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FINRA Fines UBS Financial Services Inc. \$2 Million for Continued Failures Relating to Short Positions in Municipal Securities.

Firm Inaccurately Represented the Tax Status of Thousands of Interest Payments to Customers; Restitution Ordered

WASHINGTON—FINRA today announced it has censured and fined UBS Financial Services Inc. (UBS) \$2 million for the firm's repeated failures in timely addressing municipal short positions and in inaccurately representing the tax status of thousands of interest payments to customers. FINRA also required UBS to pay restitution to customers who may have incurred any increased state tax liabilities, to pay the IRS to relieve customers of any additional federal income tax owed, and to certify within 90 days that the firm has taken appropriate corrective measures. FINRA previously sanctioned UBS for its failures in this area in 2015 ([AWC No. 2014041645601](#), August 12, 2015).

Investors often purchase municipal securities because of the tax-exempt interest earned on those investments. However, when a FINRA member firm is short municipal securities purchased by customers, the firm - not the issuing municipality - is the source of the interest payments. That interest, commonly known as "substitute interest," is subject to applicable taxes.

FINRA found that from August 2015, when FINRA previously sanctioned UBS for similar violations, through the end of 2017, UBS continued to fail to timely identify and properly address certain short positions in municipal securities. As a result, UBS inaccurately represented on customer account statements and Forms 1099 that interest payments for 2,853 positions in municipal securities were tax-exempt when, in fact, they were taxable, and inaccurately represented on approximately 950 additional customer account statements and Forms 1099 that interest payments were taxable, when they were tax-exempt. FINRA found that these failures were the result of the firm's continued failure to establish reasonably designed supervisory systems and written supervisory procedures to timely identify short positions in municipal securities and its failure to provide reasonable guidance to its registered representatives instructing them how to address the short positions.

Jessica Hopper, Senior Vice President and Acting Head of FINRA's Department of Enforcement, said, "FINRA member firms must be attentive to municipal short positions that impact customer accounts, and it is critical that member firms convey accurate information to customers regarding their account holdings. In addition, member firms are expected to take prompt corrective action after being sanctioned and avoid repeat violations."

In settling this matter, UBS neither admitted nor denied the charges, but consented to the entry of FINRA's findings. FINRA allocated \$1.75 million of the \$2 million fine to the MSRB violations.

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