



DIVISION OF
TRADING AND MARKETS

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

March 21, 2019

Ms. Holly H. Smith
Eversheds Sutherland (US) LLP
700 Sixth Street, NW, Suite 700
Washington, DC 20001-3980

Re: BancWest Investment Services, Inc.

Dear Ms. Smith:

This responds to your September 20, 2018 letter on behalf of BancWest Investment Services, Inc. ("BWIS") requesting that the staff of the Division of Trading and Markets ("Staff") not recommend enforcement action to the Securities and Exchange Commission ("Commission") if BWIS transmits checks submitted by customers to rollover funds from a retirement plan into an Individual Retirement Account ("IRA") to BWIS's carrying broker-dealer in a manner consistent with the Commission's Exemptive Order for checks received for purchases of deferred variable annuities.¹

I understand that you have made the following representations. BWIS is registered with the Commission as a broker-dealer under Section 15(b) of the Exchange Act and is a member of the Financial Industry Regulatory Authority, Inc. ("FINRA"). It introduces customer accounts to its carrying broker-dealer on a fully disclosed basis pursuant to a written agreement with the carrying broker-dealer.²

¹ See Order Granting a Conditional Exemption to Broker-Dealers From Requirements in Rules 15c3-1 and 15c3-3 Under The Securities Exchange Act of 1934 To Promptly Transmit Customer Checks For The Purchase of Deferred Variable Annuity Contracts, Exchange Act Release No. 34-56376 (Sept. 7, 2007), 72 FR 52400 (Sept. 13, 2007) ("Variable Annuity Exemptive Order").

² See FINRA Rule 4311 (Carrying Agreements), requiring, among other things, that FINRA member firms enter into an agreement for the carrying, on an omnibus or fully disclosed basis, of any customer account in which

You note that your request for relief is limited to circumstances in which a BWIS customer formerly participated in a tax-qualified plan made available by his or her employer, such as a plan qualified under section 401(k) of the Internal Revenue Code, and now desires to rollover assets held in such plan to an IRA. More specifically, although such assets may consist of investments in stock, mutual funds, employer securities and other investment types, your request for relief is only with respect to distribution checks issued by a tax-qualified plan.

You state that a customer's decision to rollover assets to an IRA involves a number of considerations, which require, among other things, an examination of the services, investment options, fees and expenses that may be involved with a particular IRA. As such, FINRA has cautioned its members that they must have policies and procedures in place reasonably designed to comply with FINRA rules applicable to rollovers.³ In particular, FINRA has reminded member firms that they have an obligation of fair dealing with respect to customers planning for retirement, and that if a recommendation is made, member firms must consider certain attributes unique to the individual customer, such as the customer's age, other investments, financial situation and needs, and investment objectives:

A recommendation concerning the type of retirement account in which a customer should hold his retirement investments typically involves a recommended securities transaction, and thus is subject to Rule 2111. For example, a firm may recommend that an investor sell his plan assets and roll over the cash proceeds into an IRA. Recommendations to sell securities in the plan or to purchase securities for a newly-opened IRA are subject to Rule 2111.⁴

FINRA Rule 2111 (Suitability) protects customers by providing that if a member firm's registered representative recommends a transaction or investment strategy involving a security or securities, the firm must use reasonable diligence to ascertain the customer's investment profile.⁵ Furthermore, the rule prohibits member firms and their associated persons from making a

securities transactions can be effected. You note that not all BWIS customer accounts are introduced to its carrying firm, e.g., accounts whose purchases are limited to variable annuity and/or variable life insurance contracts.

³ See FINRA Regulatory Notice 13-45, Rollovers to Individual Retirement Accounts (Dec. 2013) ("FINRA RN 13-45").

⁴ See FINRA RN 13-45 at 4; see also FINRA Rule 2111 (Suitability).

⁵ See FINRA Rule 2111 (Suitability).

recommendation unless they have sufficient information about the customer to believe that the recommendation is suitable for that customer. Even if a recommendation is not made, FINRA member firms are required to follow “know your customer” procedures by, for example, collecting basic information from new customers, such as the customer’s name, residence, and occupation, before establishing an account for the customer.⁶ Member firms also must comply with the anti-money laundering obligations of FINRA Rule 3310.⁷ With respect to investment services that involve retirement planning, FINRA has reminded its members that the obligation of fair dealing requires compliance with numerous FINRA rules.⁸ In addition to applicable FINRA regulations, member firms must also meet Internal Revenue Code requirements applicable to rollovers, including the requirement that individuals have only a 60-day window in which to rollover the distribution to another eligible retirement plan or IRA in order to avoid negative tax consequences.⁹

You note that BWIS has adopted policies and procedures to comply with FINRA guidance with respect to providing services to persons who may be planning for their retirement. These compliance policies include the use of a form, titled “IRA Rollover Acknowledgement,” which must be signed by the customer and received by BWIS prior to the time when BWIS forwards rollover checks to its carrying firm. Among other things, you note that the IRA Rollover Acknowledgement reminds the customer that he or she has multiple options with respect to his or her retirement savings, including leaving the money in the former employer’s plan. You state that BWIS also provides customers with a document titled “Rollover Decision Considerations,” which lists twelve different factors the customer should discuss with his or her adviser in connection with the decision to rollover or consolidate retirement assets into an IRA. You also state that this document counsels customers to “make sure [they] have a conversation” with their adviser to review the customer’s options.

⁶ See FINRA Rule 2090 (Know Your Customer) and FINRA Rule 4512 (Customer Account Information).

⁷ See FINRA Rule 3310 (Anti-Money Laundering).

⁸ See FINRA RN 13-45 at fn. 7 (citing FINRA Rules 2010 (Standards of Commercial Honor and Principles of Trade), 2210 (Communications with the Public), and 2111 (Suitability) as well as NASD supervisory rules).

⁹ See <https://www.irs.gov/retirement-plans/plan-participant-employee/rollovers-of-retirement-plan-and-ira-distributions> (discussing distribution options and possible tax consequences).

You represent that the request for relief by BWIS is based on a compliance conflict resulting from its obligation to comply with the FINRA rules discussed above and its obligation to comply with the requirements of Exchange Act Rule 15c3-3, in particular the rule's "prompt transmission" requirement, which generally requires the transmission of customer funds and securities to a firm's clearing broker or dealer by noon of the next business day after receipt. You state that BWIS "cannot in all circumstances" make the fair dealing or suitability determinations called for by a rollover decision and at the same time ensure that a customer's rollover check is forwarded to the firm's carrying broker-dealer by noon of the next following business day.

Specifically, you note that BWIS centralizes check processing in its main office in Omaha and directs registered representatives and customers to send checks to that office.¹⁰ You state that the Omaha office cannot always comply with the prompt transmission requirement because BWIS must consider whether it has met its obligations under applicable FINRA rules. As part of that process, BWIS requires that it be in receipt of an IRA Rollover Acknowledgment form executed by the customer prior to forwarding the rollover check to its carrying firm. You note that BWIS believes that its customers would be disadvantaged if it were to return every rollover check to the customer or the customer's prior plan administrator before noon of the next business day in order to avoid a violation of the prompt transmission requirement.¹¹

Pursuant to paragraph (k)(2)(ii) of Exchange Act Rule 15c3-3, an SEC-registered broker-dealer is exempted from the requirements of that rule provided that it serves as an introducing broker or dealer (i.e., does not hold customers' funds or securities), clears all transactions with and for customers on a fully disclosed basis with a clearing broker or dealer, and promptly transmits all customer funds and securities to the clearing broker-dealer which carries all of the accounts of such customers and maintains and preserves such books and records

¹⁰ You note that customers may also deposit checks directly to an established account with BWIS's clearing firm and that such checks are not included in your request for relief since they are not held by BWIS.

¹¹ You note in particular the possibility that individuals may attempt to rollover their distributions near the end of the 60-day rollover period, in which case returning the distribution check to the customer could create negative tax consequences. You further note that even in the case of an employee requesting a direct rollover, obtaining a rollover check can sometimes take up to several weeks, in which case the "prompt transmission" requirement could result in BWIS returning a check to a transferring plan for an individual who may no longer have an account with the plan, resulting in customer confusion and administrative problems.

pertaining thereto pursuant to the requirements of Exchange Act Rules 17a-3 and 17a-4 as are customarily made and kept by a clearing broker-dealer. The Commission has defined the term “promptly transmits” to require that “transmission or delivery is made no later than noon of the next business day after the receipt of such funds or securities.”¹² In order to rely on an exemption from Exchange Act Rule 15c3-3 pursuant to paragraph (k) of the rule, a broker-dealer must forward checks made payable to a carrying broker-dealer by noon of the next business day following a registered representative’s receipt of such a check from a customer.

Based on your representations, the Staff will not recommend enforcement action to the Commission if BWIS fails to transmit a customer’s rollover check to the carrying broker-dealer by noon of the next business day after receipt, if the purpose for holding the check is to complete the fair dealing or suitability process in compliance with applicable FINRA rules, and BWIS:

1. Establishes policies and procedures reasonably designed to ensure that customer checks are safeguarded;
2. Ensures that a registered representative of BWIS who takes possession of the rollover check promptly transmits such check to an Office of Supervisory Jurisdiction (“OSJ”) of BWIS for processing;
3. Causes a registered representative of BWIS to complete the fair dealing or suitability process within seven business days after an OSJ of BWIS receives the rollover check;
4. Transmits the rollover check to the carrying broker-dealer no later than noon of the business day following the date a registered representative of BWIS completes the fair dealing or suitability process;
5. Maintains a copy of each such check and creates a record of the date the check was received from the customer and the date the check was transmitted to the carrying broker-dealer if the customer’s rollover request is approved, or returned to the customer if it is rejected; and
6. Discloses to customers its process for handling customer checks received in connection with rollovers.

You should be aware that this is a Staff position with respect to enforcement only and does not purport to express any legal conclusions regarding the application of the federal securities laws. This position is based solely on the foregoing description. Factual variations could warrant a different response, and any material change in the facts must be brought to the

¹² See Exchange Act Release No. 31511 (Nov. 24, 1992), note 11; 17 CFR 240.15c3-1(c)(9).

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Staff's attention. This position may be withdrawn or modified if the Staff determines that such action is necessary for the protection of investors, in the public interest, or otherwise in furtherance of the securities laws.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom McGowan", with a horizontal line extending to the right.

Thomas K. McGowan

Associate Director

CONFIDENTIAL TREATMENT REQUESTED BY BANCWEST INVESTMENT SERVICES, INC.

September 20, 2018

Michael A. Macchiaroli
Senior Associate Director
Division of Trading and Markets
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Re: Request for "No-Action" Relief from SEC Rule 15c3-3 for Checks Received in Connection with Customer Rollovers

Dear Mr. Macchiaroli:

This letter is submitted on behalf of BancWest Investment Services, Inc. ("BWIS" or "the Firm"), to request that staff of the Division of Trading and Markets ("Staff") will not recommend enforcement action to the Securities and Exchange Commission ("Commission"), and will not subject BWIS to any additional requirements of SEC Rule 15c3-3, if BWIS promptly transmits certain customer checks to its carrying broker-dealer in the manner described in this letter.

BWIS is registered with the Commission as a broker-dealer under Section 15(b) of the Securities Exchange Act of 1934, as amended ("Exchange Act") and is a member of the Financial Industry Regulatory Authority, Inc. ("FINRA"). Its direct owner is Bank of the West. BWIS has 524 offices located throughout the United States. Its principal office is located in Omaha, Nebraska. It has multiple business lines, including acting as a mutual fund retailer, and is involved in networking arrangements with Bank of the West.

The Firm operates pursuant to the exemptive provision found in Rule 15c3-3(k)(2)(ii).¹ It introduces customer accounts to its carrying broker-dealer on a fully disclosed basis pursuant to a written agreement with the carrying broker-dealer.²

Regulation of Rollovers and Firm Compliance Procedures*a. Regulation*

The request for relief discussed in this letter is limited to circumstances in which a BWIS customer formerly participated in a tax-qualified plan made available by his or her employer,

¹ See Rule 15c3-3(k)(2)(ii), providing an exemption from Rule 15c3-3 to a broker-dealer who, as an introducing broker-dealer, clears all transactions with and for customers on a fully disclosed basis with a clearing broker-dealer, and who promptly transmits all customer funds and securities to the clearing broker-dealer which carries all of the accounts of such customers and maintains and preserves such books and records pertaining thereto as are customarily made and kept by a clearing broker-dealer, pursuant to SEC Rules 17a-3 and 17a-4.

² Not all BWIS customer accounts are introduced to its carrying firm, e.g., accounts whose purchases are limited to variable annuity and/or variable life insurance contracts.

such as a plan qualified under section 401(k) of the Internal Revenue Code, and now desires to rollover assets held in such plan to an Individual Retirement Account ("IRA").³ Although such assets may consist of investments in stock, mutual funds, employer securities and other investment types, our request for relief is only with respect to distribution checks issued by a tax-qualified plan.

As you know, a customer's decision to rollover assets to an IRA involves a number of considerations, which require, among other things, an examination of the services, investment options, fees and expenses that may be involved with a particular IRA. In this regard, FINRA has cautioned its members that they must have policies and procedures in place reasonably designed to comply with FINRA rules applicable to rollovers.⁴

FINRA has specifically reminded member firms that they have an obligation of fair dealing with respect to customers planning for their retirement, and that if a recommendation is made, member firms must consider certain attributes unique to the individual customer, such as the customer's age, other investments, financial situation and needs, and investment objectives.⁵ With respect to retirement accounts, FINRA has stated:

A recommendation concerning the type of retirement account in which a customer should hold his retirement investments typically involves a recommended securities transaction, and thus is subject to Rule 2111. For example, a firm may recommend that an investor sell his plan assets and roll over the cash proceeds into an IRA. Recommendations to sell securities in the plan or to purchase securities for a newly-opened IRA are subject to Rule 2111.⁶

FINRA Rule 2111 protects a member firm's customers by providing that the firm must use reasonable diligence to ascertain the customer's investment profile.⁷ Furthermore, member firms and their associated persons are prohibited from making a recommendation unless they have sufficient information about the customer to believe that the recommendation is suitable for that customer. In cases where a recommendation is not made, FINRA member firms nonetheless are required to "know their customers" by, for example, collecting basic information from new customers, such as the customer's name, residence, and occupation, before establishing an account for the customer.⁸ Member firms also must comply with anti-money laundering obligations, codified in FINRA Rule 3310.⁹ With respect to investment services that involve retirement planning, FINRA has reminded its members that the obligation of fair dealing requires compliance with numerous FINRA rules.¹⁰

In addition to needing to comply with applicable FINRA regulations, member firms must be mindful of Internal Revenue Code requirements applicable to rollovers. An individual who receives a retirement plan distribution has a 60-day window in which to rollover the distribution.

³ BWIS assists customers with defined contribution, defined benefit and section 403(b) plans.

⁴ See FINRA Regulatory Notice 13-45, Rollovers to Individual Retirement Accounts (Dec. 2013) (hereafter, "FINRA RN 13-45"). FINRA also has addressed member firm public communications regarding rollovers; see FINRA Regulatory Notice 13-23, Brokerage and Individual Retirement Account Fees (July 2013).

⁵ FINRA RN 13-45 at 4.

⁶ Id. See also FINRA Rule 2111 (Suitability).

⁷ See FINRA Rule 2111 (Suitability).

⁸ See FINRA Rule 2090 (Know Your Customer) and FINRA Rule 4512 (Customer Account Information).

⁹ See FINRA Rule 3310 (Anti-Money Laundering).

¹⁰ See FINRA RN 13-45 at fn.7, citing FINRA Rules 2010 (Standards of Commercial Honor and Principles of Trade), 2210 (Communications with the Public), and 2111 (Suitability) as well as NASD supervisory rules.

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to another eligible retirement plan or IRA.¹¹ Distributions not rolled over within this timeframe and in compliance with applicable law are subject to income tax and possibly early distribution penalty taxes if the individual is under age 59 ½. Alternatively, the employee may request his or her plan administrator to transfer the distribution directly to the employee's new retirement plan or IRA.¹² Plan administrators must provide certain disclosures to individuals requesting disbursements, again emphasizing the importance of communicating the consequences of a rollover to the employee.¹³

b. Compliance Procedures

BWIS has adopted policies and procedures to comply with FINRA's guidance with respect to providing services to persons who may be planning for their retirement. One aspect of the Firm's policies and procedures involves the use of a form, titled "IRA Rollover Acknowledgement," which must be signed by the customer and received by BWIS prior to the time when the Firm forwards rollover checks to its carrying firm. Among other things, the IRA Rollover Acknowledgement reminds the customer that he has several options with respect to his retirement savings, including leaving the money in the former employer's plan. BWIS also provides customers with a second document, titled "Rollover Decision Considerations," which lists twelve different factors the customer should discuss with his adviser in connection with the decision to rollover or consolidate retirement assets into an IRA. This document counsels customers to "make sure you have a conversation" with their adviser to review the customer's options.

The "Promptly Transmit" Requirement under SEC Rule 15c3-3

As an SEC-registered broker-dealer and FINRA member firm, BWIS must comply with Rule 15c3-3 in addition to complying with applicable FINRA rules. Specifically, broker-dealers that do not hold customer funds and securities generally are exempted from the requirements of Rule 15c3-3 pursuant to paragraph (k) of the rule, provided, however, that the broker-dealer, with respect to its agency transactions, promptly transmits all funds and delivers all securities to the party to whom those funds and securities are owed - this requirement is generally referred to as the "prompt transmission" requirement. Unless Commission authority permits otherwise, the prompt transmission requirement demands transmission of customer funds and securities by noon of the next business day after receipt.¹⁴ For these purposes, the timeline begins when a broker-dealer first takes receipt of a check (regardless of to whom made payable).

Compliance with the Prompt Transmission Requirement Conflicts with Fair Dealing and Suitability Obligations

The Firm is presented with a compliance conflict resulting from its obligation to comply with the FINRA rules discussed above, and its obligation to comply with SEC Rule 15c3-3. The Firm cannot in all circumstances make the fair dealing or suitability determinations called for by a

¹¹ See <https://www.irs.gov/retirement-plans/plan-participant-employee/rollovers-of-retirement-plan-and-ira-distributions> for a discussion of distribution options and possible tax consequences.

¹² Distributions that take the form of a check made payable to the employee's new retirement plan or IRA are treated as a direct rollover and are not subject to mandatory income tax withholding. See *id.*

¹³ IRC Section 402(f). See also Notice 2014-74, 2014-50 I.R.B. 937 (Dec. 8, 2014), which provides a model disclosure. This disclosure must be provided within a reasonable period prior to the plan making an eligible rollover distribution.

¹⁴ See Release No. 34-31511 (Nov. 24, 1992), n. 11; SEC Rule 15c3-1(c)(9), and Interpretations of Financial and Operational Rules, available at <http://www.finra.org/sites/default/files/sea-rule-15c3-3-interpretations.pdf> at p. 2523 (definition of "promptly transmit").

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rollover decision, and at the same time ensure that a customer's rollover check is forwarded by the Firm to its carrying broker-dealer by noon of the next following business day.

As noted at the beginning of this letter, BWIS has offices throughout the United States, and its main office is located in Omaha. Check processing is centralized in the Omaha office and for this reason, registered representatives and customers are directed to send checks to that office.¹⁵ The Omaha office cannot comply in all cases with the prompt forwarding requirement because the Firm must consider whether it has met its obligations under applicable FINRA rules. In this regard, the Firm requires that it be in receipt of an IRA Rollover Acknowledgment form executed by the customer, prior to forwarding the rollover check to BWIS's carrying firm.

The Firm believes its customers would be disadvantaged if the Firm were to return every rollover check to the customer or the customer's prior plan administrator, before noon of the next business day, in order to avoid a violation of the prompt transmission requirement. As explained above, the Internal Revenue Code permits tax-free rollovers of distributions only during a limited timeframe. In the case of an individual who has taken a distribution (i.e., the distribution has not been directly rolled over), it is certainly possible that he or she will attempt to rollover the distribution near the end of the 60-day rollover period. Returning the amount to the customer in that situation could create negative tax consequences. Even in the case of a direct rollover, in the Firm's experience, the timeline for obtaining a rollover check after it has been requested by a prior employee can be quite lengthy, sometimes taking up to several weeks between the time a request is made and the time when BWIS or its customer receives the check. A noon-the-next business-day requirement may create customer confusion and administrative problems for the transferring plan, which, if BWIS returns the check to the plan, will be in possession of a check for an individual who may no longer have an account with the plan.

Analogous Precedent

The Commission and FINRA have recognized in similar circumstances that it may not be possible for a broker-dealer to comply with the prompt transmission requirement because of the need to comply with other important securities laws, rules and regulations. For example, in 2007 the Commission granted a conditional exemption to Rule 15c3-3 in connection with the need for FINRA member firms to comply with NASD Rule 2821 (now FINRA Rule 2330).¹⁶ More recently, the Staff has issued no-actions letters under Rule 15c3-3 to a broker-dealer transmitting customer funds received in connection with sales of securities on a subscription-way basis,¹⁷ and broker-dealers transmitting customer checks to their carrying broker-dealers in connection with opening new accounts for customers on the carrying firm platforms.¹⁸

¹⁵ Customers may also deposit checks directly to an established account with BWIS's clearing firm; those checks are not included in this request for relief since they are not held by BWIS.

¹⁶ See Exchange Act Release No. 34-56376 (Sept. 7, 2007), Order Granting a Conditional Exemption to Broker-Dealers From Requirements in Rules 15c3-1 and 15c3-3 Under the Securities Exchange Act of 1934 To Promptly Transmit Customer Checks For The Purchase of Deferred Variable Annuity Contracts (hereafter, the Variable Annuity Exemptive Order).

¹⁷ See letter issued to NYLIFE Securities LLC by Mark M. Attar, Division of Trading and Markets, Securities and Exchange Commission, March 12, 2015 (the "NYLIFE Letter"), available at: <https://www.sec.gov/divisions/marketreg/mr-noaction/2015/nylife-securities-031215-15c3.pdf>.

¹⁸ See letter issued to MML Investors Services, LLC, MetLife Securities, Inc. and Thrivent Investment Management, Inc. by Michael A. Macchiaroli, Senior Associate Director, Division of Trading and Markets, Securities and Exchange Commission, July 19, 2016 (the "MML Investors Letter"), available at: <https://www.sec.gov/divisions/marketreg/mr-noaction/2016/mml-investors-services-llc-071916.pdf>.

Request for Relief

The Firm believes that its circumstances are not unlike those presented in the Variable Annuity Exemptive Order, the NYLIFE Letter, and the MML Investors Letter. In each case, broker-dealers were faced with the possibility that complying with certain regulatory obligations could lead to violation of other regulations.

Accordingly, we request that Staff not recommend enforcement action to the Commission and not subject BWIS to any additional requirements of Rule 15c3-3 due solely to a failure to transmit a rollover check to BWIS's carrying broker-dealer by noon of the next business day after receipt, if the purpose for holding the check is to complete the Firm's fair dealing or suitability process in compliance with applicable FINRA rules, and BWIS:

1. Establishes policies and procedures reasonably designed to ensure that customer checks are safeguarded.
2. Ensures that a registered representative of the broker-dealer who takes possession of the rollover check promptly transmits such check to an Office of Supervisory Jurisdiction ("OSJ") of the broker-dealer for processing;
3. Causes a registered representative of the broker-dealer to complete the fair dealing or suitability process within seven business days after an OSJ of the broker-dealer receives the rollover check;
4. Transmits the rollover check to the carrying broker-dealer no later than noon of the business day following the date a registered representative of the broker-dealer completes the fair dealing or suitability process;
5. Maintains a copy of each such check and creates a record of the date the check was received and the date the check was transmitted to the carrying broker-dealer if the customer's purchase request is approved, or returned to the customer if it is rejected; and
6. Discloses to customers its process for handling customer checks received in connection with rollovers.

* * *

BWIS requests that this letter be treated as confidential and non-public under the Freedom of Information Act (FOIA) (5 U.S.C. § 552), and all applicable regulations adopted by the Securities and Exchange Commission (the "SEC"), including 17 C.F.R. § 200.83(d)(1).

Pursuant to the procedures set out in 17 C.F.R. § 200.83(c)(2), the pages of this letter have been numbered BWIS-SEC-01006 - BWIS-SEC-01011 and contain the legend "Confidential Treatment Requested by Bancwest Investment Services, Inc." or "Confidential Treatment Requested by BWIS."

BWIS also requests that it receive notification and an opportunity to contest disclosure if this letter is the subject of a FOIA inquiry. The address and telephone number for any such notification are:

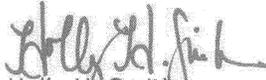
Steven W. Hawkins
Vice President and Senior Counsel
Bank of the West
300 S. Grand Avenue, 6th Floor
Los Angeles, CA 90071
213-972-0643

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Further, if the SEC determines that confidential treatment is not warranted with respect to the information contained herein, BWIS respectfully requests ten days' notice prior to any intended release so that BWIS may, if deemed necessary and appropriate, pursue any available remedies.

Thank you for your consideration of this request. If you have any questions, please contact the undersigned at 202-383-0245.

Sincerely,



Holly H. Smith

cc: Rollin L. Biel, BWIS Chief Financial Officer
Gregory Weiss, BWIS Chief Compliance Officer
Thomas K. McGowan, SEC
Randall Roy, SEC
Sinead Planken, FINRA