



Department of Justice



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**UBS SECURITIES JAPAN CO. LTD. TO PLEAD GUILTY TO FELONY WIRE FRAUD
FOR LONG-RUNNING MANIPULATION OF LIBOR BENCHMARK INTEREST
RATES**

Two Former Senior UBS Traders Face Felony Charges Unsealed Today

*UBS AG to Pay Substantial Penalty in Agreement Reflecting
Substantial Cooperation, Significant Changes*

WASHINGTON – UBS Securities Japan Co. Ltd. (UBS Japan), an investment bank, financial advisory securities firm 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, Attorney General Eric Holder announced today. The criminal information, filed today in U.S. District Court in the District of Connecticut, charges UBS Japan with one count of engaging in a scheme to defraud counterparties to interest rate derivatives trades by secretly manipulating LIBOR benchmark interest rates.

As part of the ongoing criminal investigation by the Criminal and Antitrust Divisions of the Justice Department and the FBI into LIBOR manipulation, two former senior UBS traders also are charged. Tom Alexander William Hayes, 33, of England, and Roger Darin, 41, of Switzerland, were both charged with conspiracy in a criminal complaint unsealed in Manhattan federal court earlier today. Hayes is also charged with wire fraud, based on the same scheme, and a price fixing violation arising from his collusive activity with another bank to manipulate LIBOR benchmark rates.

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 of UBS Japan headquartered in Zurich, 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 and to continue cooperating with the Justice Department in its ongoing investigation. The NPA reflects UBS AG's substantial cooperation in discovering and disclosing LIBOR misconduct within the financial institution and recognizes the significant remedial measures undertaken by new management to enhance internal controls.

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 reap increased profits, and secure bigger bonuses, for themselves,” said Attorney General Holder. “Today’s announcement – and \$1.5 billion global resolution – underscores the Justice Department’s firm commitment to investigating and prosecuting such conduct, and to holding the perpetrators of these crimes accountable for their actions.”

“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. Today’s agreement by UBS Japan to plead guilty, the charges against individual alleged perpetrators of these crimes, and our agreement recognizing the steps being taken by UBS AG to right itself demonstrate the Justice Department’s determination to hold accountable those in the financial marketplace who break the law. We cannot, and we will not, tolerate misconduct on Wall Street of the kind admitted to by UBS today, and by Barclays last June. We will continue to follow the facts and the law wherever they lead us in this matter, as we do in every case.”

“The criminal complaint charges two senior UBS traders with colluding to manipulate Yen LIBOR interest rates for the purpose of improving trading positions held by Hayes and UBS,” said Deputy Assistant Attorney General Scott D. Hammond of the Justice Department’s Antitrust Division. “Coordinating the movement of interest rates even by a very small margin meant higher profits and bigger bonuses for the conspirators at the expense of those that relied on LIBOR as a reference rate.”

“The manipulation of LIBOR affects financial products including mortgages, credit cards, student loans and many other interest rate products,” said FBI Associate Deputy Director Kevin L. Perkins. “This practice further erodes Main Street’s confidence in Wall Street. The public expects our financial institutions to maintain proper oversight of their businesses and to ensure the public is not harmed by criminal activity within these institutions. In this case, UBS acknowledged its failures and cooperated with our investigation. The FBI would like to thank its federal partners in this investigation – the Department of Justice Criminal Division’s Fraud Section and Antitrust Division, Commodity Futures Trading Commission’s Division of Enforcement and the Securities and Exchange Commission’s Division of Enforcement whose joint efforts brought a successful resolution to this matter.”

According to documents filed in these cases, LIBOR is an average interest rate, calculated based on submissions from leading banks around the world, reflecting the rates those

banks believe they would be charged if borrowing from other banks. LIBOR serves as the primary benchmark for short-term interest rates globally, and is used as a reference rate for many interest rate contracts, mortgages, credit cards, student loans and other consumer lending products. The Bank of International Settlements estimated that as of the second half of 2009, outstanding interest rate contracts were estimated at approximately \$450 trillion.

LIBOR, published by the British Bankers' Association (BBA), a trade association based in London, is calculated for 10 currencies at 15 borrowing periods, known as maturities, ranging from overnight to one year. The LIBOR for a given currency at a specific maturity is the result of a calculation based upon submissions from a panel of banks.

Between July 2006 and September 2009, Hayes was a senior trader employed in the Tokyo office of UBS Japan, which then operated under the name UBS Securities Japan Ltd. Among other financial products, Hayes traded in interest rate derivatives that essentially consisted of bets against other traders on the direction in which Yen LIBOR would move. UBS was a member of the Yen LIBOR panel, and Darin was, at certain times relevant to the criminal complaint, a trader responsible for making and supervising LIBOR submissions to the BBA on behalf of the bank. In a statement of facts attached to the NPA and plea agreement, Hayes is referred to as "Trader-1" and Darin is referred to as "Submitter-1."

Beginning in September 2006, UBS Japan and Hayes orchestrated a sustained, wide-ranging and systematic scheme to move Yen LIBOR in a direction favorable to Hayes' trading positions, defrauding UBS' counterparties and harming others with financial products referencing Yen LIBOR who were unaware of the manipulation. Between November 2006 and August 2009, Hayes or one of his colleagues endeavored to manipulate Yen LIBOR on at least 335 of the 738 trading days in that period, and during some periods on almost a daily basis. Because of the large size of Hayes' trading positions, even slight moves of a fraction of a percent in Yen LIBOR could generate large profits. For example, Hayes once estimated that a 0.01 percent movement in the final Yen LIBOR fixing on a specific date could result in a \$2 million profit for UBS.

According to the charging documents, UBS Japan and Hayes employed three strategies to execute the scheme: from November 2006 through September 2009, Hayes conspired with Darin and others within UBS to cause the bank to make false and misleading Yen LIBOR submissions to the BBA; also, Hayes caused cash brokerage firms, which purported to provide market information regarding LIBOR to panel banks, to disseminate false and misleading information about short-term interest rates for Yen, which those banks could and did rely upon in formulating their own LIBOR submissions to the BBA; and Hayes communicated with interest rate derivatives traders employed at three other Yen LIBOR panel banks in an effort to cause them to make false and misleading Yen LIBOR submissions to the BBA.

As alleged in the charging documents, Hayes, Darin and other co-conspirators often executed their scheme through electronic chats. On Nov. 20, 2006, for example, Hayes asked a UBS Yen LIBOR submitter who was substituting for Darin, "hi . . . [Darin] and I generally coordinate ie sometimes trade if ity [sic] suits, otherwise skew the libors a bit." Hayes went on to request, "really need high 6m [6-month] fixes till Thursday." The submitter responded, "yep

we on the case there . . . will def[initely] be on the high side.” The day before this request, UBS’s 6-month Yen LIBOR submission had been tied with the lowest submissions included in the calculation of the LIBOR fix. Immediately after this request for high submissions, however, UBS’s 6-month Yen LIBOR submissions rose to the highest submission of any bank in the contributor panel and remained tied for the highest, precisely as Hayes had requested.

Another example of such an alleged accommodation occurred on March 29, 2007, when Hayes asked Darin, “can we go low 3[month] and 6[month] pls? . . . 3[month] esp.” Darin responded “ok”, and the two had the following exchange:

Hayes: what are we going to set?

Darin: too early to say yet . . . prob[ably] .69 would be our unbiased contribution

Hayes: ok wd really help if we cld keep 3m low pls

Darin: as i said before - i [don’t] mind helping on your fixings, but i’m not setting libor 7bp away from the truth. . . i’ll get ubs banned if i do that, no interest in that.

Hayes: ok obvious;y [sic] no int[erest] in that happening either . . . not asking for it to be 7bp from reality anyway any help appreciated[.]

Hayes received the help he requested.

In addition, the criminal complaint charges Hayes with colluding with a trader employed at another LIBOR panel bank in May 2009, in violation of the Sherman Antitrust Act. Hayes allegedly engaged in the collusive scheme to fix the price of derivative instruments whose price was based on Yen LIBOR. In electronic chats, Hayes asked the trader to move 6-month Yen LIBOR up due to a “gigantic” position Hayes had taken. For the trade in question, UBS trading records confirmed that each 0.01 percent movement in LIBOR would generate profits of approximately \$459,000 for Hayes’ book. The trader at the other bank responded that he would comply, and his bank’s submission moved by 0.06 percent compared to its submission the previous day, for which Hayes thanked him.

In entering into the NPA with UBS AG, the Justice Department considered information from UBS, and from regulatory agencies in Switzerland and Japan, demonstrating that in the last two years UBS has made important and positive changes in its management, compliance and training to ensure adherence to the law. The department received favorable reports from the Swiss Financial Market Supervisory Authority (FINMA) and the Japan Financial Services Authority (JFSA) describing, respectively, progress that UBS has made in its approach to compliance and enforcement and UBS Japan’s effective implementation of the remedial measures the JFSA imposed based on findings relating to the attempted manipulation of Yen benchmarks.

The investigation is being handled by Deputy Chiefs William Stellmach and Daniel Braun and Trial Attorney Luke Marsh of the Criminal Division's Fraud Section, and Assistant Chief Elizabeth Prewitt and Trial Attorney Richard Powers of the Antitrust Division, New York Field Office. Assistant Chief Rebecca Rohr and Trial Attorneys Alexander Berlin and Thomas Hall of the Criminal Division's Fraud Section, Trial Attorneys Portia Brown and Wendy Norman of the Antitrust Division, and Assistant U.S. Attorneys Eric Glover and Liam Brennan of the U.S. Attorney's Office for the District of Connecticut have also provided valuable assistance. The Criminal Division's Office of International Affairs also provided assistance in this matter. The investigation is being conducted by the FBI's Washington Field Office.

The investigation leading to these cases has required, and has greatly benefited from, a diligent and wide-ranging cooperative effort among various enforcement agencies both in the United States and abroad. The Justice Department acknowledges and expresses its deep appreciation for this assistance. In particular, the Commodity Futures Trading Commission's Division of Enforcement referred this matter to the Department and, along with the FSA, has played a major role in the investigation. The Securities and Exchange Commission has also played a significant role in the LIBOR series of investigations and, among other efforts, has made an invaluable contribution to the investigation relating to UBS. The Department of Justice also wishes to acknowledge and thank FINMA, the Japanese Ministry of Justice, and the JFSA. Various agencies and enforcement authorities from other nations are also participating in different aspects of the broader investigation relating to LIBOR and other benchmark rates, and the Department is grateful for their cooperation and assistance.

This prosecution is part of efforts underway by President Barack Obama's Financial Fraud Enforcement Task Force. President Obama established the interagency Financial Fraud Enforcement Task Force to wage an aggressive, coordinated and proactive effort to investigate and prosecute financial crimes. The task force includes representatives from a broad range of federal agencies, regulatory authorities, inspectors general and state and local law enforcement who, working together, bring to bear a powerful array of criminal and civil enforcement resources. The task force is working to improve efforts across the federal executive branch, and with state and local partners, to investigate and prosecute significant financial crimes, ensure just and effective punishment for those who perpetrate financial crimes, combat discrimination in the lending and financial markets and recover proceeds for victims of financial crimes. For more information about the task force visit: www.stopfraud.gov.

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