THE STATE OF NEW HAMPSHIRE
SECRETARY OF STATE

IN THE MATTER OF:

UBS Securities, LLC
CRD# 7654
COM08-10, COM08-12 and COM08-13

MOTION TO AMEND STAFF PETITION FOR RELIEF

NOW COMES the State of New Hampshire, by and through the Secretary of State, Bureau of Securities Regulation ("the Bureau"), and hereby amends its Staff Petition for Relief dated August 14, 2008 to add the attached exhibits 11 and 12, and insert the following two paragraphs on page 2 of the preliminary statement between the paragraph ending “... more than any other state in the country”, and the paragraph beginning “US was the investment adviser...”:

Given the years of sophisticated service and advice provided by US to NHHELCO concerning SARS, NHHELCO reposed confidence and trust in US. Furthermore, US encouraged NHHELCO to rely exclusively on its advice. NHHELCO did so, fully trusting US. US thus owed NHHELCO a fiduciary duty. “Once a person becomes a fiduciary, the law places him in the role of a moral person and pressures him to behave in a selfless fashion while contract law does not go beyond the morals of the market place where self-interest is the norm.” Clark & Lavey Benefits Solutions, Inc. v. Education Development Center, Inc., ___ N.H. ___, __, 949 A.2d 133, 139 (2008). US, moreover, fully recognized its moral obligation. E.g., Exhs. 11 and 12. Indeed, a senior US official said, “[T]he moral obligation runs very deep.... [T]he relationships ... specifically with the Student Loan issuers ... are
broad and deep.” Exh. 11. Similarly, a US paper on the SARS market said, “[US] has ... a moral commitment to backstop paper in the auction at par.” Exh. 12. See also Exhs. 13 and 14, attached hereto.

However, in late 2007 and early 2008, US violated its moral obligation. It misled NHHELCO by omitting to disclose material facts about the depth of US’s concern with the continued viability of the SARS market and US’s related concern with the growth of its own inventory of SARS certificates. Having thus misled NHHELCO, it induced NHHELCO to agree to pay the maximum rate for NHHELCO bonds, a step that exposed NHHELCO to significant financial risk if the auction system were to fail. Shortly thereafter, however, US in fact let the auction system fail. Through all of these omissions and actions, US put its own self-interest ahead of NHHELCO’s interest. US thus violated its “very deep” moral obligation to NHHELCO, and breached its fiduciary duty.

WHEREFORE, the State of New Hampshire, by and through the Secretary of State, Bureau of Securities Regulation, hereby respectfully requests that the hearings officer:

1) Grant leave for the Bureau to amend the state’s Staff Petition For Relief filed on August 14, 2008.

2) Grant such other and further relief as deemed just and proper.

Respectfully submitted,

Jeffrey D. Spill, Esq.
Deputy Director
Secretary of State’s Office
State House Room 204
Concord, New Hampshire 03301

I hereby certify that a copy of the foregoing motion has been forwarded via fax and 1st class mail this 9th day of September, 2008 to Attorney Cereseny.
Dated 9/10/08

Jeffrey D. Spill, Esq.
Deputy Director
From: Shulman, David+ [david.shulman@ubs.com]
Sent: Monday, December 17, 2007 7:40 AM
To: Bass, Jon
Cc: Threadgold, Andrew; Esteves, Andre
Subject: FW: MSG--ARCS action and game plan follow up
Attachments: Auction Calendar Thru Year End.xls; Copy of SLARC_12_14_07.xls
Categories: Green Category

Joe - to summarize and highlight a few points that I think are relevant

Total ARCS market 280 billion

Total ARCS UBS SENIOR MANAGED PROGRAMS OUTSTANDING 43 billion
Broken down as follows:

MUNI ARCS (traditional muni core issuers): 17.2 billion program size outstanding
Student Loan ARCS: 25.8 billion program size outstanding

Student Loan ARCS approximate breakdown:
- 16.5 billion - taxable 28 day --resetting between 6.70-7.00 (depending on the program +135+-150 to libor) at max rates currently
- 9.5 billion - tax exempt 35 day--resetting between 6.75-6.00 (max rates)

Current INVENTORY - as of Dec 14th close - Total ARCS 4.030 billion of which 2.930 billion is Student Loan paper-
(average age been approx 1.3bil)

We estimate UBS WM holds total ARCS exposure within FA'S AND CORP CASH MGMT of approx 33 billion
We estimate that UBS WM CORP CASH MANAGEMENT areas CURRENTLY hold approx 17 billion of 25.8 billion of
Student Loan ARCS exposure - our current inventory of Student Loan ARCS is 2.93 billion

We estimate that WM core FA'S within the retail network control approximately 4 billion of Student Loan ARCS.

As we discussed yesterday, our concern is clearly on the upcoming auctions through the 28th of December. In addition to
establishing a task force mentioned below which will draw on all areas of the organization to develop potential strategies
to restructure these ARCS instruments, I will need some guidance from you as well as Marcel in terms of our overall
position and philosophy as it relates to continuing to support these auctions. Given the size held within WM and all the
reputational dynamics that go along with this decision, establishing somewhat of a framework is critically important in
advance. I will be speaking to Michael Weisberg this weekend to discuss at length with him all the issues. What is clear is
that the fundamental mechanism of the ARCS structure is not working in a liquidity squeezed environment - where the only
real outlet for distribution is WM and corp cash management. The very nature of the security structure was never
designed to service institutional clients - this has always been a retail and corp cash product...thereby now creating a
situation where the dealer community is for the most part supporting this product. As you know we are currently pressing
some of our best relationships on the institutional side and have leaned hard on those relationships to buy these products
from us, and many of our key clients have bought. The concern is the spillover to traditional muni ARCS products where
confidence if blown in Student Loans will in my opinion cause a major disruption from retail. As we know the issue currently is Student Loan ARCS (given that they are an ABS instrument) and broader ARCS product in general.

The only viable answer that will satisfy the pressure currently is creating a liquidity put or backstop facility like the VRDO market (which is quite healthy and orderly amidst the turmoil) that will convert these products to be 2A7 eligible. I am working to determine feasibility and timing of such and will be back shortly on that. As was discussed in previous emails...even doing potentially a portion -would demonstrate viability and confidence in the market. I do believe this is being pursued as an option by BOA, CITI, JPM...will let you know what we find out as well.

Lastly - going back to one other concern...if an RBC or smaller dealer that can't take the balance sheet exposure to their ARCS position...and either will look to the larger dealer community to help support these auctions to step in so as to avoid a failed auction...this clearly is a possibility that we are watching.

Last point // these ARCS instruments - obviously not ideal as a structure...but I believe have been sold for years as a cash alternative instrument - and retail clients have - I am confident been told that these are "demand" notes...and will be redeemed at par on demand - thereby relying always on the remarketing agent to provide this liquidity. 100 cents on the dollar on auction date...although there is no formal liquidity provision in place and always relies on the Dutch auction mechanism to clear,...the moral obligation runs very deep.

Our MSG group here is very knowledgeable and capable on these products. I am confident that their market intelligence is sound and the relationships with specifically with the Student Loan issuers (15 year relationships) are broad and deep-so our access to information is good. Please note -- The MSG group within the IB as you know is the servicing arm for all WM municipal needs. This mini group provides all products, back office systems, allocations, risk pricing etc for WM nationally. The MSG group is highly dependent on WM for distribution and they look to IB for all their product and risk needs...please please see below with some additional action plans...I am available anytime to talk further of course...cell 203-543-0320...thank you. David

The desk is monitoring the overall position size and we will give a daily update to Joe Scoby and Andy Threadgold. We will continue to monitor the overall % of deals we are supporting and update the group if our support rate is over 30% on any given day. Enclosed are the upcoming auctions thru year end and the % of deals we have been supporting this week.

MSG has set up a Student Loan Task Force with representatives from the Student Loan Banking Group, Muni Risk Mgmt, Muni Credit Strategy, Muni Lending (credit book), Muni Structured Solutions, Legal, Derivative Credit Exposure, Syndicate, Muni Business Mgmt, Senior Mgmt from MSG Public Finance and Capital markets. The task force is working on ways to restructure the outstanding deals, monitor the credit exposure, monitor current status of the rating agencies, max rate analysis, etc.

We continue to monitor our competitors position size and support of the product. We have pushed all the deals to the highest maximum rates and will continue to do so.

Attached is the breakdown of the entire program FFELP vs. Private Collateral (also the % of FFELP in the Private deals) with an executive summary and a deal by deal breakdown.
First Mortgage: 62% YTD; 74% since Nov 24%
Sales: 34% since Nov; 40% YTD
Equity Performance: 

J.C. Flowers purchasing bid on Mac glease
on the dollar; no bid
Sales: Private subordinated loans are offered ~ 80 cents

Involves taking paper in the auctions

Concern: current holders will look to sell their paper in the upcoming auctions, likely causing upward pressure

Watch with total $500m as broker/dealer
- Non dischargeability in bankruptcy
- Performance, not housing
- Borrower characteristics and the macroeconomic environment are primary drivers of student loan
- In-school borrower: majority of private loans are currently not in repayment
- Loan pools are geographically diverse
- 30-80% of loans have a co-signer (most a parent or legal guardian)
- Not concentrated in lower FICO bands
- Private Student loans:

US Department of Education for all least 97% of guaranteed principal and accrued interest
Approx $660bn (80%) backed by FFELP (Federal Family Education Loan Program) loans, guaranteed by
Approx $16.6bn (20%) backed by private student loans (not guaranteed)
If an auction fails due to UBS pulling out, the entire market will likely follow suit.

UBS has no firm commitment but a moral commitment to backstop paper in the auction at par.

(7) 28.35 day auction securities of 30 yr final horizon
UBS auction Rate Securities Exposure: $41bn (total market $286bn)
Approx. 25% of Private Loans include FFELP backing

In Subordinated A Private Loans (>10% attachment)
15bn Aaa Private Loans, of which 8.5bn A but wrapped to Aaa by AMERIC. (7bn A, 8-MBA (1-2bn)

Auction Rate Securities:
- $16bn Private Loans (not govt guaranteed)
- $1bn A Subordinated FFELP Loans (>30% attachment, 47% govt guaranteed)
- $8bn Aaa FFELP (97% govt guaranteed)

Student Loan Breakdown:
- $15bn Multifamily, $22bn Private Loans (all USD)

UBS Total Short Term Market Exposure: $86bn
Potential Loss: UBS supports a paper written by a research analyst at JP Morgan, which is considered the subordinated A and another layer of support. This scenario involves UBS not acting and owning the entire credit risk position of collateral, i.e., 1.7bn.

2) Find a new manager

Possible solutions:

1) Fail to support the auction - would bring the entire 2.8bn market to a halt and cause franchise and inventory issues. 

- 2 more auctions in 2007
- $7bn pull back to UBS on 11th Dec
- Inventory is growing rapidly

3) Student loan

Current UBS inventory:

- No hard bank backstop (unlike VRDOs)
- First Marble head pull on retail
- Concern: Private student loan collateral credit quality

Auction Rate Securities
Potential 2.5bn.
8.5bn is subordinated but wrapped. Loss potential 2.5bn.

Worst Case Scenario: UBS does not act and owns the entire credit risk portfolio collateral. Le. 1.7bn

Pay off debt in 28 days (next auction period)

4. Most structures allow ability to sell off the debt, ie. sell off the portfolio of assets into the marketplace and
3. Restructure ARC securities to term mode or VRDO (3-6 months process)
2. Find a new manager
1. Fail to support the auctions - would bring the entire $28bn market to a halt and cause franchise and

Possible solutions:

Auction Rate Securities
I agree. Once again it comes down to either we are in it or we are not. At this point there is not much to discuss - the firm needs to make a decision. I am willing to stand by the decision to provide an loc (I am sure no one in the control functions will step up).

----- Original Message ----- 
From: Jackson, Ross
To: Shulman, David+; Scruggs, Jeffrey-J; Mohanty, Seema; Gallichio, Joe+
Sent: Sun Jan 13 17:15:12 2008
Subject: Re:

I think our greatest risk is further indecision if we are going to be a solution and give us the necessary tools to restructure. We started discussing six weeks ago and our student loan inventory was two bill now we have five. The inventory will prob only increase. We need a decision and for it to be communicated to the control functions.

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Sent from my BlackBerry Wireless Handheld.

----- Original Message ----- 
From: Shulman, David+
To: Scruggs, Jeffrey-J; Jackson, Ross; Mohanty, Seema; Gallichio, Joe+
Sent: Sun Jan 13 16:58:11 2008
Subject: RE:

yup

----- Original Message ----- 
From: Scruggs, Jeffrey-J
Sent: Sunday, January 13, 2008 4:39 PM
To: Jackson, Ross; Mohanty, Seema; Shulman, David+; Gallichio, Joe+
Subject:

This decision is the seminal issue for this firm in the overall financial securities industry. Very interesting (I know it is a warped use of the word) how wide the impact will be on the entire firm-wide client base by deciding to resign or fail. The more I think about it, the more I arrive at the conclusion that you cannot just resign or fail the student loan programs. Will immediately impact taxable muni investors (of which we have a billion or so if I am not mistaken) and then the WM FAs will run like hell for the hills. They will dump anything with an ARC label. This contagion dramatically affects the municipal tax-exempt market. While it is true that those issuers can always get out pretty quickly (or most of them anyways) by doing VRDBs or fixed rate bonds, this is a very large market to have potential panic selling. On the tax-exempt side, we are not an overwhelmingly large player so a whole bunch of other firms, including many small and minority firms who absolutely cannot provide liquidity, would panic by either resigning or defaulting or pushing issuers to get out. The big issue is that firms and investors will naturally react this way because they will say "if a large firm like UBS does this, what do they know that I do not?". Probably would not be as big an issue if we did not have the current environment but every firm will be naturally jumpy about not catching a short-end of the stick.
yup

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