

News Release

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NASD Fines Banc of America Investment Services, Inc. \$3 Million for Failing to Comply With Anti-Money Laundering Rules in Connection With High Risk Accounts

Firm Failed to Heed Repeated Requests for Information from Its Own Clearing Firm

Washington, D.C. — NASD announced today that it has fined Banc of America Investment Services, Inc. (BAI) \$3 million in connection with the firm's failure to obtain customer information for certain high-risk accounts and for failing to have adequate communication with its parent bank to ensure that BAI's independent suspicious activity report (SAR) filing obligations were met.

"The anti-money laundering and terrorist financing laws are designed to ensure that customer and transaction risks are assessed and that firms take appropriate steps to address high risks," said NASD Executive Vice President and Head of Enforcement James S. Shorris. "BAI fundamentally failed to meet its obligations with these high risk accounts by failing to adequately investigate and pursue red flags, especially in the face of repeated requests for additional information about the accountholders from its own clearing firm."

NASD found that BAI failed to obtain required additional customer information for high risk accounts. The 34 accounts at issue involved trust and private investment corporations domiciled in the Isle of Man and apparently affiliated with one family. The offshore entities located in the Isle of Man collectively held from \$79 million to \$93 million in assets and engaged in multi-million-dollar wire transfers across international boundaries. At the time the accounts were opened in August 2003, BAI had established anti-money laundering procedures designed to address certain customer account risks by requiring additional information from the accountholders, specifically, the names of the beneficial owners, before conducting substantial transactions in the accounts.

Nevertheless, from August 2003 to Oct. 22, 2004, BAI did not require the names of the beneficial owners and never restricted the activities in the accounts. BAI allowed the accounts to engage in large wire transactions, even though BAI did not have beneficial ownership information for them. In addition, throughout this time period, the firm continued to allow significant transactions to occur in the accounts despite the advice from a senior lawyer at BAI in March 2004 that BAI should obtain the names of the beneficial owners, and a determination by the BAI risk committee in May 2004 that the information must be obtained.

Further, despite repeated and ongoing requests by its clearing firm, BAI failed to obtain the names of the beneficial owners, and to provide them to its clearing firm. Over a 10-month period, BAI received from its clearing firm numerous requests for ownership information and notices pointing out circumstances that could signal money-laundering activity. Some at BAI expressed concerns that insisting upon the beneficial ownership information might cause the account holders to move the accounts to another institution. But without the names of the beneficial owners, BAI could not reasonably evaluate whether activity in the accounts, which had been brought to BAI's attention by its clearing firm, was suspicious and reportable.

In addition, NASD also found that BAI had an inadequate compliance program for reporting suspicious transactions. While BAI relied on its parent, a bank with its own independent reporting obligations, to determine whether a suspicious activity report (SAR) should be filed, BAI did not have sufficient procedures in place to ensure that there was adequate communication between BAI and its parent as to whether a SAR should be filed and whether a SAR had in fact been filed. Consequently, BAI did not make certain that its independent obligations regarding the filing of a SAR were met. BAI was also unable to reliably incorporate the information that a SAR had been filed into an ongoing risk assessment of its

customers and to evaluate account activity going forward.

In concluding this settlement, BAI neither admitted nor denied the findings, but consented to their entry.

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