SEC Finalizes ARS Settlements With Bank of America, RBC, and Deutsche Bank

FOR IMMEDIATE RELEASE
2009-127

Washington, D.C., June 3, 2009 — The Securities and Exchange Commission today announced finalized settlements with Bank of America, RBC Capital Markets, and Deutsche Bank to resolve SEC charges that the firms misled investors regarding the liquidity risks associated with auction rate securities (ARS) that they underwrote, marketed, or sold.

The SEC's Division of Enforcement previously announced preliminary settlements with Bank of America and RBC on Oct. 8, 2008. Today's finalized settlements with those two firms as well as Deutsche Bank provide nearly $6.7 billion to approximately 9,600 customers who invested in ARS before the market for those securities froze in February 2008.

"Through these latest settlements and prior ARS settlements with other firms entered into by the Commission, more than $50 billion in liquidity is being made available to tens of thousands of customers so they can get back all of the money they invested in auction rate securities," said Scott Friestad, Deputy Director of the SEC's Division of Enforcement.

Other ARS Settlements

- Wachovia (Feb. 5, 2009)
- Citigroup and UBS (Dec. 11, 2008)

Other ARS Settlements in Principle

- Merrill Lynch (Aug. 22, 2008)

According to the SEC's complaints, filed in federal court in New York City, Bank of America, RBC and Deutsche Bank misrepresented to certain customers that ARS were safe, highly liquid investments that were comparable to money markets. The SEC alleges that in late 2007 and early 2008, the firms knew that the ARS market was deteriorating, causing the firms to purchase additional inventory to prevent failed auctions. At the same time, however, the firms knew that their ability to support auctions by purchasing more ARS had been reduced, as the credit crisis stressed the firms' balance sheets.

The SEC's complaints allege that Bank of America, RBC, and Deutsche Bank failed to make their customers aware of these risks. In mid-February 2008, Bank of America, RBC, and Deutsche Bank decided to stop supporting the ARS market, leaving their customers holding billions in illiquid ARS.

The settlements, which are subject to court approval, will restore approximately $4.5 billion in liquidity to Bank of America customers, $800 million in liquidity to RBC customers, and $1.3 billion in liquidity to Deutsche Bank customers.

Without admitting or denying the SEC's allegations, Bank of America, RBC and Deutsche Bank agreed to be permanently enjoined from violations of the broker-dealer fraud provisions and to comply with a number of undertakings, some of which are set forth below.

- Each firm will offer to purchase ARS at par from individuals, charities, and small or medium businesses that purchased those ARS from the firm, even if those customers moved their accounts.
- Each firm will use its best efforts to provide liquidity solutions for institutional and other customers and will not take advantage of liquidity solutions for its own inventory before making those solutions available to these customers.
- Each firm will pay eligible customers who sold their ARS below par the difference between par and the sale price of the ARS.

Additional Materials

- Litigation Release No. 21066
- SEC Complaint v. Bank of America
- SEC Complaint v. RBC
- SEC Complaint v. Deutsche Bank

The Commission wishes to alert investors that, in most instances, they have received or will receive correspondence from Bank of America, RBC, and Deutsche Bank, and that they must advise the respective firm that they elect to participate in these settlements, or they could lose their rights to sell their ARS. If eligible customers incurred consequential damages because of the illiquidity of their ARS, they may participate in special FINRA arbitrations.

Investors should review the full text of the consents executed by Bank of America, RBC and Deutsche Bank. Customers with questions about these settlements may contact Bank of America, RBC, or Deutsche Bank through the firms' Web sites or at the following toll-free telephone numbers:

- Bank of America: 1-866-638-4183
- RBC: 1-866-876-5469 or Web site
- Deutsche Bank: 1-866-926-1437

Bank of America, RBC and Deutsche Bank also will be permanently enjoined from violating the provisions of Section 15(c) of the Exchange Act of 1934, which prohibit the use of manipulative or deceptive devices by broker-dealers. The Commission reserves the right to seek a financial penalty against the firms.

The SEC notes the substantial assistance and cooperation from the New York Attorney General, the Financial Industry Regulatory Authority (FINRA), the Massachusetts Securities Division, the Texas State Securities Board, the

North American Securities Administrators Association (NASAA), and the New Jersey Attorney General.

The SEC's investigation of the auction rate securities market is continuing.

# # #

For additional information, investors may contact the SEC's Office of Investor Education and Advocacy with inquiries about the settlements at (202) 551-6551 or oiea@sec.gov. Investors and members of the general public also may review further information about ARS at http://www.sec.gov/investor/ars.htm.

http://www.sec.gov/news/press/2009/2009-127.htm