



DIVISION OF
CORPORATION FINANCE

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

October 1, 2014

**Response of the Office of International Corporate Finance
Division of Corporation Finance**

Re: UBS AG and UBS Group AG
Incoming letter dated September 29, 2014

Based on the facts presented, the Division's views are as follows. Capitalized terms have the same meanings as defined in your letter.

- After consummation of the Exchange Offer, the UBS Group shares will be registered under the Exchange Act by operation of Exchange Act Rule 12g-3(a) and UBS Group will be a "large accelerated filer" for purposes of Rule 12b-2 under the Exchange Act.
- UBS Group may take into account UBS's reporting history under the Exchange Act in determining its eligibility to use Forms F-3 and S-8. UBS's reporting history under the Exchange Act may also be used in determining whether UBS Group "meets the requirements for use of Form F-3" within the meaning of Form F-4.
- UBS's reporting history may be taken into account when determining UBS Group's compliance with the current public information requirements of Securities Act Rule 144(c)(1), and the average weekly reported trading volume in UBS Shares during the time periods specified by Rule 144(e)(1) under the Securities Act may be taken into account in determining the limitations on the amount of securities that may be sold pursuant to Rule 144(e).
- UBS Group may be treated as an issuer subject to the reporting requirements of the Exchange Act for purposes of the Securities Act Rule 174(b) exemption from the prospectus delivery requirements of Securities Act Section 4(a)(3).

These positions are based on the representations made to the Division in your letter. Different facts or conditions might require different conclusions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'M Cascio'.

Mary Cascio
Special Counsel

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Securities Act of 1933
Section 4(a)(3)
Forms F-3, F-4 and S-8
Rules 144, 174(b) and 405

Securities Exchange Act of 1934
Sections 12(b) and 12(g)
Rules 12b-2 and 12g-3

September 29, 2014

Division of Corporation Finance,
Securities and Exchange Commission,
100 F. Street, N.E.,
Washington, D.C. 20549,
United States of America.

Attn: Paul Dudek, Chief, Office of International Corporate Finance
David Fredrickson, Chief Counsel, Office of Chief Counsel

Re: UBS AG — Holding Company Reorganization

Ladies and Gentlemen:

We are writing on behalf of UBS AG, a corporation (*Aktiengesellschaft/société anonyme*) organized under the laws of Switzerland ("UBS" and, together with its subsidiaries, the "Group"), and its wholly owned subsidiary UBS Group AG ("UBS Group") in connection with the proposed reorganization outlined below.

On May 6, 2014, UBS announced that it intends to establish a group holding company through a share-for-share exchange offer (the "May 6 Announcement").

The establishment of a group holding company is intended, along with other measures UBS has already announced, to substantially improve the resolvability of the Group in response to Swiss "too-big-to-fail" requirements and applicable requirements in other countries in which the Group operates. The proposed new structure predominantly for the purpose of improving resolvability has been the subject of

extensive discussions with the Swiss Financial Market Supervisory Authority FINMA and other regulators overseeing UBS and is seen as essential to a “single point of entry” resolution strategy, which is the preferred resolution strategy of UBS and of the Swiss, U.S. and UK authorities.

In order to put in place the proposed new structure, UBS has created a wholly owned subsidiary, UBS Group, which will become the new ultimate publicly traded parent company of the Group by way of a share-for-share exchange offer (the “Exchange Offer”). The Exchange Offer is expected to involve two separate offers made on substantially similar terms and subject to the same conditions. The Exchange Offer will comprise an initial offer period (the “Initial Offer Period”) and, if the Exchange Offer is successful, a subsequent offer period (the “Subsequent Offer Period”). As discussed below, UBS believes that the Exchange Offer is eligible for the tier II relief (“Tier II Relief”) provided by Rule 14d-1(d) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”).

As previously discussed with members of the Staff (the “Staff”) of the Securities and Exchange Commission (the “Commission”), we respectfully request on behalf of UBS that the Staff concur in the following conclusions:

- a) Availability of Rules 12g-3(a) under the Exchange Act. We request that the Staff confirm that UBS Group will become, upon completion of the Exchange Offer, a successor issuer in accordance with Rule 12g-3(a), that the shares of UBS Group (the “UBS Group Shares”) will be deemed to be registered under Section 12(b) of the Exchange Act and that UBS Group may satisfy the requirements of Rule 12g-3(f) by furnishing a Report of Foreign Issuer on Form 6-K to the Commission indicating that the UBS Group Shares issued in the Exchange Offer are registered under Section 12(b) of the Exchange Act by operation of Rule 12g-3(a). Further, we request that the Staff confirm that UBS Group will be, upon completion of the Exchange Offer, a “large accelerated filer” as such term is defined under Rule 12b-2 under the Exchange Act.
- b) Availability of Forms F-3, F-4, S-8 and other applicable registration forms under the Securities Act of 1933 (the “Securities Act”). We request that the Staff confirm that UBS Group, upon and following completion of the Exchange Offer, may include the reporting history, prior activities and status of UBS in determining whether UBS Group meets the eligibility requirements for the use of Forms F-3, F-4, S-8 and other applicable registration forms under the Securities Act and

whether UBS Group qualifies as a “well-known seasoned issuer” as defined in Rule 405 under the Securities Act.

- c) Availability of Rule 144 under the Securities Act. We request that the Staff confirm that (i) UBS’s prior periodic reports filed under the Exchange Act with the Commission may be taken into account in determining UBS Group’s compliance with the current public information requirements of Rule 144(c)(1) and (ii) UBS’s most recent report or statement published prior to the Exchange Offer may be taken into account in determining the volume limitations of Rule 144(e) under the Securities Act.
- d) Section 4(a)(3) of the Securities Act and Rule 174(b) under the Securities Act. We request that the Staff confirm that UBS Group may be treated as an issuer subject to the reporting requirements of the Exchange Act for purposes of the exemption provided by Rule 174(b) under the Securities Act from the prospectus delivery requirements of Section 4(a)(3) of the Securities Act.

I. Background

A. UBS

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 Exchange Act, and the UBS Shares are registered under Section 12(b) of the Exchange Act. UBS Shares are currently listed on the SIX Swiss Exchange (“SIX”) and on the New York Stock Exchange (“NYSE”). As of March 31, 2014, UBS had 3,843,383,192 issued UBS Shares, of which 92,241,706 were treasury shares.

B. UBS Group

UBS Group is a corporation (*Aktiengesellschaft/société anonyme*) incorporated under the laws of Switzerland on June 10, 2014. UBS Group has a fully paid-up share capital of CHF 100,000 divided into 1,000,000 shares with par value of CHF 0.10 each and has no revenue-generating business operations and no material assets or liabilities other than in connection with the Exchange Offer.

UBS Group is a “foreign private issuer” as defined in Rule 3b-4(c) under the Exchange Act and a “business combination related shell company” as defined in Rule 12b-1 under the Exchange Act and Rule 405 under the Securities Act. If the

Exchange Offer is successful, UBS Group will become the new listed parent company of UBS, which is currently both the ultimate parent company and the primary operating entity of the Group.

C. The Exchange Offer

1. Structure of the Exchange Offer

UBS expects that the Exchange Offer will consist of two separate offers to be conducted on substantially similar terms and subject to the same conditions. In Switzerland, UBS Group will initiate a share exchange offer open to all holders of UBS Shares, wherever located, by publishing a “pre-announcement” or, in the absence of such pre-announcement, an offer prospectus (the “Swiss Exchange Offer”). UBS Group will also file with the SEC a registration statement on Form F-4 (the “Registration Statement”) relating to a separate share exchange offer addressed to holders of UBS Shares that are located in the United States (the “U.S. Exchange Offer”). As discussed below, UBS expects that the Exchange Offer will be eligible for the tier II relief (“Tier II Relief”) provided by Rule 14d-1(d) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”).

The Exchange Offer will be made for any and all UBS Shares (including UBS Shares held in treasury by UBS) on a one-for-one basis. The Swiss Exchange Offer is being made to all holders of UBS Shares, wherever located, in accordance with local laws, regulations and restrictions, pursuant to separate offer documentation, including, for holders of UBS Shares located in one or more member states of the European Economic Area, a separate prospectus. The U.S. Exchange Offer will comprise an offer to exchange one UBS Share for one UBS Group Share made pursuant to the Registration Statement and U.S. offer documents addressed to holders of UBS Shares located in the United States.

The Exchange Offer will comprise an initial offer period (the “Initial Offer Period”) and, if the Exchange Offer is successful, a subsequent offer period (the “Subsequent Offer Period”). In order to comply with applicable Swiss and U.S. tender offer rules, the Initial Offer Period will remain open for a minimum of 20 U.S. business days. If the Exchange Offer is successful, UBS Group will accept for exchange and exchange all UBS Shares that have been validly tendered into, and not withdrawn from, the Exchange Offer by the end of the Initial Offer Period and will conduct the Subsequent Offer Period.

If, in the Exchange Offer or within three months thereafter, UBS Group acquires more than 98% of the total UBS Shares in issue, UBS Group intends to effect a squeeze-out of the holders of the less than two percent remaining UBS Shares (the “SESTA Squeeze-Out”) by filing a request with the competent court in Switzerland to

invalidate such shares pursuant to the Swiss Federal Act on Stock Exchanges and Securities Trading (the “SESTA”). Holders of the UBS Shares being invalidated in this process will receive UBS Group Shares on a one-for-one basis.

If, during the same period or at any time thereafter, UBS Group acquires between 90% and 98% of the total UBS Shares in issue, UBS Group expects to conduct a forward triangular squeeze-out merger (the “Squeeze-Out Merger” and, together with the SESTA Squeeze-Out, the “Squeeze-Out”) pursuant to the Swiss Federal Act on Merger, De-Merger, Transformation and Transfer of Assets of October 3, 2003 (the “Merger Act”). In a Squeeze-Out Merger, UBS would merge into a subsidiary of UBS Group (“MergeCo”), with such subsidiary being the surviving entity. If a Squeeze-Out Merger occurs, remaining holders of UBS Shares will receive one UBS Group Share for each UBS Share they hold.

Any Merger Squeeze-Out will be conducted pursuant to a merger agreement to be approved by the boards of directors of UBS and MergeCo. The Merger Squeeze-Out is subject to a 90% majority vote by UBS’s shareholders at an extraordinary shareholders’ meeting (in which UBS Group, through its minimum 90% shareholding, will alone be able to approve the merger).

As from the initial settlement date, the board of directors of UBS Group will mirror the current composition of UBS’s board of directors. UBS Group Shares will be governed by Swiss law and articles of association substantially identical to UBS’s current articles of association.¹ Accordingly, the Exchange Offer has been structured so that holders of UBS Shares can maintain the same proportional interests in UBS Group as those they held in UBS.

UBS, the subject company, is a foreign private issuer as defined in Rule 3b-4 under the Exchange Act. Therefore, the Exchange Offer will be eligible for the Tier II Relief if U.S. holders do not hold more than 40% of the UBS Shares sought in the offer, as calculated on the basis specified in that Rule.

Based on a look-through shareholder analysis performed by Georgeson Shareholder Communications Inc. (“Georgeson”) pursuant to instruction 2 to paragraphs (c) and (d) of Rule 14d-1(d) under the Exchange Act, approximately 24.5% of the total

¹ The articles of association of UBS Group are in all material respects identical to the articles of association of UBS, subject to four differences: (i) company name; (ii) company domicile; (iii) company purpose (to reflect the function as holding company of UBS Group); and (iv) certain share capital provisions.

UBS Shares in issue are held by holders who are resident in the United States.² Georgeson performed this look-through analysis to determine the ownership of UBS Shares as of April 30, 2014, a date which is less than 60 days before the May 6 Announcement. Thus, UBS believe that the Tier II Relief contemplated by Rule 14d-1(d)(1)(ii) is available.

2. UBS's Effective Registration Statements

Selected employees of the Group receive a portion of their annual performance-related compensation above a certain threshold in the form of an equity ownership plan (the "UBS Plan") that involves the issuance of UBS Shares or interests in UBS Shares under an effective registration statements on Form S-8. UBS has also issued options and other rights under previous plans. Active registration statements on Form S-8 have the following registration numbers: 333-49210; 333-49212; 333-127183; 333-127184; 333-162798; 333-162799; 333-162800; 333-178539; 333-178540; 333-178541 and 333-178543.

If the Exchange Offer is consummated, UBS expects that UBS Group will adapt the UBS Plan to the changed legal structure and maintain the existing UBS Plan on substantially equivalent terms and that UBS Group will provide for rollovers of existing options or other rights over UBS Shares in to equivalent options or rights over UBS Group Shares. The exchanged options or rights over UBS Group Shares will, so far as possible, be on equivalent terms as to rights of exercise and other substantive terms and conditions as the existing options or rights over UBS Shares. It is not intended that the rollovers will lead to any amendments other than of a technical nature to the terms of the existing options or other rights over UBS Shares.

II. **Relief Under Successor Registrant Provisions of the Exchange Act and Securities Act**

A. *Availability of Rules 12g-3 and 12b-2*

1. Relief Requested

We respectfully request on behalf of UBS Group that the Staff confirm that the UBS Group Shares issued pursuant to the Exchange Offer will be deemed registered under Section 12(b) of the Exchange Act in accordance with Rule 12g-3(a) promulgated thereunder, and that UBS Group may satisfy the requirements of Rule 12g-

² It is UBS's view that this figure probably overstates the level of U.S. ownership due to the proportion of U.S. custodians holding UBS Shares.

3(a) by furnishing a Report of Foreign Issuer on Form 6-K to the Commission indicating that the UBS Group Shares are registered under Section 12(b) of the Exchange Act. UBS Group proposes to furnish such Form 6-K immediately following the settlement of the Initial Offer Period. Further, we respectfully request that the Staff confirm that UBS Group will be, upon settlement of the Initial Offer Period, a “large accelerated filer” as such term is defined under Rule 12b-2 under the Exchange Act.

2. Discussion

Rule 12g-3(a) under the Exchange Act provides that where, in connection with a succession by merger, consolidation, exchange of securities, acquisition of assets or otherwise, securities of an issuer that are not already registered pursuant to Section 12 of the Exchange Act are received by the holders of any class of securities of another issuer that is registered pursuant to Section 12 of the Exchange Act, the class of securities so received shall be deemed registered under the same paragraph of Section 12 of the Exchange Act unless, among other things, such securities are held of record by fewer than 300 persons. Rule 12g-3(f) further provides that the issuer of the securities deemed registered pursuant to Rule 12g-3(a) shall indicate on Form 8-K filed in connection with the succession the paragraph of Section 12 of the Exchange Act under which such class of securities is deemed registered. We note that the Staff has permitted other foreign private issuers to provide such notification on Form 6-K.³ In light of the current shareholder base of UBS, if the Exchange Offer is successful, UBS Group expects that UBS Group Shares will continue to be held of record by more than 300 holders.

The definition of “succession” in Rule 12b-2 under the Exchange Act contemplates the “direct acquisition of the assets comprising a going business [...] by merger [...]”. Upon settlement of the Initial Offer Period, UBS Group will directly succeed to the UBS Plans and, through its ownership of the substantial majority of the issued and outstanding UBS Shares, indirectly succeed to substantially all of the businesses, assets and liabilities of UBS and will have no other material businesses, assets or liabilities (except as a result of Exchange Offer-related expenses). Moreover, upon completion of the Exchange Offer, UBS Group expects to be entitled to and to proceed with the Squeeze-Out, which will give it full ownership of all UBS Shares.

UBS Group’s consolidated financial statements following the consummation of the transaction will be substantially identical to UBS’s consolidated

³ See *Coca-Cola HBC AG* (avail. Mar. 14, 2013); *Hungarian Telephone and Cable Corporation* (avail. Feb. 27, 2009); *Royal Dutch Shell Petroleum Co. N.V.*, (avail. May 17, 2005); *Six Continents* (avail. Mar. 28, 2003); *British Telecommunications plc* (avail. Oct. 11, 2001); *The Bank of Tokyo-Mitsubishi Ltd.* (avail. Mar. 28, 2001); and *Hafslund Nycomed AS* (avail. Apr. 19, 1996).

financial statements. For accounting purposes, the exchange of UBS Shares for UBS Group Shares will not result in a business combination under IFRS 3 “Business Combinations.” Rather, the Exchange Offer will result in a reorganization with no changes in the accounting substance of the UBS reporting entity. After consummation of the Exchange Offer, there will be no impact on the carrying amounts of the assets, liabilities and total equity included in the consolidated financial statements of the Group. The Exchange Offer may entail a reclassification within equity due to the potential recognition of non-controlling interests (in relation to non-tendered UBS Shares in the period prior to the squeeze-out), and certain reclassifications within equity related to preferred notes, none of which UBS expects to be significant.

As a result, the fact that the transaction has been structured as an exchange offer rather than a merger or asset purchase should not prevent UBS Group from being deemed to have made a “direct acquisition” of the business of UBS and succeeding to UBS for purposes of Exchange Act registration. The Staff has taken similar positions with respect to transactions in which the assets “directly acquired” remain in a subsidiary of the successor company rather than being directly acquired by the successor through a second-stage merger.⁴ We also note that there are precedents for successorship in the context of holding company reorganizations where the new holding company does not acquire a 100% equity ownership of the predecessor entity upon consummation of the transaction. For example, in *Royal Dutch Shell Petroleum Co. N.V.* (avail. May 17, 2005), Royal Dutch and Shell represented that there were likely to be minority shareholders remaining at the level of Royal Dutch immediately after completion of the exchange offer. Similarly, in *Coca-Cola HBC AG* (avail. Mar. 14, 2013), the shares of Coca-Cola HBC AG (“CCHBC”) were deemed registered under Section 12(b) of the Exchange Act (the same section under which CCHBC’s predecessor were registered), where CCHBC had represented that minority shareholders in its predecessor would likely persist for longer than a month after the expiration of the exchange offer.⁵ Since the UBS Shares are registered under Section 12(b) of the Exchange Act, we believe that the UBS Group Shares should be deemed registered under the same section of the

⁴ See, e.g., *Alexander & Baldwin, Inc.* (avail. Apr. 3, 2012); *Interactive Intelligence, Inc.* (avail. Apr. 27, 2011); *Dress Barn, Inc.*, (avail. Aug. 13, 2010); *Roper Industries, Inc.* (avail. July 19, 2007); *Willbros Group, Inc.* (avail. Feb. 27, 2009); *Pediatrix Medical Group, Inc.*, (avail. Nov. 22, 2008); *Dollar Tree Stores, Inc.* (avail. Feb. 20, 2008); and *Royal Dutch Shell Petroleum Co. N.V.*, *supra*.

⁵ Similarly, in the acquisition of Arcelor by Mittal Steel, Mittal Steel initially acquired 94% of the share capital and voting rights of Arcelor pursuant to an exchange offer, and subsequently engaged in a two-step merger transaction to acquire all remaining shares of Arcelor. Shares of the intermediate holding company and successor were deemed registered under Rule 12g-3(a) under the Exchange Act, and ArcelorMittal was permitted to take into account the reporting histories of these predecessors in determining eligibility for use of Form F-3 and Form F-4. *ArcelorMittal* (avail. Aug. 13, 2008).

Exchange Act upon furnishing of a Report of Foreign Issuer on Form 6-K to the Commission.

Furthermore, UBS is a “large accelerated filer” as defined by Rule 12b-2 of the Exchange Act. Because UBS Group will be the successor issuer to UBS, we believe UBS Group should be deemed a large accelerated filer. The Staff has taken the position that a successor issuer would be a successor to a company’s status as a large accelerated filer under Rule 12b-2 of the Exchange Act on prior occasions.⁶

B. Availability of Forms F-3, F-4, S-8 and Other Securities Act Registration Forms

1. Relief Requested

We respectfully request on behalf of UBS Group that the Staff confirm that, upon settlement of the Initial Offer Period, UBS Group may include the prior activities and status of UBS in determining whether UBS Group meets the eligibility requirements for the use of Forms F-3, F-4, S-8 and other applicable Securities Act registration forms and whether UBS Group qualifies as a “well-known seasoned issuer” as defined in Rule 405 under the Securities Act.

2. Discussion

The Form F-3 reporting history requirements are designed to ensure that information concerning the issuer has been available for a sufficient period of time to enable those purchasing the securities of that issuer to have had an opportunity to examine information adequately. General Instruction I.A.4 to Form F-3 under the Securities Act deems a successor registrant to have met the conditions for eligibility to use Form F-3 set forth in General Instruction I.A.1, 2 and 3 to Form F-3 if (a)(i) its predecessor and it, taken together, meet such conditions, (ii) the succession was primarily for the purpose of forming a holding company and (iii) the assets and liabilities of the successor at the time of succession were substantially the same as those of the predecessor or (b) if all predecessors met the conditions at the time of succession and the registrant has continued to do so since the succession.

Consistent with General Instruction I.A.4 to Form F-3, the proposed succession of UBS Group to the business, assets and liabilities of UBS will be primarily for the purpose of forming a new holding company, and the consolidated assets and

⁶ See, e.g., *Dress Barn, Inc.*, *supra*; *Willbros Group, Inc.*, *supra*; *Pediatric Medical Group, Inc.*, *supra*; *Otter Tail Corporation* (avail. Dec. 19, 2008); *Mentor Corporation* (avail. Sept. 26, 2008); *Dollar Tree Stores, Inc.*, *supra*; *InterDigital Communications Corporation* (avail. June 25, 2007).

liabilities of UBS Group immediately after settlement of the Initial Offer Period will be substantially the same as the consolidated assets and liabilities of UBS immediately before the consummation of the Exchange Offer. As indicated above, for accounting purposes, the exchange of UBS Shares for UBS Group Shares will not result in a business combination under IFRS 3 “Business Combinations.” Rather, the Exchange Offer will result in a reorganization with no changes in the accounting substance of the UBS reporting entity. UBS currently meets the conditions for use of Form F-3, F-4, S-8 and expects to do so immediately prior to the settlement of the Initial Offer Period.

Accordingly, we believe that, upon the initial issuance of UBS Group Shares pursuant to the Exchange Offer, UBS Group will be entitled to take into account the activities and status of UBS prior to the consummation of the Exchange Offer in determining whether, assuming compliance with its Exchange Act reporting obligations, UBS Group will be eligible immediately after the consummation of the Exchange Offer (including prior to the filing of its first annual report on Form 20-F) to use Forms F-3, F-4, S-8 and other applicable Securities Act registration forms and whether it will qualify as a “well-known seasoned issuer” as defined in Rule 405 under the Securities Act. The Staff has taken this position in the context of several transactions similar to the Exchange Offer.⁷

C. Rule 144

1. Relief Requested

We respectfully request on behalf of UBS Group that the Staff confirm that (i) UBS’s prior periodic reports filed under the Exchange Act with the Commission may be taken into account in determining UBS Group’s compliance with the current public information requirements of Rule 144(c)(1) and (ii) UBS’s most recent report or statement published prior to the Exchange Offer may be taken into account in determining the volume limitations of Rule 144(e) under the Securities Act.

2. Discussion

Affiliates of UBS Group who desire to sell UBS Group Shares in the absence of registration under the Securities Act must sell those shares pursuant to

⁷ See, e.g., *Coca-Cola HBC AG*, *supra*; *Alexander & Baldwin, Inc.*, *supra*; *ADA-ES, Inc.* (avail. Mar. 15, 2012); *MGP Ingredients, Inc.* (avail. Oct. 11, 2011); *Interactive Intelligence, Inc.*, *supra*; *HCA Inc.* (avail. Nov. 22, 2010); *Dress Barn, Inc.*, *supra*; *MF Global Ltd.* (avail. Dec. 15, 2009); *Pediatrix Medical Group, Inc.*, *supra*; *Dollar Tree Stores, Inc.*, *supra*; and *Royal Dutch Shell Petroleum Co. N.V.*, *supra*.

Rule 144 under the Securities Act or pursuant to another applicable exemption from registration thereunder. Rule 144(c) requires that, in order for sales of securities to be made in reliance on the “safe harbor” provided by Rule 144, there must be made available “adequate current public information” with respect to the issuer for purposes of such Rule. Pursuant to Rule 144(c)(1), this requirement will be deemed to be satisfied where the issuer (i) has securities registered pursuant to Section 12 of the Exchange Act, (ii) has been subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act for a period of at least 90 days immediately preceding the sale of the securities and (iii) has filed all of the reports required to be filed by it under Section 13 of the Exchange Act for the 12 months preceding such sale (or for such shorter period that it was required to file such reports).

The purpose of Rule 144(c)(1), much like the reporting requirements for Form F-3, is to ensure that adequate current information about the registrant and its securities is publicly available. Although a literal application of Rule 144(c)(1) would prevent affiliates of UBS Group from utilizing Rule 144 during the first 90 days after the Exchange Offer, we believe that the prior reporting history of UBS should be taken into account for purposes of determining whether UBS Group satisfies the Rule 144(c)(1) eligibility requirements. UBS has been a reporting company under the Exchange Act for many years. All reports required to be filed by UBS under the Exchange Act have been filed or will be filed prior to the completion of the Exchange Offer. Following the Exchange Offer, UBS Group will be subject to the reporting requirements of Section 13 of the Exchange Act. Therefore, strict compliance with the 90-day waiting period does not appear necessary to effectuate the purpose of Rule 144(c)(1) in the light of the comprehensive disclosures by UBS prior to the completion of the Exchange Offer and the continuing reporting that will be made by UBS Group. Further in this regard, we note the extensive disclosure in the Registration Statement regarding UBS Group and the Exchange Offer. The Staff has taken similar positions in the context of several comparable transactions.⁸

For the same reasons, for purposes of Rule 144, the most recent report or statement published by UBS prior to the Exchange Offer and the average weekly reported volume of trading in UBS Shares during the time periods specified in Rule 144(e)(1) occurring immediately prior to the Exchange Offer should be taken into account by holders of UBS Group Shares in determining the applicable limitation on the amount of

⁸ See, e.g., *Coca-Cola HBC AG*, *supra*; *Sun Healthcare Group, Inc.* (avail. Sept. 29, 2010); *GulfMark Offshore, Inc.* (avail. Jan. 11, 2010); *Tim Hortons Inc.* (avail. Sept. 9, 2009); *Weatherford International, Ltd.* (avail. Jan. 14, 2009); *Willbros Group, Inc.*, *supra*; and *Pediatrix Medical Group, Inc.*, *supra*.

stock that may be sold in compliance with Rule 144(e)(1) and (2) following the Exchange Offer. This position is consistent with prior determinations of the Staff.⁹

D. Section 4(a)(3) and Rule 174

1. Relief Requested

We respectfully request on behalf of UBS Group that the Staff confirm that UBS Group may be treated as an issuer subject to the reporting requirements of the Exchange Act for purposes of the exemption provided by Rule 174(b) under the Securities Act from the prospectus delivery requirements of Section 4(a)(3) of the Securities Act.

2. Discussion

Under Securities Act Rule 174(b), dealers are provided an exemption from the prospectus delivery requirement of Section 4(a)(3) of the Securities Act with respect to issuers that are Exchange Act reporting companies prior to filing the registration statement of which such prospectus forms a part. UBS Group will be the successor to the operations of UBS. UBS has been a reporting company under Section 13 of the Exchange Act for many years, and UBS Group, as the successor to UBS, will assume UBS's reporting status after completion of the Exchange Offer. The Staff has previously taken the position that a successor is deemed an Exchange Act reporting company and dealers of the successor's securities may rely on Rule 174(b).¹⁰

Accordingly, we respectfully request that the Staff concur in our opinion that UBS Group will be deemed an Exchange Act reporting company and that dealers of UBS Group Shares will be able to rely on Rule 174(b) with respect to the prospectus delivery requirements of Section 4(a)(3) of the Securities Act.

* * * *

⁹ See, e.g., *Dollar Tree Stores, supra*; *Roper Industries, Inc., supra*; *Lamalie Associates, Inc.* (avail. Dec. 15, 1998); *El Paso Natural Gas Co.* (avail. May 21, 1998)

¹⁰ See, e.g., *Coca-Cola HBC AG, supra*; *Sun Healthcare Group, Inc., supra*; *Tim Hortons Inc., supra*; and *Pediatrix Medical Group, Inc., supra*.

If you have any questions or require any additional information, please contact the undersigned at 011 (44) 20 7959 8575 or Christoph Vonlanthen at 011 (44) 20 7959 8478.

Sincerely yours,


David B. Rockwell

cc: Michele Anderson, Chief, Office of Mergers and Acquisitions
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