UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,	:	
Plaintiff,	:	**12-CV-5550 (MGC)**
v.	:	
MIZUHO SECURITIES USA INC.,	:	
Defendant.	:	

DISTRIBUTION PLAN

I. OVERVIEW

1. This Distribution Plan (the "Plan") concerns the distribution of funds paid by Defendant, Mizuho Securities USA Inc. ("Mizuho") pursuant to a final judgment entered by the United States District Court for the Southern District of New York (the "Court") on July 26, 2012 (the "Final Judgment").[1]

2. The Court's Final Judgment stemmed from charges that Mizuho defrauded investors when certain of its employees deceived credit rating agencies by providing them with inaccurate and misleading information about the quality of assets making up bond notes comprising Delphinus CDO 2007-1 ("Delphinus"), an approximately $1.6 billion hybrid collateralized debt obligation ("CDO") structured and marketed by Mizuho, in order to close and sell Delphinus notes.

3. The Plan proposes to distribute a portion of the funds collected from Mizuho to Immigon Portfolioabbau AG (f/k/a Osterreichische Volksbanken-Aktiengesellschaft) ("Volksbanken"), with the balance of the funds, less taxes, fees and expenses, going to the United States Treasury. Volksbanken, a bank based in Austria purchased Delphinus notes, and subsequently lost its entire investment amount when Delphinus was liquidated in 2010.

II. FACTUAL AND PROCEDURAL BACKGROUND

4. On July 18, 2012, the Commission filed a Complaint against Mizuho resulting from its structuring, marketing and rating in mid-2007of Delphinus, a mezzanine CDO backed by subprime bonds. The marketing materials for Delphinus represented that the notes issued by the CDO would obtain certain specific ratings from three credit rating agencies, including Standard & Poor's ("S&P"). Receipt of those ratings was a condition precedent to Delphinus closing the

[1] *See Securities and Exchange Commission v. Mizuho Securities USA Inc.*, 12-CV-5550 (S.D.N.Y. July 26, 2012).

sale of the CDO notes. Undisclosed to purchasers, however, certain of Mizuho's employees[2] provided S&P with inaccurate and misleading information. As a result of this misconduct, certain classes of Delphinus notes received higher ratings than were warranted. Subsequently, all off the Delphinus notes were downgraded by rating agencies in the Fall of 2007 and again in 2008 and quickly became worthless. Delphinus was liquidated by a trustee in 2010.

5. Mizuho consented to the entry of a Final Judgment, which the Court entered on July 26, 2012. The Final Judgment stated that Mizuho willfully violated Sections 17(a)(2) and 17(a)(3) of the Securities Act, and required that Mizuho pay disgorgement of $10,000,000.00, prejudgment interest in the amount of $2,517,330.00, and a civil money penalty of $115,000,000.00. The Final Judgment also authorized the Commission to propose a plan to distribute these funds pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, subject to the court's approval.

6. Mizuho paid a total of $127,517,330.00 to the Commission and the funds are currently held in an interest bearing account at the United States Department of the Treasury. This amount, plus any interest that may accrue, comprise the funds available for distribution (the "Distribution Fund"). The Distribution Fund constitutes a Qualified Settlement Fund under Section 468B(g) of the Internal Revenue Code, 26 U.S.C. §468B(g), and related regulations, 26 C.F.R. §§ 1.468B-1 through 1.468B-5.

III. ADMINISTRATORS

7. Nancy Chase Burton, Supervisory Assistant Chief Litigation Counsel in the Division of Enforcement's Office of Distributions, will serve as the Plan Administrator. As a Commission employee, the Plan Administrator will not receive compensation for her services in administering the Distribution Fund, other than her regular salary. The Plan Administrator will: a) oversee the administration of the Distribution Fund; b) cooperate with the Court appointed tax administrator in providing information necessary to accomplish income tax compliance; c) distribute the Distribution Fund to Volksbanken with the balance, less taxes, fees and expenses, going to the United States Treasury; and d) notify the Court when the distribution is complete.

8. The Court has appointed Damasco & Associates LLP as the tax administrator for the Distribution Fund (the "Tax Administrator"). The Plan Administrator will cooperate with the Tax Administrator in providing information necessary to accomplish the income tax compliance, ruling and advice work assigned to the Tax Administrator by the Court.

9. All taxes and distribution-related fees and expenses will be paid out of the Distribution Fund.

[2] The employees include: a) Alexander Rekeda, the leader of the Delphinus deal team; b) Gwen Snorteland, the transaction manager; and c) Xavier Capdepon, the deal modeler as well as Delaware Asset Advisers ("DAA"), Delphinus's collateral manager, and one of DAA's employees Wei (Alex) Wei, the portfolio manager for Delphinus.

IV. IDENTIFYING ELIGIBLE HARMED INVESTORS

10. The Fund Administrator shall distribute the Distribution Fund to those investors who purchased notes and 1) can demonstrate they relied on the credit ratings when making the decision to invest in Delphinus; and 2) suffered a loss as a result of that investment.

11. Commission staff has identified all parties who purchased Delphinus notes and has determined that only Volksbanken meets these criteria and is therefore eligible to receive a distribution.

V. ALLOCATION OF FUNDS

12. A distribution of $10,799,041 will be made to Volksbanken to compensate it for its losses suffered on the Delphinus notes it purchased.

13. The balance of funds recovered, less taxes, fees and expenses owed by the Distribution Fund, will go to the United States Treasury.

VI. ADMINISTRATIVE PROCEDURES

14. Within 60 days of the Court's approval of the Plan, The Plan Administrator will cause $10,799,041 to be distributed to Volksbanken without further order of the Court.

15. The distribution to VBAG will be implemented through the United States Department of the Treasury's Bureau of the Fiscal Service ("BFS"), which will remit payment to Volksbanken.

16. Within 30 days of issuance of the payment, the Plan Administrator will confirm with Volksbanken that the payment was received and negotiated. If payment has not been received and negotiated, the Plan Administrator will take steps to have the payment reissued. Once it is confirmed that the payment has been received and negotiated, the Plan Administrator will file a notice with the Court reporting the payment ("Notice of Payment").

17. The Distribution Fund will be eligible for termination, and the Plan Administrator will be discharged, after all of the following have occurred: a) the Notice of Payment has been submitted to the Court; and b) all taxes fees, and expenses have been paid. Any funds remaining in the Distribution Fund will be transferred to the United States Department of the Treasury.

18. The Plan Administrator will take reasonable and appropriate steps to distribute the Distribution Fund according to the Plan. Where the Plan Administrator deems necessary, the Plan Administrator may implement immaterial changes to the Plan to effectuate its general purposes. If a change is deemed material by the Plan Administrator, the Court's approval will be required prior to implementation by amending the Plan, which may be done upon the motion of any party, the Plan Administrator, or upon the Commission's own motion.

19. The Plan Administrator may extend any of the procedural deadlines set forth in the Plan for good cause shown.