

**UNITED STATES OF AMERICA
BEFORE THE
SECURITIES AND EXCHANGE COMMISSION**

Securities Investor Protection Act of 1970
Release No. SIPA-168/September 14, 2009

In the Matter of
Securities Investor Protection Corporation
805 Fifteenth Street, NW, Suite 800
Washington, DC 20005-2207

**ORDER AFFIRMING DETERMINATION BY THE SECURITIES INVESTOR
PROTECTION CORPORATION (SIPC) THAT VPE WERTPAPIERHANDELSBANK
AG IS NOT A MEMBER OF SIPC**

I. Introduction

Section 3(a)(2) of the Securities Investor Protection Act of 1970 (“SIPA”) provides that, with certain exceptions, all broker-dealers registered pursuant to Section 15(b) of the Securities Exchange Act of 1934 are members of SIPC.¹ Section 3(a)(2)(A)(i) of SIPA provides an exception to SIPC membership for broker-dealers whose principal business, in the determination of SIPC, taking into account business of affiliated entities, is conducted outside the United States and its territories and possessions.² Section 3(a)(2)(B) of SIPA requires SIPC to file that determination with the Securities and Exchange Commission (“Commission”), and the Commission, within thirty days of SIPC’s filing, or within such longer period as the Commission may designate of not more than ninety days after the date of SIPC’s filing if it finds such longer period to be appropriate and publishes its reasons for so finding, must “consistent with the public interest and the purposes of [SIPA], affirm, reverse, or amend [SIPC’s determination].”³

II. Background and Discussion

On March 23, 2009, SIPC filed a request that the Commission affirm SIPC’s determination that vPE WertpapierhandelsBank AG (“VPEAG”), formerly known as von Pfetten – Ewaldsen AG, is excluded from SIPC membership because its principal business is conducted outside the United States, its territories and possessions pursuant to Section 3(a)(2)(A)(i) of SIPA.⁴

¹ 15 U.S.C. 78ccc(a)(2)(A).

² 15 U.S.C. 78ccc(a)(2)(A)(i).

³ 15 U.S.C. 78ccc(a)(2)(B).

⁴ Letter from Stephen P. Harbeck, President and CEO, SIPC, to Elizabeth M. Murphy, Secretary, United States Securities and Exchange Commission, dated March 23, 2009.

The Commission's broker-dealer records show that VPEAG became registered with the Commission as a broker-dealer effective December 12, 2008. In the information supplied to SIPC as part of its request for exclusion from SIPC membership, VPEAG indicated that it is a German corporation licensed to do business in Germany, Austria, Luxembourg, and, by virtue of its registration with the Commission, the United States. It has no affiliates and has only one office located in Munchen, Germany.

VPEAG has 6,404 customer accounts but no customers in the United States. Its customers are located in Luxemburg, Switzerland, Germany, Austria, Czech Republic, Latvia, Russia, and Malta. VPEAG has no income tax status in the United States and conducts no business in the United States. VPEAG has a clearing agreement with Ridge Clearing & Outsourcing Solutions, Inc. ("Ridge") and Interactive Brokers LLC ("Interactive"), both of which are SIPC members. It also clears through Augsburger Aktienbank, CMC Group, CortalConsors, DAB Bank, Global Futures, HSBC Trinkhaus & Burkhardt, and Marex Financial, none of which are SIPC members. VPEAG does not hold any customer funds or securities, and it does not engage in activities such as participations in underwriting and syndicated distribution of securities for the accounts of customers domiciled in the United States, its territories, or possessions.

VPEAG had gross revenue of 6.22 million Euros in 2008. Of this amount, 14% was generated through transactions cleared through Ridge and 2% was generated through transactions cleared by Interactive.

III. Conclusion

Because VPEAG has indicated that it has only one office, which is located in Germany, that it introduces all its securities transactions in the United States on a fully disclosed basis through a SIPC member located in the United States, has no customers located in the United States, does not hold any U.S. customer funds or securities, does not engage in underwriting or syndicated distribution of securities for the accounts of U.S. customers, and has no affiliates, the Commission, consistent with the public interest and the purposes of SIPA under Section 3(a)(2)(B) of SIPA, affirms SIPC's determination that VPEAG is a person whose business is conducted outside the United States, its territories and possessions, and that, therefore, it is not a member of SIPC.

IT IS THEREFORE ORDERED, pursuant to Section 3(a)(2)(B) of SIPA,⁵ that SIPC's determination that VPEAG is not a member of SIPC is affirmed.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Florence E. Harmon
Deputy Secretary

⁵ 15 U.S.C. 78ccc(a)(2)(B).

⁶ 17 CFR 200.30-3(f)(1)(ii).