally concealed” via “false reports” to the Federal Reserve — 13 years of “systemic deficiencies in anti-money laundering compliance” — as UBS “failed to implement any steps or measures to prevent these transfers.”

24. The 2019 French tax-evasion trial showed that UBS’s Wealth Management officials utilized the same illegal techniques they had utilized when violating American tax laws and did so while under a DPA that forbade them from assisting tax evasion in the United States. ***UBS’s Directors and Officers did not cease the illegal tax-evasion activities of UBS’s Wealth Management unit. Despite these horrific fines — and criminal proceedings — UBS is still under investigation both in the United States*** (for another tax-avoidance scheme involving bearer bonds) and in Israel, Spain, Sweden, Belgium, Netherlands, and likely elsewhere.

25. UBS’s Directors and Officers oversaw the operation of an illegal worldwide business of tax evasion, which permitted them to stay in their positions of power, prestige and profit. But UBS is reaping the whirlwind — paying the price — for their disloyal, negligent, reckless, and unlawful conduct. In addition to the huge financial cost, as well as the deceptive, illegal, willful and reckless tax-evasion activities, UBS’s Wealth Management officials have also contributed to leaving UBS’s credibility and reputation for legal compliance, honesty and fairness shattered.

C. UBS’s Investment Banking Operation’s “Rap Sheet” of Pervasive Illegal and Reckless Activities — “A Sorry Story of Greed and Corruption”

26. Over the past decade, UBS’s Investment Banking operation has been caught up in an extensive pattern of price fixing, bid rigging, and market manipulation in violation of the securities laws, cheating its customers worldwide by taking advantage of them by deceptively selling them billions in unsuitable/overvalued securities and

ignoring conflicts of interests, while manipulating trading markets they controlled to their own advantage. This misconduct has been so horrible that it has forced multiple criminal pleas by UBS or its subsidiaries. It has also resulted in billions of penalties, fines, and settlements, ***including hundreds of millions in enhanced penalties and fines imposed because of the “recidivist” behavior of UBS’s Investment Banking operations — helping to create UBS’s “rap sheet” unlike any other.***

27. UBS’s regulatory/legal compliance controls and risk-management procedures and its Code of Conduct were supposed to detect and prevent reckless, illegal or improper conduct by Bank employees. During the time that this rampant misconduct of UBS officials in the Investment Banking operations was taking place, these systems, procedures and controls in that central part of UBS’s business were hopelessly inadequate and ineffective and, in any event, were not implemented, supervised or enforced. After the enormous 2007–2008 subprime losses and the 2011 unauthorized trading loss, the Investment Banking division materially expanded its operations but the Directors and Officers permitted that to occur without the essential internal and legal/regulatory compliance controls and risk-management procedures. In fact, no internal controls or risk-management procedures ***were ever properly modernized, updated, fixed or implemented.***

28. The lack of required compliance controls and risk-management procedures at UBS’s Investment Banking operation has been repeatedly criticized by regulators. As more fully set forth herein, there have been ***“serious weaknesses in the internal controls of the Investment Banking unit”*** resulting in ***“serious violations”*** of the obligation to operate the Company in a ***“fit and proper manner.”*** UBS’s Directors allowed ***“serious systemic internal control failures”*** to exist and persist, ***“systems and controls [that] were seriously defective.”*** This lack of controls facilitated and allowed the rampant ***“pattern”*** of wrongdoing to continue, even as regulators repeatedly objected to the inadequacy of controls and issued censures and

Cease and Desist orders. UBS's Directors repeatedly promised to obey the laws, fix the defects and put in place and implement effective controls and procedures. But they never did.

29. As a result of these failures, UBS's Investment Banking officials were incented to and repeatedly engaged in illegal behavior, including price fixing and market manipulation (LIBOR and FOREX), bid rigging in the municipal bond market, and securities fraud. Their illegal activities were ***"long running and egregious," "pervasive and epic"*** and involved ***"corrupt payments," "rigged bids" and "fraudulent misrepresentations and omissions"*** — a ***"how to for bid rigging and securities fraud,"*** as well as ***"a particularly pernicious example of bad actor[s] seeking to manipulate the market."*** Again, UBS was forced to agree to another damaging DPA with federal prosecutors.

30. These UBS Investment Banking officials also repeatedly violated fiduciary and conflict of interest obligations in the sale of securities to, and dealings with, UBS's customers, especially in connection with two markets that UBS's investment bankers targeted: Puerto Rico and Asia. Those dealings with UBS's treatment of its own clients have been abhorrent. Regulators repeatedly ***"censured"*** UBS as it has ***"mislead investors,"*** as it ***"used conflicts of interest for its own gain, ... putting its interests ahead of those of its clients," "disadvantaging retirement accounts and a charitable organization."*** This conduct ***"fell far short of what customers deserved."*** It was ***"unacceptable and has no place in the financial services industry where trust and integrity are paramount."*** In summary: ***"a sorry story of greed and corruption ... a case study in how not to conduct Investment Banking in an honest and fair way."***

31. As if to highlight the ***"theater of the absurd"*** character of these years of constant compliance violations — out of control and illegal conduct inside UBS's Investment Banking operation — a senior compliance officer ***was convicted of***

criminal insider trading. Abdel Malek, a senior UBS Investment Banking compliance officer ***dishonestly and surreptitiously acquired confidential and valuable information from UBS and shared it with a friend*** while “***well aware [she was] committing serious criminal offences and engaged in elaborate schemes and lies to disguise what [she was] doing. This was not opportunistic but calculated and organized. It was insider dealing at its most venal.***” Little wonder there was a serious absence of legal compliance or fair and honest dealing in UBS’s Investment Banking operations.

32. As a result of the Individual Defendants’ failures to fulfill their duties of due care, diligence, prudence, and loyalty, as required under the Swiss Code of Obligations/Company law, as well as their failures to abide by the Company’s own Code of Conduct and Ethics, UBS has suffered multiple investigations, proceedings and suits resulting in fines and penalties due to its employees ***repeatedly*** engaging in: (a) worldwide tax-avoidance/evasion activities, violating the laws of many nations; (b) illegal manipulation of markets, bid rigging and fixing of interest rates; (c) money laundering as part of the tax-evasion activities and monetary transfers in violation of terrorist-sanction prohibitions in the United States; (d) monetary transfers for suspect foreign nationals without proper controls; (e) cheating and taking advantage of UBS’s own customers via violations of the securities laws of several nations and territories, including insider trading and market manipulation; (f) mis-selling schemes, one involving billions of dollars of mortgage backed securities, again cheating its own customers; (g) improperly identifying and punishing whistleblowers who tried to report wrongdoing or legal violations, including violations of DPAs and Consent Decrees; and (h) mis-operating “dark pools.”

33. ***This mind-numbing string of investigations, prosecutions, proceedings, settlements, fines and penalties has cost UBS an eye watering \$12 billion (not including the huge “rogue” trader’s loss) and counting,***

penalized its results from operations for a decade and materially impaired its financial condition. All this has damaged UBS, resulted in a terrible stock performance, punished UBS's owner/shareholders and left the Company's relations with regulators and customers scarred — and its reputation in tatters.

34. Seldom does a large international bank have its two major operations ***engaging in ongoing criminal conduct at the same time***. There having been so many fines and so many penalties by regulators in so many jurisdictions, UBS has not disclosed a precise total of the price paid by, *i.e.*, damage to, UBS. But without question, UBS has been forced to pay at least \$12 billion in fines, penalties and payments for misconduct and violations of the laws, plus the huge trading loss and hundreds of millions of dollars in fees, costs and expenses associated with all these proceedings and the follow-on civil litigation spawned by many of those proceedings. And the payments — the damage — continue. UBS is still embroiled in numerous suits and proceedings — involving both government entities and private claimants arising out of this wrongdoing that will continue for years and cost billions more to resolve.

D. UBS's Constant Hostility Toward and Intimidation of Whistleblowers

35. Whistleblowers are essential to proper corporate governance, effective internal legal/regulatory compliance controls, as well as regulatory oversight. They are protected by laws, regulations and UBS's Code of Conduct and Ethics. UBS's Directors and Officers have consistently created a hostile anti-compliance atmosphere by ignoring these rules and retaliating against individuals inside UBS who detected and tried to report misconduct inconsistent with UBS's Code of Conduct.

36. There are several examples of UBS's officials' misconduct involving whistleblowers. When a whistleblower (Miele) caught UBS officials destroying evidence of UBS's involvement in the Holocaust during the class-action lawsuits in the United

States exposing UBS's involvement in the violation of the laws of the nations — and after a Swiss law had been passed to specifically protect that evidence, UBS's officials tried to have him prosecuted and otherwise harassed him to the point that he had to flee Switzerland and seek asylum in the United States. When another whistleblower (Birkenfeld) tried to alert UBS's compliance and legal personnel to the tax-evasion activities in the Wealth Management operation they refused to listen, resulting in him spilling the beans to the authorities in the United States. He thereafter assisted several other nations in their investigations, while authoring "Lucifer's Banker: The Untold Story of How I Destroyed Swiss Bank Secrecy."

37. While Miele and Birkenfeld are the most famous UBS whistleblowers, there were more. Because of the anti-compliance culture that has persisted in the Investment Banking and Wealth Management operations, much of the wrongdoing came to light only after whistleblowers or disgruntled prior employees went to authorities after their ***internal complaints or warnings were ignored or rebuffed or even retaliated against***. The French tax case originated with Nicolas Forissier, and other whistleblowers who were retaliated against. The Forex price-fixing, market-manipulation wrongdoing was brought forward by whistleblowers. A senior employee in the Puerto Rico Investment Banking operation brought forth the widespread misconduct there and was fired. In Florida, Richard Trusz and Trevor Murry who protested the use of overvalued collateral for mortgage-backed securities and the suppression of honest research reports, were fired, sued UBS, and won.

E. UBS Group's CEO Is Forced to Leave Under A Tax-Evasion Cloud

38. In addition to having presided over UBS's worldwide tax-evasion activities over the past decade, before he became UBS Group's CEO, Sergio Ermotti, was involved in another major tax-avoidance scam — the so-called cum-ex tax scam. The cum-ex tax scam, which has been called "***organized white-collar crime of unimaginable***

magnitude” and the **“biggest tax robbery in European history,”** involved the rapid trading of stocks with (“cum”) and without (“ex”) dividends in a complicated scheme to enable duplicate claims for tax rebates on taxes that had only been paid once. The scheme is now under investigation all over Europe. In October 2019, the first major cum-ex tax scam trial took place in Germany. The German government’s major cooperating witness gave detailed testimony about how the cum-ex tax scheme worked at UniCredit Bank **when Ermotti was the executive in charge of the part of the bank where that activity was taking place.**

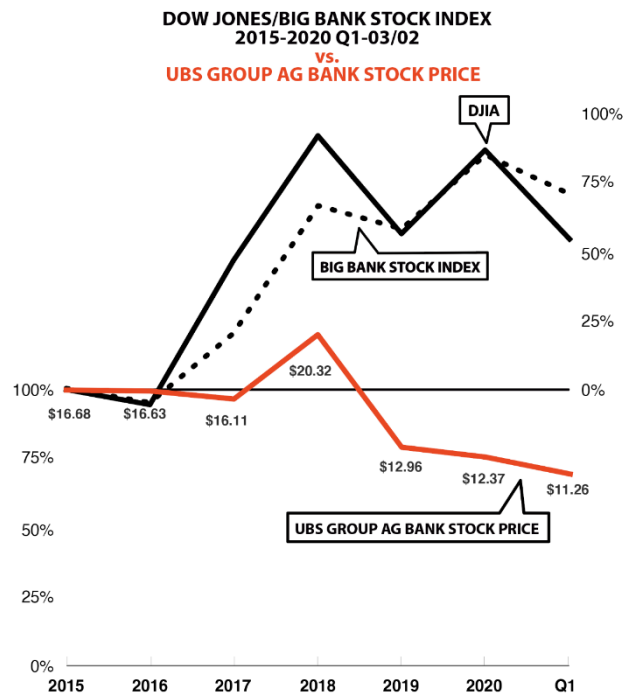
39. In early 2020, UBS announced that Ermotti was out as CEO, effective November 2020. To replace Ermotti, UBS’s Directors hired Ralph Hamers, who was for many years a top executive at ING Bank. When he was a top executive there, that **bank was embroiled in major money laundering, terrorist-sanctioned transfer violations and was fined over \$1.5 billion — the largest such fines ever imposed by American or Dutch officials.**

F. The Damage to UBS Is Due to the Individual Defendants’ Breaches of Their Duties of Care, Diligence, Prudence, Loyalty and Candor

40. The massive damage to UBS is not due to external events, economic or financial market disruptions or the acts of third parties. During the years that UBS has been so severely damaged, the world enjoyed the longest economic expansion in history and its stock markets enjoyed the strongest “Bull Market” ever, until the Covid-19 pandemic. During this period, many large international banks prospered, reported huge and growing profits, strengthened their financial condition, restored and increased their dividends and saw their shareholder value soar. According to the *FT*:

The past decade has been kind to the biggest U.S. banks. This week’s earnings round showed that for all the worries about regulation, low interest rates and technological disruption, the largest universal and investment banks have more than doubled their collective profits since 2009.

Rob Armstrong & Laura Noonan, *Largest U.S. Banks Double Profits in Past Decade*, FINANCIAL TIMES, Jan. 18, 2020. That has not been the case with UBS.



41. What has happened to UBS at the hands of the Individual Defendants is simply not supposed to happen at a highly regulated, publicly owned financial institution if it was being overseen and operated by qualified, honest, competent people. Needless to say, this virtually unprecedented history of corporate disgrace has drawn some astonished press coverage. In July 2012 — **before** UBS suffered its first corporate level criminal conviction, the *NYT* reported on the ongoing wrongdoing by UBS, expressing amazement that the Company had “***gotten away with it***” so far. The *NYT* noted UBS’s remarkable run of luck to date: ***For UBS, A Record of Averting Prosecution***

At UBS, a series of immunity, nonprosecution and deferred prosecution agreements in recent years seems to have had scant, if any, deterrent effect.

[I]n many ways, UBS is in a league of its own given its track record for scandals. Should UBS be implicated in the Libor rate-fixing conspiracy, it's hard to imagine a better corporate candidate for a criminal indictment.

As the Justice Department points out in its guidelines for charging a corporation with a crime: "A corporation, like a natural person, is expected to learn from its mistakes," and "a history of similar misconduct may be probative of a corporate culture that encouraged, or at least condoned, such misdeeds, regardless of any compliance programs. Criminal prosecution of a corporation may be particularly appropriate where the corporation previously had been subject to noncriminal guidance, warnings or sanctions."

UBS ... was deemed too big to fail during the financial crisis, and had to be bailed out by the Swiss government after a \$50 billion write-down on mortgage-backed securities.

The bank's recidivism seems rivaled only by its ability to escape prosecution:

UBS obtained a deferred prosecution agreement in 2009 for conspiring to defraud the United States of tax revenue by creating more than 17,000 secret Swiss accounts for United States taxpayers who failed to declare income and committed tax fraud. UBS bankers trolled for wealthy clients susceptible to tax evasion schemes at professional tennis matches, polo tournaments and celebrity events. One UBS banker smuggled diamonds in a toothpaste tube to accommodate a client.

In May 2011, UBS admitted that its employees had repeatedly conspired to rig bids in the municipal bond derivatives market over a five-year period, defrauding more than 100 municipalities and nonprofit organizations, and agreed to pay \$160 million in fines and restitution. An S.E.C. official called UBS's conduct "***a 'how to' primer for bid-rigging and securities fraud.***" UBS landed a nonprosecution agreement for that behavior ...

In what the S.E.C. called at the time the largest settlement in its history, in 2008 UBS agreed to reimburse clients ... billion[s] to resolve charges that it defrauded customers who purchased auction-rate securities, which were sold by UBS as ultrasafe cash equivalents even though top UBS executives knew the market for the securities was collapsing. ***Seven of UBS's top executives were***

said to have dumped their own holdings, totaling \$21 million, even as they told the bank's brokers to "mobilize the troops" and unload the securities on unsuspecting clients. As Andrew M. Cuomo, who was New York's attorney general then, put it: "While thousands of UBS customers received no warning about the auction-rate securities market's serious distress, David Shulman — one of the company's top executives — used insider information to take the money and run." Besides reimbursing clients and settling with the S.E.C., UBS paid a \$150 million fine to settle consumer and securities fraud charges filed by New York and other states. It again escaped prosecution.

42. UBS's luck in avoiding criminal indictment of course ran out. Ignoring DPAs, and Cease and Desist orders, its officials continued to permit or engage in illegal conduct. The prosecutors took notice and took action. Then came multiple criminal pleas, billions in fines — with UBS branded "recidivist" with a corporate "rap sheet like no other." After UBS was hit with the \$5 billion French tax-evasion fine in 2019, *Fineews.com* took note of the accumulating toll: UBS's League Table of Fines.

1. \$1.4 billion, rigging Libor, December 2012
2. \$885 million, U.S. mortgages, July 2013
3. \$780 million, U.S. tax, February 2009
4. \$774 million, foreign exchange manipulation, November 2014
5. \$343 million, foreign exchange manipulation, May 2015
6. €300 million ..., tax evasion Germany, July 2014
7. \$230 million, U.S. mortgages, March 2018

The league table isn't comprehensive — it lists only the fines and penalties UBS was hit with in the last ten years [not including the \$5 billion 2019 fine]. All told, UBS has ponied up \$12 billion in that period to put right past wrongs ... — this translates to roughly one-third of aggregate pre-tax profits since 2009.

[The] whopping 4.5 billion euro hit in France overshadows everything UBS has had to pay in recent history.

UBS still has several other major probes hanging over its head: it is still on the hook with a U.S. justice investigation into residential mortgage — backed securities

43. UBS's Directors' and Officers' misconduct — their utterly reckless misbehavior — has so disgraced UBS that respected publications have called for UBS to be broken up — ***put out of its business and its owner/shareholders wiped out as a fit punishment, so grave has been the misconduct under the Directors' and Officers' reign.*** On February 27, 2019, the *Hill* published: ***We Must Stop Deeming Corporations 'Too Big to Jail'***

This past week, the study of money laundering and tax evasion took a perverse turn: Union Bank of Switzerland (UBS) ***was fined more than \$5 billion by a French court, by far the largest in French history.***

At the trial, the testimony and evidence contended that UBS spared no expense to lure affluent French citizens (called “big potatoes”) to secretly open bank accounts in Switzerland in order to commit a variety of crimes, most directly, more than \$10 billion in tax evasion.

Not only has it been prosecuted for assisting affluent U.S. clients to evade taxes but also for engaging in criminal price-fixing of the LIBOR interest rate in 2012 and 2015 ... It also settled a case for “for Apparent Violations of the Global Terrorism Sanctions Violations” in 2015.

In nearly all these prior cases, however, UBS was allowed to enter into a non-prosecution agreement (NPA) or deferred prosecution agreement (DPA) or, in the case of the Office of Foreign Assets Control sanctions, a civil rather than criminal settlement.

With a DPA or NPA, the corporate defendants admit to the criminal misconduct, purportedly agree to not sin again and usually pay a fine.

Corporate defendants enter into such agreements rather than being criminally convicted, which may carry substantial regulatory consequences, such as forfeiture of the license to conduct banking business in the United States, sell securities or financial products or serve as the custodian over retirement accounts.

Based on the recent conviction in France, the fallacy of using NPAs and DPAs by the Department of Justice has now come into focus. ***UBS entered into the DPA with the Department of Justice over identical misconduct and promised to curtail its violations of law.***

Yet, according to French prosecutors and the court's decision, UBS continued to engage in misconduct during and right after entering into the DPA.

In certain cases, we should act just as we do with a recidivist human conviction. If these corporations and their leadership are not capable of staying out of trouble, this may be indicative that the corporation ***has a risk profile*** and operational tempo that simply cannot be managed under any form of intensive supervision.

A corporation cannot be incarcerated. But it can be broken up or closed.

II. THE PARTIES

A. Plaintiff

44. Plaintiff Ezra Cattan is a citizen of New York. Plaintiff owns shares of UBS common stock. He has owned them during times of the continuing wrongdoing and wrongful course of conduct alleged and continues to own them today. He did not purchase his shares to bring this lawsuit.

B. UBS Group AG, UBS AG, UBS Americas Holding LLC and UBS Americas Inc.

45. UBS Group AG is an Aktiengesellschaft, meaning a public corporation, organized under the Laws of Switzerland. UBS Group AG is a holding company and conducts substantially all of its operations through its subsidiary, Defendant UBS AG. This latter entity, Defendant UBS AG, was the top-level entity until 2014 when UBS adopted the holding company structure. UBS Group AG and UBS AG maintain a complete overlap of Directors, and (with a single exception) a complete overlap of Global Executive Board members. UBS AG maintains a New York Branch located in Manhattan,

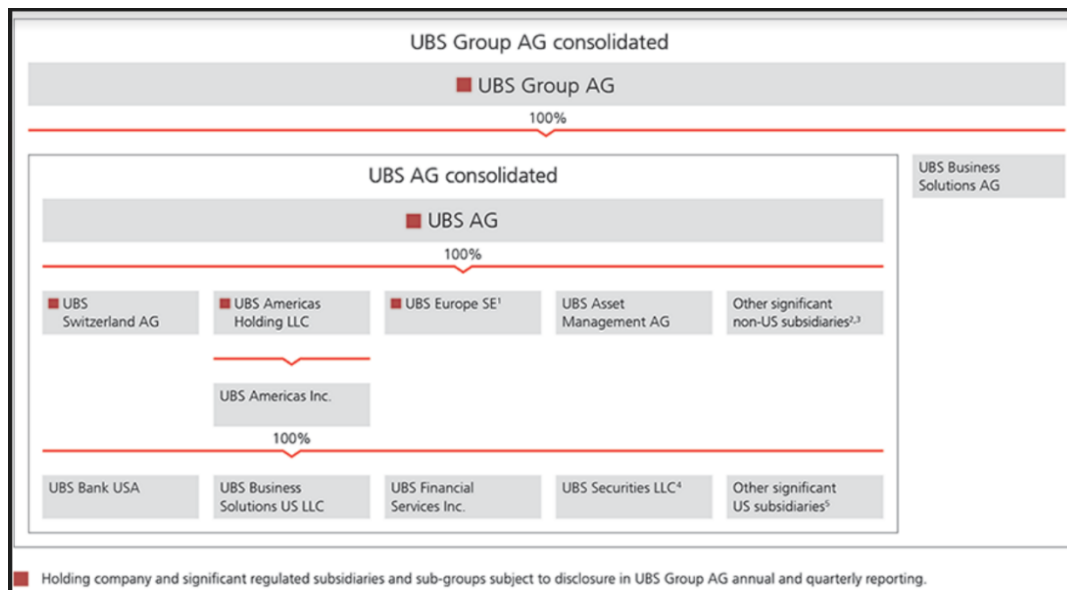
as well as wholly owned subsidiaries, including UBS Americas Holding LLC and UBS Americas Inc., also located in New York. The United States “**headquarters branch**” — its “**flagship office**” — is located at 1285 Avenue of the Americas in New York City. UBS Group AG is regulated by the United States Federal Reserve, the SEC, the Comptroller of the Currency and the Federal Deposit Insurance Corporation (“FDIC”). UBS Group’s common stock is listed and traded on the New York Stock Exchange, and thousands of shareholders in New York and the United States own approximately 435 million of its shares. UBS AG regularly issues and sells debt securities in the United States and utilizes New York financial institutions as managers or underwriters to distribute these securities to New York-based investors. UBS’s agent for service of process in the United States is David Kelly, Managing Director of UBS AG, 600 Washington Boulevard, Stamford, Connecticut 06901.

46. Defendants UBS Americas Holding LLC and UBS Americas Inc. have their principal place of business at 1285 Avenue of the Americas, New York, New York. UBS is a registered broker-dealer and includes UBS’s Investment Bank.

47. Defendants UBS AG, UBS Americas Holding LLC and UBS Americas Inc. are named as defendants because their directors/officers/employees participated in the wrongdoing and each was an instrumentality used by certain defendants to commit the misconduct and violations of duty complained of, triggering the Directors and Officers liability insurance policies of these entities. No damages are sought from these entities.

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48. Set forth below is an organizational chart of UBS Group AG:



49. Union Bank of Switzerland was founded in the 1800s and grew rapidly after the Banking Law of 1934 codified Swiss banking secrecy. In 1998, the Swiss Bank Corporation and UBS, merged to create a single company today known as UBS Group AG. UBS is one of the largest, most powerful, and privately influential institutions in the world. UBS provides Wealth Management and Investment Banking services. UBS manages the largest amount of private wealth in the world, counting approximately half of the world's billionaires among its clients. The Company also maintains numerous underground bank vaults, bunkers, and storage facilities for gold bars around the Swiss Alps and internationally to aid its "banking secrecy."

50. Two of UBS's divisions are at the center of this case:

UBS Investment Bank

UBS Investment Bank provides services covering securities, other financial products, and research in equities, rates, credit, foreign exchange, precious metals derivatives. UBS Investment Bank operates in 33 countries (with principal offices in Chicago, Frankfurt, Hong Kong, London, New York, Shanghai, Singapore, Tokyo and Zurich). This business division also advises and provides access to capital markets for corporate and institutional clients, governments, financial intermediaries, alternative asset managers, and private investors. Within the UBS Investment Bank division, the

Investment Banking Department (IBD) provides a range of advisory and underwriting services including mergers and acquisitions, restructuring, equity offerings, investment grade and high yield debt offerings, leveraged finance and leveraged structuring, and the private placement of equity, debt and derivatives. The Sales & Trading division comprises equities (banking, dealing, market making and engaging proprietary trading equities, equity-related products, equity derivatives, and structured products) and FX, Rates, and Credit (FRC) broker dealing, market making and engaging in proprietary trading in interest rate products, credit products, mortgage-backed securities, leveraged loans, investment grade and high-yield debt, currencies, structured products, and derivative products.

Global Wealth Management

UBS's global wealth management advisory division offers high-net-worth individuals around the world a range of advisory and investment products and services. As of 2018, UBS manages the largest amount of private wealth in the world, counting approximately half of the world's billionaires among its clients.... UBS Wealth Management is present in more than 40 countries with approximately 190 offices.... UBS Wealth Management in the U.S. is an outgrowth of the former Paine Webber brokerage business acquired by UBS in 2000.

C. UBS's Historic Involvement in Violating the Laws of Nations

51. As explained herein, because of a dark historical stain to UBS's reputation and standing, its Directors and Officers had a weighted duty to assure UBS's compliance with the laws and regulations of the various jurisdictions in which it operates.

52. During the Holocaust, UBS and Swiss Bank Corporation were the two largest and most important banks in "neutral" Switzerland. The activities of Switzerland and those banks during World War II were not widely known until decades after the war, when it was demonstrated that they took active roles in trading stolen gold, securities, and other assets during World War II, with the banks taking for themselves thousands of bank accounts of dead Jews who had put money and assets in the Swiss banks hoping to survive, but perished.

53. The issue of “unclaimed property” of Holocaust victims became a major issue for UBS/SBC in the mid-1990s, and a series of lawsuits and books brought the issue to the forefront of worldwide attention. The banks admitted that a large number of accounts of those who had perished in the death or work camps had gone unclaimed as a result of the bank’s policy of ***requiring death certificates*** from family members to claim the contents of the account of a person who died in a death or work camp, which they knew were not available. UBS’s handling of these revelations was widely criticized.

54. The Swiss government was not all that “neutral” during the Second World War. In fact, Switzerland and its banks were active partners with Nazis almost from the outset of Nazi rule in 1933. It was in 1934, just a year after the Nazis came to power that — at the request of the Swiss banks — the Swiss Parliament first formally enacted the super strict banking secrecy laws for which the Swiss banking system became known. It was also the Swiss who first asked Nazi Germany to put a large red “J” stamp on Jewish passports in the mid-1930s — so the Swiss could readily identify and exclude Jews at its border, *i.e.*, keep them out of Switzerland and stuck in Nazi-controlled Europe — enhancing demand for the Swiss bankers’ product — a “secret” — “safe” place to hide money/assets.

55. In class-action suits by holocaust victims here in the United States, UBS/SBC were accused of keeping thousands of “anonymous” “numbered” Swiss Bank accounts and safety deposit boxes of Holocaust victims — which went “dormant” after their owners had been murdered. The litigation in the United States alleged, and investigative books and exposes showed, that, as the 1930s unfolded, the Swiss National Bank assisted the Nazi state by laundering Nazi gold, including jewelry and “dental gold” from death camps, enabling the Nazis to purchase war materials. The books and exposes show what the litigations alleged:

- Swiss banks helped Nazi officials deposit their personal plunder/loot into secret/anonymous accounts;

- Swiss banks got Jews from all over Europe to send their precious assets into the purportedly safest and most secret banking system in the world — into numbered coded accounts and deposit boxes;
- Swiss banks “forced” account or asset transfers from Jews to Nazi officials — transfers made under duress, by trapped, threatened Jews;
- Swiss banks accommodated Nazis by “leaking” secret account information to them, enabling the Nazis to locate the owners and force the condemned Jews to transfer the assets to them; and
- After the war, when the accounts of murdered Jews went dormant, the Swiss banks took for themselves the assets entrusted to them and destroyed many of the account records to cover up all of this.

56. The Holocaust-related lawsuits were contentious and expensive. UBS/SBC refused to settle. Incredibly, one evening, a night watchman (Christopher Meili) discovered UBS officials shredding important WWII Holocaust documents in the basement of the Bank — a violation of a Swiss law passed after the lawsuits in the United States were filed, to assure the preservation of just such evidence. Meili grabbed some documents and fled — and he became a whistleblower. UBS tried to prosecute the night watchman/whistleblower for violation of Swiss Bank secrecy laws. However, the Swiss State prosecutor indicted UBS for document destruction in violation of the law. Meili was in such danger he was compelled to flee to the United States. He became the first Swiss citizen in history to receive political asylum in the United States. The court in the United States awarded him several hundred thousand dollars from the later multi-billion-dollar settlement as a “reward.”

57. UBS ultimately settled the Holocaust lawsuits, but only after the government officials in the United States issued a report which documented that the Swiss banks had ended up with lots of gold from concentration camp victims and that gold was used to buy vital Nazi war materials — prolonging the war — confirming much of what the suit alleged in the United States. A Swiss Parliamentary Inquiry later issued a report

which was very critical of the Swiss Central banks' involvement with Nazi "gold," confirming the commercial banks' complicity in Nazi "forced transfers" and that the banks had consumed small dormant accounts by charging fake fees — while keeping others — and that the banks had tried to destroy the evidence after the war, later, and even during the investigation and litigation in the United States.

58. Because of UBS's unique corporate history and participation in the worst violations of international law, and the laws of other nations in history, UBS's Directors and Officers had a weighted duty to assure that they — that is UBS — take special care to comply with the laws of the various nations in which UBS operates, and to protect against the harmful impact the misconduct a large bank like UBS can have on those countries and their law abiding citizens.

D. The Director Defendants and the Officer Defendants

59. UBS's corporate structure involves numerous subsidiaries and controlled entities through which the Directors and Officers operate UBS's businesses worldwide. To the extent that any individual defendant is a director/officer of any UBS subsidiary or controlled entity, that person was acting on behalf of and within the scope of his/her position at each such subsidiary or controlled entity in taking the actions alleged herein. Each of the individual Directors and Officers named as Defendants violated their individual duties of due care, diligence, prudence and loyalty, and the Company's Code of Conduct and Ethics, in overseeing the corporate entity or managing that part of the business which was their responsibility.

60. Defendant Sergio P. Ermotti has been Group Chief Executive Officer of UBS Group AG since 2014, and has held the same position at UBS AG since 2011. Ermotti became a member of the Group Executive Board in 2011. He was Chairman and CEO of UBS Group Europe, Middle East and Africa prior to becoming the Group CEO. He

previously served as Merrill Lynch head of global derivatives trading, working and living in New York.

61. Defendant Oswald J. Grübel was the Group Chief Executive Officer and a member of the Group Executive Board from February 2009 to September 2011, when he resigned. Previously, Mr. Grübel had, among other things, worked in New York.

62. Defendant Kaspar Villiger served on UBS's Board of Directors from April 2009 through May 2012. He was the Chairman of the Board of Directors. He also chaired the Governance and Nominating Committee and was a member of the Corporate Responsibility Committee.

63. Defendant Carsten N. Kengeter joined UBS in December 2008 and resigned in February 2013. He served as the co-CEO and subsequently sole CEO of the UBS Investment Bank and was a member of the Group Executive Board from April 2009 through November 2012, when he resigned following the trading scandal.

64. Defendant Axel A. Weber joined UBS AG's Board of Directors in May 2012 and UBS Group AG's Board of Directors in 2014, and currently holds these positions. He is Chairman of the Board of Directors of both UBS AG and UBS Group AG. He is also the Chairman of the Governance and Nominating Committee and the Corporate Culture and Responsibility Committee. In 1992–1993, he spent an academic year teaching in Washington, D.C. and in 2011–2012, he was a visiting professor at the University of Chicago Booth School of Business.

65. Defendant David H. Sidwell joined UBS AG's Board of Directors in April 2008 and UBS Group AG's Board of Directors in November 2014 and served on both Boards until April 2020. He was the Vice Chairman and a Senior Independent Director. He chaired the Risk Committee and was a member of the Governance and Nominating Committee. He is an American and British citizen domiciled in New York.

66. Defendant Markus U. Diethelm joined UBS's Group Executive Board in 2008. He has been the Group General Counsel of UBS Group AG since 2014, and has

held the same position at UBS AG since 2008. He was a member of the Executive Board of UBS Business Solutions AG from 2015 to 2016. Diethelm is a member of the Bar of the State of New York and has a PhD from Stanford Law School.

67. Defendant John A. Fraser joined UBS in 1994 and was a member of the Group Executive Board from 2002 to 2013. He held various positions at UBS and served as the Chairman and CEO of UBS Global Asset Management from 2001 to 2013, based in London. He served as Economic Minister at the Australian Embassy in Washington, DC from 1985 to 1988.

68. Defendant Lukas Gähwiler joined UBS in 2010. He became the Chairman of UBS Switzerland in September 2016 and currently holds this position. He was the CEO of UBS Switzerland and a member of the UBS Group AG's Executive Board from April 2010 to September 2016, and held various other positions at UBS since 2010. Mr. Gähwiler studied at the MBA program in Corporate Finance at the International Bankers School in New York; received an MBA from the University of Wisconsin; and studied at the Advanced Management Program at Harvard Business School in Boston.

69. Defendant Philip J. Lofts left UBS in 2015 after holding various positions at the bank for over 30 years. He served as the Group Chief Risk Officer and a member of the Group Executive Board from 2008 to 2015, after three years serving as the Group Chief Credit Officer. He was also the CEO of UBS Group Americas from January to November 2011. He is a British citizen domiciled in Connecticut.

70. Defendant Robert J. McCann joined UBS in October 2009. He is currently the Chairman of UBS Americas and has held this role since 2015. He served as the President of Wealth Management Americas (and was formerly the CEO of Wealth Management Americas), and was a member of the Group Executive Board from October 2009 to 2015. He is an American and Irish citizen domiciled in New Jersey.

71. Defendant Thomas C. Naratil joined UBS in 2000. He has held various executive and senior management positions within UBS and currently serves on the

Group Executive Board. He became Co-President Global Wealth Management at UBS Group AG and UBS AG, as well as CEO of UBS Americas Holding LLC in 2018. He was appointed President UBS Americas at UBS Group AG and UBS AG in 2016 and served as President Wealth Management Americas from 2016 to 2018. He became a member of the Group Executive Board in 2011 and was Group CFO of UBS AG from 2011 to 2015. He held the same position for UBS Group AG from 2014 to 2015. In addition to the role of Group CFO, he was Group Chief Operating Officer from 2014 to 2015. Mr. Naratil was President of the Executive Board of UBS Business Solutions AG from 2015 to 2016. He served as CFO and Chief Risk Officer of Wealth Management Americas from 2009 until his appointment as Group CFO in 2011. Before 2009, he held various senior management positions within UBS, including heading the Auction Rate Securities Solutions Group during the financial crisis in 2008. Naratil is Co-President of UBS Global Wealth Management and CEO of UBS Americas Holding LLC since early 2018. He previously served as President of UBS Americas and as Chief Risk Officer and later as President of Wealth Management Americas, among numerous other positions. Mr. Naratil is an American citizen domiciled in New Jersey. He earned an MBA at New York University and a BA at Yale University.

72. Defendant Robert B. Karofsky is Co-President of the Investment Bank at UBS Group AG and UBS AG and became a member of the Group Executive Board in October 2018. He joined UBS in 2014 as Global Head Equities and has been President UBS Securities LLC since 2015. From 2011 to 2014, he was Global Head of Equity Trading at AllianceBernstein. Prior to that, he was employed by Deutsche Bank as Head of North American Equities in 2005, later taking over as Co-Head of Global Equities from 2008 to 2010. Karofsky holds a bachelor's degree in economics from Hobart and William Smith Colleges and an MBA in finance and statistics from the University of Chicago's Booth School of Business. Karofsky is an American citizen domiciled in New York.

73. Defendant Robert W. Scully joined the Board of Directors of UBS AG and UBS Group AG in May 2016, and currently holds these positions. He serves on the Risk Committee. He is an American citizen domiciled in New York.

74. Defendant Jeanette Kai Juan Wong joined the Board of Directors of UBS AG and UBS Group AG in May 2019, and currently holds these positions. She serves on the Audit Committee. Ms. Wong received her MBA at the University of Chicago.

75. Defendant Dieter Wemmer joined the Board of Directors of UBS AG and UBS Group AG in May 2016, and currently holds these positions. He serves on the Compensation Committee and the Audit Committee.

76. Defendant Isabelle Romy joined the Board of Directors of UBS AG in May 2012 and the Board of Directors of UBS Group AG in November 2014, serving on both Boards until April 2020. She served on the Audit Committee and the Governance and Nominating Committee. She has served as a visiting scholar at Boalt Hall School of Law, University of California, Berkley.

77. Defendant Jeremy Anderson joined the Board of Directors of UBS AG and UBS Group AG in May 2018, and currently holds these positions. He is the Chairman of the Audit Committee, and serves on the Corporate Culture and Responsibility Committee, and the Governance and Nominating Committee.

78. Defendant Julie G. Richardson joined the Board of Directors of UBS AG and UBS Group AG in May 2017, and currently holds these positions. She is the Chairperson of the Compensation Committee and serves on the Risk Committee and the Governance and Nominating Committee. She is an American citizen domiciled in New York.

79. Defendant William C. Dudley joined the Board of Directors of UBS AG and UBS Group AG in May 2019, and currently holds these positions. He serves on the Corporate Culture and Responsibility Committee and the Risk Committee. He is an American citizen domiciled in New Jersey.

80. Defendant Beatrice Weder di Mauro joined the Board of Directors of UBS AG in May 2012 and the Board of Directors of UBS Group AG in November 2014, and currently holds these positions. She serves on the Audit Committee and the Corporate Culture and Responsibility Committee, and previously served on the Risk Committee. Ms. di Mauro has worked as an economist at the World Bank in Washington, D.C.

81. Defendant Reto Francioni joined the Board of Directors of UBS AG in May 2013 and the Board of Directors of UBS Group AG in November 2014, and currently holds these positions. He serves on the Risk Committee and the Compensation Committee. He has served as Adjunct Professor of Economics and Finance at the Zicklin School of Business in New York.

82. Defendant Christian Bluhm joined UBS's Group Executive Board in 2016. He is currently the Group Chief Risk Officer of UBS Group AG and UBS AG. He worked as a postdoctoral fellow at Cornell University in Ithaca, New York.

83. Defendant Kirt Gardner joined UBS in 2013. He became a member of UBS's Group Executive Board in 2016 and was appointed Group Chief Financial Officer of UBS Group AG and UBS AG. He currently holds these positions. He was the CFO of Wealth Management from 2013 to 2015. He is an American citizen domiciled in New York.

84. Defendant Suni P. Harford joined UBS in 2017. She became a member of UBS's Group Executive Board and was appointed President Asset Management of UBS Group AG and UBS AG in October 2019, and currently holds these positions. She was previously the Group Managing Director and Head Investments in the Asset Management business division. She is an American citizen domiciled in Connecticut.

85. Defendant Markus Ronner joined UBS in 1981. He is currently the Group Chief Compliance and Governance Officer at UBS Group AG and UBS AG. He became a member of UBS's Group Executive Board in November 2018. He became the Head of Group Regulatory and Governance in 2012 and has held various other positions across the Company.

86. Defendant William G. Parrett joined UBS AG's Board of Directors in October 2008 and UBS Group AG's Board of Directors in November 2014, and served on both Boards until May 2018, when he resigned from the Board and became the Chairman of UBS Americas LLC. During his tenure on the Board, he was the Chairperson of the Audit Committee and served on the Compensation Committee and the Corporate Culture and Responsibility Committee. He is an American citizen domiciled in Connecticut.

87. Defendant Axel P. Lehmann joined UBS in 2009. He was appointed to UBS AG's Board of Directors in 2009 and UBS Group AG's Board of Directors in November 2014 and served on both Boards until January 2016. He served on the Governance and Nominating Committee and the Risk Committee. He became a member of the Group Executive Board and was appointed Group Chief Operating Officer of UBS Group AG and UBS AG in January 2016. He became President of Personal and Corporate Banking at UBS Group AG and President of UBS Switzerland in 2018, in addition to taking over as President of the Executive Board of UBS Switzerland AG. He currently holds these positions. Mr. Lehmann is a graduate of the Advanced Management Program of the Wharton School and a member of the Swiss-American Chamber of Commerce Chapter Doing Business in the United States.

88. Defendant Andrea Orcel joined UBS in 2012 and held various roles until October 2018. He was President of the Investment Bank of UBS Group AG from November 2014 to September 2018, having held the same position for UBS AG since November 2012. He became a member of the Group Executive Board in July 2012 and was co-CEO of the Investment Bank from July to November 2012. He became the Senior Officer Outside of Australia for UBS Australia Branch in January 2016, and since December 2014, he also held the position as Chief Executive for UBS Limited and UBS AG London Branch. He was also a member of the Board of UBS Americas Holding LLC.

III. JURISDICTION, NON-REMOVABILITY AND VENUE

89. This Court has subject matter jurisdiction over the claims pursuant to N.Y. BUS. CORP. LAW §§ 626, 1319(a)(2), New York Banking Law § 200-b, and New York Constitution, Article VI, § 7(a).

90. Under New York law, an action against a foreign banking corporation may be maintained by a “resident of this state for any cause of action” and by a non-resident if: (i) the subject matter of the litigation is situated in New York; (ii) the cause of action arose within the State; (iii) the action is based on a liability for acts done within the State by a foreign banking corporation; or (iv) the defendant is a foreign banking corporation doing business in the State. N.Y. BANKING LAW § 200-b; *see also id.* at § 221-c (allowing jurisdiction to be applied because foreign persons must assign an agent for service of process to have the “same force and effect as if it were a domestic corporation and had been lawfully served with process in this state”).

91. Venue is permitted and proper in this Court because many of the acts and transactions in connection with the wrongdoing complained of occurred in New York, Plaintiff resides in New York City and several defendants reside in or are citizens of New York, and for the further reasons set forth in Section IX, *infra*.

92. The substantive claims made are based on Swiss law to be asserted in New York State Court via New York’s procedural rules. There are no claims asserted under federal law in the United States. No individual recovery is sought by Plaintiff, who sues solely derivatively on behalf of the corporate entity and true plaintiff — UBS.

93. This action is not removable to federal court for many reasons, including:

a. There is not complete diversity of citizenship. Plaintiff is a resident and citizen of New York as are several Defendants.

b. This action is not a class action. It does not seek any relief for Plaintiff individually or collectively as a class. The action is entirely a derivative one for the benefit of UBS.

c. While aspects of Defendants' misconduct impacted and damaged purchasers of UBS securities for which UBS has been sued, this action asserts no claims on behalf of any such purchaser, public or private.

d. Plaintiff does not assert any claims based on the purchase or sale or issuance of securities or any claims under federal law or regulation, and to the extent any claim or factual assertion herein may be construed as stating a federal claim, Plaintiff disavows that claim.

94. The Court has personal jurisdiction over each Defendant. The Court has personal jurisdiction over those Defendants not residing in New York, as each meets the statutory definition of a "person," and these claims arise from the actions of each "directly or by an agent" in that each Defendant independently and separately from their UBS positions and also through their positions regularly transacted and/or solicited business in New York and/or derived substantial revenue from goods used or consumed or services rendered in New York and/or contracted to supply goods or services in New York, and/or caused injury by an act or omission in New York, and/or caused injury in New York by an act or omission outside New York.

95. The wrongs complained of are continuing and ongoing. The Directors and Officers have denied their own, their predecessors' and their allies' wrongdoing for years, including publishing reports and making assurances to UBS's owners/shareholders of their commitment to robust and effective legal/regulatory compliance controls, which they have not fulfilled. They have denied and continued to resist and deny legal accountability for key wrongdoers who continue to control or influence the UBS Board. Thus, UBS has not been able and cannot act for or protect itself. The statute of limitations cannot run against UBS when that entity has been under the control of alleged wrongdoers — which it has been for the past several years. This action is filed within the later of five years of the date the damage that was part of a continuing course of conduct occurred or 10 years from when the breach of fiduciary duty occurred, which breaches are

continuing. To the extent that any alleged conduct was criminal, the longer criminal statute of limitation applies. Whatever statute of limitations may have been running was tolled during any court closure due to the Covid-19 pandemic.

IV. APPLICABLE SWISS LAW

96. In order to protect UBS and its shareholders from damage due to the lack of due care, prudence or diligence of its Directors and Officers, Swiss law imposes duties on such persons, and provides liability for negligence, breach of duty, lack of due care or prudence that causes damage to UBS. While the conduct complained of and the facts pleaded constitute gross negligence and recklessness, there is no requirement of reckless or some other type of misconduct beyond lack of due care, especially as ***to legal and regulatory compliance duties*** which are not protected by any business judgment rule. Defendants' negligent actions alleged herein constitute gross negligence and ***reckless misconduct*** such that there is no business judgment rule defense available to their conduct or any decision on their part not to bring facially valid legal claims for UBS against themselves, or prior Directors and Officers.

97. Swiss Law contains both procedural and substantive provisions regarding derivative litigation. The following substantive provisions of Swiss Law provide the basis for the Individual Defendants' liability to UBS. The Swiss Code of Obligations/Company Law provides:

Art. 716a

The board of directors has the following non-transferable and inalienable duties:

1. The ***overall management of the company*** and the issuing of all necessary directives;
- ***
2. The organization of the accounting, financial control and financial planning systems as required for management of the company;

3. The appointment and dismissal of persons entrusted with managing and representing the company;
4. Overall supervision of the persons entrusted with managing the company, ***in particular with regard to compliance with the law***, articles of association, operational regulations and directives;

Art. 717 Duty of Care and Loyalty

The members of the board of directors and third parties engaged in managing the company's business must perform their duties with all due diligence and safeguard the interests of the company in good faith.

Art. 754 Liability of the Directors and Officers

Section 1. The members of the board of directors and all persons engaged in the management or liquidation of the corporation are liable not only to the corporation, but also to each shareholder and to the corporation's obliges for the damage caused by an intentional or negligent violation of their duties.

Art. 756 Damage to the Corporation — Claims outside bankruptcy

Section 1. In addition to the Corporation, also each shareholder is entitled to file an action for damages caused to the Corporation. The claim filed by a shareholder is for payment of the damages to the Corporation.

Art. 759 Joint and Several Liability

Section 1. If several persons are liable for a damage, any one of them is jointly and severally liable with the others to the extent the damage is attributable to such person based on his own fault and the circumstances.

98. A derivative action against individual directors/officers under Swiss procedures is commenced by filing a request for conciliation according to Article 22 of the Swiss Civil Procedure Code. Mandatory advances of court fees and security deposit payments for the defendants' legal fees are also procedural requirements. The advance on court fees is in Article 98 CPC, the security deposit in Article 99 CPC. Plaintiffs from the United States, upon request by Swiss defendants, may be ordered not only to advance

the court fees, which are calculated in proportion to the amount in controversy; they must also pay a security deposit for defendants' legal fees, which is also assessed based on the amount in controversy.

99. Assuming this suit seeks \$10 billion or more, under applicable Swiss procedural rules to commence the case the named individual plaintiff would have to advance 50,070,750 Swiss Francs (\$51.5 million) for "court fees" and deposit an additional 53,900,000 Swiss Francs (\$55 million) as a security deposit for the Defendants' fees and costs, an absurd total of more than \$100 million. Ironically, the worse the Defendants' conduct — the more damage it inflicts on the plaintiff — the more the plaintiff must post as costs and defense fees. Because the Defendants' egregious misconduct inflicted at least \$10 billion in damages upon the Company, the named plaintiff could never post such an exorbitant and punitive court cost/defense fees deposit. Without these payments, the court will not hear the case. It is commonly accepted that these procedural cost burdens thwart, prevent and make it all but impossible to file derivative actions by shareholders in Switzerland.

V. DUTIES OF THE DIRECTORS AND OFFICERS TO UBS AND THEIR RESPONSIBILITY FOR THE DAMAGE TO THE CORPORATION

A. Regulation and Supervision of UBS's Corporate/Investment Banking and Wealth Management Operations

100. As a major "full service" financial institution, UBS is subject to extensive regulation and oversight. Compliance with banking, securities and other laws and regulations is indispensable to protect UBS's assets and reputation. It is the responsibility of the Board of Directors and Officers to use due care, diligence and prudence in assuring the corporation is protected by an adequate and functioning system of internal legal/regulatory compliance controls and an operating culture of honesty and fair dealing — not greed/profit at all cost including violating the law. As a major international public company, UBS faced conduct, reputation, legal and regulatory risks and it was the

obligation of the Board to use due care, diligence and prudence to monitor and protect UBS from the occurrence of these risks and the damage which would result therefrom.

101. As to the Regulation and Supervision of UBS's business operations, its Directors stated:

Regulation and Supervision

As a financial services provider based in Switzerland, UBS is subject to the consolidated supervision of the Swiss Financial Market Supervisory Authority (FINMA). Our entities are also regulated and supervised by the authorities in each of the countries where they conduct business. Through UBS AG and UBS Switzerland AG, which are licensed as banks in Switzerland, the Group may engage in a full range of financial services activities in Switzerland and abroad, including personal banking, commercial banking, investment banking and asset management.

UBS Group AG and its subsidiaries are subject to consolidated supervision by FINMA under the Swiss Federal Law on Banks and Savings Banks ... FINMA fulfills its statutory supervisory responsibilities through licensing, regulation, supervision and enforcement.

Regulation and supervision outside Switzerland

Regulation and supervision in the U.S.

In the U.S., UBS is subject to regulation and supervision by the Board of Governors of the Federal Reserve System (the Federal Reserve Board) under a number of laws. UBS Group AG and UBS AG are both subject to the Bank Holding Company Act, under which the Federal Reserve Board has supervisory authority over the U.S. operations of both UBS Group AG and UBS AG.

In addition to being a financial holding company under the Bank Holding Company Act, UBS AG maintains several branches and representative offices in the U.S., which are authorized and supervised by the Office of the Comptroller of the Currency. UBS AG is registered as a swap dealer with the Commodity Futures Trading Commission (the CFTC) ...

UBS Americas Holding LLC — the intermediate holding company for our non-UBS AG branch operations in the U.S.,

as required under the Dodd–Frank Act — is subject to requirements established by the Federal Reserve Board related to risk-based capital, liquidity, the Comprehensive Capital Analysis and Review stress testing and capital planning process, and resolution planning and governance.

UBS Financial Services Inc., UBS Securities LLC and several other U.S. subsidiaries are subject to regulation by a number of different government agencies and self-regulatory organizations, including the SEC, the Financial Industry Regulatory Authority, the CFTC, the Municipal Securities Rulemaking Board and national securities exchanges, depending on the nature of their business.

Regulation and supervision in the UK

Our regulated operations in the UK are mainly subject to the authority of the Prudential Regulation Authority (the PRA), which is part of the Bank of England, and the Financial Conduct Authority (the FCA).

Regulation and supervision in Singapore and Hong Kong

In Asia Pacific (APAC), we operate from 13 locations and are therefore subject to the regulation and supervision by local financial regulators. The APAC regional hubs are Singapore and Hong Kong.

Financial crime prevention

Combating money laundering and terrorist financing has been a major focus of government policies relating to financial institutions in recent years. **The U.S. Bank Secrecy Act and other laws and regulations require the maintenance of effective policies, procedures and controls to detect, prevent and report money laundering and terrorist financing, and to verify the identity of our clients. Failure to maintain and implement adequate programs to prevent money laundering and terrorist financing could result in significant legal and reputation risk.**

102. The UBS Directors' Annual Reports recognized the importance to UBS that the enterprise be operated with integrity in compliance with the law to protect its assets and reputation:

Protection of reputation

Protecting our reputation through a sound risk culture characterized by a holistic and integrated view of risk, performance and reward, and through full compliance with our standards and principles, particularly our Code of Conduct and Ethics.

Integrity

We are responsible and accountable for what we say and do, and for UBS's reputation.

We care about our clients, our investors and our colleagues.

We act as role models by treating others the way we would like to be treated.

103. In order to purportedly assure that UBS officials would conduct themselves and UBS's business in an honest manner in compliance with the laws of those nations in which UBS does business, the Company adopted a Code of Conduct and Ethics which provided:

Our Code of Conduct and Ethics

In this Code, the Board of Directors and the Group Executive Board set out the principles that define our ethical standards and the way we do business.

The Code applies to everything and everyone.

The Code covers our dealings with stakeholders, clients, counterparties, shareholders, regulators and business partners — and each other. And it is the basis for all our policies, guidelines and procedures.

Our Boards are fully behind the Code — and need the whole bank to be behind it too.

The Code has the full backing of the Board of Directors and Group Executive Board. And every one of us needs to make sure our day-to-day actions and decisions follow the standards set out here. Above all, we must put the interests of UBS, our clients and our shareholders above our own.

Upholding the Code

From our Board of Directors down, we live up to this Code at all times, with no exceptions.

UBS will not accept any justification or excuse for breaking it, whatever the reason — whether for profit, convenience or competitive advantage or because a client or someone else asked for it.

Speak up

We immediately report any potential violations [of the Code] to our line manager or local investigations officer. We can also report them confidentially or anonymously using the whistleblower procedures ...

UBS regards any form of retaliation against whistleblowers to be unacceptable.

And UBS expects its line managers to escalate and report any violations of laws, rules, regulations, policies, professional standards and the principles of the Code.

Laws, rules and regulations

Obeying the law

We obey the laws, rules and regulations where we live, work and do business — as well as our own governance documents.

And we cooperate with our regulators, being open and transparent in our dealings with them.

Cross-border business

When we are working across borders, we obey all pertinent laws, rules and regulations — both at home and abroad.

If we are selling to, buying from, visiting or dealing with clients from outside our home country, it is our job to understand what rules, laws or policies apply — and follow them.

Fair dealing and fair competition

We succeed by outperforming our competitors fairly and honestly, not by resorting to unfair or underhand tactics.

We don't stretch, distort or try to hide the facts or the truth. Nor do we use information we are not meant to have to gain an unfair advantage over competitors.

We act fairly, honestly and in good faith with everyone we deal with our clients, business partners, competitors, suppliers, the public and each other.

And we act in the interest of fair and effective competition and respect all the laws, rules and regulations that are designed to create a level playing field for all — including antitrust and competition laws.

Fighting crime

We have a duty to contribute to the integrity of the financial system, as well as our own business.

So we do whatever we can to combat money laundering, corruption and terrorist financing — including imposing global sanctions in line with our policy.

Money laundering

We have rigorous systems in place to detect, report and stop any suspected money laundering.

Corruption

We have zero tolerance for corruption or any kind of bribery, including so-called facilitation payments”. We don’t offer or accept improper gifts or payments in the course of our business.

Criminal Activity

We carry out due diligence and keep a constant lookout for any suspicious activities, reporting them to senior management as soon as we discover them. And we follow strict know-your-customer regulations.

Tax matters

We follow all the laws, rules, regulations and treaties around tax that apply to us, over the world – not just to the letter, but in their true spirit. We pay and report all taxes due. We report information relating to our own tax position and that of our clients and employees as required.

We will not help our clients or any other parts avoid paying the tax that they owe or reporting their income and gains, nor will we support any transactions where we know or shall presume that the tax outcome is dependent on unrealistic assumptions or the hiding of facts.

Behaving responsibly and ethically.

Values and ethics

We don't just follow the laws, rules and regulations in everything we do. We do what is right. We don't just ask ourselves what we're doing is legal, but whether it fits with our three UBS Behaviours: Integrity, Collaboration and Challenge.

Client relationships

We look after our clients for the long term, winning their loyalty by earning their trust.

We try to anticipate what our clients are going to need before they ask. We go out of our way to give them an exceptional service. We make sure our products and services are adequate for our clients and are sold in a way that is not detrimental to their interests. And we treat them fairly, and with the same courtesy and respect, however large or small they may be.

Conflicts of interest

We put our clients' best interests before our own — and UBS's interests before our personal interests. And we never let UBS's or our personal interests influence our advice to a client, or our dealings with them.

We have systems to identify and manage potential conflicts of interest. And as soon as we do identify any such conflicts, we raise them immediately with our line manager or with Legal or Compliance & Operational Risk Control.

Violating the Code**Disciplinary procedures**

Anyone who breaks the rules (whether it is our Code, UBS policies or outside laws, rules and regulations) will face consequences – from reprimands and warnings to dismissals.

This includes not only the person who broke the rules, but also their line manager and anyone who knew about it but did not report it.

And where a violation amounts to criminal behavior, we will not hesitate to bring it to the attention of the relevant authorities.

104. In addition to the duties imposed by the Swiss Code of Obligations/Company law, UBS's Code of Conduct and Ethics was a combination of existing codes covering separate parts of its business and conduct and actions already prohibited by those codes, as well as regulatory standards and rules, and the statutory requirements of due care, diligence and prudence. Impermissible conduct after the Code of Conduct was adopted was impermissible conduct before the Code of Conduct was adopted.

B. UBS's Directors and Officers Have Admitted Their Repeated Failures to Protect UBS from Important Operational, Legal and Reputational Risks

105. UBS's corporate documents impose specific duties on UBS's Directors and Officers:

1.3 In order to be able to fulfill their role, the Board members are expected to:

i) ***act with integrity, probity and a high ethical standard;***

ii) ***exercise sound judgment;***

iii) be able and willing to inquire and probe, and have the strength of character to seek and obtain full and satisfactory answers, within the team-oriented environment of the Board;

iv) ***scrutinize the performance of management...***

vii) ***ensure that financial information is accurate and that financial controls and systems of risk management and control are robust and defensible;***

ix) ***comply with a code prepared to reflect provisions of applicable laws, rules and regulations on share dealing by Board members and others.***

Responsibilities and authorities

- 4.1 The Board is responsible for the overall direction, supervision and control of the Group and its management as well as for ***supervising compliance with applicable laws, rules and regulations.*** The Board exercises oversight over UBS Group AG ***and its subsidiaries*** and is responsible for ensuring the establishment of a clear Group governance framework to ensure ***effective steering and supervision of the Group and which takes into account the material risks to which the Group and its subsidiaries are exposed.***
- 4.2 The Board has ultimate responsibility for the success of the Group and for delivering sustainable shareholder value within a framework of ***prudent and effective controls....*** and ***sets the Group's values and standards to ensure that its obligations to its shareholders and other stakeholders are met.***

Group Executive Board

- 15.2 Under the leadership of the Group CEO, the GEB ...has executive management responsibility for the steering of the Group and its business. It assumes overall responsibility for the development of the Group, and BD strategies and the implementation of approved strategies. ***The GEB is responsible for developing, implementing and maintaining an appropriate and adequate business organization designed to ensure compliance with applicable laws and regulators and an appropriate management information system.***
- 15.3 The GEB constitutes itself as the risk council of the Group. In this function, the GEB has overall responsibility for establishing and supervising the implementation of risk management and control in the Group, including the risk appetite framework and the risk management and control principles.***

16 Group Chief Executive Officer

- 16.2 The Group CEO is the highest executive officer of the Group and has responsibility and accountability for the management and performance of the Group ...

16.6 The Group CEO ensures that the Chairman and the Board are kept informed in a timely and appropriate manner.

106. UBS's Directors have admitted that past misconduct and failure to fulfill these duties has damaged and is continuing to damage UBS. Its Annual Reports state that ***"Our reputation is critical to the success of our strategic plans, business and prospects. Reputational damage is difficult to reverse, and improvements tend to be slow and difficult to measure."*** The Annual Reports then admit: ***"Our reputation has been adversely affected by our losses during the financial crisis, investigations into our cross-border private banking [tax-evasion] services, criminal resolutions of LIBOR-related and foreign exchange matters, as well as other matters."***

107. The Annual Reports further state: "We believe ***that reputational damage as a result of these events was an important factor in our loss of clients and client assets across our asset-gathering businesses.***

108. UBS has also admitted:

We have been subject to a very high level of regulatory scrutiny and to certain regulatory measures that constrain our strategic flexibility... the effects on our reputation and relationships with regulatory authorities of the LIBOR related settlements of 2012 and settlements with some regulators of matters related to our foreign exchange and precious metals business have resulted in continued scrutiny.

As a result of this history, our level of risk with respect to regulatory enforcement may be greater than that of some of our peers.

C. UBS's Directors' and Officers' Failed Governance, Oversight and Mismanagement of UBS

109. Each Individual Defendant had a duty to comply with Swiss corporate law, including to act with care and to act with diligence and loyalty to UBS, in an honest manner, and protect its interests, assets and corporate reputation. Each Individual

Defendant also had a duty to comply with the Company's Code of Conduct and Ethics. Each Individual Defendant violated his or her duties as alleged herein. In taking the actions complained of, the then serving Directors acted collectively, without dissenting votes, as did the Group Executive Board. Thus, the Directors and members of the Group Executive Board are collectively responsible factually and legally. The Directors and Officers violated their duties to UBS and its shareholders, including their duties of candor and loyalty, and did not act with due care, diligence and prudence and in the best interests of UBS when they:

- Failed to take required steps to assure UBS had adequate, effective risk-management systems and internal financial/accounting and regulatory/legal compliance controls in place so as to provide reasonable assurance that UBS's officials would operate the business in compliance with the laws and regulations of the nations/states where UBS operated — especially laws and regulations relating to financial institutions, as well as UBS's own Code of Conduct and Ethics.
- Failed to properly oversee and assure compliance with applicable regulatory and legal requirements, including UBS's own Code of Conduct and Ethics which ***prohibited all the types of misconduct complained of*** and which resulted in billions in fines, penalties and settlements — including criminal convictions, DPAs, censures, consent decrees and cease and desist orders.
- Failed to take required steps to require the Wealth Management division to operate in accordance with the laws of various nations and UBS's own Code of Conduct and Ethics regarding tax evasion and money laundering while covering up that activity, secretly rewarding “finders, minders and keepers” of tax cheat clients via a separate set of books (“milkpads”) and refusing to resolve on favorable terms government enforcement actions.
- Failed to supervise and/or control UBS's executives and employees in the Investment Banking operations to prevent reckless, improper and unlawful conduct, permitting overly risky conduct and illegal actions, misrepresentations to and cheating of customers, money laundering, terrorist transfer violations, price fixing, bid rigging and market manipulation.

110. The Directors failed to use due care, diligence and prudence in hiring Ralph Hamers as CEO, given the “red flags” in his past - especially in light of UBS's historic problems of compliance with respect to money laundering and evading terrorist transfer prohibitions.

111. The Directors and Officers acted to further their own personal interests and violated their duty of loyalty to UBS in continuing to allow the Wealth Management division to operate the tax-evasion business so that the lush profits generated by that illegal business would help to entrench themselves in their positions of power, prestige and profit, at the pinnacle of the Swiss banking industry.

112. The decision made by UBS's Directors concerning its internal financial/accounting and regulatory/legal compliance controls, responses to criminal investigations and regulatory inquiries and the like were not entrepreneurial decisions. They were and are fiduciary and legal compliance decisions mandated by law as to which the Directors and Officers had no discretion other than to ensure compliance by UBS. Investigations of and decisions as to whether or not to sue former Directors and Officers or others for damages their conduct caused to UBS are not entrepreneurial business decisions but a fiduciary and legal compliance decision as well. There is no "business judgment" rule defense for such decisions.

113. The fiduciary decisions like legal/regulatory compliance are not decisions which may be entitled to the protection of the business judgment rule and requiring proof of reckless misconduct for liability. Taking actions to lie, cheat, and in effect steal and market services in an illegal manner all over the world is not conduct protected by any sort of business judgment rule. Mere negligence is sufficient to impose liability on the Directors and Officers and other defendants who violated their duties under the Swiss Code of Obligations/Company Law.

114. This catastrophe and resulting damage to UBS was caused by a failure of UBS's Board of Directors' oversight and stewardship obligations. The Directors (or some of them) actually knew of the tax-evasion conduct of the Wealth Management operation — that it was being pursued, the importance of the American market, the widespread nature of the wrongdoing, its duration, the involvement of top officers and managers, and the number of people involved. The claimed existence of an efficient and effective

companywide legal/regulatory compliance system to identify serious violations supports an inference of actual knowledge or its legal equivalent — complete reckless disregard.

115. Alternatively, if the Directors did not actually know what was going on, and were blind to the massive extent to which it was occurring, they utterly failed to exercise the due care, due diligence and prudence required by the Swiss Code of Obligations/Company Law in fulfilling their supervisory obligations, including implementing and enforcing effective systems of internal financial/accounting and legal/regulatory compliance controls including UBS's Code of Conduct to prevent, identify, and/or stop the improper and illegal activities. With due care, due diligence and effective compliance controls and honest stewardship this would not have occurred.

116. For liability purposes under the Swiss Code of Obligations, it does not matter which of these alternative scenarios in fact occurred. And the participants are jointly and severally liable for the damages to the Company caused by their actions and failures to act.

117. This disaster is UBS specific, caused by the acts of the Individual Defendants, who are insured by large insurance policies paid for by the UBS shareholders to protect their company from the kind of reckless, negligent conduct engaged in by the Company's Directors and Officers.

VI. UBS's FALL FROM GRACE DUE TO THE ILLEGAL AND RECKLESS CONDUCT OF OFFICIALS IN ITS INVESTMENT BANKING AND WEALTH MANAGEMENT OPERATIONS

A. The 2007–2008 Subprime Crisis Almost Destroys UBS

118. At the beginning of the great financial crisis in 2007, UBS became the first Wall Street firm to announce a heavy loss in the subprime mortgage sector. UBS's losses continued to mount in 2008 when UBS announced in April 2008 that it was writing down a further \$19 billion of investments in subprime and other mortgage assets. By this point,

UBS's total losses in the mortgage market were in excess of \$37 billion, the largest such losses of any of its peers.

119. In response to these losses, in October 2008, UBS announced that it had obtained CHF 6 billion of new rescue capital, from the Swiss Confederation. The Swiss National Bank and UBS also agreed to transfer \$60 billion of illiquid securities and various assets from UBS to a separate entity. UBS announced in February 2009 that it had lost nearly \$20 billion in 2008, the biggest single-year loss of any company in Swiss history. UBS wrote down more than \$50 billion from subprime mortgage investments.

120. In September 2008, *The Guardian* reported on a UBS internal report on how this disaster happened: ***UBS Blames Huge Losses on Excessive Risk-Taking and Inadequate Controls***

UBS, the Swiss bank hammered by ... write-downs of its mortgage-backed assets, ***today blamed its huge losses on excessive risk-taking and inadequate controls at what was once a bastion of conservative caution.***

The bank issued a 50-page report, ... that sets out how ... its businesses racked up ***exposures of \$71bn to the sub-prime market effectively undetected by its complex risk control procedures.***

It points to absences of risk management, lack of operational limits and incomplete risk control methodologies as well as a lack of reaction to changing market conditions as the sub-prime crisis developed.

"The existing risk management, finance and risk control systems were not sufficiently robust with respect to risk monitoring in relation to complex products," it says.

"These infrastructure issues had been raised but no substantial actions appear to have been taken to address concerns."

121. **“Not sufficiently robust”** was a gross understatement. In late September 2008, the Swiss Federal Banking Commission issued a report on what had happened: ***Subprime Crisis: SFBC Investigation Into the Causes of the Write-Downs of UBS AG***

The Swiss Federal Banking Commission (the SFBC) has investigated the causes of the significant write-downs incurred by UBS AG ... on positions with exposure to U.S. subprime mortgages.... It based its investigation on ... its ***own inquiries and numerous discussions with the responsible persons at the bank.***

UBS was not aware of the extent and the nature of its risk exposure to the Subprime mortgage and related markets...., and was thus unable to take appropriate measures in a timely manner. This lack of awareness was the result of significant organizational weaknesses that ... had grave consequences. ... [T]he existing risk management and risk control mechanisms [were] significant failures on the part of the bank.

122. A commentator later (in September 2011) highlighted the serious and widespread nature of these control failures:

***UBS Systems Failed the “Too Big to Fail” Bank
UBS’s failure merits particular disgrace ...
The “Shareholder Report on UBS’s Write-Downs” was damning.... The report excoriated the firm’s risk management controls and testing methodologies, asserting “complex and incomplete risk reporting,” “lack of substantive assessment,” “inadequate systems,” “lack of strategic coordination,” and “inability to accurately assess valuation risk on a timely basis.” The board’s own processes lacked accountability for evaluating the firm’s risk exposures, assessments, and management.***

123. Amid the smoldering ruins, the new UBS Board Chair Oswald Grübel proclaimed: “We are building a new UBS, one that performs to the highest standards and behaves with integrity and honesty; one that distinguishes itself not only through the

clarity and reliability of the advice and service it provides but in how it manages and executes.” ***It never happened.***

B. The 2008–2009 Tax-Evasion Scandal Exposes UBS’s Wealth Management Operation’s Illegal Conduct for All to See, Costing UBS a \$780 Million Penalty and Dooming Its Business Model

124. While UBS managed to survive the great financial crisis with the Swiss rescue, the Company was not subject to tighter regulatory oversight or controls. If any lessons were learned from that disaster, they were not acted on. As a result, UBS’s troubles were not over. They had only begun. In 2008, a major scandal erupted when it was revealed that UBS was under investigation for helping thousands of United States-based clients unlawfully evade taxes. In 2009, prosecutors in the United States demanded UBS pay a \$780 million fine, agree to a criminal guilty plea and disclose the identities of the UBS tax-cheating clients.

125. The Swiss government had to intervene again to rescue UBS. This time it did so by agreeing for the first time in history to direct a Swiss bank to provide the authorities of another nation the names and account data of thousands of clients suspected of tax evasion. This investigation, the huge fine and success in forcing the Swiss government to open up UBS’s secret United States-based client roster should have doomed UBS’s worldwide tax-evasion activities going on within its Wealth Management operation.

126. Like a good many of UBS’s legal and regulatory problems, the tax-evasion scandal in the United States arose from a ***whistleblower***. In 2005, UBS banker Bradley Birkenfeld learned about UBS’s dealings with its United States-based clients, assisting them in evading taxes in violation of the express terms of an agreement between UBS and the U.S. IRS signed after the Paine Webber acquisition in 2000 for UBS to comply with tax laws.

127. In October 2005, Birkenfeld received a document prepared by UBS's legal department, which he believed was prepared to give UBS legal coverage, should the **sanctioned illegal activities** be uncovered, as the Company could then shift the blame to its employees. He complained to UBS's compliance department and then its General Counsel about the Company's "**unfair and deceptive business practices.**"

128. In 2007, Birkenfeld went to the DOJ, SEC, IRS and United State Senate investigators and told them what he knew about UBS's illegal practices. Birkenfeld compared the Swiss banking industry with gangsters. "**In essence, bank secrecy is analogous to criminal racketeering — and the Swiss government, along with every Swiss private banker, is a co-conspirator.**" Birkenfeld's own involvement was so deep, he was sent to jail; however, his information was so earthshattering, he was given a \$104 million whistleblower reward.

129. In June 2008, the Federal Bureau of Investigation made a formal request to travel to Switzerland to probe the UBS tax-evasion case. That same month, a United States Senate panel accused UBS of marketing unlawful tax-evasion strategies to wealthy Americans and helping them evade taxes through offshore accounts.

130. The later criminal information in the United States stated that Swiss bankers routinely traveled to the United States to get United States-based clients interested in attempting to evade United States income taxes. In 2004 alone, Swiss bankers traveled to the United States **3,800 times** to discuss their clients' Swiss bank accounts. UBS managers and employees **used encrypted laptops and other counter-surveillance techniques to help prevent the detection of their marketing efforts and the identities and offshore assets of their United States-based clients.** According to the prosecutors in the United States, "**UBS executives knew that UBS's cross-border business violated law**" [yet] **they refused to stop this activity, and in fact instructed their bankers to grow the business. The reason was money — the business was too profitable to give up. This was**

not a mere compliance oversight, but rather a knowing crime motivated by greed and disrespect of the law.

131. In February 2009, the DOJ fined UBS \$780 million for its Wealth Management officials' criminal conduct — ***a vast criminal conspiracy to defraud the IRS.*** The DOJ however agreed to give UBS a DPA for fear that a criminal indictment/plea by a big bank like UBS could jeopardize its ability to continue its banking business. However, the United States would give a DPA to UBS if, ***but only if***, the Swiss Government would allow UBS to give up the identities of the accountholders in the United States. The Swiss government and UBS caved and agreed that UBS would turn over the identities of thousands of tax cheaters.

132. In early 2009, UBS's Directors issued UBS's 2008 Annual Report. They admitted UBS's significant risk-management and control weaknesses but promised an extensive remediation plan to fix these problems:

As announced on 18 February 2009, UBS settled a U.S. cross-border case with the U.S. Department of Justice and the U.S. Securities and Exchange Commission by entering into a Deferred Prosecution Agreement with the DOJ and a Consent Order with the SEC.... ***In addition, pursuant to an order issued by the Swiss Financial Market Supervisory Authority, information was transferred to the DOJ regarding accounts of certain U.S. clients as set forth in the DPA. The total cost for the settlement of U.S.D 780 million ... This episode makes it particularly clear that our control framework must be extremely robust ...***

UBS identified significant weaknesses in its risk management and control organization.... As a result of these weaknesses, the firm failed to adequately assess correlated risks and risk concentrations. In order to address these weaknesses, UBS launched an extensive remediation plan, which included the overhaul of its risk governance, significant changes to risk management and control personnel, as well as improvements in risk capture, risk representation

and risk monitoring. Implementation of this plan is ongoing and remains a high priority for UBS.

133. There was no remediation of what was going on in the Investment Banking operation. The risk-management and legal/regulatory-compliance controls were never fixed, the out of control, illegal, selfish conduct continued — ultimately costing UBS billions in fines and penalties. Nor was there remediation of what was going on in UBS's Wealth Management operation. UBS's Directors and Officers allowed the Wealth Management operation's illegal conduct to continue.

134. When other nations began to follow the success of the United States and pursued UBS for its officials' illegal conduct in their countries, UBS Directors condemned the actions as a "politicized process," tried to cover up the ongoing improper conduct, and intimidated whistleblowers and witnesses, all of which infuriated regulators and prosecutors. Instead of "coming clean" and "going straight" as required by the law, UBS's Code of Conduct and Ethics, the Swiss Code of Obligations/Company law and concepts of due care and prudence, in particular with regard to "***compliance with the law***," the Directors permitted the illegal conduct to continue. In the end, this conduct, undertaken to entrench themselves in their privileged, powerful positions at the top of the Swiss financial world, caused billions of dollars in damages to UBS and forever scarred its corporate reputation.

C. The 2010–2012 Investment Bank and Wealth Management Operations' Fines, Penalties and Misconduct³

1. Investment Bank 2010/2012

135. After promising reform and remediation in the wake of its rescue from near failure in 2007–2008, and then immediately being caught in the devastating, tax-evasion

³ The following sections contain many but by no means all of the enforcement actions, prosecutions, regulatory proceedings, criminal investigations, private lawsuits and the resulting billions of dollars in fines, penalties and settlements due to the misconduct of UBS's officials — not only in violation of UBS's own Code of Conduct but

criminal proceeding, in September 2011 UBS shocked markets, regulators and its owners/shareholders by revealing an ***over \$2 billion trading loss due to the misconduct of a 31-year-old employee — virtually a trainee.*** The UBS Investment Banking officials had been warned of, but nevertheless permitted, massive, uncontrolled, unauthorized, risky trading in speculative securities that resulted in another huge loss to UBS. The NYT reported:

UBS Blames \$2 Billion Loss on Rogue Trader

UBS said on Thursday that a rogue trader in its investment bank had lost \$2 billion, delivering a fresh blow to the beleaguered Swiss bank. The police in London have arrested ... trader, Kwaku Adoboli ...

The incident raises questions about the bank's management and risk policies at time when it is trying to rebuild its operations and bolster its flagging client base.

“It’s a shock, a real negative surprise,” said Panagiotis Spiliopoulos, head of research at the private bank Vontobel in Zurich. ***“People thought that after the bank had been revamped following 2008 crisis, it was set up in a way that could avoid this kind of event.”***

136. In the uproar of criticism over the astonishing \$2 billion trading loss, *The Guardian* pointed out how this incident was part of a ***pattern of misconduct:***

UBS, the Big Bank that Can’t Stay Out of Trouble, Shakes the City Again

Blue lights flashing a waiting police van roared into life as it prepared to drive alleged rogue trader Kwaku Adoboli into custody Adoboli’s employers at UBS knew the Swiss bank was about to be rocked to its foundations — again.

the laws and regulations of many nations. An international bank’s reputation is impacted — and can be destroyed — by media coverage over time. This information is presented to show how the ***accumulation*** of negative coverage/publicity and its painting of the “pattern” of misconduct has scarred UBS’s reputation for legal compliance, honesty, integrity, and fair dealing all over the world.

The drama unfolding at UBS's London headquarters was the ***worst nightmare for a management [that has] been striving to restore the bank's reputation.***

During the credit crunch, UBS was left reeling. It was bailed out by the Swiss government.... It faced charges in the same year of providing services to American clients seeking to evade taxes and was fined nearly \$800m by the U.S. authorities in ***a long, tortuous case that heaped shame on the Swiss financiers.***

Now it faces more turmoil than anyone could have imagined... the bank is engulfed in another large, embarrassing controversy ...

But for all its conservative airs and graces, UBS has never been far from controversy. It reported the highest losses of any Swiss company in 2008 when it plunged \$17bn into the red and wrote down \$48bn in sub-prime and other mortgage assets.

As if that wasn't enough, in July 2008, a U.S. Senate panel accused UBS of enabling wealthy Americans to evade taxes through offshore accounts.

The bank agreed to pay \$780m and entered into a deferred prosecution agreement on charges of conspiring to defraud the U.S. by impeding the Internal Revenue Service. The day after settling its criminal case, the U.S. government filed a civil suit against the bank to reveal the names of all 52,000 American clients [and] Swiss lawmakers approved a deal to reveal client data and account details of Americans who were suspected of tax evasion.

The tax row seriously damaged UBS's reputation ...

137. In September 2011, *IEEE Spectrum* reported:

Swiss Bank UBS: Rogue Trader Took Us for \$2 Billion

The Swiss Bank UBS is probably feeling more than a little humiliated and shamed today when it had to announce this morning that it had discovered that a trader had caused at

least \$2 billion in losses to the bank due to unauthorized trading.

The announcement stunned the European financial community and no doubt the UK's Financial Services Authority (FSA) and Switzerland's Financial Market Supervisory Authority (FINMA). ... ***[I]internal risk management controls were supposed to have been beefed up at all major European banks. In UBS's case, even more so.***

The reason is that UBS, which once claimed that it was the world's foremost bank at managing risk, ran up huge losses in 2008 and into 2009 ***because its risk management systems, practice and culture were so pitifully poor, especially in its trading practice.***

138. Heads soon rolled. In late September 2011, the *WSJ* reported:

UBS Chief Grübel Resigns After Trading Loss

Oswald Grübel resigned as chief executive of embattled Swiss bank in the wake of a trading loss that cost the bank more than \$2 billion ... [in] ***the investment bank, which has produced one giant headache after another for the firm in recent years.***

The resignation of Mr. Grübel, ... marks yet another low point for a once-proud firm that has lurched from one dramatic setback to another in the past three years...

139. Then, the *WSJ* reported in early October 2011:

UBS Equities Chiefs Resign in Wake of Scandal

One of the ***co-chief operating officers of the equities division also resigned, and seven other equities officials were suspended ...***

The bank said an internal investigation found that executives ***failed to respond to warnings of unauthorized trades by a London-based trader. "Risk and operational systems did detect unauthorized or unexplained activity but this was not sufficiently investigated nor was appropriate action taken to***

ensure existing controls were enforced,” said interim Chief Executive Sergio Ermotti ...

140. The continuing control failings in the Investment Banking operations were substantial and pervasive. *Computer Weekly* reported:

UBS Systems Detected \$2bn Rogue Trader Fraud, Admits CEO Sergio Ermotti

... CEO Sergio Ermotti has admitted systems in the banks IT infrastructure ***did detect the unauthorized trading activities of the rogue trader who cost UBS over \$2bn ... nothing was done about the warning signals.***

“We have to be straight with ourselves. ***In no circumstances should something like this ever occur. The fact that it did is evidence of a failure to exercise appropriate controls. Our internal investigation indicates that risk and operational systems did detect unauthorized or unexplained activity, but this was not sufficiently investigated nor was appropriate action taken.***”

141. In September 2011, *Reuters* similarly reported:

New UBS Boss Seeks Fresh Start After Trading Scandal.

... Sergio Ermotti said on Saturday the scandal had revealed a risk exposure that was ***“totally unacceptable.”*** ...

142. On September 25, 2011, *Bloomberg* reported that UBS was in “disarray.” That same day, *Reuters* reported that “gallows humor” was circulating within UBS, with one senior banker commenting: “Oops, we did it again.” *Reuters* quoted “a senior Swiss banker who used to work at UBS” as stating: “This is a catastrophe ... a problem of governance ... not the strongest board of directors.”

143. Regulators imposed a large fine on UBS for the failures and misconduct of its officials in the Investment Bank’s trading scandal which had already cost UBS \$2.3 billion, finding ***“serious weaknesses in the internal controls of its investment***

banking unit.” In November 2012, the *NYT* reported: ***UBS Fined \$47.5 Million in Rogue Trading Scandal***

Britain’s Financial Services Authority fined UBS ... on Monday for failing to prevent a \$2.3 billion loss caused by a former trader.

The fine, the equivalent of \$47.6 million, ***was one of the largest penalties issued by the British regulator. UBS was found to have had serious weaknesses in the internal controls of its investment banking unit.***

“UBS’s systems and controls were seriously defective,” Tracey McDermott, director of enforcement and financial crime at the Financial Services Authority, said in a statement.

144. The compliance controls and supervision failures in UBS’s Investment Banking operation were not limited to the sub-prime speculation disaster in New York, or the trading operations in London which inflicted billions in losses and damages upon UBS. The compliance and risk failures and out-of-control profit-at-any-price culture that fed that misconduct ***were spread throughout the Investment Bank — on Wall Street, in Puerto Rico and in its Asian Investment Banking operations.*** Officials in UBS’s Investment Bank were involved in repeated instances of market manipulation and price fixing, cheating counterparties and its own customers.

145. UBS’s Investment Bankers were ***“rigging bids” — cheating*** in municipal bond offerings of securities. In May 2011, the SEC announced: ***SEC Charges UBS With Fraudulent Bidding Practices Involving Investment of Municipal Bond Proceeds***

UBS to Pay \$160 Million to Settle Charges

The SEC today charged UBS Financial Services Inc. (UBS) with ***fraudulently rigging at least 100 municipal bond reinvestment transactions in 36 states and generating millions of dollars in ill-gotten gains.***

To settle the SEC's charges, UBS has agreed to pay \$47.2 ... UBS ... also agreed to pay \$113 million to settle parallel cases brought by other federal and state authorities.

UBS illicitly won bids ... and also rigged bids ... facilitated the payment of improper undisclosed amounts to other bidding agents. In each instance, UBS [made] ... ***fraudulent misrepresentations or omissions, thereby deceiving municipalities and their agents.***

“Our complaint against UBS reads like a ‘how-to’ primer for bid-rigging and securities fraud,” said Elaine C. Greenberg, Chief of the SEC's Municipal Securities and Public Pensions Unit. ***“They used secret arrangements and multiple roles to win business and defraud municipalities through the repeated use of illegal courtesy bids... and money to bidding agents disguised as swap payments.”***

146. UBS's Investment Bank had a large operation in Puerto Rico, where officials targeted, exploited, and cheated uniquely vulnerable investors. They engaged in a course of misconduct — cheating its customers, operating with conflicts of interest and market manipulation of closed end Puerto Rico bond funds. They disadvantaged UBS's own customers to “front run” them, unloading millions in overvalued mutual fund shares in UBS's inventory while holding off selling UBS clients' own shares, often leaving them with their holdings destroyed.

147. In mid-2012, UBS was named in the first of what would be several enforcement actions by the SEC and Puerto Rico securities regulators, private suits and ultimately over 2,000 arbitration claims arising out of the misconduct at the Investment Banking operations in Puerto Rico. ***These proceedings have cost UBS at least \$500 million thus far; over 1,000 arbitration claims and a criminal investigation remain.***

148. In May 2012, the SEC, in announcing a major enforcement action against UBS, including a \$26.6 million payment, laid out what UBS's officials in the Puerto Rico

Investment Banking operation had done: ***SEC Charges UBS Puerto Rico and Two Executives with Defrauding Fund Customers***

UBS Puerto Rico agreed to settle the SEC's charges by paying \$26.6 million ...

"UBS Puerto Rico denied its closed-end fund customers what they were entitled to under the law — ***accurate price and liquidity information, and a trading desk that did not advantage UBS's trades over those of its customers ...***"

Eric I. Bustillo, Director of the SEC's Miami Regional Office, added, "We will aggressively prosecute firms that ***use conflicts of interest for their own financial gain.***"

According to the SEC's order..., UBS Puerto Rico solicited thousands of retail investors by promoting the closed-end funds' market performance and continuously high premiums to net asset ... When investor demand began to decline, UBS Puerto Rico sought to maintain the illusion of a liquid market by buying shares into its own inventory from customers who wished to exit the market. Despite a falling market ...

According to the SEC's order, UBS Puerto Rico's parent firm determined in the spring of 2009 that UBS Puerto Rico's growing closed-end fund inventory represented a financial risk, and directed the firm to reduce its inventory by 75 percent to reduce that risk ... To accomplish the reduction, UBS...executed a plan dubbed "Objective: ***Soft Landing***" ..., which included:

- ***Undercutting numerous marketable customer sell orders to "eliminate" those orders and liquidate UBS Puerto Rico's inventory first, preventing customers from selling their shares.***
- ***Not disclosing that UBS Puerto Rico was drastically reducing its inventory purchases.***

UBS Puerto Rico agreed to settle the SEC's charges, ... that it ***violated*** Section 17(a) of the Securities Act of 1933, Sections 10(b) and 15(c) of the Securities Exchange Act of 1934 and Rule 10b-5 In addition to the monetary relief, the SEC's

order ***censures*** UBS Puerto Rico, directs it to ***cease-and-desist*** from committing or causing any further violations ...

149. Year end 2012 brought with it the ***biggest yet UBS Investment Banking scandal — and the largest fine ever***. In December 2012, UBS had to agree to pay fines and penalties of \$1.5 billion for its officials' criminal ***behavior in not just participating in but leading a worldwide interest rate price-rigging conspiracy known as LIBOR — the largest price fix in history***. However, as with the tax-evasion case in 2009 in the United States, UBS itself again was permitted to avoid a guilty plea for fear of harming the Company's ability to continue to operate. UBS's Japanese Investment Banking subsidiary "***took the fall***" for UBS.

150. In December 2012, the DOJ announced: ***UBS Securities Japan Co. Ltd. To Plead Guilty to Felony Wire Fraud for Long-Running Manipulation of LIBOR Benchmark Interest Rates***

UBS Securities Japan Co. Ltd. (UBS Japan), an investment bank, ... and ***wholly-owned subsidiary of UBS AG, has agreed to plead guilty to felony wire fraud and admit its role in manipulating the London Interbank Offered Rate (LIBOR), a leading benchmark used in financial products and transactions around the world***

UBS Japan has signed a plea agreement with the government admitting its criminal conduct, and has agreed to pay a \$100 million fine. In addition, UBS AG, the parent company ... has entered into a non-prosecution agreement (NPA) with the government requiring UBS AG to pay an additional \$400 million penalty, to admit and accept responsibility for its misconduct as set forth in an extensive statement of facts ...

Together with approximately \$1 billion in regulatory penalties and disgorgement — \$700 million as a result of the Commodity Futures Trading Commission (CFTC) action; \$259.2 million as a result of the U.K. Financial Services Authority (FSA) action; and \$64.3 million as a result of the

Swiss Financial Markets Authority (FINMA) action — ***the Justice Department’s criminal penalties bring the total amount of the resolution to more than \$1.5 billion.***

“By causing UBS and other financial institutions to spread false and misleading information about LIBOR, the alleged conspirators we’ve charged – along with others at UBS – manipulated the benchmark interest rate upon which many transactions and consumer financial products are based. They defrauded the company’s counterparties of millions of dollars. ***And they did so primarily to ... secure bigger bonuses, for themselves,***” said Attorney General Holder.

“UBS manipulated one of the cornerstone interest rates in our global financial system,” said Assistant Attorney General Lanny A. Breuer of the Justice Department’s Criminal Division. ***“The scheme alleged is epic in scale, involving people who have walked the halls of some of the most powerful banks in the world ... We cannot, and we will not, tolerate misconduct on Wall Street of the kind admitted to by UBS today***

151. In December 2012, the *WSJ* reported:

UBS Admits Rigging Rates in ‘Epic Plot’

U.S., UK and Swiss authorities alleged a ***vast conspiracy led by UBS AG to rig interest rates tied to trillions of dollars in loans and other financial products***

UBS agreed to pay about \$1.5 billion to settle charges against the Swiss bank, and a unit in Japan where much of the wrongdoing occurred pleaded guilty to criminal fraud.

... ***“We are taking responsibility for what happened,”***
UBS Chief Executive Sergio Ermotti said ...

Regulators described the alleged illegality as ***“epic in scale” with dozens of traders and managers in a UBS led ring of banks and brokers conspiring to skew interest rates to make money on trades. The six-year effort “seriously compromised”*** the integrity of financial markets ...

Traders openly boasted to each other about their prowess ... ***“Think of me when yur on yur yacht in Monaco,”*** one broker said in an electronic chat in 2009 with the UBS trader at the center of the alleged conspiracy.... The broker congratulated the trader on ***“getting bloody good” at rate-rigging*** ...

UBS isn’t facing criminal charges. Justice Department officials said they decided not to charge the Zurich-based company, fearing such a move could endanger its stability.

The deal also is valuable ammunition for dozens of lawsuits filed in U.S. courts against banks by aggrieved customers, investors and others, seeking billions of dollars for alleged Libor manipulation.⁴

152. In December 2012, the *FT* reported: ***UBS Pays Price for ‘Epic’ Libor Scandal***

The FSA said the bank made ***“corrupt brokerage payments”*** to reward brokers who participated in the manipulation scheme.

In one instance, the UK watchdogs reports that a UBS trader told a broker that if he left a particular rate unchanged that day: ***“I will f***ing do one humongous deal with you... I’ll pay you, you know, 50,000 dollars, 100,000 dollars ... whatever you want.”***

Sergio Ermotti, UBS chief executive, said ... “We deeply regret this inappropriate and unethical behavior. No amount of profit is more important than the reputation of this firm, and we are committed to doing business with integrity....”

153. The *BBC* reported: ***UBS Fined \$1.5bn for Libor Rigging***
U.S. Assistant Attorney General Lanny Breuer described UBS’s behavior as ***“simply astonishing.”***

⁴ These private lawsuits — some of which are specified herein — are a direct consequence of the wrongdoing of UBS’s officials. Many of these suits, as well as arbitration proceedings, are pending, continuing to proceed and continuing to inflict damage on UBS.

“Make no mistake — for UBS traders, the manipulation of Libor was about getting rich.”

The FSA said that the misconduct at UBS was extensive and widespread and involved at least 45 individuals.

“At least 2,000 requests for inappropriate submissions were documented ...” the FSA said.

“Manipulation was also discussed in internal open chat forums and group emails, and was widely known.” Despite this, five separate internal audits by the bank’s compliance department failed to pick up on the misbehavior.

154. Just as they violated the tax-evasion DPA by ignoring it and continuing to allow UBS’s Wealth Management’s operations to engage in tax-evasion activities, despite the giant Libor fine and another DPA, after this plea deal UBS’s officials ignored and violated UBS’s obligations and continued to fix and manipulate trading and prices in trading markets, continuing this illegal course of conduct in the Investment Banking operation. This ongoing wrongdoing resulted in the Forex scandal and UBS’s punishment — and corporate criminal plea and enhanced fines — a few years later.

155. In December 2012, the *FT* took stock of this sorry situation at one of the world’s largest banks. The *FT* laid out how this incident was part of an ongoing pattern of penalties on UBS because of the continuing misconduct of its officials, facilitated by inadequate legal/regulatory compliance controls, risk-management procedures and lack of care, diligence and oversight by the Directors and Officers:

UBS Never Took Enough Interest In Its Risks The Sfr1.4bn penalty levied on UBS for its organised rigging of official Libor interest rates would come as a shock at many banks. ***But UBS has brought a special quality of poor management — and worse — to investment banking for the past two decades. This is just another episode in a saga of ambition, incompetence and malfeasance.***

Again and again — in the 2008 financial crisis in which it lost \$38bn on credit derivatives; in the scandal over tax evasion by private bank clients that led to a \$780m fine; in its failure to stop Kweku Adoboli, the rogue trader who lost \$2.3bn — ***the bank's executives have been exposed as knowing little about what was going on below.***

... [In] the 2008 crisis, in which it had to be bailed out by the Swiss National Bank after its board failed to grasp that it had been loaded with subprime debt.

As his report was published in October 2010, UBS's then-chairman, Kaspar Villiger, pledged that things had changed. ***Inside the investment bank, Mr. Villiger told shareholders, business units were being "closely monitored"***

It cut too many corners to compete in an industry in which extreme caution was required. ***Now, at last, it has to change its ways.***

156. But UBS Directors and Officers never changed their — or UBS's ways — neither in its reckless, out of control and illegal activities or the care and caution and prudence which they continuously failed to exercise over its Investment Banking and Wealth Management operations.

2. Wealth Management 2010/2012

157. The tax investigation and huge fine imposed did not escape the notice of tax officials/prosecutors of other nations. As early as August 2012, *Der Spiegel* reported:

German Authorities Investigate UBS in Relation to Tax Evasion

German investigators who recently [obtained] data on UBS bank clients have come into possession of documents that show how ***Swiss banks allegedly help clients transfer their assets to Southeast Asia to evade taxes.... "For the first time, we have a paper trail to Singapore,"*** a source ... told the newspaper.

The UBS material is apparently so revealing that the investigation into the bank has now become the priority." The investigators are said to have obtained video material which show "senior (UBS)

employees” giving instructions on how German clients can invest their money with the bank in a “tax-optimized” manner — in other words, keeping it concealed from the tax office.

D. The 2013–2015 Investment Bank and Wealth Management Operations’ Fines, Penalties and Misconduct

1. Investment Bank 2013/2015

158. The serious misselling — cheat abuse — conduct in UBS’s Investment Banking operation continued to be exposed as 2013 began. In February 2013, the FCA reported: UBS Fined 9.45m for Failings in its Sale of an AIG Fund

... UBS sold the Fund to 1,998 high net worth customers, with initial investments totaling approximately £3.5 billion.

UBS’s failings were **serious** and included:

- ***failing to carry out adequate due diligence on the Fund before selling it to customers.*** In addition, UBS failed to ensure its advisers were provided with appropriate training about the Fund ...

As a result of these failings, UBS breached FSA Principle 9 (ensuring the suitability of its advice) and Principle 6 (***treating customers fairly***).

Tracey McDermott, director of enforcement and financial crime, said:

“UBS’s conduct fell far short of what its customers deserved and what the FSA requires. It failed to ensure it understood the product it was selling, failed to recommend it to the right customers ...

... UBS has paid the price for its failures and we will continue to take strong action against firms who fail to do the right thing for their customers.”

159. Continuing penalties illustrate how UBS’s Investment Banking officials were engaged in a pattern of cheating UBS customers. In August 2013, the SEC

announced: ***UBS to Pay \$50 Million to Settle SEC Charges of Misleading CDO***

Investors

The SEC today charged UBS Securities with violating securities laws while structuring and marketing a collateralized debt obligation (CDO) ... ***UBS agreed to pay nearly \$50 million to settle the SEC's charges.***

In the settlement, UBS agreed to pay disgorgement of the \$23.6 million in upfront payments as well as the disclosed fee of approximately \$10.8 million plus prejudgment interest of approximately \$9.7 million and a penalty of \$5.7 ... UBS consented to the entry of an order finding that it ***violated*** Section 17(a)(2) and Section 17(a)(3) of the Securities Act of 1933 ...

160. The subprime mortgage failings and misconduct of UBS's banking officials not only damaged UBS, it also damaged UBS investors in UBS merchandised subprime securities, including government agencies — causing them billions in losses. UBS's insiders termed these securities “***a bag of shit***,” and “***leprosy***,” while UBS Investment Bank insiders insider traded — unloading in those securities for their own profit at the expense of UBS's customers. The resulting suits and settlements have cost UBS over a billion dollars, continue to unfold and will likely cost ***billions more***.

161. In July 2013, *Reuters* reported: ***U.S. Regulator Announces \$885 Million Settlement With UBS***

A U.S. regulator on Thursday said it reached an \$885 million settlement with UBS over allegations the bank misrepresented mortgage-backed bonds that were sold to Fannie Mae and Freddie Mac during the housing bubble.

Under the terms of the agreement with the Federal Housing Finance Agency, UBS must pay about \$415 million to Fannie Mae and \$470 million to Freddie Mac to resolve claims related to securities sold to the companies between 2004 and 2007.

162. After the SEC punished UBS for its Investment Bank's officials' misconduct in Puerto Rico in 2012, the Puerto Rico securities regulator did the same in 2014. In October 2014, the *WSJ* reported:

UBS to Pay \$5.2 Million Over Puerto Rico Bond Losses

Puerto Rico's financial regulator ordered UBS AG to pay \$5.2 million in fines and restitution over the bank's sale of bond funds...

UBS also will pay \$3.5 million to an investor education and investigation fund, the regulator said.

163. In November 2014, *The Telegraph* reported on a London trial that exposed an example of UBS Investment Banking officials' dishonest practices, harming investors in this instance while working corruptly with a partner (Value Partners) (a German municipal water company — KWL). Again, conduct of UBS's officials utterly inconsistent with UBS's Code of Conduct and Ethics — and the civil law — damaged UBS: ***UBS Loses Lawsuit Over Derivatives Deals with German Water Company.***

Three-month court case heard that UBS banker ordered strippers for consultants advising the Leipzig municipal water firm [UBS lost] lawsuit against a German water company for almost \$140m in payments linked to derivative deals, in a case the judge described as “***a sorry story of greed and corruption.***”

“***The trial has revealed a sorry story of greed and corruption...***,” said Mr. Justice Males in his summary of the case. “***For UBS it has been a case study in how not to conduct investment banking in an honest and fair way.***”

164. In November 2014, the FCA in England announced it had fined UBS \$371 million and that the Swiss regulators had also ordered \$138 million in disgorgement — a total of over \$500 million — because UBS officials (and those from other banks) had participated in very serious wrongdoing in manipulating the FX (FOREX) market — ***the***

same type of misconduct that led to the Libor scandal a few years earlier.

Given the repetitive nature of the misconduct the regulators were encountering, they were especially harsh in excoriating UBS for its Directors' and Officers' disregard of the need for effective controls. On November 12, 2014, *Fine Extra.com* reported:

FCA Fines Five Banks 1.1 Billion for FX Failings and Announces Industry-Wide Remediation Programme

Between 1 January 2008 and 15 October 2013, ineffective controls at the Banks allowed G10 spot FX traders to put their Banks' interests ahead of those of their clients, other market participants and the wider UK financial system. The Banks failed to manage obvious risks around confidentiality, conflicts of interest and trading conduct.

These failings allowed traders at those Banks to behave unacceptably.... including in collusion with traders at other firms ...

Today's fines are the largest ever imposed by the FCA. We have worked closely with other regulators in the UK, Europe and the U.S.: today the Swiss regulator, FINMA, has disgorged CHF 134 million (\$138 million) from UBS AG.

Martin Wheatley, chief executive of the FCA, said:

"The FCA does not tolerate conduct which imperils market integrity or the wider UK financial system. Today's record fines mark the gravity of the failings we found and firms need to take responsibility for putting it right. They must make sure their traders do not game the system to boost profits or leave the ethics of their conduct to compliance to worry about. Senior management commitments to change need to become a reality in every area of their business.

Tracey McDermott, the FCA's director of enforcement and financial crime, said:

"Firms could have been in no doubt, especially after Libor, that failing to take steps to tackle the consequences of a

free for all culture on their trading floors was unacceptable. This is not about having armies of compliance staff ticking boxes. It is about firms understanding, and managing, the risks their conduct might pose to markets. If they fail to do so they will continue to face significant regulatory and reputational costs.”

165. UBS’s Forex misconduct was worldwide. Prosecutors in the United States were infuriated over UBS’s involvement in the most recent price-fixing market manipulation in ***defiance of the Libor prohibition in the DPA in 2012***. Because of the brazenness of their ***continuing course of conduct — that pattern of illegality*** — the Prosecutors condemned UBS and insisted it — UBS — the corporate entity plead guilty to felony criminal conduct regardless of the consequences to its business.

166. In May 2015, the NYT reported:

UBS to Pay Over \$500 Million in Fines for Manipulating Currencies and Libor

The Swiss bank UBS said on Wednesday that it would pay more than \$500 million in fines to the authorities in the United States for its role in the manipulation of currency markets and benchmarks interest rates.

UBS said it would not face a criminal charge over currency misconduct ***but would be required to separately plead guilty to a criminal charge for its prior conduct over the manipulation of the interest rates***, ... after the Justice Department tore up a 2012 nonprosecution agreement.

As part of its latest agreement with the American authorities, ***UBS will pay penalty of \$342 million to Federal Reserve related to the foreign currency investigation ...***

The Fed and the Connecticut Department of Banking will also jointly issue a ***cease-and-desist order finding that UBS engaged in “unsafe and unsound business practices ...”***

The Justice Department took the unusual step of tearing up its prior nonprosecution agreement with UBS, citing the foreign currency violations.

In December 2012, UBS agreed to pay a combined \$1.5 billion to the authorities in the United States, Britain and Switzerland for its role in a multiyear scheme to manipulate benchmark interest rates.

As part of its prior settlement, the bank's Japanese subsidiary pleaded guilty to a criminal charge of wire fraud in the United States, ***but the parent company was allowed to enter a nonprosecution agreement ...***

Because its conduct violated that agreement, UBS will plead to a criminal charge of wire fraud in the Libor matter, pay a \$203 million fine and accept a three-year term of probation.

167. UBS's Directors had achieved another first. ***This was the first time the DOJ ever voided a DPA.*** In May 2015, *Bloomberg* reported:

UBS Said to be Probed for Deferred-Prosecution Breach

U.S. investigators scrutinizing whether UBS Group AG illegally used unregistered securities to help Americans dodge taxes want to know whether such conduct occurred while the bank was under justice Department supervision in an earlier tax-evasion case

UBS, the largest Swiss bank, avoided prosecution in February 2009 when it admitted to helping Americans evade taxes, paid \$780 million and handed over 250 secret accounts. In a deferred-prosecution agreement with the Justice Department, the firm promised to follow the law and cooperate with the U.S.

168. In May 2015, the *WSJ* reported how the continuing pattern of misconduct by UBS Investment Banking officials was causing regulators and prosecutors to inflict extra heavy punishments on UBS:

Justice Department to Tear Up Past UBS Settlement

The bank promised not to break the law in its 2012 deal and it violated those terms when its traders engaged in the currency-market misconduct after the 2012 agreement, [prosecutors] said.

UBS also was viewed by the Justice Department as a repeat offender, having reached previous settlements including one in 2011 related to antitrust violations in the municipal-bond investment market.

Ms. Caldwell's message in the talks was stern: UBS was a recidivist having previously settled with the Justice Department over antitrust violations and had also obtained a deferred-prosecution agreement in 2009 to resolve charges it helped American taxpayers hide money overseas.

169. In May 2015, the *FT* reported:

DOJ Hard Line on UBS Raises Concerns on Deals with Regulators

It is the first time the DoJ has ever voided a so-called non-prosecution agreement (NPA).

Leslie Caldwell, assistant attorney-general, ***said UBS's history as a repeat offender affected the way the Swiss bank was treated in the Libor and forex cases.***

"Unlike the other banks, UBS has a rap sheet that simply cannot be ignored," Ms. Caldwell said at a press conference on Wednesday. ***"Enough simply is enough."***

170. On May 20, 2015, the DOJ announced:

Five Major Banks Agree to Parent-Level Guilty Pleas

In declaring UBS in breach of its non-prosecution agreement, the Justice Department considered UBS's conduct described above in light of UBS's obligation under the non-prosecution agreement to commit no further crimes. The department also considered UBS's three recent prior criminal resolutions and multiple civil and regulatory resolutions.

UBS [has] agreed to a three-year period of corporate probation, which, ... will be overseen by the court and require regular reporting to authorities as well as cessation of all criminal activity.

171. This incessant, recidivist misconduct — dishonesty — criminality — has had materially adverse collateral consequences on other parts of UBS's business, *i.e.*, investment or money management. You cannot be trusted to manage other people's money if you have repeatedly been proven to be running a dishonest, felonious, criminal type operation. This endless pattern of criminal conduct by UBS officials creates a very serious problem for UBS in this regard.

172. In May 2015, the *FT* reported:

UBS to Pay \$545M to U.S. Authorities Over Forex and Libor Scandals

This means the bank would need waivers from the U.S. Department of Labor and the Securities and Exchange Commission to continue doing business.

173. In August 2015, the *FT* reported:

Three European Banks Fight for Right to Manage U.S. Pensions

Three of Europe's biggest banks are scrambling to keep their right to manage money for U.S. pensioners after regulators threatened to withdraw it as further punishment for pleading guilty to market manipulation earlier this year.

The U.S. Department of Labor has ***written letters ... UBS informing them it has "tentatively decided not to propose" exemptions requested by the three banks that would allow them to continue managing retirement accounts after their guilty pleas.***

174. The loss of the ability to manage pension money in the United States would be a huge loss to UBS. Given the "rap sheet" its Directors have generated, this will remain a constant threat.

175. UBS's Investment Banking misconduct also has a decades-long track record of money laundering and monetary transfers in violation of the anti-terrorist sanctions. As early as 2004, in breach of a contractual agreement with the U.S. Federal Reserve, UBS engaged in blatant terrorist monetary transfer violations, falsified its reports to the Federal Reserve, and ***was fined \$100 million — at that time an extremely large fine***. On May 11, 2004, the *Associated Press* reported:

UBS Fined \$100 Million Over Trading of Dollars

The Federal Reserve fined.... UBS, \$100 million on Monday, accusing it of violating United States trade sanctions by sending dollars to Cuba Iran, Libya and Yugoslavia.

UBS operated a trading center for dollars in its Zurich headquarters under contract with the Federal Reserve of New York, to help circulate new United States notes and retire old ones.

A condition of the arrangement was that UBS not deliver or accept dollar notes to or from banks in countries under trade sanctions.

In an announcement, the Federal Reserve said that UBS had violated the agreement and ... ***intentionally concealed the transactions by falsifying monthly reports made to the Fed.***

The Swiss Federal Banking Commission reprimanded UBS and said it would inspect its operations to ensure that corrective actions were effective.

“UBS recognizes ***that very serious mistakes were made, accepts the sanctions and expresses its regret,***” the bank said. “It has already instituted corrective”

176. In August 2015, UBS paid additional millions in penalties for officers and employees within the Compliance Department's (including its most senior-level

manager) knowing violations of terrorist sanction monetary transfer rules, in “reckless disregard” of the law, despite receiving numerous warnings:

UBS AG Settles Potential Liability for Apparent Violations of the Global Terrorism Sanctions Regulations

UBS ... agreed to remit \$1,700,100 to settle its potential civil liability for 222 apparent violations ... the Global Terrorism Sanctions Regulations From January 2008 to January 2013, UBS processed 222 transactions [for a cheat] ... designated by the U.S. Department of the Treasury, [via] “Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism.”

The settlement amount reflects OFAC’s consideration of the following facts and circumstances ***The following were considered aggravating factors:***

- ***UBS acted with reckless disregard for U.S. sanctions requirements by failing to implement adequate controls to prevent the apparent violations from occurring despite receiving numerous warning signs that its conduct could lead to violations of U.S. sanctions laws;***
- ***multiple business lines and personnel within UBS, including supervisory and management staff within the bank’s Compliance department, had actual knowledge of the conduct that led to the apparent violations;***

- ***UBS is a large and commercially sophisticated international financial institution; and although multiple personnel within UBS’s Compliance department were aware of the Client’s OFAC designation, including the most senior-level manager at UBS Switzerland responsible for sanctions compliance, the bank failed to implement any steps or measures to prevent UBS from processing transactions for the Client to or through the United States.***

177. UBS continued to pay a price for its Puerto Rico misconduct. In September 2015, the SEC announced the imposition of a \$15 million penalty on UBS for misconduct,

including negligence and material misstatements, involving the Puerto Rico Investment Banking operations:

**In the Matter of UBS Financial Services Incorporated
of Puerto Rico**

In the Orders, the Commission found that, from at least 2011 through 2013, UBSPR ... violated the federal securities laws by failing to supervise [employees] who engaged in conduct that violated the anti-fraud provisions of the securities laws. ***In their respective Orders, the Commission ordered UBSPR to pay a total of \$15,000,000.00 in disgorgement, prejudgment interest, and civil money penalties ...***

The SEC's order found that ***UBS acted negligently by misleading investors through material misstatements or omissions*** ... UBS agreed to cease and desist from committing or causing any similar future violations, to pay disgorgement and prejudgment interest of \$11.5 million to distribute \$5.5 million of the disgorgement funds to investors to cover the total amount of investor losses, and to pay a civil monetary penalty of \$8 million.

178. That same month, in September 2015, FINRA announced yet another sanction and fine of UBS:

FINRA Sanctions UBS Puerto Rico \$18.5 Million for Supervisory Failures Regarding Sales of Puerto Rican Closed-End Funds and Related Loans

The Financial Industry Regulatory Authority (FINRA) announced today that it has censured and fined UBS Financial Services Incorporated of Puerto Rico (UBS PR) \$7.5 million for supervisory failures related to the suitability of transactions in Puerto Rican closed-end fund (CEF) shares. In addition, FINRA ordered UBS PR to pay approximately \$11 million in restitution to 165 customers who were forced to realize losses on their CEF positions.

179. In the Fall of 2015, the SEC announced:

UBS to Pay \$19.5 Million Settlement Involving Notes Linked to Currency Index

The Securities and Exchange Commission today announced that UBS AG has agreed to pay \$19.5 million to settle charges that it made **false or misleading statements and omissions** in offering materials provided to U.S. investors in structured notes linked to a proprietary foreign exchange trading strategy.

180. As UBS's "**rap sheet**" of "**recidivism**" became more widely known, the financial press more frequently portrayed UBS's incessant pattern of sanctions, fines and penalties, further damaging UBS's reputation. For instance, in October 2015 a senior UBS executive was sanctioned for engaging in illegal insider trading, just as some UBS insiders had done during the 2007–2008 subprime mortgage securities collapse. The *WSJ* reported:

Former UBS Executive to Pay Insider-Trading Fine in Singapore

Singapore's central bank said ... it had taken a civil-penalty action against a top executive working at UBS Group's Indonesia office for **insider trading**.

The legal action is a further blow to the reputation of the Swiss banking giant, a day after it agreed to pay \$19.5 million to settle charges from the U.S. Securities and Exchange Commission that it provided false or misleading information in materials related to structured debt securities.

UBS also has faced penalties for financial crimes in the U.S. In May it was slapped with \$545 million in fines, after pleading guilty to wire fraud related to manipulation of foreign exchange markets. In September, a unit of the bank paid roughly \$34 million in settlements with U.S. regulators regarding the sale of Puerto Rico bond funds.

2. Wealth Management 2013/2015

181. While nations had long suspected UBS (and other Swiss banks) of assisting their citizens in evading taxes, the fallout from the U.S./UBS tax-evasion investigation, fine and DPA took time to spread to European capitals. However, once the European evasion investigations got going, there was no way the UBS Directors could hold them

back. Assisted by whistleblowers, several countries began to move forward with tax-evasion/money-laundering investigations involving UBS.

182. In June 2013, *BBC News* reported that France's prior "***inquiry***" into UBS's tax-evasion activities had been escalated to a "***formal investigation***": ***UBS Under Formal Investigation in France Over Tax Evasion — French authorities are formally investigating UBS for allegedly helping wealthy clients open undeclared bank accounts in Switzerland.***

The Swiss bank is suspected of "complicity in illegal sales practices", an official at the Paris prosecutor's office told the BBC.

It also allegedly set up a shadow accounting system that masked transfers between French and Swiss bank accounts.

The former head of UBS France, Patrick de Fayet, and two other local branch executives are already being investigated. Investigators are examining whether UBS staff broke a French law against "illicit solicitation" by actively approaching potential clients in France.

The allegations originally came to light after former staff blew the whistle on the practices that involved hundreds of retail and corporate clients.

An anonymous letter was reportedly sent to the regulatory arm of the French central bank suggesting that parallel accounts were opened in Switzerland but undeclared in France, which is illegal under French law.

Nicolas Forissier, a former internal auditor of UBS's private banking division, also told the newspaper that a special record containing a list of French clients with undeclared bank accounts was sent to the UBS's Swiss headquarters.

Stephanie Gibaud said she was asked to "***destroy a series of sensitive documents containing the names of current or potential clients who had participated in events organised on French territory.***"

“It was France that you had to milk. The French branch of UBS was just an excuse to collect [clients] for UBS Switzerland,” he told Le Monde.

183. At the same time, the *WSJ* reported:

Germany Probes UBS Staff on Tax-Evasion Allegations

Employees of Swiss bank UBS AG’s German subsidiary are under investigation by local prosecutors on suspicion that they assisted bank clients in evading German taxes for nearly a decade, a prosecution spokesman said Thursday.

The investigation, being conducted by economic crimes prosecutors in Mannheim, was started in March against unnamed employees after a tax inquiry in the southwestern state of Baden Wuerttemberg identified suspicious transfers of funds from Germany to Switzerland, allegedly executed by a German taxpayer with the assistance of the Frankfurt-based office of UBS Deutschland AG.

184. The French government quickly expanded its formal investigation which was being especially aggressively prosecuted. In June 2013, the *WSJ* reported:

UBS France Fined 10 Million in Customer Recruitment Probe

The French banking regulator Wednesday slapped the local unit of Swiss bank UBS AG with a ***record fine*** of 10 million saying UBS France had been slow in reacting to warnings that its employees were allegedly illegally helping recruit customers in France, possibly helping them evade taxes.

Under French law, only French-registered entities can sign up customers in France.

Wednesday’s development is yet another setback for the Swiss bank, which was placed earlier this month under formal investigation by French magistrates as part of a separate probe into whether it help to tried wealth French people evade taxes.

185. As the French probe escalated, *Forbes* reported:

French Criminal Tax Probe of UBS — Talk About *Déjà Vu*

Talk about *déjà vu*. The U.S. government was outraged when it learned ***UBS was regularly sending Swiss bankers onto U.S. soil to recruit deposits from Americans.*** Actively recruiting depositors with the promise of secrecy — whether one characterizes them as otherwise law-abiding or plain old tax cheats — landed UBS in a world of hurt.

And the John Doe summons heard round the world literally changed the face of Swiss banking. Now, it seems, it is France's turn to round up the usual suspects. If anything, France's claims sound even more colorful, as befits its sophistication.

The reports suggest that UBS bankers behind French lines engaged in elaborate secrecy, using a kind of banking tradecraft befitting Jason Bourne. ***Bankers were incognito, and had passwords and ruses worked out for eluding customs with encrypted computers.***

In some respects, the fact that France has formally launched the criminal probe is no surprise. After all, an inquiry was opened regarding UBS operations in France a year ago. But now the investigation is formal — and serious.

Under French law, only companies registered in France can lawfully sign customers in France. And while the American market may have been bigger, even the numbers in France sound big. Conversely, some of the bank's alleged practices sound positively quaint.

For example, some claiming knowledge of UBS tradecraft say bankers used milk notebooks — a tradition of Swiss dairymen — to record the rewards bankers could expect for sharing clients.

... It all sounds so familiar. In 2009, UBS agreed to enter into a deferred-prosecution agreement with the U.S. The giant bank eventually turned over 4,450 names and paid \$780 million in fines to the U.S.

186. As more countries moved forward, a pattern of misconduct by UBS's Wealth Management officials came into increasingly clear focus. In June 2014, the *WSJ* reported:

Belgian Police Question UBS Executive in Tax Evasion Probe

Belgian police ... detained the head of the Belgian division of Swiss banking giant UBS AG on suspicion that he and the bank helped wealthy Belgians evade billions of euros in taxes, adding to the legal problems that have ensnared UBS's wealth management business on both sides of the Atlantic.

Police detained [the] chief executive of UBS Belgium, at his office and searched his home, a spokeswoman for the Brussels prosecutor's office said.

About 40 Belgian investigators carried out the search. The investigation will continue, the spokeswoman said.

"UBS helped rich people from Belgium get their money into Swiss accounts," prosecutor's office spokeswoman Ine Van Wymerch said. "And they actively recruited Belgian clients to put their money into this illegal system."

The prosecutor's office said in a statement that evidence in their investigation was gathered from compliance officers who either left the bank or who were fired and didn't support UBS's tactics. The allegations, which cover activities beginning 10 years ago, include money laundering, serious tax fraud and running a criminal organization.

187. In July 2014, one region of Germany fined UBS \$400 million: ***Swiss UBS***

Pays Millions to Germany in Settlement Over Tax Evasion

Zurich-based UBS confirmed Tuesday it had settled investigation charges of aiding German clients suspected of evading taxes.

Switzerland's largest lender agreed with prosecutors in Bochum, Germany, to pay a fine of some 300 million euros (\$403 million). The payment will put the case to rest in Germany, but UBS continues to face similar punitive action elsewhere.

The Swiss lender also stands accused of aiding account holders from France and Belgium in hiding their money from domestic tax authorities.

188. The French tax-evasion/money-laundering prosecution continued to escalate when French prosecutors demanded and received a \$1.449 billion bail order against UBS. In July 2014, the *WSJ* reported:

UBS Hit by French Money Laundering Probe

French magistrates have placed Swiss banking giant UBS AG under formal investigation for money laundering, widening an existing probe examining whether the bank helped wealth French customers evade taxes.

The magistrates requested the bank pay bail of 1.1 billion (\$1.449 billion) by Sept. 30, a spokeswoman for the Paris prosecutor's office said.

If convicted, UBS could be hit with a significant fine and limitations on its ability to do business in France, she said.

189. UBS's Directors resisted the bail order, escalated the dispute to the court of appeal — and lost. In September 2014, the *FT* reported:

UBS to Post 1.1bn Bail in French Tax Case

UBS will have to post 1.1bn bail to French investigators to cover a potential fine for alleged ***money laundering, after a court dismissed the Swiss*** bank's appeal against the deposit.

The bail had been ordered in July [of] this year ...

The French probe is one of a number of investigations into UBS's cross-border wealth management business. In July, the lender paid 300m to settle an investigation by authorities in Bochum into whether it helped German clients evade taxes.

UBS again criticized the investigation as a ***“highly politicized process.”***

France's banking regulator ***fined UBS's French unit 10m last year and reprimanded it for control lapses that may have enabled some clients to evade taxes.***

190. Building on their momentum of success, the prosecutors in these UBS tax-evasion-assistance investigations have been very aggressive. In November 2014, *Reuters* reported:

Israel Arrested UBS Adviser, 13 Others, in Tax Evasion Investigation

Israel arrested 14 people, including a senior UBS investment adviser, as part of an investigation into Israelis allegedly holding undisclosed bank accounts with UBS worth hundreds of millions of euros, the Tax Authority said

Israel is starting to crack down on foreign bank accounts held by its citizens after a similar move by the United States to track accounts held by Americans abroad.

The tax authority said it had carried out a long investigation into accounts held by Israelis in Swiss banks and received information that thousands of Israelis maintain accounts in Switzerland, worth hundreds of millions of euros.

E. The 2016–2018 Investment Bank and Wealth Management Operations’ Fines, Penalties and Misconduct

1. Investment Bank 2016/2018

191. In another example of how UBS has been damaged by private lawsuits that follow after regulatory investigations, fines, penalties, pleas and the like, *Reuters* reported in March 2016:

HSBC, UBS Settle U.S. Rate-Rigging Litigation; 10 Banks’ Total Payout Tops \$408 Million

HSBC Holdings Plc (HSBA.L) and UBS Group AG (UBSG.S) have each agreed to pay \$14 million to settle private U.S. litigation accusing them of rigging an interest rate benchmark used in the \$483 trillion derivatives market.

Several pension funds and municipalities had accused 14 banks of conspiring to rig the ISDA fix benchmark for their own gain from at least 2009 to 2012.

The private litigation is among many lawsuits in the Manhattan court accusing banks of conspiring to rig rate benchmarks, securities prices or commodities prices.

192. In September 2016, the SEC announced a \$15 million penalty/disgorgement order as to UBS for the same kind of misconduct and mistreatment of UBS customers for which it was regularly being fined, penalized and censured regarding securities and misconduct in other parts of its Investment Banking operations:

SEC Charges UBS With Supervisory Failures in Sale of Complex Products to Retail Investors

The SEC today announced that UBS Financial Services has agreed to pay more than \$15 million to settle charges that it failed to adequately educate and train its sales force about critical aspects of certain complex financial products it sold to retail investors.

... UBS sold approximately \$548 million in RCNs to more than 8,700 relatively inexperienced retail customers.

“We found that UBS dropped the ball by allowing the sales of complex financial products to retail investors without adequately training its sales force,” said Andrew Ceresney, Director of the SEC Enforcement Division.

The SEC’s order finds that UBS ***failed reasonably to supervise*** its registered representatives within the meaning of Securities Exchange Act Section 15(b)(4)(E), which resulted in violations of Section 17(a)(3). The order ***censures*** UBS and requires payment of \$8,227,566 in disgorgement plus \$798,316 in interest and a \$6 million penalty.

193. In October 2017, the SEC announced: ***SEC Charges UBS in Connection with Mutual Fund Sales to Retirement and Charitable Accounts***

The SEC today announced that ... from at least January 2010 through June 2015, UBS ***disadvantaged certain retirement account and charitable organization*** customers ...

Approximately 15,250 customer accounts paid a total of \$18,529,533 in up-front sales charges, contingent deferred sales charges, and higher ongoing fees and expenses as a result of these failures. ***UBS has issued payments, including interest, to these customers ...***

The SEC's order instituting a settled administrative and ***cease-and-desist proceeding finds that UBS violated Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933 UBS consented to a cease-and-desist order, a censure and a civil penalty of \$3,500,000.***

194. In January 2018, the *FT* reported that the CFTC had fined UBS \$15 million for yet another form of market abuse/manipulation:

U.S. Regulator Fines European Banks for 'Spoofing'

Deutsche Bank, HSBC, and ***UBS*** to pay over \$40m between them for futures market abuse

Three European banks have been fined a total of over \$40m to settle U.S. charges of "spoofing" futures markets, extending the efforts of regulators to crack down on the illegal trading practice.

The Commodity Futures Trading Commission announced the settlements on Monday, with ... fines of \$15m for UBS...

At the same time the Department of Justice charged eight individuals in connection with their alleged roles in spoofing, saying it was "***the largest futures market criminal enforcement action in department history***".

Spoofing involves placing bogus orders to create the illusion of substantial supply or demand, which moves prices. Computers then cancel the orders before they can be executed, allowing the spoofer to exploit the manipulation for their own gain.

James McDonald, CFTC enforcement director, condemned spoofing as a "***particularly pernicious example of bad actors seeking to manipulate the market through the abuse of technology ...***"

195. UBS's Investment Banking division has extensive operations in Asia which have expanded during the past several years. The Asian Investment Bank operations have been repeatedly fined, punished, and even banned as an IPO underwriter due to UBS's Investment Banking misconduct there. In March 2018, *Reuters* reported:

Hong Kong Suspends UBS as IPO Sponsor for 18 Months

Hong Kong's securities regulator has blocked UBS from sponsoring initial public offerings for 18 months ...

The Hong Kong Securities and Futures Commission (SFC) had been investigating UBS's role as a sponsor — or lead underwriter — of some IPOs listed on the Hong Kong Stock Exchange, it said.

“The notice provides for a fine of HKD 119 million (\$15.2 million) and ***a suspension of UBS Securities Hong Kong Limited's ability to act as a sponsor for Hong Kong listed initial public offerings for 18 months,***” it said.

196. During the past few years, one of the largest international financial scandals to come under investigation has been the 1Malaysia Development Berhad (“1MDB”) scandal which involved the massive looting — billions of dollars — of state-controlled funds, allegedly aided by several banks' money-laundering activities. In April 2016, the *WSJ* reported:

Swiss Banks at Risk of Harboring Corruption Proceeds, Says Regulator

The head of Switzerland's financial regulator flagged a growing risk to the country's banks of harboring the proceeds of corruption, as they increasingly forage for wealth to manage in emerging markets.

Mark Branson, chief executive of the Swiss Financial Market Supervisory Authority, or Finma, noted in public remarks Thursday that Swiss wealth managers are “increasingly accepting money from faraway, previously less-familiar markets.” That, he said, shifts the danger for Swiss banks

“away from risks connected with tax law towards money laundering risks.”

The Finma CEO cited as examples recent cases of suspected money laundering involving Malaysian state investment fund 1Malaysia Development Bhd, or 1MDB, and Brazilian state-run oil firm Petrobras.

“There are concrete indications that the measures those banks had in place to combat laundering were inadequate,” he said.

Switzerland’s Office of the Attorney General has also opened investigations related to 1MDB The Swiss attorney general has estimated that \$4 billion may have been misappropriated from 1MDB.

197. In October 2016, the *WSJ* reported that UBS was fined because its Asian Investment Banking operations had been acting improperly regarding money laundering of 1MDB funds:

Singapore Central Bank Fines Three Banks in 1MDB Investigation

Singapore’s central bank said ... it would [fine UBS], the latest in a wave of coordinated moves by global regulators to close in on fund flows related to alleged corruption at Malaysian state fund 1Malaysia Development Bhd., or 1MDB.

The Monetary Authority of Singapore said it would fine DBS Bank Ltd. ***And UBS Group AG’s Singapore branch 1 million Singapore dollars (U.S. \$726,126) and \$1.3 million, respectively, for failures in anti-money-laundering controls to their handling of 1MDB fund flows.***

198. The fallout from UBS’s prior mortgage-backed securities misconduct continued to damage UBS. In March 2018, *Reuters* reported that UBS “admitted to having misled investors”:

UBS in \$230 Million Settlement of New York Mortgage Securities Probe

UBS has reached a \$230 million settlement to resolve charges brought by New York state that it misled and hurt investors by selling subprime mortgage securities ...

New York Attorney General Eric Schneiderman on Wednesday said the Swiss bank will pay \$41 million in cash to the state, and provide \$189 million of relief to homeowners and communities.

New York said UBS ***admitted to having misled investors into believing the RMBS it sold were properly underwritten and complied with applicable laws and regulations.***

199. UBS's money-laundering control deficiencies were widespread throughout the Investment Banking operations. On top of several other money-laundering penalties and sanctions, in July 2018, the *WSJ* reported yet more violations:

U.S. Censures UBS Over Its Anti-Money Laundering Systems

UBS ... was censured by a U.S. regulator for “***systematic deficiencies***” in anti-money laundering systems at its branches in New York, Connecticut, and Florida.

... [T]he OCC order is a black eye for the Swiss banking giant, which like other big Swiss banks has turned its focus to managing wealth clients' money in recent years.

The branches violated U.S. rules by having inadequate systems for detecting illicit financial transactions and weak oversight of those systems, which caused it to not file timely suspicious-activity reports, the OCC order said. The order also cited deficiencies in customer due diligence.

200. In December 2018, UBS suffered yet ***another money-laundering penalty — for violations that went on for 13 years, through 2017.*** That month, the *WSJ* reported:

UBS Fined \$15 Million Over Anti-Money Laundering Systems

UBS Group AG agreed to pay a combined \$15 million fine over regulatory ***deficiencies in its anti-money-laundering program, U.S. regulators said Monday.***

The U.S. Treasury Department's Financial Crimes Enforcement Network ... said ... ***UBS violated the Bank Secrecy Act, ... over a roughly 13-year period through 2017.***

The Office of the Comptroller of the Currency this year censured UBS over "***systemic deficiencies***" in anti-money laundering compliance.

UBS Financial Services, over a period of several years, [ignored] ***red flags associated with shell-company activity and failed to adequately monitor foreign-currency-denominated wire transfers worth tens of billions of dollars that were conducted through the commodities accounts and retail.***

201. UBS's Directors have refused to settle with regulators in the United States over billions in alleged losses caused by UBS's Investment Banking misconduct in the sale of mortgage-backed securities. In November 2018, *Reuters* reported:

U.S. Sues UBS, Alleges Crisis-Era Mortgage Securities Fraud

The U.S. government on Thursday filed a civil fraud lawsuit accusing UBS ..., Switzerland's largest bank, of defrauding investors in its sale of residential mortgage-backed securities leading up to the 2008-09 global financial crisis.

UBS was accused of misleading investors about the quality of more than \$41 billion of subprime and other risky mortgage loans backing 40 securities offerings ...

The lawsuit came after UBS rejected a government proposal that it pay nearly \$2 billion to settle ...

... U.S. Attorney Richard Donoghue in Brooklyn said investors suffered "***catastrophic losses***" from the bank's failure to fully disclose the risks of mortgage securities it helped sell.

202. In November 2018, the *WSJ* reported:

U.S. Sues UBS Over Mortgage Securities

... The lawsuit, ... will likely leave a legal cloud hanging over Switzerland's largest bank for many months.

The government didn't specify the damages that it was seeking, though it pegged the losses by investors as being ***"many billions of dollars."***

203. As noted in a November 9, 2018 *FT* report, these mortgage-backed securities were toxic:

In 2007, the head of mortgage trading at UBS called a pool of mortgages it had bought from Countrywide ***"a bag of shit"***, according to the lawsuit. In another example, a UBS trader allegedly said a set of loans from WMC Mortgage Corp were ***"quite possibly [little] better than ... leprosy."***

204. As 2018 unfolded, the damage inflicted by UBS's Puerto Rico Muni Bond fund scandal continued to grow — ***more and more claims yielding larger and larger awards yielding more and more claims.*** In October 2018, *On Wall Street* reported:

UBS Loses \$19M Arbitration Case Over Puerto Rico Bonds

A FINRA arbitration panel ordered UBS to pay a client nearly \$19 million in the latest case stemming from the performance of the firm's closed-end funds of Puerto Rican muni bonds.

Luis Moyett accused the firm of breach of contract, negligence and violations of Puerto Rican securities laws among other misconduct...

His claims mirror those of other UBS clients who purchased the firm's closed-end funds of Puerto Rican municipal bonds, which took a beating when prices tumbled in 2013. Burned by the experience and losses, clients have filed hundreds of arbitration claims against UBS.

205. In December 2018, *Business Financial Post* reported on the continuing damage being inflicted on UBS due to its Investment Bank's LIBOR price-fixing criminal conduct:

UBS to Pay U.S. States \$68M in Rate Manipulation Settlement

Swiss bank UBS has agreed to pay \$68 million to settle a multistate investigation into the bank's role in manipulating an interest rate used to price everything from credit cards to mortgages, officials said Friday.

UBS has paid more than \$1.5 billion in fines and penalties to U.S. and European authorities for its manipulation of Libor.

New York Attorney General Barbara Underwood's office said UBS made millions in unjust gains from fraudulent conduct ...

2. Wealth Management 2016/2018

206. The years 2016–2018 brought a further escalation of the several ongoing European investigations into UBS's tax-evasion and money-laundering misconduct. In February 2016, *BBC* reported:

UBS Investigated for Tax Fraud and Money Laundering in Belgium

Swiss bank giant UBS is being ***investigated over money laundering and serious organized tax fraud in Belgium.***

A statement from prosecutors said: "The Swiss bank is suspected of having directly, and not via its Belgian subsidiary, approached Belgian clients to convince them to set up constructions aimed at evading taxes."

207. In March 2016, the *WSJ* reported that the French investigations of UBS had now expanded to include a formal investigation of UBS officials' witness tampering, *i.e.*, intimidation of the key whistleblower behind the French tax case:

UBS's French Unit Placed Under Formal Investigation

Magistrates have placed the French unit of UBS Group AG under formal investigation for alleged **witness tampering after a former employee filed a complaint against the bank, Paris prosecutors said.**

French prosecutors are probing whether UBS France, which faces preliminary charges for its alleged complicity in tax fraud, **tried to silence** Nicolas Forissier, the bank's internal auditor between 2001 and 2009, **after he alerted his management and French authorities about the bank's alleged practices.**

Mr. Forissier was fired by the bank in 2009. **In June 2012, a French court ruled in Mr. Forissier's favor after he filed a complaint against his former employer for wrongful dismissal.**

News of the investigation is a fresh blow to UBS ...

208. Not only did UBS officials refuse to settle the ultra-dangerous French tax case, they further exacerbated that **extraordinarily dangerous situation by harassing an important witness/whistleblower.** In February 2017, *Bloomberg* reported:

UBS France Said to Be Charged With Harassment Amid Tax Probe

UBS Group AG's French unit was charged over the **possible harassment of one of the whistleblowers** behind a tax probe that forced the bank to post a 1.1. billion euro (\$1.16 billion) bond to cover any potential penalties.

UBS France was charged earlier this month in relation to the alleged harassment of Nicolas Forissier, a former audit manager who helped trigger the probes nearly a decade ago, according to two people familiar with the matter.

The move comes nearly a year after ***UBS France was charged over possible witness tampering in relation to accusations Forissier was pressured by the bank before he was scheduled to testify in an employment tribunal lawsuit involving another staff member.***

209. Next, it was Spain that came forth to pursue UBS for its illegal tax-evasion conduct in that nation. In October 2016, *Swiss Info* reported:

Madrid Requests Spanish Citizens' UBS Data from Switzerland

"Spanish tax authorities have filed a request for international administrative assistance in tax matters with the Swiss Federal Tax Administration," UBS said ...

The Spanish request to Switzerland's tax agency follows similar requests from France and the Netherlands earlier this year.

In July 2016, the Swiss tax authority ordered UBS to turn over information linked to a French investigation.

In September 2015, the Dutch authorities requested information on a large number of UBS account holders living in the Netherlands as part of a tax investigation.

For years, strict Swiss bank secrecy laws helped the wealthy to keep their money hidden from the taxman. Since the financial crisis, however, cash-strapped governments around the world have clamped down on tax evasion.

210. In July 2016, the *FT* reported:

Greek Tax Investigators Raid Home of Former Local UBS Bank Boss

Greek investigators have raided the home of a former local boss of UBS as part of a widening investigation into suspected tax evasion.

The raid on Christos Sclavounis' Athens residence ... Police took away computers, documents and disks ... Investigators are also probing the role of UBS and its bankers.

211. In June 2016, the French criminal case involving tax evasion/money laundering moved from "formal investigation" to ready for trial. *Bloomberg* reported:

French Prosecutors Said to Recommend UBS Face Trial in Tax Case

French prosecutors are recommending that UBS Group AG and its French unit face a criminal trial over allegations it helped clients evade taxes following a probe that caused the bank to post a 1.1 billion-euro (\$1.2 billion) bail to cover a potential penalty ...

Prosecutors accused the Swiss bank of laundering of proceeds of tax fraud and conspiring to illicitly solicit clients on French territory ...

212. As the European assault on the citadel of Swiss banking secrecy escalated, the Swiss government continued to order UBS to turn over previously protected account data, greatly strengthening the prosecutors' hands. In July 2016, *Swiss Info* reported:

UBS Ordered to Comply with French Request

The Swiss tax authority has ordered Switzerland's largest bank UBS to turn over information linked to a French investigation.

The Zurich-based bank said it received a disclosure order from the Swiss Federal Tax Administration (FTA) to transfer information based on a French request for international administrative assistance in tax matters.

UBS was placed under formal investigation in France in 2014 over allegations that it had helped wealthy French customers evade the taxman ... French tax authorities based their request on data received from the German authorities, the bank said. German investigations have resulted in seizures of tax data about UBS clients booked in Switzerland ...

213. At year-end 2016, the French prosecutors formally laid out their trial case against UBS. On December 20, 2016, *Swiss Info* reported on these claims asserting "tax-fraud money laundering."

French prosecutors have accused UBS France, its Swiss headquarters and French and Swiss bankers of ***orchestrating a vast cross-border system of "tax***

fraud money laundering", according to a 126-page prosecution summary ...

The prosecution case, handed in by the French National Financial Prosecutor on June 24, accuses UBS of ***"illicit financial and banking sales practices"*** and ***"aggravated laundering of tax fraud"***

214. In March 2017, the NYT reported that UBS refused to settle the French tax criminal case for the "bail amount," \$1.1 billion.

UBS and Its French Unit to Face Trial in Tax Investigation

UBS said on Monday that the Swiss bank and its French subsidiary would face trial in a long-running investigation into whether it helped French clients hide funds from the country's national tax administration.

The announcement followed reports ... that ***UBS had rejected a proposed settlement***. French prosecutors had sought a fine of 1.1 billion euros, or about \$1.2 billion, in the case.

215. The more UBS officials resisted these clearly meritorious tax-evasion investigations the more the investigators continued to press and intensify their investigations. ***And the more the investigations succeeded, the more the Swiss government directed UBS to cooperate/comply with these nations' demands for incriminating detailed information about "groups" of UBS "secret" customer accounts, without the nations stating the names of the people whose account information they were seeking.***

216. In May 2017, *Swiss Info* reported on this ominous development:

Tax Evasion — More Countries Demand UBS Client names

Sweden and the Netherlands have joined a growing list of countries demanding the names of a group of UBS bank clients in order to check whether they have paid taxes.

It sends a further message that ***the net is closing on wealthy tax cheats who hid their money in Swiss bank accounts.*** And the requests also confirm that ***Switzerland is prepared to relax its former tough stance on rejecting so-called fishing expeditions from foreign jurisdictions.***

In the past, countries requesting Swiss administrative assistance to track down tax dodgers have been required to name the people they suspected of breaking the law. ***But group requests are now becoming common — asking the Swiss tax authorities to compel banks to give up the names of clients of a certain nationality during a specific time frame.***

The Federal Supreme Court has increased the misery for Swiss banks with landmark rulings in recent months. In September 2016, it ordered the release of UBS client names to the Dutch authorities who wanted to know which of its citizens continued to evade taxes despite an amnesty.

The ruling overturned a previous administrative court verdict that the Dutch request, which listed no names, could be ignored as a fishing expedition.

In March of this year, the supreme court allowed administrative assistance to France despite that case being based on data stolen from UBS.

The screen of Swiss banking secrecy effectively ended at the start of 2017 as banks started collecting foreign client data for the Swiss tax administration to pass to counterparts in other countries.

217. A December 14, 2014 *Forbes* article accurately laid out what was happening:

UBS Running Out of Options as Highest French Appeal Court Upholds €1.1 Billion Bond

The Swiss banking system has thrived for decades on the bank secrecy it provides to account holders, allowing it to become the \$2 trillion business it is currently....while the Swiss government's unyielding support of privacy in its banking system has been the target of scorn from governments across the globe for decades, extreme pressure from the likes of the U.S., the UK, Germany and France since the 2008 recession

has forced the Swiss government to relent and agree to various tax agreements with some of these countries.

UBS has been under scrutiny in France since April 2012, when French authorities searched its offices in Strasbourg, Lyon and Bordeaux in relation to money laundering and tax evasion assistance charges leveled against the bank. ***French authorities have alleged have alleged that UBS maintains two different ledgers*** to hide the money that at least 350 French citizens have stashed away in offshore accounts managed by the bank, and consequently directed the bank to post a 1.1 billion (\$1.4 billion) bond in the ongoing criminal investigation. The bank was forced to pay the amount when its initial appeal was rejected by a lower court, even as the Swiss government handed over information of about 300 UBS clients to French investigators in October.

218. UBS's officials' tax-evasion activities have also exposed UBS to punishment for money laundering — the other side of the corrupt tax-evasion coin. In October 2017, *Nasdaq.com* reported:

UBS Pays More Than 10mln Euros to Settle Italy Money-Laundering Probe

An Italian judge has accepted a request by UBS UBSG.S to pay more than 10 million euros (\$11 million) to settle ***a money-laundering investigation, ending one of the Swiss bank's biggest legal headaches in Europe.***

The judge on Thursday accepted the payment of 2.125 million euros as “agreed penalty” to close the case while also seizing 8.175 million euros as profit from the alleged money-laundering

Last June the Swiss bank paid 101 million euros to settle its other Italian case, a related financial investigation, with tax authorities.

219. Despite the overwhelming incriminating evidence gathered by the French prosecutors, the UBS Directors and Officers continued to resist and refused to resolve the case. The Court signaled that it viewed this abhorrent resistance as frivolous. In October 2018, *Business Insider* reported:

French Court Refuses UBS Request to Drop Money Laundering Charge

A French court on Thursday threw out a request by Swiss bank UBS ... to drop money laundering [charges]

UBS Group AG, its French unit and six executives and former executives face charges ***of aggravated tax fraud and money laundering....*** The court described the bank's arguments as "***devoid of seriousness.***"

F. The 2019 Investment Bank and Wealth Management Operations' Fines, Penalties and Misconduct

1. Investment Bank 2019

220. 2019 saw the spread of regulatory proceedings and punishments in UBS's Investment Banking operations, including UBS's Asian Investment Banking operation. In January 2019, *Reuters* reported:

Singapore Fines UBS \$8 Million Over Deceptive Bond Trades

Singapore ... fined UBS S\$11.2 million (\$8 million) after investigations showed the Swiss bank ***deceived wealthy clients over prices for bonds and structured products.***

"The conduct of UBS through its representatives is unacceptable and has no place in the financial services industry where trust and integrity are paramount," said Ong Chong Tee, deputy managing director, financial supervision at MAS.

221. During March 2019, the Hong Kong SFC announced:

SFC Fines UBS \$375 Million and Suspends its License for One Year for Sponsor Failures

The Securities and Futures Commission (SFC) has reprimanded and fined UBS AG and UBS Securities Hong Kong Limited ... \$375 million for failing to discharge their obligations as one of the joint sponsors of three listing applications

The SFC also ***partially suspended UBS Securities Hong Kong's licence to advise on corporate finance for one year, to the extent that UBS Securities Hong Kong shall not act as a sponsor for listing application on the Stock Exchange of Hong Kong Limited (SEHK) of any securities.***

222. In March 2019, *Reuters* reported:

HK Suspends UBS Sponsor License, Fines it and Others \$100 Million for IPO Failures

UBS is the first major bank involved in stock listings to face such a suspension in the city. ***The \$100.2 million in fines are the toughest actions*** yet taken by the regulator as part of its campaign against what it sees as shoddy listing standards.

223. The defects and deficiencies in the Investment Banking operation were worldwide. In late March 2019, the English regulator FCA announced:

FCA Fines UBS AG 27.6 Million for Transaction Reporting Failures

UBS failed to ensure it provided complete and accurate information in relation to approximately 86.67m reportable transactions. It also erroneously reported 49.1m transactions to the FCA, which were not, in fact, reportable. ***Altogether, over a period of 9 and a half years, UBS made 135.8m errors in its transaction reporting, breaching FCA rules.***

The FCA also found that UBS failed to take reasonable care to organise and control its affairs responsibly and effectively in respect of its transaction reporting.

224. These kinds of “recordkeeping” violations are not trifles. UBS’s Directors stated that ***“Our business depends on our ability to process a large number of transactions, many of which are complex, across multiple and diverse markets in different currencies [where] effective controls are needed.”***

To comply with requirements of many different legal and regulatory regimes to which we are subject and to prevent, or promptly detect and stop, unauthorized, fictitious or fraudulent transactions... including those arising from process error,

failed execution, misconduct, unauthorized trading, fraud, system failures, financial crime ... as the loss from the unauthorized trading incident announced in September 2011.

225. In many of the regulatory proceedings involving UBS's Investment Banking operation, the lack of required records — and/or their falsification — were cited as part of the violations. This absence of accurate recordkeeping was due to the neglect and indifference of the Board of Directors or was calculated and intentional because not keeping or falsifying transaction records is the normal and systemic course of a business regularly engaged in illicit and criminal activities like money laundering, tax evasion, terrorist sanction violations, price fixing, market manipulation and constant violations of the securities laws.

226. In November 2019, *Reuters* reported:

UBS Fined \$51 Million by Hong Kong Regulator for Overcharging Clients

UBS was fined HK\$400 million (\$51.09 million) by Hong Kong's securities regulator for overcharging up to 5,000 clients for nearly a decade ...

The fine is the equal to the largest ever levied on a bank in Hong Kong....

THE SFC said the investigation exposed '***serious systemic internal control failures***' at the bank. ***UBS had failed to disclose conflicts of interests and had overcharged some clients in 'opaque' trades, it said.***

The overcharging affected 5000 Hong Kong managed client accounts in about 28,700 transactions, it said.

UBS has also agreed to repay the clients HK\$200 million, the SFC said.

The regulator said the over-charging occurred in the bank's wealth management division ...

In the statement, the SFC said UBS was also found to have ***falsified some account statements*** which were issued to

financial intermediaries who were authorized to trade for the clients to “**conceal the overcharges**”.

SFC chief executive Ashley Alder said ... the bank’s “**misconduct involved ... a pervasive abuse of trust...**”

227. In November 2019, the *WSJ* reported:

WSJ Fined for Misleading and Overcharging Wealthy Clients for a Decade

UBS Group AG overcharged and misled wealthy clients ***for a decade without detection ...***

The regulator said the bank failed to act in clients’ best interest in the trades for around seven years, then took two more years to report the misconduct after finding it.

“The SFC considers that these malpractices involved a combination of ***serious systemic failures for a prolonged period of time including inadequate policies, procedures and systems controls, lack of staff training and supervision, and failures of the first and second lines of defense function at UBS,***” it said.

228. Given the Investment Bank’s long history of compliance violations, which include illegal insider trading, it is a supreme irony that a ***senior investment banking compliance officer was convicted of conspiring with a family friend of fraud by engaging in criminal insider trading.*** In late June 2019, the *FT* reported:

Former UBS Compliance Officer Convicted of Final Set of Insider Trading Counts

A former UBS compliance officer and her day-trader friend who were both convicted of insider trading earlier this week have been found guilty of a final set of counts in a rare UK jury trial of the crime.

229. The FCA announcement provided the details:

Two Found Guilty of Insider Dealing

Today Fabiana Abdel-Malek was sentenced to 3 years' imprisonment and Walid Choucair sentenced to 3 years' imprisonment in respect of five offences of insider dealing. Fabiana Abdel-Malek and Walid Anis Choucair were each convicted of insider dealing following an eleven week trial brought by the Financial Conduct Authority (FCA)

Fabiana Abdel-Malek ***was employed as a senior compliance officer by the investment bank UBS AG in their London office and used her position to identify inside information which she passed to her family friend ...***

In sentencing HHJ Korner CMG QC remarked:

In relation to Ms. Abdel-Malek:

'you were a gate keeper, using the knowledge you had gained from your employment to become an efficient and accomplished poacher...'[you] Ms. Abdel-Malek committed a gross breach of trust which will affect the reputation of UBS ...

Mark Steward, Executive Director of Enforcement and Market Oversight at the FCA, said:

'Abdel-Malek ***dishonestly and surreptitiously acquired confidential and valuable information from her employer*** and passed it to Choucair who made substantial illegal trading profits. ***Both defendants were well aware they were committing serious criminal offences and engaged in elaborate schemes and lies to disguise what they were doing. This was not opportunistic, but calculated and organized. It was insider dealing at its most venal.***

2. Wealth Management 2019

230. The tax-evasion investigations of UBS because of the illicit/illegal activities of its Wealth Management operation in Europe reached a zenith in 2019. Calling UBS's Wealth Management operations tax-evasion activities part of "***a fully integrated business model***," Mannheim, Germany prosecutors pushed forward to seek more fines from UBS. In May 2019, *Bloomberg* reported:

UBS Faces German Case Seeking \$93 Million Fine in Tax Probe

German prosecutors are seeking a fine of 83 million euros (\$93 million) against UBS Group AG for helping customers evade tax.

Managers at UBS helped “numerous” clients evade taxes, partly by making cross-border bank transfers appear as though they were within Germany, according to a prosecutor’s statement ...

German prosecutors are seeking a fine of 83 million euros (\$93 million) against UBS Group AG for helping customers evade tax.

Managers at UBS helped “numerous” clients evade taxes, partly by making cross-border bank transfers appear as though they were within Germany, according to a prosecutor’s statement Tuesday.

Evidence strongly suggests that the lender’s German unit was “**fully integrated in a respective business model**” of the Swiss-based UBS which “**supported its action seeking to circumvent taxes in Germany,**” prosecutors said.

231. By 2019, the French tax-evasion/money-laundering criminal investigations against UBS were ready for trial. Even though the court had rejected UBS’s request to dismiss the case as “devoid of seriousness,” UBS’s Directors refused to settle the case. They forced a trial. The evidence was overwhelming, and the \$5 billion fine became the largest fine in French history. On February 20, 2019, the *Associated Press* reported:

UBS Ordered to Pay \$5.1 Billion Fine for Helping Wealthy French Clients Evade Tax Authorities

The fines were ordered by a French court in one of the biggest tax evasion trials ever

A French court ordered Switzerland’s largest bank, UBS to pay 4.5 billion euros (\$5.1 billion) in fines and damages for helping wealthy French clients evade tax authorities ...

The Paris court convicted Zurich-based UBS AG ... of aggravated money laundering of the proceeds of tax

fraud and illegal bank soliciting, issuing ... a record fine.

232. In February 2019, the *NYT* reported on the details of the UBS Wealth Management — tax-evasion field operations — its business model to recruit tax-cheating clients using the same illegal evasion tactics it used in the United States — and it is now clear several other countries — to assist them in violating the laws of their own nations:

French Court Fines UBS \$4.2 Billion for Helping Clients Evade Taxes

Boxes at the Paris Opera. Prime seats at the French Open. Luxury hunting retreats in Normandy. The financial giant UBS spared no expense in enticing wealthy French people to open bank accounts in Switzerland.

The lavish spending caught up with UBS on Wednesday, when French judges ordered it to pay a record 3.7 billion euro fine, about \$4.2 billion, for carrying out what prosecutors said was a long-running scheme to help French clients hide huge sums of money from the authorities.

A seven year investigation by the French financial authorities began when ***several whistle-blowers at UBS France*** alleged that UBS bankers in France and Switzerland were engaging in illegal activity. At a trial in Paris in October, prosecutors likened the scheme to the plot of a James Bond novel, with top bankers colluding to entice wealthy clients, shielding more than €10 billion from the French tax authorities.

French law allows commercial bankers to put customers in touch with counterparts in other countries, but it prohibits foreign companies from soliciting clients on French territory.

UBS rainmakers from Switzerland would travel to France to offer their services, ***even if they did not have European passports or the proper banking license***, prosecutors said.

To avoid detection, the bankers involved in the scheme followed a ***UBS “security governance manual”*** that included instructions for using ***encrypted computers***,

using ***business cards without the bank's logo and switching hotels frequently***, prosecutors said.

The manual also included advice on how to hide information or documents about Swiss and offshore accounts if stopped by the authorities. ***The tips included wearing a coat or a backpack with hidden pockets.***

... [T]he former head of UBS's branch in Lille, France, Herve d'Halluin, described ***"a nauseating practice of widespread poaching of clients, done in an almost industrial way,"*** by UBS's Swiss bankers. He said the Swiss teams had applied ***"intense pressure"*** on their French counterparts to provide tips about potential clients.

The bank also created ***a parallel accounting system*** known as the milk books, after the small notebooks used as ledgers by Swiss cow farmers, prosecutors said. ***The books were used to keep tabs on and mask transfers of illicit money between Paris and Geneva,*** prosecutors said.

UBS has said the milk books were used to note whether a French or a Swiss banker should get the credit for bringing in a French client. ***Annual bonuses for UBS's French bankers were tied to new business from abroad.***

The French judges ruled that the milk books were proof that UBS was trying to hide financial transfers from its official books, and to help French clients avoid paying taxes.

233. In February 2019, *Boing* reported:

France Fines UBS 3.7b for Helping Rich French Residents Launder More than 10b

Swiss banking giant UBS has been hit with the largest fine in French history.... The fine is more than ten times larger than the next-largest fine in French history, The fine represents 92% of the bank's 2018 profits.

234. UBS was now so exposed by its officials' decades of continuous misconduct as revealed in the French tax-evasion trial as to be virtually defenseless in these nation state tax proceedings. In July 2019, *Reuters* reported:

UBS Switches Stance With Plan to Offer \$113 Million Tax Settlement in Italy

UBS looks set to agree a 100 million euro (\$113 million) settlement of ***a money laundering and tax case in Italy within the next few weeks ...***

Switzerland's biggest bank is battling a number of court cases in Europe over claims it enabled cross-border tax cheats to hide assets in Switzerland.

235. In August 2019, *Euro News* reported:

Italian Tax Authorities Ask for Information on UBS Clients

Italy's tax authorities have made a request to their Swiss counterparts for information about possible tax evasion by UBS (UBSG.S) clients ...

The Italian authorities are seeking help on Italian residents who held UBS accounts in Switzerland between 2015 and 2016 ...

The bank is facing two separate investigations in Italy and a court case in France over allegations it enabled cross-border tax cheats to hide assets in Switzerland.

Italian prosecutors allege that unidentified UBS managers were responsible for money-laundering because they invested client funds that were the fruit of tax evasion.

The bank agreed in June to pay 101 million euros (\$113 million) to resolve a dispute over money laundering and taxes with Italy's tax authority

UBS has received various disclosure orders from the Swiss Federal Tax Administration based on requests for international administrative assistance in tax matters, a UBS spokeswoman said.

236. The years of horrible publicity of Switzerland as a tax-evasion haven and the increasingly widespread exposure of UBS's (and other Swiss banks) tax-evasion activities, recruitment and assistance ultimately broke down the Swiss government's historic

assertion of state secrecy regarding disclosure of Swiss bank account owner identities. In July 2019, the *FT* reported that Swiss Bank Secrecy was doomed:

***Swiss Court Rules Against UBS Over Client Information
Court approves transfer of data on Swiss bank's clients to French tax authorities***

Switzerland's highest court has approved the transfer of sensitive information on tens of thousands of UBS clients to tax authorities in Paris, in a landmark judgment likely to have significant implications for the future of the Swiss banking industry.

UBS protested the attempt, winning an initial judgment last year in its favour with a lower court.

Information on the 40,000, mostly high net worth, UBS banking clients, who are resident, or previously resident, in France will now be sent to French investigators pending finalisation of the judgment.

The decision is likely to cause significant upset among Switzerland's private bankers and their clients.

UBS chief Sergio Ermotti warned earlier this week that the judgment would have an impact on the "entire financial centre" of Switzerland.

The sharing of even more information with French authorities could deepen the banks woes and carries the risk of further prosecutions against it.

237. The criminal operation of UBS Wealth Management and Investment Banking divisions over the past decade, in the United States, Switzerland, Germany, France and all over the world, was not the misconduct of "rogue" traders or trainees. ***This was a calculated, systemic, fully integrated business model selling illegal products.*** If this all went on without the knowledge of UBS Directors and top Officers,

they were blind, negligent, reckless and/or incompetent, failing to exercise due care, diligence, prudence and loyalty to UBS and its shareholders. But in any event, they were intent on preserving their positions of power, prestige and profit atop one of the largest banks in the world, without any regard to the law or the Company's own Code of Conduct and Ethics.

G. UBS's Ermotti is Ousted as CEO But Replaced by Another Bank CEO Already Tarnished by Past Money-Laundering Misconduct

238. During 2018–2019, as European regulators came to focus more and more on tax evasion/avoidance — especially after the French trial — and became more expert at rooting it out and prosecuting it, another huge tax dodge/tax scam came into focus: the so called “cum-ex” tax scheme — ***“the biggest tax robbery in European history.”***

A late 2018 article in *EU Observer* describes the cum-ex scam:

Top EU Banks Guilty of Multi-Billion Tax Fraud

Tax-scams operated by the EU's top banks cost treasuries €55.2bn, a cross-border investigation has shown.

The scams, dubbed ***“the biggest tax robbery in European history”***, involved ...**UBS**.

The scams worked via so-called “cum-ex” buying of shares and bonds.

The latin term, which means “with-without”, is jargon for a kind of trade ***that enables banks to conceal the identities of their clients.***

This, in turn, helps the clients to claim false, double, or multiple tax rebates on capital gains tax paid on the anonymous trades.

The fraud cost German taxpayers €31.8bn between 2001 and 2016, the investigation estimated. It cost France €17bn, Italy €4.5bn, and Denmark €1.7bn. It also harmed Austria, Belgium, Finland, the Netherlands, and Spain.

News of the problem first came to light in Germany in 2016.

But its full scale was exposed by a cross-border investigation, involving 19 media in 12 countries, which consulted more than 180,000 pages of documents, including letters from German prosecutors, and ***which published its findings on Thursday (18 October).***

“This is the biggest tax robbery in European history,” Christoph Spengel, a tax expert at the University of Mannheim in Germany, told German newspaper Zeit.

239. Not surprisingly, the Investment Banking operations of several European bankers involved the cum-ex tax scheme, again facilitating tax evasion. In late October 2019, *Bloomberg* reported on the first major “cum-ex” tax scam trial in Germany, where testimony ***deeply implicated UBS’s CEO Ermotti in the “cum-ex” scandal when he was a top executive at UniCredit before later taking over UBS as CEO:***

Traders Recount Cum-Ex Windfall at UniCredit Unit in Ermotti Era

... in a Bonn courtroom, a onetime star trader at UniCredit SpA recounted how controversial tax deals that created a windfall for his desk went ***to the highest levels of the bank.***

The trader, recalling so-called Cum-Ex deals ...that exploited loopholes in German tax law, described ***lucrative transactions that were commonplace at the bank, regularly approved by superiors and done out in the open.***

The investigation into a practice that German authorities now say is a tax heist has riveted financial circles, ensnared dozens of banks.... Now it raises questions about what Ermotti and his team knew about the practice when he oversaw the unit that UniCredit lauded in its 2007 annual report for its “exceptional” performance. Ermotti served as UniCredit’s head of markets and investment banking and ultimately as deputy CEO before he joined UBS in 2011.

240. Shortly after the testimony in the German case implicating Ermotti in the “cum-ex” tax-avoidance scandal, Ermotti was out as CEO at UBS. On February 19, 2020, the *WSJ* reported:

UBS CEO Sergio Ermotti Steps Down, ING’s Ralph Hamers Named New Chief

... Chief Executive Sergio Ermotti is stepping down and will be succeeded by current ING Groep boss Ralph Hamers ...

Mr. Hamers will join its Board in September and become CEO on Nov. 1.

241. On February 20, 2020, the *FT* reported:

UBS Names ING’s Ralph Hamers as Next Chief Executive

UBS has appointed ING boss Ralph Hamers as its next chief executive, replacing Sergio Ermotti, in ***a surprise move*** that elevates the Dutchman into one of the most powerful roles in global finance.

The 53 year old Mr. Hamers is a bold choice for UBS ... his tenure has more recently been marred by compliance failings.

242. A “surprising” and “bold” choice indeed. Hamers is a long-time bank executive. He joined ING Group Bank in 1991, he served as CEO Netherlands, Belgium and Luxembourg and Global Head Commercial Banking before he became a member of ING’s Board and ING Group CEO in 2013. While he was a top executive and Director of ***ING it paid huge fines for facilitating money laundering (\$619 million), terrorist sanction transfer prohibitions (\$775 million), and was forced to agree to a DPA with prosecutors.*** The sanctions violation fine imposed upon ING while Hamers was CEO was the “***biggest ever fine*** against a bank for a sanctions violation” and the money-laundering fine is the ***largest ever imposed on a company*** by the Dutch regulators.

VII. PLAINTIFF HAS STANDING TO SUE DERIVATIVELY FOR UBS

A. Derivative Allegations and Plaintiff's Standing to Sue

243. This is a derivative action on behalf, and for the benefit, of UBS Group AG by a UBS Group AG shareholder against its past and present Directors and Officers and others for breaches of duties of due care, prudence, loyalty and candor, including rendering dishonest services, as well as acting as a civil accomplice while aiding, abetting and participating in concerted action, *i.e.*, a common course of conduct. The action is brought to redress injuries and damages suffered and being suffered by UBS Group AG as a result of the breaches of duties and misconduct by Defendants.

244. This lawsuit, brought derivatively by the named Plaintiff presents a legal dispute between UBS Group AG and the Directors and Officers named as Defendants. ***It is not a dispute between Plaintiff and UBS Group AG, the corporate entity on whose behalf the action has been filed derivatively by Plaintiff.*** Plaintiff, who is a UBS Group AG shareholder, and UBS Group AG are on the same side of the suit. While UBS Group AG is designated as a “Defendant,” that designation is a technical formality, *i.e.*, it is a “nominal defendant.” In reality, UBS Group AG is the true plaintiff in this action, which is on behalf of, not against, UBS Group AG and brought in order to obtain damages and other relief for it, not from it. The named plaintiff has no dispute with UBS Group AG, the corporate entity and victim of Defendants’ wrongdoing.

245. UBS Group AG is named solely in a derivative capacity. This is not a collusive action to confer jurisdiction on this court that it would not otherwise have. Plaintiff is currently a UBS Group AG shareholder. Plaintiff will adequately and fairly represent the interests of UBS Group AG in enforcing and prosecuting its rights.

246. The Directors have demonstrated that they cannot objectively or independently weigh as to whether to bring these claims, and will not and cannot bring the claims. The only way these facially meritorious and potentially valuable claims can be fairly and vigorously prosecuted and Defendants held accountable for their misconduct,

is by this derivative action being prosecuted by experienced, competent, private lawyers on a contingent basis, advancing litigation expenses to assure a vigorous, independent, uncompromised prosecution of these claims here in the courts of New York.

247. UBS Group AG has suffered damages due to Defendants' misconduct which can be redressed in this derivative action in this court via the recovery of damages. As a stockholder of UBS Group AG, Plaintiff has standing to assert claims on behalf of UBS Group AG — the true plaintiff — to affect a recovery that will accrue to UBS Group AG, because UBS Group AG's Directors have improperly failed and refused to bring an action, or actions, against themselves and the other defendants.

B. The Procedures of Swiss Law for Filing Derivative Claims Do Not Control in New York State Court

248. The procedural provisions of Swiss law concerning stockholder derivative suits are not applicable to this lawsuit in New York state court, where New York's pre-suit demand/demand futility procedure, N.Y. BUS. CORP. LAW § 626, controls. Section 626 applies to all derivative shareholder suits filed in New York on behalf of any "domestic or foreign corporation."

249. A derivative action against individual directors/officers is commenced by filing a request for conciliation according to Article 22 SCPC Swiss Civil Procedure Code, if the defendants are in another canton than Zurich — in Zurich, there is exclusive jurisdiction of the commercial court. Mandatory advances of court fees and security deposit payments are also procedural requirements. The advance on court fees is in Article 98 CPC, the security deposit in Article 99 CPC: a United States-based plaintiff, upon request by a Swiss defendant, may be ordered not only to advance the court fees, which are calculated in proportion to the amount in controversy — if you give me a figure, I will calculate it — but they also must pay a security deposit for defendant's legal fees, which is also assessed based on the amount in controversy. Assuming this suit seeks approximately \$10 billion under applicable Swiss procedural rules to begin the case the

named individual plaintiff would have to advance 50,070,750 Swiss Francs for “court fees” and deposit 53,900,000 Swiss Francs as a security deposit for the Defendants’ fees and costs. Accordingly, the worse the Defendants’ conduct — the more damage inflicted by them upon the company — the more the plaintiff has to post as costs and defense fees. Because of the egregious, costly and ongoing nature of defendants’ misconduct, which has inflicted some billions of dollars of damage to UBS Group AG, the named plaintiff could never post such a punitive court cost/defense fees deposit of more than \$100 million. Without these payments, a Swiss court will not hear the case. It is commonly accepted that these procedural cost burdens thwart, prevent and make impossible the filing of derivative actions by shareholders.

250. No accelerated, pre-discovery, fact weighing semi-summary judgment, merits review requiring “proof” of “gross” misconduct exists under New York law. *See* N.Y. BUS. CORP. LAW § 626. *See Davis v. Scottish Re Grp. Ltd.*, 30 N.Y.3d 247 (2017); *Mason-Mahon v. Flint*, 87 N.Y.S.3d 556 (N.Y. App. Div. 2d Dep’t 2018). New York’s procedural rules control.

VIII. DEMAND ON THE DIRECTORS TO SUE THEMSELVES AND THE OFFICERS IS NOT REQUIRED OR IS EXCUSED

A. The Board Has Failed to Objectively Evaluate or Properly Pursue UBS Group AG’s Valid Claims Against Departed Wrongdoers

251. Plaintiff has not made a demand on the UBS Directors to bring suit asserting the claims set forth herein because pre-suit demand on them is not required under these circumstances. In the face of obvious and enormous damage to UBS Group AG and widespread complaints and criticism from regulators and the financial press, they have not only neglected to bring these facially meritorious negligence and other claims despite adequate opportunity to do so, in fact they have taken steps to try to prevent or hinder the assertions of such claims. If demand were required, it is excused, as it would be a futile act.

252. Despite — or perhaps because of — the disastrous results of their failed oversight and severe criticism of their stewardship, the Directors have refused to objectively and honestly evaluate what happened or whether UBS Group AG had valid legal claims to recover the damages caused by the conduct of UBS Directors and Officers and others.

253. A corporate legal claim for damages, especially if the defendants have assets or insurance to cover the claim, is an asset of the corporation and properly protected and developed, can be a very large asset. Like any other significant asset of a corporation, the Directors and Officers have a duty to use due care and prudence to protect that asset and to ***maximize its value. Many of the defendants pocketed millions and millions in bonuses due to their conduct that damaged UBS Group AG and are very wealthy. The Directors and Officers are covered by a multi-hundred-million-dollar D&O insurance policy purchased and paid for with UBS's corporate funds — not their funds. The policy belongs to UBS, not them.*** That policy is a corporate asset that can and ought to be realized upon (to help compensate UBS Group AG for the damage they caused it due to their wrongdoing and lack of due care and prudence).

254. Large Directors and Officers liability insurance policies customarily include what is called an “insured versus insured” exclusion, intended to exclude from the insurance coverage claims by one insured, *i.e.*, the corporation, against another insured, *i.e.*, a corporate Director or Officer or employee. Thus, were the company insured under such a policy, to bring the claims asserted herein, the insurance company would, based on this exclusion, decline coverage to pay the damages to the company. Purchasing this type of insurance where the premiums measure in the millions and are paid by the company is, in itself, a breach of the Directors’ and Officers’ duties of due care and prudence as policies without those exclusions are available and could have been purchased. The presence of “insured versus insured” exclusions in the directors’ and

officers' liability policies means that this derivative lawsuit — which does not fall within any such exclusion — is the legal vehicle best available to realize on this corporate asset, for the benefit of the corporation, which has after all paid 100% of the premiums.

255. Yet, the Directors have never retained independent outside counsel with special expertise in evaluating or prosecuting such claims against the wrongdoers to evaluate the factual and legal bases to pursue such claims and then, if valid grounds exist to do so, to pursue them. This is because they do not want to pursue the claims or see them pursued by others, despite the huge size of the directors' and officers' liability insurance policy.

256. All or a majority of the current UBS Directors and its CEO suffer from disabling conflicts of interest and divided loyalties that preclude them from exercising independent good faith judgment required to commence, oversee, and pursue this type of expensive and contentious litigation. The current CEO is deeply implicated in the wrongdoing. The new CEO would never authorize this kind of litigation given his own "checkered past." A clear majority of the current Directors participated in, approved of, and/or permitted some or all of the wrongs alleged herein — which have continued to the current date — as the Directors and Officers have tried to conceal, disguise, or excuse their wrongs. There is a substantial likelihood that a majority of the current Directors could be found liable in this action. Any objective, independent investigation resulting in a suit against them would jeopardize — potentially exhaust — their individual assets and they will not risk that.

B. UBS's Directors' Hostility to Regulation and Whistleblowers Also Shows They Will Not Sue

257. There is no reason to believe the Board could or would ever sue its members or others responsible for damaging UBS Group AG. In fact, they have a long track record of suppressing efforts to hold wrongdoers inside UBS accountable for their conduct and

defying law enforcement and regulators in many nations — and violating DPA and consent decrees they promised to obey.

258. Given the Directors' historic hostility to whistleblowers seeking to surface wrongdoing and animosity toward regulators and regulations, these Directors could not impartially and independently weigh whether or not to file and prosecute this action. There has been a clear "**pattern**" of suppression of people inside UBS who tried to investigate and/or bring wrongdoing to light and stop or remedy it. They have been intimidated, suppressed, and fired. Over the years, several whistleblowers were blocked, punished and fired as the Directors and Officers and UBS's legal counsel either obstructed or permitted the obstruction of criminal/regulatory and internal investigations of UBS personnel implicated in the wrongdoing. This demonstrates embedded hostility to holding wrongdoers at UBS personally accountable. If the Directors have not taken legal action on behalf of UBS by now, they never will and they certainly will not do so with themselves, and CEO Ermotti still currently embroiled in yet another scandal.

259. As is routine in Swiss public companies in past years, the UBS Directors' proposed that the UBS shareholders vote to "**discharge**" the Directors and Officers, *i.e.*, for the prior "financial" year. In connection with the UBS Annual Meeting held in May 2019, the Directors and Officers proposed the following motion:

4- Discharge of the members of the Board of Directors and the Group Executive Board for the financial year 2018.

Motion

The Board of Directors proposes that the discharge of the members of the Board of Directors and the Group Executive Board **for the financial year 2018** be granted.

260. The motion failed to get a majority shareholder vote. The conviction in the French cross-border tax case occurred in 2019, not 2018. In connection with the April 2020 UBS Annual Meeting, the Directors and Officers proposed the following motion:

The Board of Directors proposes that discharge of the members of the Board of Directors and the Group Executive

Board for the *financial year 2019 be granted, excluding all issues related to the French cross-border matter.*

Explanation

The Board of Directors acknowledges that the judgment in the French cross-border matter issued in February 2019 contributed to shareholders not granting the discharge at the 2019 AGM. UBS has appealed the decision of the Court of First Instance and the ongoing proceedings in France may still be considered too much of an uncertainty in the context of the grant of discharge. Therefore the Board of Directors proposes that discharge of the financial year 2019 be granted ***with the explicit exclusion of all issues related to the French cross-border matter.***

261. At the Annual Meeting in May 2019, Weber, the Board Chair, stated in reference to the lawsuit against UBS in France, “Regrettably, an acceptable way to reach an out of court settlement had not been possible and UBS therefore ***had no choice but to go to court.***” That statement was and is false. The case could have been settled for \$1.1 billion, the “bail” amount.

262. No shareholder vote discharging the UBS Directors and Officers in any of the prior “financial years” was effective or valid as the Directors and Officers never made to the voting shareholders full and complete disclosure required of a fiduciary under an obligation of candor in a self-interested transaction/resolution, of the nature and extent of the then ongoing criminal wrongdoing which they knew or should have known of and in which many of them were personally participating. Moreover, shares owned or controlled by involved wrongdoers were voted in favor of discharges. The named plaintiff did not vote in favor of any such discharges.

IX. JURISDICTION OVER UBS GROUP AG AND ITS DIRECTORS/OFFICERS AND VENUE ARE PERMITTED AND PROPER IN NEW YORK; PROCEEDING HERE IS MORE CONVENIENT THAN IN SWITZERLAND

263. New York is the greatest, largest and most important financial, commercial and legal center in the world. It is the heart of the United States. Its civil court system is

sophisticated, efficient and experienced in complex legal disputes involving citizens of different countries and the application of foreign law. The UBS corporate enterprise, which its shareholders own, and the Directors and Officers oversee and operate on their behalf, have overwhelming contacts with the United States — economically and legally both with respect to UBS's business operations and the investigations, litigations, penalties and fines imposed on it, in large part due to the misconduct of UBS Officers/executives in its Investment Bank, which operated largely out of UBS's Wall Street tower.

264. The Swiss Code of Obligations/Corporation Law imposes substantive obligations on the Directors and Officers and those who advise, assist, guide or influence them and provide remedies to all shareholders of UBS Group AG to protect the corporate entity whether they reside in Switzerland or elsewhere. While “personal jurisdiction” over the corporate entity sued for derivatively is not necessary for due process purposes, it exists here. General and specific jurisdiction exist over Nominal Defendant UBS Group AG, the parent public corporation sued for derivatively. UBS Group AG and its counsel have actual notice of this suit.

265. UBS Group AG is a “foreign corporation” and “foreign banking corporation” within the meaning of the New York Business Corporation Law Sections 626 and 1319 and New York Banking Law Section 200-b respectively. UBS Group AG's agent for service is David Kelly, Managing Director of UBS AG, 600 Washington Boulevard, Stamford, Connecticut 06901.

266. Under New York law, an action against a foreign banking corporation may be maintained by a “resident of this state for any cause of action” and by a non-resident if: (a) the subject matter of the litigation is situated in New York; (b) the cause of action arose within the State; (c) the action is based on a liability for acts done within the State by a foreign banking corporation; or (d) the defendant is a foreign banking corporation doing business in the State. N.Y. BANKING LAW § 200-b; *see also id.* § 221-c (allowing

jurisdiction to be applied because foreign persons must assign an agent for service of process to have the “same force and effect as if it were a domestic corporation and had been lawfully served with process in this state.”)

267. UBS Group AG operates in New York through its New York “**flagship**” office and a number of subsidiaries headquartered in New York. According to UBS Group AG’s annual reports:

Our banking operations are subject to extensive federal and state regulation and supervision in the U.S. Our direct U.S. offices are composed of our New York Branch [which office] is licensed with, and subject to examination and regulation by, the state banking authority in the state in which it is located.

Our New York Branch is licensed by the New York Superintendent of Financial Services (Superintendent), examined by the DFS, and subject to laws and regulations applicable to a foreign bank operating a New York branch.

The New York Banking Law authorizes the Superintendent to seize our New York branch and all of UBS AG’s business and property in New York State (which includes property of our New York Branch wherever it may be located, ***and all of UBS’s AG property situated in New York State***) under circumstances generally including violations of law, unsafe or unsound practices or insolvency.

Moreover, the co-heads of, respectively, Global Wealth Management and Investment Bank are residents and citizens of New York, operating out of UBS’s office tower in Manhattan.

268. According to the Company’s U.S. Resolution Plan:

UBS Group AG is the “covered company” for purposes of the Regulations. A “material entity” is defined in the Regulations as “a subsidiary or foreign office of the covered company that is significant to the activities of a critical operation or core business line.” The “Core business lines” are defined in the Regulations as “those business lines of the covered company, including associated operations, services, functions and support which, in the view of the covered company, upon

failure would result in a material loss of revenue, profit, or franchise value.” UBS defines core business lines in the UBS U.S. Resolution Plan as the core business lines conducted by the operating subsidiaries of Americas Holding. A description of the core business lines is provided below.

U.S. material entities

Based upon the core business lines identified and described below, and the critical operations designated by the Federal Reserve and the FDIC, ***UBS Group AG designated two branches of UBS AG and six U.S. subsidiaries as material entities for purposes of this UBS U.S. Resolution Plan.*** The material entities in the UBS U.S. Resolution Plan are: Americas Holding, UBS Americas Inc., UBS Securities LLC, UBS Financial Services Inc., UBS Bank U.S.A, UBS Business Solutions U.S., LLC, UBS AG Stamford Branch and UBS AG New York 787 Branch.

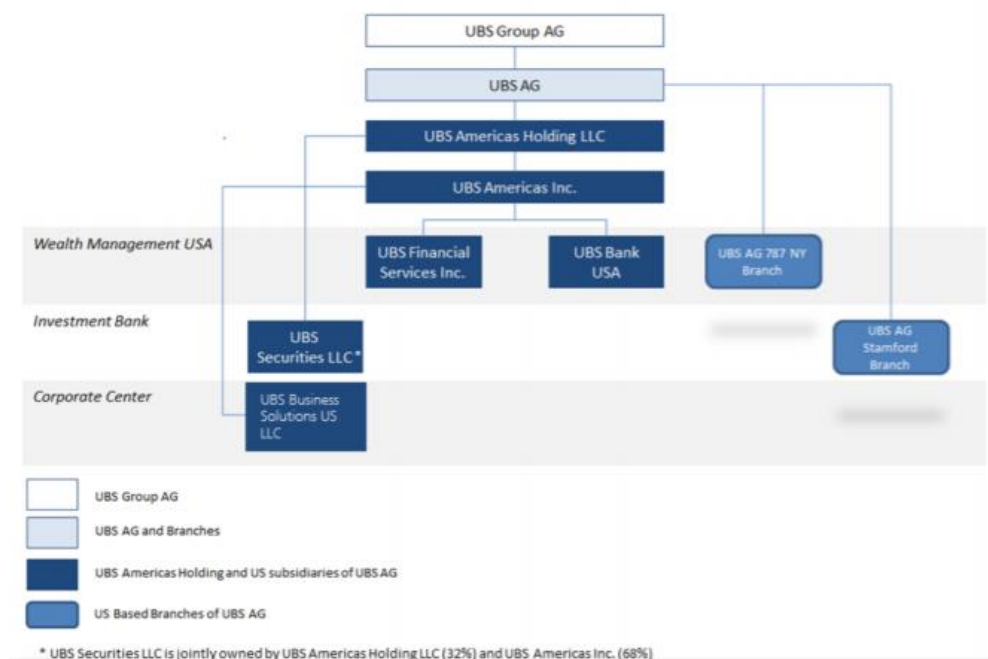
UBS AG New York 787 Branch

UBS AG New York 787 Branch is an uninsured federally-licensed UBS branch of UBS AG that is supervised by the Office of the Comptroller of the Currency. The UBS AG New York 787 Branch is the account holder for UBS’s master account maintained with the Federal Reserve through which wire transfer and discount window borrowing services are accessed by the UBS AG Stamford Branch on behalf of UBS.

269. UBS Group AG has long been represented by the New York-based law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP in both regulatory and litigation matters here in New York, which is located in the UBS building in New York City.

270. Below provides a simplified legal entity structure as of June 2018 and depicts the UBS subsidiaries and branches that are material to the UBS Resolution Plan.

[The remainder of this page is deliberately left blank.]



271. UBS Group AG has billions of dollars' worth of its securities traded here in New York. In order to sell its securities in the United States and have them available for ongoing trading here in New York — UBS Group AG has registered UBS Group AG and these securities with the SEC and has filed registration statements and ongoing reports with the SEC, which filings are signed or authorized by the Directors and Officers. UBS Group AG also applied for and received permission to list its securities for trading on the New York Stock Exchange ("NYSE") assuming ongoing contractual obligations to the NYSE and the New York investors/owners of UBS Group AG. Under its contractual obligations with the NYSE, UBS Group AG is required to provide information and other materials in New York. UBS Group AG has sold securities to New York residents raising millions in new capital.

272. Approximately 10% of UBS Group AG's common shareholders are in the United States; they own over 330 million shares of its stock. Many of these shareholders live in New York.

273. UBS Group AG owns billions of dollars of assets located in New York, and maintains the entire office tower in Manhattan — 1285 Avenue of the Americas — its United States headquarters, which it shares with its longtime New York-based counsel — Paul, Weiss, Rifkind, Wharton & Garrison LLP. UBS Group AG has received and/or directly benefited from over \$20 million from New York City from 1997 to 2016 in subsidies/abatements. It also received 16 short term loans or loan guarantees totaling \$55 billion, and 11 other loans totaling \$74 billion to its New York branches from the New York Federal Reserve to help UBS AG maintain liquidity during the great financial crisis in 2008–2009. UBS Group AG has had “continuous and systematic” contacts and affiliations with New York for many years and has been repeatedly sued in New York state and federal courts by government regulators, prosecutors and private parties. All this renders UBS Group at “home” here in New York — the center of the financial world.

274. The tortious, *i.e.*, negligent, reckless or intentional, conduct of the Directors and Officers that took place at corporate headquarters in Switzerland was ***targeted at New York and New York residents, investors and customers as New York was one of the most important markets in the world to UBS Group AG and was the center — “hub” — head*** of its U.S. operations, including its Wealth Management/Investment Banking operations that are central to this case and UBS AG's business.

275. By regularly conducting business in New York and obtaining billions in revenues each year from New York and billions in capital, UBS Group AG and its Directors and Officers named as Defendants have purposefully availed themselves of the privilege of accessing New York's commercial and financial markets for its/their business purposes and economic gain, selling products and services to thousands of New York residents and

obtaining billions of dollars of revenue from New York. UBS Group's New York headquarters and the offices of its subsidiaries in New York were directly involved in the underlying wrongdoing complained of which damaged UBS Group AG.

276. Specific jurisdiction exists over UBS Group AG **and** its Directors and Officers because of their substantial contacts and affiliations with New York that involve and relate directly to the underlying controversy, including business and financial activities that took place in New York and were subject to regulation and oversight by New York banking authorities as well as the New York branch of the Federal Reserve.

277. As a consolidated reporting entity UBS Group AG includes the financial results of the operations of its New York-based business units/divisions/subsidiaries in the publicly owned parent company's consolidated financial statements, which are filed with the New York Federal Reserve office and the New York banking authorities, *e.g.*, the New York State Department of Financial Services.

278. UBS Group AG is also a hierarchical corporate enterprise, subject to the control, supervision and management of its Board of Directors and Board of Management. They set corporate-wide business, accounting and conduct policies and implement and oversee those uniform policies over all of UBS Group AG's worldwide operations, including those in New York. This control includes directing the activities of — and hiring and firing — the executives of the New York operations. It also involves the oversight and enforcement of the parent corporation's Code of Conduct/Ethics, which is applicable to the employees in UBS's New York branch and subsidiary operations in New York. This Code of Conduct was to ensure compliance with the laws and regulations. The UBS Group AG officials' failure to enforce compliance with the Code of Conduct and with the laws and regulations of New York and the United States caused damage to UBS Group AG and also injured the hundreds of thousands of UBS shareholders, including those residing in New York.

279. UBS Group AG's General Counsel and Chief Financial Officer have the authority to control and direct the conduct and actions of corporate employees who work for UBS Group AG and its New York branch and divisions/subsidiaries in New York, often retaining law and accounting firms with offices located in New York City.

280. UBS Group AG is subject to the jurisdiction of New York law-enforcement authorities, *i.e.*, the New York State Attorney General, and federal prosecutors who prosecute cases here in New York where the misconduct impacted multiple states — including New York.⁵ UBS Group AG has been subject to regulatory and criminal investigations and prosecutions by federal authorities and state authorities in New York.

281. UBS Group AG has been held responsible in New York federal courts by the DOJ for conduct that took place in part in New York. UBS Group AG has also been held accountable to several federal agencies in the United States, *i.e.*, SEC, FHFA, CFTC, Federal Reserve — being censured, fined, paying settlements and agreeing to Consent Decrees and the like for the misconduct of officials/employees of its New York branch office and its New York subsidiaries. UBS Group AG has repeatedly been sued for damages by private parties in the Southern District of New York for violations of the federal securities laws.

282. Key aspects of alleged violations of Defendants' duties of due care and prudence occurred in New York City, where the Investment Bank which was at the center

⁵ UBS Group AG is the current name of the parent public company and corporate enterprise sued for derivatively. UBS underwent a "technical" corporate reorganization in 2014 to comply with requirements and demands of financial regulators, including the U.S. Federal Reserve as part of creating a resolution plan in the event a financial crisis impaired the corporate entities' financial stability — in case the Company fails. Prior to the reorganization, the parent public company was named UBS AG. After the 2014 reorganization the name of the parent public company was changed to UBS Group AG, a non-operating corporate holding company, the entity sued for derivatively here. Under either name, the public parent company has been repeatedly sued by regulators, prosecutors and private parties here in New York and elsewhere in the United States for conduct that injured American citizens, including those living in New York.

of much of the illegal conduct that resulted in the damage to UBS is headquartered in New York City. A substantial part of the billions in fines/penalties and settlements have been paid to regulators in the United States and New York, and there are ongoing investigations of wrongdoing inside UBS being conducted by these authorities.

283. Many of the key witnesses and much of the evidence relevant to Plaintiff's claims are located here in New York. Plaintiff will likely not be able to compel the production of documents from UBS, the Directors, Officers or third parties, as effectively and efficiently as will be the case with a New York forum.

284. Individual shareholders do not have the means to hire lawyers on a non-contingent fee basis, or to pay the costs of such complex litigation and cannot take the financial risk of the fee-shifting provision of Swiss law.

285. Litigating this "dispute" in a "trial" of these claims in Switzerland would be gravely difficult — a practical impossibility that would deprive the named Plaintiff of his rights as an American/New York citizen, to access a civil justice system with the procedural rules and remedies applied in legal proceedings in the United States.

286. In New York, the plaintiff in a derivative suit is entitled to a jury trial. There are, however, no jury trials in civil cases in Switzerland as in New York. As a citizen of New York and of the United States, Plaintiff has a constitutional right to a jury trial.

X. CAUSES OF ACTION

COUNT I

AGAINST THE UBS DIRECTORS AND OFFICERS FOR BREACHES OF DUTIES TO UBS

287. Plaintiff incorporates by reference the allegations set forth above.

288. The Directors and Officers, by the actions and inactions alleged herein, breached their duties to UBS and its shareholders, including their duties of due care, diligence, loyalty, candor and truthful communications.

289. UBS has been badly damaged by the Individual Defendants' misconduct and breaches of their duties of due care, prudence and loyalty including but not limited to:

- a. The fees and costs of responding to and defending the investigations, suits, proceedings and regulatory and prosecution actions identified, as well as the fines, penalties, and settlements paid to resolve the matters;
- b. The loss of UBS market cap due to the Defendants' actions;
- c. The damage/harm to UBS's corporate reputation;
- d. The fees, costs and fines from the misconduct detailed herein, including private and class-action suits;
- e. The excessive and unjustified compensation, pensions and other bonuses paid out to the Officers based on falsified results, inflated by improper and illegal conduct; and
- f. The possible/actual loss of business opportunities and revenue due to government restrictions on UBS providing certain services, operating in certain areas and undertaking certain transactions.

290. The Individual Defendants' actions and failures to act were a substantial factor in causing the damages alleged, both those that have occurred and will in the future.

291. As a result of the conduct alleged, the Individual Defendants are jointly and severally liable to UBS for damages in an amount to be proven at trial.

292. The damages alleged in this Count are applicable to each of the other Counts, and consist of any and all provable damages to UBS.

COUNT II

AGAINST ALL DEFENDANTS FOR PARTICIPATING IN A COMMON COURSE OF CONDUCT AND CONCERTED ACTION DAMAGING UBS

293. Plaintiff incorporates by reference the allegations set forth above.

294. Each Defendant played an important and indispensable part in a concerted, common course of conduct, for their own, and their joint, economic gain, to the detriment of UBS. Defendants worked together, knowing the roles of the others and each taking the specific overt acts alleged herein within their special areas of expertise and knowledge to further the civil conspiracy. Each Defendant profited from participation in the scheme. In order for the scheme to develop into the course of conduct as it did, it required the continuing mutually supportive and overt acts of each Defendant. Had any one of them complied with their duties to UBS, the damages could have been mitigated or avoided.

295. UBS has sustained and will continue to sustain significant damages, as alleged in Count I.

296. Defendants' actions and failures to act made with knowledge of the facts, as well as their negligent actions and failures to act, were all substantial factors in causing the damages alleged herein.

297. As a result of the misconduct alleged herein, the Defendants are jointly and severally liable to UBS for damages in an amount to be proven at trial.

COUNT III

AGAINST ALL DEFENDANTS FOR AIDING AND ABETTING BREACHES OF ONE ANOTHER'S DUTIES TO UBS

298. Plaintiff incorporates by reference the allegations set forth above.

299. Each of the Defendants knew that they all owed obligations to UBS.

300. Each of the Defendants knew that the other Defendants' conduct as alleged in this Complaint breached those duties to UBS.

301. Each of the Directors and Officers gave substantial assistance or encouragement in effectuating such other Defendants' breaches of duties, by the actions or failures to act as alleged in this Complaint, acting as knowing civil accomplices.

302. Defendants had actual knowledge of the existence of each of the other Defendants' duties to UBS, and knowingly provided substantial assistance to these Defendants in the breaches of their duties to UBS.

303. As a direct and proximate result, the breaches of duties aided and abetted by the Defendants, UBS has been damaged.

304. UBS has sustained and will continue to sustain significant damages, as alleged in Count I.

305. As a result of the misconduct alleged herein, these Defendants are liable to UBS for damages in an amount to be proven at trial.

XI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of and derivatively for UBS, demands judgment as follows:

A. Declaring that Plaintiff may maintain this action on behalf of UBS and that Plaintiff is an adequate representative for UBS;

B. Declaring that Defendants have breached their respective duties to UBS;

C. Determining and awarding to UBS the damages sustained by it as a result of the violations set forth above from each of the Defendants, individually, jointly and severally, together with interest thereon, as appropriate under the law;

D. Ordering a full and complete accounting of fees or other payments made to any person in connection with the wrongdoing;

E. Imposing a constructive trust upon and/or ordering disgorgement of all compensation paid to the Directors and Officers during the relevant period;

F. Requiring forfeiture or recapture of any pensions of the Directors and Officers;

G. Awarding Plaintiff's Counsel reasonable fees and expenses, honoring the fee agreement with the named plaintiff who has brought this action on behalf of and for the benefit of UBS;

H. Awarding the named Plaintiff an appropriate incentive award for having the courage and initiative to bring the action to benefit UBS, to be paid out of the recovery;

I. Using the Court's equity power to fashion such relief as is justified and necessary to benefit UBS; and

J. Awarding such other legal and equitable relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues so triable.

Dated: New York, New York
June 2, 2020

Respectfully submitted,

s/ Clifford S. Robert
Clifford S. Robert

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VERIFICATION

I, Ezra Cattan, hereby verify that I am a shareholder of UBS Group, A.G. (“UBS” or the “Company”) and am ready, willing, and able to pursue this shareholder derivative action on behalf of UBS. I have continuously held shares of UBS at times relevant in the Verified Shareholder Derivative Complaint. I have reviewed the allegations in the Verified Shareholder Derivative Complaint, and as to those allegations of which I have personal knowledge, I know those allegations to be true, accurate and complete. As to those allegations of which I do not have personal knowledge, I rely on my counsel and their investigation, and for that reason I believe them to be true. Having received a copy of the foregoing complaint, and having reviewed it with my counsel, I hereby authorize its filing.

Dated: June 2, 2020


Ezra Jack Cattan (Jun 2, 2020 17:50 EDT)

Ezra Cattan






UBS Verification

Final Audit Report

2020-06-02

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