

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 82686 / February 12, 2018**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-18367**

<p><b>In the Matter of</b></p> <p><b>DEUTSCHE BANK</b> <b>SECURITIES INC. and</b> <b>BENJAMIN SOLOMON,</b></p> <p><b>Respondents.</b></p>
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**ORDER INSTITUTING**  
**ADMINISTRATIVE PROCEEDINGS**  
**PURSUANT TO SECTION 15(b) OF THE**  
**SECURITIES EXCHANGE ACT OF 1934,**  
**MAKING FINDINGS, AND IMPOSING**  
**REMEDIAL SANCTIONS**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) against Deutsche Bank Securities, Inc. (“DBSI”) and Benjamin Solomon (“Solomon”) (collectively, “Respondents”).

**II.**

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (“Offers”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Administrative Proceedings, Pursuant to Section 15(b) of the Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

**III.**

On the basis of this Order and Respondents’ Offers, the Commission finds<sup>1</sup> that:

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<sup>1</sup> The findings herein are made pursuant to Respondents’ Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

## **Summary**

These proceedings arise out of the failure of DBSI and Solomon reasonably to supervise DBSI traders, and for DBSI reasonably to supervise DBSI salespeople, to prevent and detect violations of the antifraud provisions of the federal securities laws in connection with DBSI's secondary market transactions in non-agency commercial mortgage-backed securities ("CMBS"). These transactions took place between 2011 and 2015 (the "Relevant Period"), when traders on the DBSI CMBS secondary trading desk ("CMBS Desk") and CMBS sales personnel made false and misleading statements to customers in an effort to increase the difference between the DBSI's purchase price and sales price and, thereby, increase DBSI's profit.

DBSI failed to establish and/or implement policies and procedures reasonably designed to prevent and detect traders and salespeople from making these false and misleading statements to customers. Solomon failed reasonably to supervise the traders on the CMBS Desk by failing to take appropriate action to prevent them from making such false and misleading statements to customers.

In considering the charges brought and the relief imposed in this matter, the Commission has taken into consideration the significant cooperation that DBSI and Solomon have provided throughout the investigation.

## **Respondents**

1. Deutsche Bank Securities Inc. is a Delaware corporation with its principal executive offices in New York, New York. It is and, during the Relevant Period, was a broker-dealer and an investment adviser registered with the Commission. It is a wholly-owned indirect subsidiary of Deutsche Bank AG, a foreign private issuer whose stock is registered with the Commission and trades on the New York Stock Exchange.

2. Benjamin Solomon, age 42, is a resident of Brooklyn, New York. In March 2011, Solomon joined DBSI as head of the CMBS Desk and was responsible for supervising the traders on the desk. Solomon was promoted to head of US securitized products trading in September 2012 and to global head of securitized products trading in October 2014. DBSI terminated Solomon's employment in August 2015. During the Relevant Period, Solomon held Series 3, 7, 24 and 63 licenses.

## **Background**

3. During the Relevant Period, DBSI was a broker-dealer of, among other products, CMBS in the secondary market. As such, DBSI purchased CMBS for its own account and then sold them to its customers. Often, the purchase and sale of a CMBS bond took place within minutes or hours and involved little or no risk to DBSI. DBSI did not charge a commission but could profit from a trade through other means. A DBSI trader could generate a profit by purchasing the CMBS from a customer and selling it to another customer at a price higher than the purchase price. Alternatively, customers – either on their own initiative or in response to a

request by a DBSI trader or salesperson – added a small amount to the purchase price as compensation to DBSI.<sup>2</sup>

4. The market for secondary trading in CMBS operates through relationships between customers, who buy and sell the bonds, and broker-dealers, like DBSI, that identify interested buyers and sellers and arrange the trades. Customers seek to pay the lowest price for purchases and get the highest price on sales. Because the CMBS secondary market is opaque and lacks easily accessible information on the prices at which CMBS trade, the broker-dealer arranging the sale of CMBS often provides information about the current market price of the bond.

### **The False and Misleading Statements Underlying DBSI's Failure to Supervise**

5. During the Relevant Period, certain CMBS Desk traders and CMBS salespeople made false and misleading statements, often in coordination, while serving as an intermediary in negotiations between selling and buying customers and while selling a bond to a customer that DBSI held in inventory. In many instances, CMBS Desk traders and CMBS salespeople, through electronic communications, usually instant messages or Bloomberg chats, misrepresented the bid and offer prices on one or both sides of the transaction, the price at which DBSI had paid for securities or the current owner of the securities. The information about which CMBS Desk traders and CMBS salespeople made the false or misleading statements was important to the investment decisions of the DBSI customers. Through these misrepresentations, the CMBS Desk traders and CMBS salespeople increased DBSI's profits on the transactions.

6. For example, on October 28, 2013, Trader A told a customer: "I am buying @ 74-05 7/8," when the actual price DBSI paid was 73. The customer agreed to purchase at DB's claimed purchase price of 74-05 7/8 and, because it incorrectly understood that DBSI was not being compensated, paid an additional 4 ticks to DBSI above the quoted price. This trade resulted in a profit to DBSI of approximately \$104,687, of which \$94,687 is attributable to Trader A's misstatement.

7. In another transaction, on September 27, 2011, Trader B bought a bond for DBSI's account at a 735 spread.<sup>3</sup> Later that day, Salesperson X offered the bonds to a customer but falsely stated that he was intermediating the trade with another customer who held the bond. After some negotiation with the customer, Salesperson X consulted with Trader B, who instructed him to tell the customer that "the account is being sticky at [715]," i.e., that the fictitious other customer refuses to move from its 715 offer. Trader B then acknowledged to Salesperson X, "This is just a lie, right?" Salesperson X replied, "Well, I don't care." Trader B

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<sup>2</sup> As was standard in the industry, DBSI's compensation was often discussed in terms of the number of "ticks" it would receive on a trade. One "tick" equals 1/32 of a point (a point is one percent). For example, a price of 65-16 means 65 dollars and 16 ticks or 65.5 dollars. Therefore, a price of 65-16 or \$65.50 meant that a buyer would pay \$650.50 for \$1,000.00 face amount of a bond.

<sup>3</sup> Prices for CMBS can be quoted in dollars or spread. Unlike prices quoted in dollars, the lower the spread, the higher the price. Conversely, a higher spread results in a lower price. Therefore, DBSI profits by selling at a spread that is lower than the one at which it purchased.

then said, “But I think we should say that.” Salesperson X agreed and then conveyed that misstatement to the customer, who then bought the bond at 714 and, incorrectly believing that DBSI obtained the bond at 715, paid an additional basis point on top as compensation to DBSI. DBSI’s profits on this trade totaled approximately \$54,140, and \$12,354 of this amount is attributable to the misstatements made.

**The False and Misleading Statements Underlying DBSI’s and  
Solomon’s Failures to Supervise**

8. In several instances, when he supervised the trading desk, Solomon learned of, or participated in, misstatements made to DBSI’s customers and failed to take appropriate corrective action.

9. In one instance, on January 17, 2012, Solomon bought a bond for DBSI’s account at 58. Shortly thereafter, Trader C offered the bond to a customer at 58.75. The customer responded, “58.25 ur working for too much. be nice.” Trader C replied, “I bought them at 58.5.” Having been misled by Trader C, the customer accepted the offer. Solomon, aware of the spread between the purchase and sale prices, called Salesperson Y to warn him “not that you would, but, uh, [the buyer] thinks we’re just working for a quarter point on those bonds, ok?” Salesperson Y responded “I would never. . . . We need to make money. You deserve to make money, and I deserve to get paid.” DBSI made approximately \$187,500 on this trade, of which \$125,000 is attributable to Trader C’s misstatement.

10. The following month, on February 29, 2012, Solomon again covered for the misstatements of Trader C and Salesperson Y. Before offering a bond to a customer, Trader C had sold a different piece of the same bond to another customer at a price of 63. In offering bonds to the subsequent customer, Trader C and Salesperson Y wanted to avoid telling that customer the price at which they recently sold the same bond. After coordinating with Trader C, Salesperson Y told the customer that the sale was “a little higher” than 63 but would not provide the exact price. The customer then contacted Solomon, who called Salesperson Y about the issue. Although Solomon told Salesperson Y that the customer, who traded with DBSI frequently, deserved better treatment, Solomon agreed to tell the customer that the bond had last traded at 63.25. The customer bought the bonds at that price. DBSI made approximately \$18,750 on the trade attributable to the misstatement.

11. From the transactions in which traders on the CMBS Desk or CMBS salespeople with whom they worked, directly or indirectly, made false or misleading statements to DBSI customers, DBSI made profits of at least of \$3,729,743 on the trades. Of that amount, \$1,476,245 is attributable to the false or misleading statements made.

12. Based on the conduct described above, those CMBS salespeople and CMBS Desk traders, including those traders under Solomon’s direct supervision, who were involved in the conduct described above violated Section 17(a) of the Securities Act of 1933 and Section 10(b) of the Exchange Act and Rule 10b-5(b) thereunder.

### **DBSI's Failure to Supervise**

13. During the Relevant Period, DBSI had policies that required clear and fair communications with customers. The customer and internal communications policy that applied to the CMBS Desk and CMBS salespeople mandated that “[a]ll communications must be fair, clear and not misleading.” This requirement was echoed in its code of business conduct and ethics, which instructed that communications be “balanced, fair, clear and accurate” and that employees “[a]lways act in an open and honest manner.”

14. DBSI failed reasonably to implement these policies. DBSI had regular high level compliance training to reinforce its policies but did not provide specialized training regarding the opaque CMBS secondary market. DBSI's general training did not specifically address the heightened compliance risk of traders and salespersons making false or misleading statements to customers about pricing and other trade-related information.

15. DBSI's compliance and surveillance procedures and systems were not reasonably designed to prevent and detect CMBS Desk traders and CMBS salespeople from making false or misleading statements to customers while negotiating the terms of secondary market transactions. Although compliance personnel were assigned to the CMBS Desk and the CMBS salespeople during the Relevant Period, most traders on the CMBS Desk and CMBS salespeople, including Solomon, could not recall who they were or any interactions with them. As to its surveillance efforts, DBSI used generic price deviation thresholds in its trade surveillance to flag potentially suspicious trades instead of ones tailored to specific types of securities. In addition, DBSI's communications surveillance did not sufficiently incorporate search terms unique to the CMBS market and its particular risks for misconduct. As a result, DBSI's trade review procedures at the time failed to identify any of the misrepresentations that are the subject of this Order.

16. DBSI's supervisory systems and procedures were not reasonably designed or implemented to prevent and detect CMBS Desk traders and CMBS salespeople from making false or misleading statements to customers while negotiating the terms of secondary market transactions. DBSI's trade surveillance systems never flagged any of the suspicious communications that are the subject of this Order for Solomon's or any other supervisor's review. Had DBSI's policies and procedures been reasonably designed and implemented, DBSI would have prevented and detected a number of the false and misleading statements by the CMBS traders and CMBS salespersons.

17. As a result of the conduct described above and in the following paragraph, DBSI failed reasonably to supervise the traders on the CMBS Desk and the CMBS salespeople, all of whom were subject to DBSI's supervision within the meaning of Section 15(b)(4)(E) of the Exchange Act, with a view to preventing and detecting violations of the antifraud provisions of the federal securities laws arising from the false and misleading statements described above.

### **Solomon's Failure to Supervise**

18. During the Relevant Period, when Solomon was alerted to traders making false and misleading statements during trade negotiations, he covered for them rather than prevent them from defrauding customers. As a result, some traders believed that Solomon wanted them to deceive customers in order to increase the profits to DBSI on a trade.

19. As a result of the conduct described above, Solomon failed reasonably to supervise the traders on the CMBS Desk, all of whom were subject to his supervision within the meaning of Section 15(b)(4)(E) and 15(b)(6)(A)(i) of the Exchange Act, with a view to preventing violations of the antifraud provisions of the federal securities laws arising from the false and misleading statements described above. Had Solomon responded appropriately to the red flags, he would have prevented a number of the false and misleading statements by the CMBS traders.

### **DBSI's Remediation and Cooperation**

20. In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by DBSI and significant cooperation afforded to the Commission staff. After terminating Solomon and others, DBSI implemented certain improvements to its procedures and enhanced its control environment to prevent and detect the type of misconduct described in the above Order. DBSI, to date, has tailored its compliance training, including training for supervisors, improved coordination between supervisory and compliance staff, increased the number of compliance staff, and bolstered its surveillance of communications and trade information.

21. DBSI has cooperated by, among other things, conducting an in-depth internal investigation of the conduct that is the subject of the Order, preparing and providing the staff with numerous compilations of communications relevant to transactions in CMBS, preparing and producing trade data from the Relevant Period, and self-reporting multiple instances of possible violations of the federal securities laws. DBSI's cooperation assisted Commission staff and therefore shortened significantly the amount of time needed to conduct the investigation.

### **DBSI's Undertakings**

22. DBSI, within the timeframes set forth in paragraph 23 of the Order below, undertakes to make payments to customers in the aggregate amount of \$3,729,743 ("Remediation"), representing profits that DBSI earned on the trades in CMBS that are the subject of the Order. DBSI will be responsible for administering the payment of the Remediation to the affected customers.

23. DBSI undertakes to:

- a. deposit the amount of the Remediation into a segregated account such as a separate bank account ("Remediation Account") within 10 days of the entry of the Order and provide Commission staff with evidence of such deposit in a form acceptable to such Commission staff;

- b. submit to Commission staff, within 60 days of the date of the entry of the Order, a disbursement calculation (the “Remediation Calculation”) that identifies (i) each customer or former customer that is eligible to receive a portion of the Remediation, (ii) the exact amount of that payment as to each customer or former customer, and (iii) the methodology used to determine the exact amount of that payment as to each customer or former customer;
- c. use reasonable efforts to complete payment to all affected customers or former customers within 75 days of the entry of the Order; and
- d. within 15 days after DBSI has completed the disbursement of all amounts payable to affected customers and former customers, DBSI will submit to Commission staff a final accounting and certification of the disposition of the remediation, which final accounting and certification will be in a format to be provided by Commission staff. The final accounting and certification will include, but not be limited to, (i) the amount paid to each payee; (ii) the date of each payment; (iii) the check number or other identifier of money transferred or proof of payment made; (iv) the date and amount of any returned payment; (v) a description of any effort to locate a prospective payee whose payment was returned, or to whom payment was not made for any reason; and (vi) an affirmation that DBSI has made payments to all affected customers and former customers in accordance with the Remediation Calculation approved by Commission staff and the terms and conditions set forth above. Any and all supporting documentation for the accounting and certification will be provided to Commission staff upon request. DBSI will cooperate with any reasonable requests by Commission staff for information in connection with the accounting and certification.

In the event that the payments that DBSI makes to customers and former customers total less than the Remediation (including any payments DBSI is unable to make using reasonable efforts to any identified customer within 75 days of the entry of the Order), DBSI shall include in the final accounting and certification an explanation of the reason(s) therefore. Commission staff will evaluate the explanation. If the amount paid to customers and former customers totals less than the total amount of disgorgement ordered in section IV of the Order (“Disgorgement Amount”), and Commission staff determines that the facts and circumstances support the amount DBSI paid to customers and former customers, DBSI will promptly pay the difference between the amount paid to customers and former customers and the Disgorgement Amount to the Commission for transfer to the general fund of the United States Treasury, subject to Section 21F(g)(3) of the Exchange Act. If, however, after discussions with DBSI representatives authorized to act on behalf of DBSI, Commission staff determines that DBSI has paid customers and former customers an insufficient amount, DBSI will promptly pay customers and former customers the amount of the deficiency. If the total amount of the deficiency plus the amount DBSI

previously paid customers and former customers (“Customer Payment Amount”) is less than the disgorgement amount, DBSI will promptly pay the difference between the disgorgement amount and the Customer Payment Amount to the Commission for transfer to the general fund of the United States Treasury, subject to Section 21F(g)(3) of the Exchange Act. Compliance by DBSI with paragraphs 22 and 23 of the Order will satisfy the disgorgement and pre-judgment interest ordered below in Section IV of the Order.

24. DBSI shall be responsible for administering the Remediation and may hire a professional to assist them in the administration of the Remediation. The costs and expenses of administering the Remediation, including any such professional services, shall be borne by DBSI and shall *not* be paid out of the Remediation.

25. DBSI agrees to be responsible for all of DBSI’s tax compliance responsibilities associated with the Remediation and will retain any professional services necessary. The costs and expense of any such professional services will be borne by DBSI, and the payment of taxes applicable to the Remediation, if any, will not be paid out of Remediation funds.

26. Commission staff may extend any of the Remediation procedural dates set forth for good cause shown. Deadlines for dates relating to the Remediation shall be counted in calendar days, except if the last day falls on a weekend or federal holiday, the next business day shall be considered to be the last day.

27. In determining whether to accept DBSI’s Offer, the Commission has considered this undertaking as well as the other remedial efforts and cooperation provided by DBSI.

#### **Solomon’s Undertakings**

28. Solomon has undertaken to provide to the Commission, within 30 days after the end of the 12 month suspension period described below, an affidavit that he has complied fully with the sanctions described in Section IV below.

29. In determining whether to accept Solomon’s Offer, the Commission has taken into account Solomon’s cooperation during the investigation.

#### **IV.**

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondents’ Offers.

Accordingly, pursuant to Section 15(b) of the Exchange Act, it is hereby ORDERED that:

A. DBSI is censured for failing reasonably to supervise within the meaning of Section 15(b)(4)(E) of the Exchange Act.

B. DBSI shall, within 75 days of the entry of this Order, pay to the Commission disgorgement of \$1,476,245 and prejudgment interest of \$123,741 for the transactions that



involved false or misleading statements made to DBSI customers. The foregoing amounts shall be deemed satisfied by DBSI's payments directly to customers described in paragraph III.23 above.

C. DBSI shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$750,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C § 3717.

D. Solomon be, and hereby is suspended, from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization for a period of 12 months, effective on the second Monday following the entry of this Order. Association with any broker or dealer means any partner, officer, director, or branch manager of such broker or dealer (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such broker or dealer, or any employee of such broker or dealer, except that any person associated with a broker or dealer whose functions are solely clerical or ministerial shall not be included in the meaning of such term.

E. Solomon shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$165,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C § 3717.

F. Payments to the Commission must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via [Pay.gov](https://www.pay.gov) through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying DBSI or Solomon as a Respondent in these proceedings and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Daniel Michael, Assistant Director, Division of Enforcement, Securities and Exchange Commission, Brookfield Place, 200 Vesey Street, Suite 400, New York, NY, 10281.

G. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondents' payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that they shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondents by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

#### V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent Solomon, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Solomon under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Solomon of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Brent J. Fields  
Secretary