

May 14, 2015

The Honorable Mary Jo White
Chair
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Chair White:

I write today to emphasize the importance of the collateral consequences in the securities laws that automatically disqualify bad actors from certain beneficial statuses and urge you to adopt a more rigorous, fair, and public process for determining whether to waive these disqualifications.

According to recent press reports, the Justice Department will soon announce that the bank holding companies of Barclays, JPMorgan Chase, Citigroup and the Royal Bank of Scotland will collectively pay several billion dollars and plead guilty to criminal antitrust violations for rigging the price of foreign currencies. UBS, as a result of this same misconduct, is expected to be found in violation of its 2012 nonprosecution agreement and will plead guilty and pay a fine for its earlier manipulation of the benchmark interest rates.

According to the U.K. and Swiss regulators, along with the Commodity Futures Trading Commission and the Office of the Comptroller of the Currency, who last year took action against most of these same firms, the banks, over the course of five years attempted to manipulate the systemically important foreign exchange market for their own benefit and to the detriment of their clients and other market participants. In addition, "The Banks failed to manage obvious risks around confidentiality, conflicts of interest and trading conduct."¹

Such egregious, long-lasting criminal behavior is unacceptable. While I applaud the Department for seeking guilty pleas and pursuing actions directly against the parent companies of these banks, I am concerned with reports that the Securities and Exchange Commission has asked to delay the announcement until it can review the banks' requests to waive the automatic disqualifications in the securities laws.

As I have said before, these disqualification provisions are important tools that protect investors, the markets, and the public by deterring misconduct, reducing recidivism, promoting market integrity, and removing bad actors from the market. That is why, in March, I proposed draft legislation entitled The Bad Actor Disqualification

¹ <http://www.fca.org.uk/news/fca-fines-five-banks-for-fx-failings>.

The Honorable Mary Jo White
Page Two
May 14, 2015

Act of 2015. As you know, that proposal was a direct response to concerns that the SEC has granted waivers on a seemingly automatic basis and done so disproportionately for large financial firms, leading to the public perception that these institutions are “too-big-to-bar.” In our previous conversations you indicated a willingness to work with me to address this concern.

Given the egregious criminal conduct in this case, I believe that it is even more important that the SEC adopt a waiver process that, as in the bill, is sufficiently rigorous and provides for adequate opportunity for public input. I look forward to continuing to work with you on this issue and hearing your suggestions about how to improve the SEC’s waiver process, particularly in this case.

Sincerely,

A handwritten signature in black ink that reads "Maxine Waters". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

MAXINE WATERS
Ranking Member