



DIVISION OF  
TRADING AND MARKETS

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

May 16, 2008

David B. Rockwell, Esq.  
Sullivan & Cromwell LLP  
1 New Fetter Lane  
London, EC4A 1AN  
United Kingdom

Re: UBS AG  
File No. TP 08-52

Dear Mr. Rockwell:

In your letter dated May 16, 2008, as supplemented by conversations with the staff of the Division of Trading and Markets ("Staff"), you request on behalf of UBS AG, a corporation organized under the laws of Switzerland ("UBS"), an exemption from, or confirmation that the Staff will not recommend that the Securities and Exchange Commission (the "Commission") take enforcement action under, Rules 101 and 102 of Regulation M under the Securities Exchange Act of 1934 ("Exchange Act") in connection with a rights offering announced by UBS (the "Rights Offering") and the related global offering (the "Global Offering", together with the Rights Offering, the "Offerings").

You seek exemptive or no-action relief to permit UBS and certain UBS Affiliates to conduct specified transactions outside the United States in UBS Shares during the Offerings. Specifically, you request that: (i) UBS IB be permitted to continue to engage in market making and principal client facilitation activities as described in your letter; (ii) UBS IB be permitted to continue to engage in derivatives market making and hedging activities as described in your letter; (iii) UBS IB be permitted to continue to engage in unsolicited brokerage activities as described in your letter; (iv) UBS Wealth Management be permitted to continue to engage in wealth management activities as described in your letter; (v) UBS Global Asset Management be permitted to continue to engage in asset management activities as described in your letter; and (vi) UBS GT be permitted to continue to engage in employee share and option plan activities as described in your letter.

You also seek exemptive or no-action relief to permit certain UBS Affiliates to conduct specified transactions in the United States in UBS Shares during the Offerings. Specifically, you request that: (i) UBS Securities LLC be permitted to continue to engage in unsolicited brokerage activities as described in your letter; (ii) UBS Wealth Management U.S. be permitted to continue to engage in wealth management activities as described in your letter; and (iii) UBS Global Asset Management be permitted to continue to engage in asset management activities as described in your letter.

We have attached a copy of your correspondence to avoid reciting the facts set forth therein. Unless otherwise noted, each defined term in our response has the same meaning as defined in your letter.

*Response:*

Based on the facts and representations that you have made in your letter, but without necessarily concurring in your analysis, the Commission hereby grants UBS an exemption from Rules 101 and 102 to permit UBS IB, UBS Wealth Management, UBS Global Asset Management, UBS GT and UBS Securities LLC (collectively, the "Companies") to continue to engage in the transactions described in your letter during the Offerings. In particular, in your correspondence you make the following key representations:

- During 2007, the worldwide average daily trading volume ("ADTV") of UBS Shares was approximately 17,328,414 shares, or CHF 1,167 million (or approximately US\$ 1,033 million at the exchange rate on December 28, 2007) in value, and in March and April 2008, the worldwide ADTV of UBS Shares was approximately 27,699,890 shares, or CHF 836 million (or approximately US\$ 804 million at the exchange rate on April 30, 2008) in value;
- UBS's aggregate market capitalization as of December 28, 2007 was approximately CHF 108.7 billion (or approximately US\$ 96.2 billion at the exchange rate on December 28, 2007) and UBS's free-float adjusted market capitalization was approximately CHF 101.1 billion (or approximately US\$ 89.5 billion at the exchange rate on December 28, 2007). As of April 30, 2008, UBS's aggregate market capitalization was approximately CHF 76.2 billion (or approximately US\$ 73.3 billion at the exchange rate on April 30, 2008) and UBS's free-float adjusted market capitalization was approximately CHF 70.3 billion (or approximately US\$ 67.7 billion at the exchange rate on April 30, 2008);
- The UBS Shares comprised 10.2% of the Swiss Market Index, 8.5% of the Swiss Performance Index, and 8.7% of the Swiss Leader Index as of December 28, 2007;
- SWX Europe is the principal trading market for UBS Shares and trading on the SWX Europe accounted for approximately 92.9% of the worldwide ADTV in UBS Shares during 2007. In March and April 2008, SWX Europe accounted for approximately 87.8% of the worldwide ADTV in UBS Shares;
- UBS shareholders will be allotted the Rights to purchase up to 1.25 billion New Shares and the number of New Shares to be issued in the Rights offering is expected to translate into net proceeds of approximately CHF 15 billion to UBS;

- UBS maintains and enforces written "Chinese Wall" policies and procedures to prevent price-sensitive information from passing between any area in which Market Activities are conducted and any other area of UBS in which price-sensitive information relating to UBS Shares would be available;
- UBS IB conducts its market making and principal client facilitation activities, derivatives market making and hedging activities, and unsolicited brokerage activities outside the United States;
- UBS Wealth Management and UBS Global Asset Management conduct their wealth management and asset management activities both outside and inside (as discussed below) the United States;
- UBS GT conducts its employee share and option plan activities outside the United States;
- All of the Market Activities together (counting all sides of each trade in which it participates) conducted by the Companies as described in your letter accounted for approximately 10.5% of the worldwide ADTV of UBS Shares in 2007;
- The withdrawal of a significant market maker in UBS Shares (and in derivatives on UBS Shares) in the primary market for those shares, which are among the most actively traded on SWX Europe, for an extended period of time would have serious harmful effects in the home market and, indirectly, in the United States market, for the UBS Shares, including a significant imbalance of buy and sell orders, which could cause greater volatility and reduced liquidity;
- UBS IB, UBS Wealth Management, UBS Global Asset Management, and UBS GT have each confirmed that the activities for which it is requesting relief will be conducted in the ordinary course of its businesses and in accordance with applicable Swiss law, the Laws of the United Kingdom and other local laws;
- In the United States, UBS conducts a securities business through a separate subsidiary, UBS Securities LLC, which is registered with the Commission as a broker-dealer and is a member of the Financial Industry Regulatory Authority and the NYSE. UBS Securities LLC will only engage in unsolicited brokerage activities in the normal course of its business with its customers;
- In the United States, UBS Wealth Management U.S. conducts its wealth management business through UBS Financial Services, Inc., UBS International Inc. and UBS Financial Services Incorporated of Puerto Rico, each of which is registered with the Commission as a broker-dealer and investment adviser, as well as through an OCC-regulated branch of UBS AG and through UBS Bank USA, a

Utah ILC. Each of these entities will only engage in wealth management activities in the normal course of its business with its customers; and

- In the United States, UBS Global Asset Management conducts a business group through three separate sub-groups: Alternative & Quantitative, Real Estate and Equities, Fixed Income & Global Investment Solutions, which are registered investment advisers. Each of these entities will only engage in asset management activities in the normal course of its businesses with its customers.

The exemption is subject to the following conditions:

1. None of the transactions of the Companies described in your letter shall occur in the United States, with the exception of the unsolicited brokerage, wealth management, and asset management activities of certain UBS Affiliates as described in your letter;
2. All of the transactions described in your letter for which you seek relief shall be effected in the ordinary course of business and not for the purpose of facilitating the Offerings;
3. The offering documents that will be distributed to United States investors that participate in the Offerings, discloses the possibility of, or the intention to make, the transactions described in you letter;
4. UBS and each of the Companies will provide to the Division of Trading and Markets ("Division"), upon request, a time-sequenced schedule of all such transactions made during the Offerings. Such schedule will include:
  - (a) size, broker (if any), time of execution, and price of the transactions;
  - (b) the exchange, quotation system, or other facility through which the transactions occurred, and
  - (c) whether the transactions were made for a customer account or a proprietary account;
5. Upon request of the Division, UBS and each of the Companies will transmit the information requested in item 4 (above) to the Division at its offices in Washington DC within 30 days of its request;
6. UBS and each of the Companies shall retain all documents and other information required to be maintained pursuant to this letter for at least two years following the completion of the Offerings;

7. Representatives of UBS and each of the Companies shall be made available (in person at the offices of the Commission in Washington, DC or by telephone) to respond to inquiries of the Division relating to their records; and
8. Except as otherwise directed by this letter, UBS and each of the Companies will comply with Regulation M.

The foregoing exemption from Rules 101 and 102 of Regulation M is based solely on your representations and the facts presented to the Staff and is strictly limited to the application of this rule to the proposed transactions. Such transactions should be discontinued, pending presentation of the facts for our consideration, in the event that any material change occurs with respect to any of those facts or representations.

In addition, your attention is directed to the anti-fraud and anti-manipulation provisions of the Exchange Act, including Sections 9(a) and 10(b), and Rule 10b-5 thereunder. Responsibility for compliance with these and any other applicable provisions of the federal securities laws must rest with the participants in the various transactions. The Division expresses no view with respect to any other questions that the proposed transactions may raise, including, but not limited to, the adequacy of disclosure concerning, and the applicability of any other federal or state laws to, the proposed transactions.

For the Commission,  
by the Division of Trading and Markets,  
pursuant to delegated authority,



Josephine J. Tao  
Assistant Director

Attachment

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May 16, 2008

Division of Trading and Markets,  
Securities and Exchange Commission,  
100 F Street, NE,  
Washington, D.C. 20549.

Attention: James A. Brigagliano, Associate Director, Division of Trading and Markets

Re: UBS AG: Request for Exemptive and/or No-Action Relief from Rules  
101 and 102 of Regulation M

Ladies and Gentlemen:

We are writing as counsel to UBS AG ("UBS"), a corporation (*Aktiengesellschaft*) organized under the laws of Switzerland, about the application of Regulation M to transactions by UBS and its affiliates (the "UBS Affiliates", and each a "UBS Affiliate"), in the ordinary shares of UBS ("UBS Shares") in connection with a rights offering announced by UBS (the "Rights Offering"), in which UBS's existing shareholders will receive tradable rights (the "Rights") to subscribe for new UBS Shares (the "New Shares") and the related global offering (the "Global Offering", together with the Rights Offering, the "Offerings"), in which New Shares that have not been taken up by holders of Rights and that have not otherwise been sold in open market transactions will be offered as further described below.

Specifically, on behalf of UBS, we ask the Staff to grant exemptive relief from, or to confirm that the Staff will not recommend that the Securities and Exchange Commission (the "SEC") take enforcement action under, Rules 101 and 102 of Regulation M in connection with the continuation by UBS and the UBS Affiliates, in the ordinary course of their respective businesses as described below and in accordance with applicable local law, of the following activities during the Offerings:

- **Market Making and Principal Client Facilitation in UBS Shares:** UBS Investment Bank ("UBS IB") regularly makes bids and offers for UBS

Sullivan & Cromwell LLP is a registered limited liability partnership established under the laws of the State of New York. The personal liability of our partners is limited to the extent provided in such laws. Additional information is available upon request or at [www.sullcrom.com](http://www.sullcrom.com).

A list of the partners' names and professional qualifications is available for inspection at the above address. All partners are either registered foreign lawyers in England and Wales or solicitors. Regulated by the Solicitors Regulation Authority.

Shares on SWX Europe Limited (“SWX Europe”)<sup>1</sup> and on Chi-X Europe Limited (“Chi-X”) and regularly purchases and sells UBS Shares on SWX Europe and on Chi-X and in the over-the-counter market in Switzerland (and, in some cases, elsewhere outside the United States). UBS IB effects these transactions for its own account in order to provide liquidity to the trading market for UBS Shares and to facilitate customer transactions.

- ***Derivatives Market Making and Hedging:*** As a derivatives market maker, UBS IB issues, buys and sells derivatives on UBS Shares for its own account and for the account of its customers on the EUREX exchanges (“EUREX”), on Scoach<sup>2</sup> and in the over-the-counter market in Switzerland, the United Kingdom and elsewhere outside the United States. These derivatives may include both currently existing and newly designed listed and over-the-counter options, warrants, convertible securities and other structured products (including exchange-traded funds and other portfolio-type instruments) relating to UBS Shares or to baskets or indices including UBS Shares, as well as futures on the foregoing. UBS IB engages in derivatives market-making activities in order to provide liquidity to the derivatives market and to facilitate customers’ derivatives transactions.<sup>3</sup> In addition, UBS IB solicits and effects trades in UBS Shares for its own account and for the accounts of its customers for the purpose of hedging positions (or adjusting or liquidating existing hedge positions) of UBS and its customers that are established in connection with UBS IB’s derivatives market-making activities. These hedging transactions are effected on SWX Europe, on Chi-X and in the over-the-counter market in Switzerland (and, in some cases, elsewhere outside the United States).

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<sup>1</sup> Prior to March 3, 2008, SWX Europe operated under the name virt-x Exchange Limited.

<sup>2</sup> Scoach is a joint venture for structured products founded by the Swiss Financial Market Services AG and Deutsche Börse AG on October 23, 2006. The jointly owned exchange operates trading facilities in Frankfurt through Scoach Europa Ltd. (for Germany and other countries of the European Union) and Zurich through Scoach Switzerland Ltd. (for Switzerland). Scoach Europa Ltd. and Scoach Switzerland Ltd. are supervised by the national stock-exchange supervisory bodies of their respective jurisdictions.

<sup>3</sup> These market activities also include UBS IB’s market-making in derivatives conducted on a contractual basis with investors.

- ***Unsolicited Brokerage in UBS Shares:*** UBS IB effects unsolicited brokerage transactions in UBS Shares by placing orders on SWX Europe or on Chi-X or effecting trades in the over-the-counter market in Switzerland, the United Kingdom, and elsewhere outside the United States. These transactions arise from unsolicited buy or sell orders received by UBS IB from its customers. In addition, UBS Securities LLC, UBS IB's affiliated U.S. broker-dealer, may also engage in unsolicited brokerage activities of the kind described above with its customers in the United States. We ask that the requested relief also cover such activities.
- ***Trading in UBS Shares and Derivatives by UBS Wealth Management:*** UBS's wealth management business units, Wealth Management International & Switzerland and Wealth Management U.S. (collectively, "UBS Wealth Management"), which are included in the business group Global Wealth Management & Business Banking ("GWM&BB"), provide, among other products and services, worldwide investment services to high net worth and other affluent individuals.<sup>4</sup> As part of its ordinary advisory investment management activities on behalf of its clients, UBS Wealth Management buys and sells UBS Shares and derivatives on UBS Shares for its clients' accounts. The market activities of UBS Wealth Management are conducted both outside and inside (through direct and indirect subsidiaries) the United States and primarily in Switzerland and the U.K. through the facilities of SWX Europe and in the United States through the facilities of the NYSE.
- ***Trading in UBS Shares and Derivatives by UBS Global Asset Management:*** UBS's asset management division, UBS Global Asset Management, provides traditional, alternative and real estate investment solutions to private clients, financial intermediaries and institutional investors worldwide. As part of its ordinary investment management activities on behalf of its clients, UBS Global Asset Management buys and sells UBS Shares and derivatives on UBS Shares for its clients' accounts. The market activities of UBS Global Asset Management are conducted both outside and inside of the United States and primarily in Switzerland and the U.K. through the facilities of SWX Europe and in the United States through the facilities of the NYSE.
- ***Trading in UBS Shares Pursuant to Employee Incentive Plans:*** UBS's group treasury department ("UBS GT") regularly purchases UBS Shares on the open market to facilitate the grant of awards or the exercise of

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<sup>4</sup> Wealth Management U.S. also provides advisory investment services to retail customers in the United States.

options pursuant to the terms of UBS's employee share and option plans, and buy-back UBS Shares that are forfeited or sold in accordance with those plans. These activities are conducted outside the United States and in accordance with UBS's fiduciary duties arising from those plans.

In addition to the market activities described above, UBS Affiliates intend to engage in various market activities relating to the Rights.

The availability of the exemptive and/or no-action relief UBS is requesting would be conditioned on the disclosure and record-keeping undertakings outlined below.

The following representations about the market for UBS Shares and UBS's market activities have been provided to us by UBS.

I. The Market for the UBS Shares

The UBS Shares are listed on the SWX Swiss Exchange (the "SWX") (trading on SWX Europe, a wholly-owned affiliate of SWX), the New York Stock Exchange (the "NYSE") and the Tokyo Stock Exchange. During 2007, the worldwide average daily trading volume of UBS Shares was approximately 17,328,414 shares, or CHF 1,167 million (or approximately US\$ 1,033 million at the exchange rate on December 28, 2007) in value.<sup>5</sup> As of December 28, 2007, UBS's aggregate market capitalization was approximately CHF 108.7 billion (or approximately US\$ 96.2 billion at the exchange rate on December 28, 2007) and UBS's free-float adjusted market capitalization was approximately CHF 101.1 billion (or approximately US\$ 89.5 billion at the exchange rate on December 28, 2007). As of December 28, 2007, UBS was the fourth largest listed Swiss company in terms of market capitalization.<sup>6</sup>

SWX Europe is the principal trading market for UBS Shares. During 2007, SWX Europe accounted for approximately 92.9% of the worldwide average daily trading volume in UBS Shares. During 2007, the average daily trading volume of UBS Shares on SWX Europe was approximately 16,094,377 shares, or CHF 1,086

<sup>5</sup> In March and April 2008, the worldwide average daily trading volume of UBS Shares was approximately 27,699,890 shares, or CHF 836 million (or approximately US\$ 804 million at the exchange rate on April 30, 2008) in value.

<sup>6</sup> As of April 30, 2008, UBS's aggregate market capitalization was approximately CHF 76.2 billion (or approximately US\$ 73.3 billion at the exchange rate on April 30, 2008) and its free-float adjusted market capitalization was approximately CHF 70.3 billion (or approximately US\$ 67.7 billion at the exchange rate on April 30, 2008). As of April 30, 2008, UBS was the fifth largest listed Swiss company in terms of market capitalization.

million (or approximately US\$ 961 million at the exchange rate on December 28, 2007) in value.<sup>7</sup>

SWX Europe was founded in 2001. It is a recognized investment exchange under the U.K. Financial Services and Markets Act 2000 (the "FSMA") supervised by the U.K. Financial Services Authority (the "FSA"). SWX Europe operates, among others, a European Union ("EU")-regulated market segment and a U.K. exchange-regulated market segment for Swiss blue chip equities and related securities. The procedure for listing Swiss blue chip equities is under the authority of the SWX, while admission to trading and trading on SWX Europe are under the authority of the FSA. Swiss blue chip equities listed by SWX are admitted to trading on SWX Europe.

SWX Europe provides for an electronic trading order book. It is an order-driven market with transactions occurring through the automatic matching of buy and sell orders. In general, orders are executed giving priority to price and then to time of entry.

In 2007, the aggregate turnover on SWX Europe was in excess of CHF 2 trillion, of which CHF 1.9 trillion related to Swiss equity securities. As of December 28, 2007, the overall market capitalization of equity securities traded on SWX Europe was approximately CHF 1.1 trillion. As of December 28, 2007, there were 1,045 securities admitted to trading on SWX Europe (excluding exchange-traded funds), of which 40 were Swiss securities and the remainder pan-European securities.

There are a number of key market indices under the authority of the SWX. These market indices include, among others, (i) the Swiss Market Index (the "SMI"), which is comprised of 20 equity securities of the most prominent companies listed on the SWX and, as of December 28, 2007, represented approximately 82.6% of the free-float total market capitalization of the SWX, (ii) the Swiss Performance Index (the "SPI"), which mainly consists of SWX-traded equity securities of companies domiciled in Switzerland or the Principality of Liechtenstein, and (iii) the SLI Swiss Leader Index (the "SLI"), which includes the 30 most liquid domestic stocks traded on the Swiss equity market, including the equity securities included in the SMI. SWX Europe serves as a trading platform for the shares included in the SMI and the SLI.

The UBS Shares are a significant component of SWX Europe and the SWX. The UBS Shares comprised 10.2% of the SMI, 8.5% of the SPI and 8.7% of the SLI as of December 28, 2007.

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<sup>7</sup> In March and April 2008, SWX Europe accounted for approximately 87.8% of the worldwide average daily trading volume in UBS Shares and the average daily trading volume of UBS Shares on SWX Europe was approximately 24,326,400 shares, or CHF 736 million (or approximately US\$ 708 million at the exchange rate on April 30, 2008) in value.

The UBS Shares are also traded on Chi-X. Founded in 2006, Chi-X is an FSA-authorized securities firm operating as a multilateral trading facility for the trading of a wide range of European equities. Chi-X is an indirect subsidiary of Nomura Holdings, Inc.<sup>8</sup> Trading on Chi-X accounted for less than 0.1% of the worldwide average daily trading volume in UBS Shares during 2007.

In May 2000, UBS listed the UBS Shares on the New York Stock Exchange ("NYSE"). The UBS Shares are listed on the NYSE in the form of shares; UBS is not aware that there are any UBS Shares trading in the form of American Depositary Shares (ADSs) in the United States. During 2007, the average daily trading volume of UBS Shares on the NYSE was approximately 1,212,933 shares, or CHF 80 million (or approximately US\$ 70 million at the exchange rate on December 28, 2007) in value. During 2007 the United States accounted for approximately 6.9% of worldwide average daily trading volume in the UBS Shares.<sup>9</sup>

The UBS Shares are also traded on the Tokyo Stock Exchange, which accounted for less than 0.1% of the worldwide average daily trading volume during 2007.

## II. Market Activities

UBS is a global, integrated financial services firm with businesses in private banking, asset management, investment banking and retail and commercial banking. UBS has offices worldwide and its principal executive offices are located in Zurich and Basel, Switzerland. UBS is a foreign private issuer as defined in Rule 3b-4(c) under the Securities Exchange Act of 1934.

UBS IB is part of UBS, but operates as a separate division. UBS IB conducts a full-service securities business. Although UBS IB has offices throughout the world outside the United States, its principal executive offices are located in Zurich, and the market activities for which UBS is seeking relief will be managed principally by representatives in Zurich and London. UBS IB is regulated by and licensed under the Swiss Federal Act on Banks and Savings Institutions and the Swiss Federal Act on Stock Exchanges and Securities Trading (the "SESTA") in Switzerland and the Financial Services Act in the United Kingdom, among other laws and regulations.

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<sup>8</sup> A consortium of 13 firms, including UBS, has taken a minority stake in Chi-X at the beginning of 2008.

<sup>9</sup> In March and April 2008, the average daily trading volume of UBS Shares on the NYSE was approximately 3,231,498 shares, or CHF 96 million (or approximately US\$ 92 million at the exchange rate on April 30, 2008) in value. In March and April 2008, the NYSE accounted for approximately 11.7% of worldwide average daily trading volume in the UBS Shares.

In the United States, UBS conducts a securities business through a separate subsidiary, UBS Securities LLC, which has its principal offices in Stamford, Connecticut and New York City. UBS Securities LLC is registered with the SEC as a broker-dealer and is a member of the Financial Industry Regulatory Authority and the NYSE. UBS Securities LLC will not engage in the UBS IB activities for which UBS is seeking relief (other than unsolicited brokerage); rather these activities (including unsolicited brokerage) will be conducted by UBS IB outside the United States as described below.

UBS Wealth Management is part of GWM&BB, which operates as a separate business group and is comprised of the Swiss, international and U.S. wealth management businesses, along with UBS's Swiss corporate and retail banking unit. Wealth Management International & Switzerland's principal offices are located in Zurich. In the United States, Wealth Management U.S. conducts its wealth management business principally through UBS Financial Services, Inc., an SEC-registered broker-dealer and investment adviser, which is a wholly-owned indirect subsidiary of UBS. UBS Financial Services is headquartered in Weehawken, New Jersey, and has more than 400 offices across the United States. For the sake of completeness, Wealth Management U.S. also conducts its wealth management business through smaller entities, namely UBS International Inc. and UBS Financial Services Incorporated of Puerto Rico, each of which is registered with the SEC as a broker-dealer and investment adviser, as well as through an OCC-regulated branch of UBS and through UBS Bank USA, a Utah industrial loan corporation.

UBS Global Asset Management operates as a separate business group. Outside the United States, its principal offices are in Zurich, Basel, London and Hong Kong. In the United States, it is comprised of three separate business sub-groups: Alternative & Quantitative, Real Estate and Equities, Fixed Income & Global Investments Solutions. All three sub-groups operate out of separate, wholly-owned subsidiaries of UBS, which are U.S. registered investment advisers. The principal offices for the Alternative & Quantitative and Equities, Fixed Income & Global Investments Solutions sub-groups are in Chicago, Illinois, while the Real Estate sub-group has its principal offices in Hartford, Connecticut.

UBS GT is part of UBS Corporate Center, a department of UBS, with principal executive offices in Zurich. UBS GT is principally responsible for the management of UBS' financial resources and financial infrastructure. Among other responsibilities, UBS GT manages UBS group's equity, including UBS's treasury shares, taking into account financial ratios and regulatory capital requirements.

UBS has confirmed that the activities described below, for which it is requesting relief (the "Market Activities"), are permitted under and would be conducted in accordance with applicable Swiss, U.K. and other local laws. In addition, UBS has

confirmed that all of the Market Activities described below together (counting all sides of each trade in which it participates) accounted for approximately 10.5% of the average worldwide trading volume in UBS Shares in 2007.

UBS has established "Chinese Wall" procedures to prevent price-sensitive information from passing between any area in which the Market Activities are conducted and any other area of UBS in which price sensitive information relating to UBS Shares would be available. Accordingly, during restricted periods prior to announcements of earnings results or other material developments that have not yet become public, all market-making and other ordinary course market activities are permitted to continue. UBS will continue to maintain these Chinese Wall procedures during the Offerings.

Market Making and Principal Client Facilitation in UBS Shares. UBS IB conducts its market-making activities outside the United States and manages these activities from Zurich and London. UBS IB purchases and sells UBS Shares as principal to facilitate customer transactions and provide liquidity to the market. Most of these market-making transactions are effected on SWX Europe, with the balance effected on Chi-X and in the Swiss over-the-counter market and, in some cases, the over-the-counter markets elsewhere outside the United States. As noted above, SWX Europe is an order-matching system, not an inter-dealer market with formal, officially designated market makers. Thus, with regard to UBS Shares, neither UBS IB nor any other dealer is obligated to make a market or to comply with any particular market-maker requirements, and they are free to discontinue market making at any time. During 2007, UBS IB was one of the largest market makers in the UBS Shares, accounting for approximately 8.3% of SWX Europe average daily trading volume in the UBS Shares. UBS IB engages in the Market Activities described above solely in the ordinary course of business and not in contemplation of the Offerings, although the Offerings may result in greater selling pressure and thus higher volumes of transactions by UBS IB.

Derivatives Market Making and Hedging. UBS IB conducts its derivatives market-making activities outside the United States and manages these activities principally from Zurich and London. In Switzerland, UBS IB is admitted under EUREX rules as a market maker, and is one of the most significant market makers in derivatives on UBS Shares, accounting for approximately 5.7% of the average daily market-making volume in such derivatives in 2007. This activity involves the issuance, purchase and sale of derivative products for its own account and for the accounts of its customers on EUREX, on Scoach and in the over-the-counter market in Switzerland, the United Kingdom and elsewhere outside the United States.<sup>10</sup> These derivative products may include both currently existing and newly designed listed and over-the-counter

<sup>10</sup> This may include NYSE Euronext, OMX, IDEM (the Italian Derivatives Exchange Market) or Bolsa de Madrid.

options, warrants and other securities (including exchange-traded funds and portfolio-type instruments) that are exercisable for or convertible into, or the value of which is determined by reference to, UBS Shares or proprietary or third-party baskets or indices including UBS Shares. These derivatives may also include futures on the foregoing.<sup>11</sup> UBS IB's derivatives market making involves issuing, purchasing and selling derivatives on UBS Shares in order to facilitate customer orders and provide liquidity to the market.<sup>12</sup>

In addition, as a result of its derivatives market making, UBS IB will maintain varying positions in these derivatives, and its financial exposure to movements in the price of the UBS Shares will vary from time to time. In order to manage this financial exposure, UBS IB continually enters into hedging transactions that involve, in whole or in part, purchases and sales of UBS Shares for UBS IB's own account. UBS IB also effects brokerage transactions in UBS Shares, on an unsolicited basis, on behalf of its customers in order to assist them in hedging their derivatives positions.

UBS IB engages in the Market Activities described above solely in the ordinary course of its business and not in contemplation of the Offerings. These Market Activities occur primarily on SWX Europe, with the balance occurring on Chi-X and in the over-the-counter market in Switzerland and, in some cases, the over-the-counter markets elsewhere outside the United States.

Unsolicited Brokerage. UBS IB effects unsolicited brokerage transactions in UBS Shares by placing orders on SWX Europe or Chi-X or effecting trades as agent in the over-the-counter market in Switzerland, the United Kingdom and elsewhere outside the United States. These transactions arise from unsolicited buy and sell orders received from its customers. As noted above, UBS Securities LLC may also engage in unsolicited brokerage transactions with its customers in the United States. UBS IB and UBS Securities LLC engage in the Market Activities described above solely in the ordinary course of their respective businesses and not in contemplation of the Offerings.

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<sup>11</sup> UBS's derivative market activities include the use of Equity Investor. Equity Investor is a web-based tool which enables UBS's client advisors to create tailor-made structured products online. Trading, hedging, securitization and settlement on Equity Investor are executed on a fully automated basis. UBS's client advisors use this platform principally in Switzerland and Germany. Since 2003, more than 35,000 individual structured products have been issued based on this platform.

<sup>12</sup> These market activities also include UBS IB's market-making in derivatives conducted on a contractual basis with investors.

Trading in UBS Shares by UBS Wealth Management. As part of its wealth management activities, UBS Wealth Management buys and sells securities, including UBS Shares and derivatives on UBS Shares, for its clients' accounts pursuant to discretionary or non-discretionary mandates.<sup>13</sup> Under applicable laws, including Swiss laws and the laws of New York, among others, and subject to the terms of any contractual arrangements as in effect from time to time between UBS Wealth Management and its clients, UBS Wealth Management has a fiduciary duty to conduct its investment advisory management activities in a manner that is in the best interests of its clients and is prohibited by contract and by law from taking into account any factors other than the interest of its clients in making investment decisions. In addition, UBS Wealth Management has fiduciary or similar duties to make recommendations as to non-discretionary advisory accounts in a manner that is in the best interests of its clients. UBS Wealth Management also has a contractual duty to follow the investment instructions of clients holding non-discretionary advisory and brokerage accounts.

Accordingly, UBS Wealth Management would be prohibited by contract and by law from following a directive by UBS to cease trading UBS Shares or derivatives on UBS Shares during the Restricted Period (as defined below), unless UBS Wealth Management believed that cessation of such trading was in the best interests of its clients. Similarly, UBS Wealth Management would be prohibited by contract and by law from following a UBS directive to bid for or purchase UBS Shares or derivatives on UBS Shares unless it independently concluded that such bids or purchases were in the best interests of its clients.

For the 12 months ended December 31, 2007, these activities of UBS Wealth Management accounted for approximately 1.8% of the worldwide average daily trading volume of UBS Shares, all of which was executed through UBS IB and is included in the UBS IB figures given above. UBS Wealth Management engages in these Market Activities solely in the ordinary course of business and not in contemplation of the Offerings. These Market Activities are conducted both outside and inside the United States and primarily in Switzerland and the U.K. through the facilities of SWX Europe and in the United States through the facilities of the NYSE.

Trading in UBS Shares by UBS Global Asset Management. As part of its investment management activities, UBS Global Asset Management buys and sells securities, including UBS Shares and derivatives on UBS Shares, for its clients' accounts pursuant to various mandates, including actively managed core portfolios, growth, quantitative or passive strategies. Under applicable laws, including Swiss laws and the laws of New York, among others, and subject to the terms of any contractual arrangements as in effect from time to time between UBS Global Asset Management and

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<sup>13</sup> Derivatives investment activities also includes the use of the Equity Investor platform (see Note 11 above).

the relevant client accounts, UBS Global Asset Management has a fiduciary duty to oversee client accounts in a manner that is in the best interests of its clients. UBS Global Asset Management is prohibited by contract and by law from taking into account any factors other than the interest of the beneficiaries of client accounts in making investment decisions.

Accordingly, UBS Global Asset Management would be prohibited by contract and by law from following a directive by UBS to cease trading UBS Shares and derivatives on UBS Shares during the Restricted Period, unless UBS Global Asset Management believed that cessation of such trading was in the best interests of the beneficiaries of client accounts. Similarly, UBS Global Asset Management would be prohibited by contract and by law from following a UBS directive to bid for or purchase UBS Shares or derivatives on UBS Shares unless it independently concluded that such bids or purchases were in the best interests of the beneficiaries of client accounts.

For the 12 months ended December 31, 2007, these activities of UBS Global Asset Management accounted for less than 0.3% of the worldwide average daily trading volume of UBS Shares, of which a substantial portion was executed through UBS IB and is included in the figures given for UBS IB above. UBS Global Asset Management engages in these Market Activities solely in the ordinary course of business and not in contemplation of the Offerings. These Market Activities are conducted both outside and inside the United States and primarily in Switzerland and the U.K. through the facilities of SWX Europe and in the United States through the facilities of the NYSE.

Trading in UBS Shares Pursuant to Employee Incentive Plans. UBS GT regularly purchases UBS Shares on the open market to facilitate the grant of awards or the exercise of options pursuant to the terms of UBS's employee share and option plans, and buy-back UBS Shares that are forfeited or sold in accordance with those plans. These activities are conducted outside the United States and in accordance with UBS's fiduciary duties arising from those plans.

These activities of UBS GT historically have represented a small proportion of all trading in UBS Shares, and for the 12 months ended December 31, 2007, the average daily trading volume of UBS Shares traded pursuant to these activities represented approximately 1.2% of the worldwide average daily trading volume of UBS Shares. UBS GT engages in the Market Activities described above solely in the ordinary course of its business and not in contemplation of the Offerings.

In addition to the Market Activities, UBS Affiliates intend to engage in various market activities relating to the Rights.

### III. The Offerings

On April 1<sup>st</sup>, 2008, UBS announced the Rights Offering, a capital increase in which UBS shareholders will be allotted the Rights to purchase up to 1.25 billion New Shares. The New Shares have been subscribed by, and will be offered through, an underwriting syndicate. The Rights Offering will consist of public offerings in Switzerland, Germany, certain other member states of the European Economic Area (“EEA”), the United States and of private placements in certain other jurisdictions. The final issue price (the “Issue Price”) and number of New Shares to be issued in the Rights Offering will be determined shortly before launch (as described below) and are expected to translate into net proceeds of approximately CHF 15 billion to UBS. UBS’s shareholders approved this capital increase at the annual general meeting of the shareholders held on April 23, 2008.

The record date for the allotment of the Rights is expected to be on Monday, May 26, 2008 (the “Record Date”). The final Issue Price (and any consequent adjustment to the exercise ratio, the “Exercise Ratio”) will be determined before the Record Date as provided for under the underwriting agreement. Holders of UBS Shares at the Record Date will then be allotted Rights *pro rata*, i.e., one Right for each existing UBS Share owned.

The Rights are expected to be traded on the EU-regulated market segment of SWX Europe and on the NYSE from May 27 to June 9, 2008.<sup>14</sup> Holders of Rights will be able to exercise their Rights to purchase New Shares pursuant to the final Exercise Ratio and at the final Issue Price from May 27 to June 12, 2008 (the “Exercise Period”).<sup>15</sup> To the extent Rights are not exercised on or before the end of the Exercise Period, they will be forfeited without any compensation.

New Shares which have not been taken up during the Exercise Period will then be sold in open market transactions or offered in the Global Offering. The Global Offering, if any, will consist of (i) a public offering in Switzerland, Germany and other EEA member states, (ii) private placements to certain institutional investors outside the United States in reliance on Regulation S under the Securities Act of 1933 (the “Securities Act”) and relevant local securities laws and (iii) a public offering in the United States under the Securities Act. The Global Offering price is expected to be determined following an institutional bookbuilding procedure commencing on or about

<sup>14</sup> The Rights trading period will be established as the period from May 27 to June 9, 2008 for all markets, but the NYSE will suspend trading in the Rights on the NYSE on the last day of the period in accordance with its customary practice.

<sup>15</sup> UBS Shares held in treasury by UBS or its affiliates will be allotted Rights in the Rights Offering and UBS intends to exercise or sell those Rights.

June 12, 2008 and is expected to be published in the electronic media on or about June 13, 2008 and in several newspapers the next day.

For the purpose of the U.S. portions of the Offerings, UBS has filed with the SEC a Registration Statement on Form F-3 (File No. 333-150143) to register the Rights and the New Shares under the Securities Act. Pursuant to the rules of the SEC, the Registration Statement is an automatic shelf registration statement within the meaning of Rule 405 under the Securities Act and became effective upon filing with the SEC.

The New Shares will be submitted for listing on the EU-compatible segment of the SWX, the NYSE and the Tokyo Stock Exchange. Trading of the New Shares is expected to commence on or about June 13, 2008. Settlement of the Offerings is expected to take place on or about June 17, 2008.<sup>16</sup>

#### IV. Application of Regulation M

In connection with the Offerings, UBS, directly or through underwriters, will offer and sell UBS Shares to U.S. investors and will, therefore, be engaged in a distribution in the United States for purposes of Regulation M. We have assumed that, under Regulation M, the restricted period for the Offerings (the "Restricted Period") would begin one business day prior to the determination of the final Issue Price and will end upon completion of the Offerings in the United States. Thus, the Restricted Period is likely to last approximately four weeks.

As affiliates or separately identifiable departments of UBS that regularly purchase securities for their own accounts and the accounts of others or recommend and exercise investment discretion with respect to the purchase of securities, UBS IB, UBS Securities LLC, UBS Wealth Management, UBS Global Asset Management and UBS GT may be deemed to be "affiliated purchasers" of the issuer, as defined in Rule 100 of Regulation M.<sup>17</sup> As such, market activities of the UBS Affiliates will be subject to Rule 102 throughout the Restricted Period, except to the extent that any of them acts as a "distribution participant" subject to Rule 101.

While UBS IB will not underwrite any New Shares, it will participate in both Offerings by acting as a global coordinator, joint bookrunner, principal subscription

<sup>16</sup> The actual dates of events contemplated in relation to the Offerings described above may vary.

<sup>17</sup> UBS IB would not qualify for the exception to the definition of "affiliated purchaser" because, among other things, it intends to act as a market maker and engage as a broker-dealer in solicited transactions in UBS Shares during the Restricted Period.

agent and settlement agent. Accordingly, UBS IB will be a "distribution participant" in the Offerings and its market activities will be subject to Rule 101 during the Restricted Period, at least until it completes its participation, after which it will be subject to Rule 102 as an affiliated purchaser until the Restricted Period ends. Thus we request relief for the Market Activities under both Rules 101 and 102, whichever may apply.

Under both Rule 101 and Rule 102, the UBS Affiliates will not be permitted to bid for or purchase, or attempt to induce any person to bid for or purchase, UBS Shares during the Restricted Period unless one of the specified exceptions under the applicable rule is available.<sup>18</sup> There are no exceptions available under Rule 101 or Rule 102 that would permit the UBS Affiliates to engage in the Market Activities. Therefore, without the requested exemptive and/or no-action relief, the UBS Affiliates would not be permitted to engage in the Market Activities for an extended period of time, which is likely to last approximately four weeks.

UBS believes that the withdrawal of UBS IB as a principal market maker in UBS Shares in the primary market for those shares, which are among the most actively traded on SWX Europe, for such an extended period of time would have serious harmful effects in the home market, and, indirectly, in the U.S. market, for the UBS Shares. These effects could include a significant imbalance of buy and sell orders, particularly given the large number of UBS Shares to be distributed in the Offerings, and thus greater volatility and reduced liquidity.

As UBS IB is a principal market maker in derivatives on UBS Shares, if UBS IB is precluded from conducting market-making activities in the derivatives, the application of Regulation M could have serious adverse effects on the Swiss market for the derivatives, as well as on UBS IB's ability to manage hedge positions maintained by UBS IB and its customers previously established in connection with this activity.

UBS IB and UBS Securities LLC may also be unable to execute brokerage orders in UBS Shares submitted by their customers in the normal course, thereby forcing their customers to take their orders elsewhere or to refrain from trading in UBS Shares. It would be a significant burden on these customers to require them to transfer their UBS Shares to a securities account elsewhere or to have UBS IB or UBS Securities LLC place orders with another bank, in order to make trades with respect to UBS Shares.

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<sup>18</sup> While derivatives on UBS Shares generally would not be "covered securities" under Regulation M, the derivatives market making that UBS IB conducts may, in some cases, be regarded as involving inducements to purchase UBS Shares. To avoid uncertainty, we ask that the exemption and/or no-action relief we are requesting apply to the derivatives market making as well as the derivatives hedging and other activities in UBS Shares described in this letter.

UBS Wealth Management and UBS Global Asset Management have both fiduciary or similar duties under applicable laws to conduct their respective investment activities in the best interests of their respective clients. Accordingly, UBS Wealth Management and UBS Global Asset Management would be prohibited from trading in UBS Shares and derivatives on UBS Shares unless doing so complied with the terms and conditions that governed their relationships with their respective clients.

UBS GT may also be unable to purchase UBS Shares in the open market to facilitate the grant of awards or the exercise of options pursuant to the terms of UBS's employee share and option plans or to purchase UBS Shares from UBS's employee share and option plans consistent with UBS GT's past practice and in accordance with UBS's fiduciary duties arising from those plans. UBS believes that these activities will not have a significant effect on the market price of UBS Shares.

Regulation M normally would not interfere with market-making and other market activities in actively traded securities, such as the UBS Shares. However, because the UBS Affiliates are affiliated purchasers of the issuer, they cannot rely on the actively traded securities exception to do what market makers for large U.S. issuers are normally allowed to do during distributions by those issuers. For these reasons, UBS asks the Staff to provide an exemption from, or to confirm that the Staff will not recommend that the SEC take enforcement action under, Regulation M in connection with the continuation by UBS and the UBS Affiliates of the Market Activities during the Restricted Period, as permitted under market practice and applicable laws.

#### V. The Regulatory Market in the United Kingdom

Trading of securities on SWX Europe is governed by U.K. rules on insider trading, price manipulations and market abuse, among other things.<sup>19</sup>

The FSMA contains the main body of rules relating to the financial markets in the United Kingdom. The FSA is an independent body that regulates the financial services industry in the United Kingdom. The FSA is responsible for market supervision and has a powerful enforcement armory, including powers to investigate, publish information, censure, suspend the marketing of securities and, above all, impose unlimited civil fines on both companies and individuals who have engaged in market abuse or required or encouraged another person to do so. Part VIII of the FSMA gives the FSA power to impose penalties upon any person who has engaged in market abuse or has required or encouraged another person to do so. Behavior caught by the market abuse regime falls into categories such as misuse of information, conduct that is likely to mislead market participants and conduct that is likely to distort the market.

<sup>19</sup> According to the Memorandum "Regulatory Framework for Issuers, Trading of SWX-listed Securities on virt-x" issued by SWX Europe, the Swiss rules may, however, apply concurrently. Those rules are described below under Section VI.

Part VIII of the FSMA, which implements the Market Abuse Directive (the "Directive"), is the principal source of law relating to market abuse in the United Kingdom. Section 118 of the FSMA specifies five types of behavior that are considered to be market abuse:

- (i) insider dealing -- where an "insider" (as defined below) deals or attempts to deal in securities on the basis of "inside information" (as defined below);
- (ii) improper disclosure -- where an insider discloses inside information to someone else other than in the proper performance of their duties;
- (iii) manipulating transactions -- where a transaction gives a false or misleading impression to the market of the supply, demand, price or value of a security or secures the price of a security at an artificial level (unless the transaction is carried out for a legitimate reason and in conformity with an "accepted market practice");
- (iv) manipulating devices -- where a transaction employs a fictitious device or other form of deception or contrivance; and
- (v) misleading dissemination -- where false or misleading information is knowingly or negligently disseminated to the market.

In addition, there are two residual categories that cover types of behavior not caught by one of the above categories but which involve either:

- (i) the misuse of relevant information that is not generally available to the market; or
- (ii) other forms of misleading behavior or market distortion,

in each case, that a regular user of the market in question would consider to be a failure to observe reasonable standards of behavior.

"Inside information" is defined as information of a precise nature that is not generally available but which, if made generally available, would be likely to have a significant effect on the price of the company's securities. Information is deemed likely to have a significant effect on price "if and only if it is information of a kind which a reasonable investor would use as part of the basis for his investment decisions." In relation to the insider dealing and improper disclosure offenses of the market abuse regime, the definition of inside information is extended to include information that is indirectly related to the company as well. This extends the definition to include, for

example, information, such as a change in tax treatment, which relates to a particular business sector that could impact the share price of all companies in that sector equally, in addition to information that relates solely to a specific issuer. An "insider" is a person who has inside information as a result of:

- (i) membership of the administrative, management or supervisory board of a company that has securities admitted to trading;
- (ii) holding securities in such a company;
- (iii) his employment, profession or duties;
- (iv) any criminal activities; or
- (v) other means, but where he or she knows, or could reasonably be expected to know, that he or she holds inside information.

Two safe harbors are expressly provided under the Directive for price-stabilizing activities and repurchases of one's own shares.

In addition, the Code of Market Conduct published by the FSA sets out conclusive guidance on the types of behavior that will not amount to market abuse. These broadly include:

- (i) dealing with the benefit of trading information, for example, where the inside information one holds is the knowledge that one is planning to deal;
- (ii) takeover activity, including stakebuilding, the seeking of irrevocable undertakings and the making of arrangements to issue securities or offer cash as part of a takeover offer;
- (iii) disclosure of inside information that is required by the Listing Rules, Disclosure Rules or Prospectus Rules; and
- (iv) behavior conforming with certain express provisions of the City Code on Takeovers and Mergers (the "Code"), *provided* the behavior is expressly required or expressly permitted by the rule in question *and* the behavior also conforms with the General Principles under the Code.

The market abuse regime contained in Part VIII of the FSMA is supplemented in the U.K. by Part V of the Criminal Justice Act 1993 (the "CJA"), which imposes criminal sanctions for insider dealing and market manipulation. Part V of the

CJA contains two criminal offenses. The first offense, the "dealing" offense, is aimed at those who deal in particular kinds of securities and in "specified circumstances" on the basis of "inside information." The second offense, the "tipping" offense, has two possible limbs. It is committed either by disclosing inside information or by encouraging another to deal in particular kinds of securities and in specified circumstances. The "specified circumstances" are that the dealing occurs on a regulated market or, that the person dealing relies on a professional intermediary or is himself a professional intermediary. In order to fall within the definition of "inside information" set out in the CJA, the information must:

- (i) relate to a particular issuer or security;
- (ii) be specific or precise;
- (iii) not have been made public; and
- (iv) if it were to be made public, be likely to have a significant effect on the price of any security.

There are some general defenses to these offenses, such as a reasonable belief that the information had been disclosed widely enough or, that the defendant did not expect dealing to result in a profit attributable to the fact that the information was price sensitive or evidence that the recipient of inside information would have acted the same way without the information. The criminal offenses prescribed by Part V of the CJA can only be committed by individuals. However, any act on the part of a corporate body may be taken on its behalf by a director, officer or employee.

SWX Europe also takes measures to ensure that information necessary to maintain a transparent market is made public. Order book executions are automatically reported by the trading system. During market hours, off-order book trades must be reported to SWX Europe as close to real time as possible and in any case within three minutes of their execution. Transactions are automatically disclosed to all members. Trades executed off market hours must be reported to SWX Europe at the latest 15 minutes prior to the following trading day's opening.

#### VI. The Swiss Regulatory Market

In Switzerland, UBS's market activities are governed by the Swiss Federal Act on Banks and Savings Institutions, the Swiss Code of Obligations, the SESTA and the Swiss Penal Code. The SESTA covers, among other things, professional trading in securities and related disclosure. Based on the authority conferred by the SESTA, the SWX oversees trading activities, i.e., price formation, conclusion and execution of transactions to ensure that insider trading, price manipulation and other breaches of law may be detected. The SWX possesses a Surveillance Office, which has responsibility for

market supervision and for reporting suspected breaches of the law to the Swiss Federal Banking Commission (the “SFBC”), which coordinates investigations. If the SFBC becomes aware of potential criminal offenses, it is mandated to so notify the prosecuting authorities immediately.

Insider trading and price manipulation in Switzerland are criminal offenses prohibited under Articles 161 and 161<sup>bis</sup> of the Swiss Penal Code. Specifically, criminal sanctions are imposed if, among others:

- (i) a member of the board of directors, the management or the auditors or an agent of a company, a company controlling or a company under the control of such company (each a “Relevant Person”), or an auxiliary of a Relevant Person abuses or disseminates a confidential fact that relates to a forthcoming issuance of new equity securities, a merger or a similar event of comparable significance, the dissemination of which is likely to significantly influence the price of shares, other securities or value-rights of a company or of options on such instruments (provided such instruments are traded on the principal or pre-market of a Swiss exchange); or
- (ii) a person who directly or indirectly obtains knowledge of such fact from a Relevant Person abuses such information; or
- (iii) a person knowingly disseminates misleading information; or
- (iv) a person carries out transactions in securities directly or indirectly on his or her own account, or for the accounts of persons linked together for that purpose (this includes fraudulent techniques such as wash sales and matched orders),

and, in both (i) and (ii) above, the offender realizes or at least tries to realize a gain for himself or herself or a third person, and in (iii) and (iv) above, the offender intends to significantly affect the prices of securities traded on a Swiss stock exchange to procure an illegitimate gain for himself or herself or a third person.

In addition, the SWX General Rules (the “General Rules”) that are binding upon UBS as a participant of the SWX prohibit sham transactions, *i.e.*, transactions that do not have any commercial significance, including wash trades, improper matched orders or in-house crosses on the trading book. If an SWX participant violates stock exchange laws or regulations, breaches contractual agreements entered into with the SWX, including the General Rules, or engages in unfair trading activities, the SWX may impose sanctions consisting of, among others, a reprimand, suspension or withdrawal of

the license as a participant, and a fine or contractual penalty of up to CHF 10 million. The SWX is entitled to publish sanctions and the reasons for imposing them.

Broker-dealers in Switzerland are required to keep a daily record of orders received and transactions carried out, in which all information necessary to enable the reconstruction of the transactions and the supervision of the related operations must be recorded. As a rule, all on- and off-exchange transactions relating to securities of Swiss or foreign companies that are admitted to trading on a Swiss exchange, whether carried out in Switzerland or abroad, must be reported. This applies also to securities of Swiss companies that are listed on SWX and traded on SWX Europe. Under the SWX rules, on-exchange transactions are automatically reported by the trading system. During market hours, off-exchange transactions that are not automatically reported by the trading system must be reported to SWX within thirty minutes of their execution. Transactions executed outside market hours must be reported to SWX prior to the following trading day's opening at the latest.

The SWX also takes measures to ensure that information necessary to maintain a transparent market is made public. This applies, in particular, to prices and volumes of listed securities traded on and off the SWX.

#### VII. Relief Requested

As discussed above, UBS is asking the Staff to grant exemptive relief from, or to confirm that the Staff will not recommend that the SEC take enforcement action under, Rule 101 and Rule 102 of Regulation M in connection with the continuation by UBS and the UBS Affiliates to engage in the Market Activities. UBS and the UBS Affiliates would conduct these activities in the ordinary course of their respective businesses and in accordance with applicable law in the U.K., Swiss and other non-U.S. markets, all as described in this letter. UBS also asks for relief to permit UBS Securities LLC to engage in unsolicited brokerage activities, and to permit UBS Wealth Management and UBS Global Asset Management to continue trading UBS Shares and derivatives on UBS Shares, in each case in the normal course of business in the United States as described in this letter.

As a condition to the relief being requested, UBS will include disclosure in the offering documents that will be distributed to U.S. investors that participate in the Offerings. The disclosure will be substantially as follows:

“During the distribution of UBS Shares in the Rights Offering and the Global Offering, if applicable, UBS and certain of its affiliates intend to engage in various dealing and brokerage activities involving UBS Shares when and to the extent permitted by applicable law. Among other things, UBS and certain of its affiliates, as the case may be, intend (1) to make a market in UBS Shares by purchasing and selling UBS Shares for their own account or to facilitate customer

transactions; (2) to make a market, from time to time, in derivatives (such as options, warrants, convertible securities and other instruments) relating to UBS Shares for their own account and the accounts of their customers; (3) to engage in trades in UBS Shares for their own account and the accounts of their customers for the purpose of hedging their positions established in connection with the derivatives market making described above; (4) to engage in unsolicited brokerage transactions in UBS Shares with their customers; (5) to trade in UBS Shares and derivatives on UBS Shares as part of their investment management activities for the accounts of their customers; and (6) to trade in UBS Shares in connection with employee incentive plans. These activities may occur on SWX Europe, Chi-X, Scoach, in the over-the-counter market in Switzerland or elsewhere outside the United States of America. In addition, when and to the extent permitted by applicable law, UBS's affiliated U.S. broker-dealer, UBS Securities LLC, may engage in unsolicited brokerage transactions in UBS Shares, and UBS's investment management business groups may trade in UBS Shares and derivatives on UBS Shares, in the United States of America.

UBS and its affiliates are not obliged to make a market in or otherwise purchase UBS Shares or derivatives on UBS Shares and any such market making or other purchases may be discontinued at any time. These activities could have the effect of preventing or retarding a decline in the market price of UBS Shares."

As a further condition to the relief being requested, UBS will undertake to keep records (the "Records") of the date and time at which UBS Shares are purchased or sold, the market in which the purchase or sale is effected, the amount of UBS Shares purchased or sold and the price of the purchase or sale, for each purchase or sale of UBS Shares that the UBS Affiliates make during the Restricted Period (this information will not include any client-specific data the disclosure of which is restricted under local law). UBS will maintain the Records for a period of two years following the end of the Restricted Period. Upon the written request of the Director of the Division of Trading and Markets of the SEC, UBS will make the Records available at the SEC's offices in Washington, D.C.

In connection with the relief requested by UBS in this letter, please note that similar exemptive and/or no-action relief from Regulation M was granted to UBS under your exemptive letter of September 22, 2000,<sup>20</sup> to Allianz AG under your exemptive letter of April 10, 2003,<sup>21</sup> to The Royal Bank of Scotland Group plc under

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<sup>20</sup> See 2000 SEC No-Act. LEXIS 915.

<sup>21</sup> See 2003 SEC No-Act. LEXIS 845.

your exemptive letter of July 23, 2007,<sup>22</sup> to Barclays PLC under your exemptive letter of August 7, 2007<sup>23</sup> and to UBS under your no-action letter of April 22, 2008.<sup>24</sup>

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If you have any questions about this request, please do not hesitate to contact me (+44-20-7959-8575) or David Harms (212-558-3882) in our New York office. We appreciate your assistance in this matter.

Very truly yours,



David B. Rockwell

cc: Paul Dudek, Esq.  
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<sup>22</sup> See 2007 SEC No-Act. LEXIS 545.

<sup>23</sup> See 2007 SEC No-Act. LEXIS 555.

<sup>24</sup> See 2008 SEC No-Act. WL 1952022.