

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 86372 / July 15, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-19248

In the Matter of

**NOMURA SECURITIES
INTERNATIONAL, INC.,**

Respondent.

**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 Nomura Securities International, Inc. (“Nomura” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) 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, admitting only the Commission’s jurisdiction over it and the subject matter of these proceedings, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Summary

1. These proceedings arise out of Nomura's failure reasonably to supervise three Nomura traders to prevent and detect their violations of the antifraud provisions of the federal securities laws in connection with Nomura's secondary market transactions in non-agency residential mortgage-backed securities ("RMBS") and manufactured housing asset-backed securities ("MHABS") (collectively referred to as "RMBS") from approximately January 2010 through November 2013 ("the Relevant Period").² During the Relevant Period, three traders on Nomura's RMBS secondary trading desk, which traded both RMBS and MHABS ("RMBS Desk") deliberately misled or lied to customers about, among other things, (i) the prices at which Nomura had bought or sold the securities; (ii) the bids and offers that Nomura made or received on the securities; (iii) the compensation that Nomura would receive on the trades, in the form of the difference, or "spread," between its purchase and sale prices; and/or (iv) who currently owned the security, often pretending that they were still negotiating with a third-party seller when Nomura had, in fact, already acquired the security.

2. The three Nomura RMBS traders misled or lied to investment advisers and other fund managers that were trading RMBS on behalf of clients to whom such advisers and managers owed fiduciary and other duties to obtain the best possible price, as well as financial institutions that were trading RMBS for their own proprietary accounts. The prices at which Nomura's customers bought and sold the RMBS at issue, and the amount of compensation that they thereby agreed to provide Nomura, were material to the customers, and the trading profits for the RMBS desk on those trades were inflated by the Nomura RMBS traders' misconduct.

3. Nomura had the means to monitor its traders' communications for false or misleading statements but failed to identify this misconduct. Under the circumstances described in this Order, Nomura failed reasonably to supervise the three traders with a view to preventing and detecting their violations of antifraud provisions of the federal securities laws within the meaning of Section 15(b)(4)(E) of the Exchange Act.

4. In considering the charges brought and the relief imposed in this matter, the Commission has taken into consideration the significant cooperation that Nomura has provided throughout the investigation and its remedial efforts.

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

² "Non-agency" means that a government-sponsored enterprise, such as the Federal National Mortgage Association (known as Fannie Mae), did not guarantee the securities. MHABS bonds are structured like RMBS bonds, except that they are based on loans issued for the purchase of manufactured housing (i.e., mobile homes) rather than traditional homes. The trading practices and the market overall for RMBS, as described in this Order, are virtually identical for MHABS.

Respondent

5. Nomura is a New York corporation with offices in New York, New York. It has been registered with the Commission as a broker-dealer since 1969 and as an investment adviser since April 2012. It is a U.S. affiliate of Nomura Holdings, Inc., a public Japanese financial holding company with a principal place of business in Tokyo, Japan.

Relevant Persons

6. Ross B. Shapiro (“Shapiro”) was associated with Nomura as a registered representative from August 2009 through May 2016. He held the position of Managing Director, Fixed Income, Securitized Products Trading, Americas. He served as the head trader on Nomura’s RMBS Desk until February 2014, when he was relieved of his supervisory responsibilities. He was placed on administrative leave in November 2014 and his employment was terminated in May 2016. During the Relevant Period, Shapiro held Series 7, 24 (from December 30, 2009 onward) and 63 licenses.

7. Michael A. Gramins (“Gramins”) was associated with Nomura as a registered representative from August 2009 to May 2015. During this period, he held the positions of Vice President and later Executive Director, Fixed Income, Securitized Products Trading, Americas. He served as a senior trader on Nomura’s RMBS desk. In November 2014 the firm placed Gramins on administrative leave and in May 2015 it terminated his employment. During the Relevant Period, Gramins held Series 7, 24 (from May 29, 2012 onward) and 63 licenses.

8. Tyler G. Peters (“Peters”) was associated with Nomura as a registered representative from July 2009 to May 2015. During this period, he was employed as a senior trader on Nomura’s RMBS Desk and held the positions of Vice President and later Executive Director, Fixed Income, Securitized Product Trading, Americas. In November 2014 the firm placed Peters on administrative leave and in May 2015 it terminated his employment. During the Relevant Period, Peters held Series 7 and 63 licenses.

9. On September 8, 2015, the Commission filed a civil injunctive action against Shapiro, Gramins and Peters in the United States District Court for the Southern District of New York. *SEC v. Ross B. Shapiro, Michael A. Gramins and Tyler G. Peters*, No. 15 Civ. 7045. The Commission’s complaint in that action alleges that the three defendant traders violated Section 17(a) of the Securities Act of 1933 (“Securities Act”) and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

Background

10. During the Relevant Period, Nomura was a broker-dealer engaged in secondary market trading of non-agency RMBS and Shapiro, Gramins and Peters (collectively, “the RMBS Traders”) were traders on Nomura’s RMBS Desk.

11. The RMBS secondary market was opaque because there was no contemporaneous public dissemination of trade prices, and purchasers and sellers of RMBS had no reliable way to learn the prices that dealers like Nomura paid and received unless the dealers disclosed them

while negotiating a trade. The opaque nature of the secondary market also made investors dependent on dealers like Nomura in locating other buyers and sellers of RMBS.

12. In trading non-agency RMBS, Nomura purchased the securities for its own account from one or more customers and then sold them from its own account to other customers. Nomura often owned the bond for only a limited period of time, sometimes just momentarily. Nomura therefore had little, if any, market risk on such trades.

13. Nomura did not charge a commission on the trades. The profit that Nomura made on any given transaction came from the difference between the price at which Nomura sold securities and the price at which it had purchased them. The Nomura traders sometimes negotiated with customers an “all-in” price for an RMBS that incorporated both the purchase price for the security and Nomura’s compensation; on other occasions, the traders and the customers separately, and specifically, negotiated the amount of Nomura’s compensation, which would be in addition to, or “on top of,” a customer’s acquisition price for an RMBS sold by Nomura (or, a reduction in the sale price to Nomura).

14. The traders’ negotiations with Nomura’s RMBS customers often occurred through electronic communications, typically instant messages or Bloomberg chats and occasionally email.

15. During the Relevant Period, Nomura had policies that prohibited its traders and other personnel from making false or misleading statements to customers about the terms of transactions.

The Underlying Antifraud Violations

16. During the Relevant Period, the RMBS Traders directly and indirectly made materially false or misleading statements to Nomura customers in both the purchase and sale of RMBS. In many instances, the RMBS Traders knowingly made materially false or misleading statements about the prices at which the securities could be bought or sold, the prices that Nomura had paid or received when it bought or sold the securities, or the current owner of the securities. The RMBS Traders also directed employees on the Nomura RMBS Desk to engage in the same types of misconduct by, among other things, coaching traders to lie during negotiations and, at times, instructing them as to the precise lies to tell customers in order to make additional profits for Nomura from RMBS trades. Through these misrepresentations, the RMBS Traders increased Nomura’s profits on the transactions.

17. In certain instances, the RMBS Traders induced customers buying bonds from Nomura to increase their bids and to pay more for the bonds than they otherwise would have by falsely telling them that Nomura would be buying, or had bought, the bonds from another customer at a price that was higher than the selling customer’s actual offer or the price Nomura had bid or paid. By misstating these prices, the RMBS Traders misled Nomura’s customers about, among other things, the amount of compensation that Nomura would receive on the transaction. On some occasions, the customer expressly agreed on the amount of Nomura’s compensation based on, and to be paid “on top of,” the fictitious higher price that the RMBS Traders falsely represented they had paid or needed to pay.

18. For example, Shapiro told a customer (“Customer A”) that Nomura had purchased two bonds that Customer A was interested in acquiring, falsely stating that Nomura had paid 53-16 and 62-24 for each of the two bonds, when in fact Nomura had bought them at 52-00 and 62-00, respectively.³ Shapiro then asked Customer A to pay on top an additional 8 ticks on both of these transactions, for a total of 16 ticks, to which Customer A agreed. As a result of these misrepresentations, Nomura sold the bonds to Customer A at 53-24 and 63-00, netting Nomura 56 and 32 tick spreads, respectively, equal to over \$370,000 and \$270,000 in additional gains for Nomura.

19. The RMBS Traders also induced or attempted to induce customers selling bonds to Nomura to lower their offers and accept less for the bonds by falsely conveying lower bids or sale prices to them than they had actually received from the customers that were seeking to buy, or who had bought, the bonds from Nomura. In some instances, they increased Nomura’s spread by misleading both the buyer and the seller about the other party’s bid or offer.

20. For example, Gramins reached out to a Nomura customer (“Customer B”) and asked if Nomura could offer to sell a block of bonds that Customer B owned along with a block that Nomura owned and was looking to sell. Customer B agreed that the firm would “tag along in the context of your 45.50 offering,” meaning that Customer B understood that both it and Nomura would offer to sell the bonds at 45-16 to a willing buyer. Soon thereafter, Gramins told Customer B that Nomura had a “44-16 bid” for the bonds and that he was “thinking of meeting [th]em in the middle” between the supposed 44-16 bid and their joint 45-16 offer. Customer B inquired how Gramins anticipated Nomura being compensated, to which Gramins replied “if you can pay[,] that would be best.” Gramins thereafter continued to report on the negotiations with the potential buyer, ultimately suggesting to Customer B “gonna tell [the potential buyer] 45 or the highway.” Gramins next reported “ok where you wanna sell em to me?” implying that Gramins had successfully arranged a trade with a buyer at 45-00. In reality, Gramins had arranged to sell a majority of the bonds held by Customer B at 46-16. Customer B sought to confirm the sale price, asking “ok. done at 45?” Customer B also inquired about Gramins’ expectation as to compensation for Nomura. In response, Gramins only said “44-24” falsely confirming the supposed sale price of 45-00 and seeking 8 ticks in “pay on top” compensation. As a result of his misrepresentations Nomura earned almost two full points on the majority of its trade with Customer B, for over \$440,000 in extra profits for Nomura.

21. In other instances, the RMBS Traders falsely stated to customers, or otherwise misled customers into believing, that Nomura was still actively negotiating to buy the bonds at a certain price, when Nomura had already purchased the bonds at a lower price than the price at which they falsely told the customers they were still seeking to buy the bonds. In these situations, the RMBS Traders provided the buyer with fabricated accounts of the status of the purportedly ongoing negotiations with the seller, including false bid and offer prices and other fictitious details.

³ RMBS prices are typically expressed as a percentage of the par value of the bond and the operative increments are expressed in “points” and “ticks” which are equal to 1/32 of a point (or one thirty-second of one percent). For example, a price of 95.25, or 95-08, meant that a buyer would pay \$952.50 for \$1000.00 face amount of a bond.

22. For example, Peters learned that Nomura had purchased a block of a particular bond at 71-08. Shortly thereafter, Peters contacted a Nomura customer (“Customer C”) and offered the bond at 75-24. When Customer C expressed interest, Peters falsely represented that a third party, not Nomura, owned the bond, saying that the seller (who did not exist) probably had “a little room” (meaning, to lower the price) but that the bond’s price likely would not fall by more than a point. Customer C directed Peters to “FOK” (short for “fill or kill,” which is industry jargon for “last and final offer”) at 74-24, to which Peters replied, “FOK worked!” By misleading Customer C about the fictional bid from the phantom seller, Peters obtained over \$117,000 in profits for Nomura.

23. The information that the RMBS Traders misrepresented and directed that other traders on the RMBS Desk misrepresent to Nomura’s customers during their negotiations to buy and sell RMBS was material to the customers and would be important to a reasonable investor when making an investment decision. Under these circumstances, the RMBS Traders’ conduct resulted in violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

24. From the transactions on which the Nomura RMBS Traders on the RMBS Desk, directly or indirectly, made false or misleading statements to Nomura customers, Nomura made total gross profits of at least \$20,704,337.

Nomura’s Failure Reasonably to Supervise

25. Throughout the Relevant Period, Nomura had policies requiring accurate communications with customers. One such policy, which applied to the RMBS Traders, required that “[a]ll communications with clients (or prospective clients) must be truthful, fair and balanced,” and prohibited “false, misleading, unwarranted or exaggerated statements, forecasts, opinions or claims.” Another policy, which also applied to RMBS traders, required that all such “communications must be truthful, balanced and . . . must not omit material facts and must not use language that is misleading.”

26. During the Relevant Period, Nomura had certain procedures that provided for the review of electronic communications with third parties for violations of Nomura policies. However, Nomura failed reasonably to implement procedures for monitoring communications that reasonably would be expected to prevent and detect false or misleading statements to Nomura customers. As noted, the RMBS secondary market was opaque because there was no contemporaneous public dissemination of bid, offer, or trade prices, and secondary market purchasers and sellers of RMBS had no reliable way to learn the prices that dealers like Nomura paid and received unless the dealers disclosed them while negotiating a trade. Because one of the compliance risks faced by a broker-dealer trading RMBS in the secondary market was that the traders or salespersons might make false or misleading statements about pricing and other information to customers, Nomura needed to implement procedures reasonably designed to prevent and detect such false or misleading statements in order to address the risks arising from its business. Although Nomura reviewed sample RMBS customer communications during the Relevant Period, it did not do so with a view to determining whether the RMBS Traders were making the types of false or misleading statements to Nomura customers described in this Order.

27. If Nomura reasonably had implemented procedures for the review of communications with customers, it could have detected and prevented the RMBS Traders' false or misleading statements to customers about their non-agency RMBS transactions. Where, as here, there has been an underlying violation of the federal securities laws at a broker-dealer, the failure to have reasonable systems to implement procedures directed at that misconduct can be evidence of a failure reasonably to supervise. Nomura's failure reasonably to implement procedures for reviewing communications with RMBS customers constituted a deficiency in the performance of Nomura's supervisory responsibilities.

28. The RMBS Traders were subject to the supervision of Nomura. By failing reasonably to implement procedures for reviewing their communications with customers, Nomura, within the meaning of Section 15(b)(4)(E) of the Exchange Act, failed reasonably to supervise the RMBS Traders, with a view to preventing and detecting their violations of antifraud provisions of the federal securities laws.

Remedial Efforts and Cooperation Provided By Nomura

29. In determining to accept the Offer, the Commission considered remedial acts undertaken by Nomura and significant cooperation afforded Commission staff. Since the Relevant Period, Nomura has implemented certain additional procedures to prevent and detect the type of misconduct described above in the Order, including additional procedures relating to the review of electronic and other communications for the prevention and detection of potentially false or misleading statements to Nomura customers. These additional procedures provide for a targeted review of communications relating to transactions that fall within certain risk-based parameters. The current review procedures apply to RMBS trading and certain other ongoing parts of Nomura's trading business. Nomura has conducted training related to such conduct and the type of statements that are prohibited, and has incorporated training related to such conduct into the annual training provided to trading personnel.

30. Nomura has cooperated by, among other things, identifying and analyzing communications relating to thousands of transactions potentially involving misrepresentations of the type described in this Order; voluntarily producing all such communications and providing annotated packets of relevant communications and promptly responding to various other requests for documents and information from Commission staff. The cooperation that Nomura provided helped enable Commission staff to direct the focus of the Commission's investigation and to shorten significantly the amount of time needed to conduct the investigation.

Ongoing Cooperation

31. Nomura agrees to cooperate fully with the Commission in any and all investigations, litigations, or other proceedings relating to or arising from the matters described in the Order. In connection with such cooperation, Nomura shall (i) produce, without service of a notice or subpoena, any and all non-privileged documents and other information requested by Commission staff; (ii) use its best efforts to cause its officers, employees and directors to be interviewed by Commission staff at such time as Commission staff may reasonably direct; (iii) provide any certification or authentication of business records of the company as may be reasonably requested by Commission staff; (iv) use its best efforts to cause its officers,

employees and directors to appear and testify without service of a notice or subpoena in such investigations, depositions, hearings or trials as may be requested by Commission staff; and (v) consistent with all lawful obligations, maintain in strict confidence communications with Commission staff pursuant to this provision.

Undertakings

32. Nomura, within the time frames discussed below in paragraph 33 of the Order, undertakes to make payments to customers in the aggregate amount of approximately \$20,704,337 (“Remediation”), representing the entire amount of gross profits that Nomura earned on RMBS trades that are the subject of the Order. Nomura will be responsible for administering the payment of the Remediation to the affected Nomura customers.

33. Nomura 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 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 entry of the Order, a disbursement calculation (“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 best efforts to complete payment to all affected customers or former customers within 180 days of Commission staff’s approval of the Remediation Calculation; and

d. Within 150 days after Nomura has completed the disbursement of all amounts payable to affected customers and former customers, Nomura will submit to the 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 Nomura 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. Nomura 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 Nomura makes to customers and former customers total less than the Remediation, Nomura shall include in the final accounting and certification an explanation of the reason(s) why the payments did not total \$20,704,337. If the amount paid to customers and former customers totals less than the total amount of disgorgement (including prejudgment interest) ordered in section IV.B. of the Order (“Disgorgement Amount”), and Commission staff determine that the facts and circumstances support the amount Nomura paid to customers, Nomura, within thirty days of that determination, will 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, after discussion with Nomura representatives authorized to act on behalf of Nomura, Commission staff determines that Nomura has paid customers and former customers an insufficient amount, Nomura, within thirty days of this determination will pay customers and former customers the amount of the deficiency. If the total amount of the deficiency plus the amount Nomura previously paid customers and former customers (“Customer Payment Amount”) is less than the Disgorgement Amount, Nomura, within thirty days of the determination, will 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 Nomura with paragraphs 32 and 33 of the Order will satisfy the disgorgement and prejudgment interest ordered below in section IV.B. of the Order.

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

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

36. In determining whether to accept the Offer, the Commission has considered these undertakings as well as the remedial efforts and cooperation provided by Nomura.

IV.

In view of the foregoing, the Commission deems it appropriate, in the public interest, to impose the sanctions agreed to in Respondent’s Offer.

Accordingly, pursuant to section 15(b)(4) of the Exchange Act, it is hereby ORDERED that:

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

B. Nomura shall, within 180 days of the entry of the Order, pay to the Commission disgorgement of \$16,329,650 and prejudgment interest of \$3,792,300. The foregoing amounts shall be deemed satisfied by Nomura's payments directly to customers as described above in paragraphs 32 and 33 of the Order. If timely payment is not made, additional interest will accrue pursuant to Commission Rule of Practice 600.

C. Nomura shall, within ten days of the entry of the Order, pay a civil money penalty in the amount of \$1,000,000 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 timely payment of the civil money penalty is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717. Payment 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 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 Nomura as the 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 Celia Moore, Assistant Regional Director, Division of Enforcement, Securities and Exchange Commission, 33 Arch Street, 24th floor, Boston, MA 02110.

D. 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, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it 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 Respondent 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.

By the Commission.

Vanessa A. Countryman
Secretary