

1 available for every ARS being offered for sale at the auction. In the event of a failed auction, the
2 investors that wished to sell their ARS were unable to do so and would continue to hold the ARS
3 and wait until the next successful auction to liquidate their positions.

4 4. Beginning in February 2008, the ARS market experienced widespread failed
5 auctions (the “2008 Auction Failures”).

6 5. Common categories of ARS instruments include: auction preferred shares of
7 closed-end funds (“Preferreds”); municipal auction rate certificates (“Municipal ARS”); and
8 student loan-backed auction rate certificates (“Student Loan ARS”). The interest rates paid to
9 ARS holders are intended to be set through a Dutch auction process.

10 6. The interest rate set at an ARS auction is commonly referred to as the “clearing
11 rate.”

12 7. In order to determine the clearing rate, the buy bids are arranged from lowest to
13 highest interest rate (subject to any applicable minimum interest rate). The clearing rate is the
14 lowest interest rate at which all ARS available for sale at the auction can be sold at par value.

15 **DBSI’s Marketing and Sale of Auction Rate Securities**

16 8. DBSI is a Delaware corporation with a primary place of business located at 60
17 Wall Street, New York, New York, and the Central Registration Depository number, or CRD
18 number, for DBSI is #2525.

19 9. Deutsche Bank Alex. Brown (“DBAB”), a division of DBSI, provides wealth
20 planning and brokerage services to private, institutional, and corporate clients.

21 10. The Corporate and Investment Bank (“CIB”), another division of DBSI, provides
22 capital market financial services to institutions and corporate clients.

23 11. DBSI engaged in the marketing and sale of ARS in Oregon. In early 2008,
24 Oregon investors held a total of at least \$1,425,000 in ARS funds in their accounts at DBSI.

25 12. Certain DBSI agents solicited sales of ARS to clients; however, certain DBSI
26 agents did not fully comprehend the product, auction process, or the risks.

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1 13. DBSI did not provide its agents with adequate training concerning the complex
2 characteristics of ARS and risks inherent with this type of investment.

3 14. DBSI did not create and maintain adequate written supervisory procedures to
4 ensure its agents provided their clients with adequate disclosure of the complex characteristics of
5 ARS and risks inherent with this type of investment.

6 15. Certain DBAB agents misrepresented the characteristics of ARS to clients.
7 Certain DBAB agents told clients that ARS were “safe and liquid,” “cash equivalents,” and “just
8 like money markets.”

9 16. Third-party marketing materials about ARS, which were available to DBAB
10 agents, described certain ARS issues as an “AAA-rated source of short-term income” and a
11 “cash alternative.”

12 17. Certain DBAB clients maintained investment policies and objectives designed to
13 place their money in safe and liquid investments.

14 18. Certain DBAB agents sold ARS to these DBAB clients, despite their investment
15 policies and objectives which sought safe and liquid investments.

16 19. From approximately September 2003 until February 2008, DBAB categorized
17 ARS under the heading “Other – Money Market Instruments” on clients’ monthly account
18 statements.

19 20. ARS, unlike money market instruments, are not short-term investments. In fact,
20 ARS bonds may have maturities as long as 30 years and Preferreds have unlimited maturity.

21 21. Beginning in 2003, CIB began to underwrite certain Student Loan ARS issues
22 (“CIB SL ARS”). Because CIB had not developed a sales network for those CIB SL ARS, there
23 were instances in which several CIB SL ARS issues were not successfully sold to institutions
24 during the initial offering. As a consequence, CIB purchased and maintained on its books 100
25 percent of the outstanding ARS for several CIB SL ARS issues, which ultimately allowed the
26 initial offerings for these issues to succeed. Despite this, CIB continued to market those CIB SL

1 ARS to investors. Some of those CIB SL ARS remained on CIB's books as of the 2008 Auction
2 Failures.

3 22. Because certain DBSI agents misrepresented the characteristics of ARS to clients
4 and purchased ARS for clients based upon those misrepresentations, DBSI engaged in dishonest
5 and unethical conduct in the securities business with respect to the marketing and sale of ARS.

6 23. By failing to: (i) provide adequate training to agents concerning ARS; (ii) create
7 and maintain adequate written supervisory procedures concerning ARS; and (iii) ensure accurate
8 disclosure of ARS characteristics to clients by its agents, DBSI failed to reasonably supervise its
9 agents with respect to the marketing and sale of ARS.

10 **Conflict of Interest**

11 24. DBAB failed to adequately disclose to clients who purchased ARS that the firm's
12 roles as underwriter and broker-dealer in certain ARS issues were a conflict of interest, and this
13 conflict may affect the auction clearing rate. As the underwriter and lead manager on four
14 Preferred issues since 1992¹ (the "DBAB Managed Preferred"), it was in the interest of the firm
15 to keep the clearing rates low for issuers of the DBAB Managed Preferred. As broker-dealer, the
16 firm had a duty to provide the highest available ARS clearing rates to its clients.

17 25. DBAB issued a "price talk" document prior to each ARS auction in which it acted
18 as a broker-dealer. This document detailed the interest rate at which DBAB believed the ARS
19 would clear at auction. DBAB determined this rate by utilizing different factors, including the
20 competing interests of both investors and issuers.

21 26. By failing to fully inform clients about the effect of DBAB's conflicting roles, as
22 underwriter and broker-dealer of ARS issues, on auction clearing rates, DBSI engaged in
23 dishonest and unethical conduct in the securities business with respect to the marketing and sale
24 of ARS.

25 27. By failing to ensure adequate disclosure of conflicts of interest concerning ARS to
26

¹ These Preferred issues were Nuveen Maryland Premium Income Municipal Fund 2 (CUSIP No. W67061Q305), and Van Kampen Invest Grade (CUSIP Nos. E920929601, F920929700, and G920929809).



1 clients by its agents, DBSI failed to reasonably supervise its agents with respect to the marketing
2 and sale of ARS.

3 **Supporting Bids**

4 28. In every auction for the DBAB Managed Preferred, the firm submitted
5 “supporting bids” for its own account that were sufficient to cover the entire allotment of each
6 DBAB Managed Preferred issue. These supporting bids were customary among lead managers
7 to prevent failed auctions and to maintain liquidity for investors. In certain instances, the
8 supporting bids prevented failed auctions, and in others, the supporting bids were unnecessary.
9 However, regardless of the auction outcome, these supporting bids were consistently placed by
10 DBAB, ensuring that successful auctions occurred and liquidity was maintained.

11 29. DBAB failed to disclose to clients that, in each auction of auction rate preferred
12 issues for which DBAB acted as lead manager, the firm placed supporting bids for the entire
13 allotment of auction rate preferred to ensure a successful auction.

14 30. DBAB agents were not aware that DBAB placed supporting bids in the auction
15 rate preferred auctions for which DBAB was the lead manager; nor were they aware of the effect
16 of DBAB’s supporting bids on those auctions.

17 31. In or around August 2007, CIB declined to place supporting bids for certain ARS
18 issued by three special purpose vehicles previously created by Deutsche Bank (the “SPVs”)
19 (called Pivots, Capstans, and Cambers). CIB’s decision to stop submitting supporting bids
20 resulted in failed auctions for these ARS issues.

21 32. On or around February 13, 2008, the head traders of DBAB’s fixed-income
22 trading desk and CIB’s asset-backed trading desk, each of which handled the firm’s trading in
23 ARS, declined to submit supporting bids for ARS issues in which DBSI was the lead manager.
24 This decision resulted in failed auctions for the ARS issues in which DBSI was a lead
25 underwriter, and a lack of liquidity for clients invested in these issues. Neither DBAB nor CIB
26

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1 has placed a supporting bid since that decision.

2 33. By engaging in the practice of placing supporting bids to prevent failed ARS
3 auctions and failing to disclose the practice to clients, DBAB engaged in dishonest and unethical
4 conduct in the securities business with respect to the marketing and sale of ARS.

5 34. By failing to ensure adequate disclosure to clients of DBAB's practice of placing
6 supporting bids to artificially prevent failed ARS auctions, DBSI failed to reasonably supervise
7 its agents with respect to the marketing and sale of ARS.

8 **II.**

9 **CONCLUSIONS OF LAW**

10 Solely for the purpose of this Order, and without admitting or denying the allegations set
11 forth herein, DBSI consents to the Director's making the following conclusions of law:

12 1. In connection with: (i) the misrepresentation of ARS to clients; (ii) the failure to
13 adequately disclose to clients the effect of the firm's role as underwriter and broker-dealer for
14 ARS issues; and (iii) the use of supporting bids to artificially prevent failed ARS auctions and
15 failing to adequately disclose the practice to clients, DBSI engaged in dishonest and unethical
16 conduct in the securities business in Oregon, in violation of ORS 59.205(2).

17 2. In connection with the failure to (i) provide adequate training to agents
18 concerning ARS, (ii) create and maintain adequate written supervisory procedures concerning
19 ARS, (iii) ensure accurate disclosure of ARS characteristics to clients by its agents, and (iv)
20 ensure adequate disclosure of conflicts of interest concerning ARS to clients by its agents, DBSI
21 failed to reasonably supervise, and establish and enforce procedures necessary to detect and
22 prevent such conduct, in violation of its duties under ORS 59.205(13).

23 3. The activities set forth herein are grounds, pursuant to ORS 59.245(4), for the
24 initiation of administrative proceedings; and further, pursuant to ORS 59.205, ORS 59.255, and
25 ORS 59.995, to impose such other appropriate remedial measures as may be necessary in the
26 public interest.

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1 **III.**
2 **ORDER**

3 On the basis of the Findings of Fact, Conclusions of Law, and DBSI's consent to the entry of this
4 Order,

5 IT IS HEREBY ORDERED:

6 1. DBSI is assessed and shall pay to the Oregon Department of Consumer and
7 Business Services \$40,298.80 (forty thousand, two hundred ninety-eight dollars and eighty
8 cents), which is Oregon's pro rata share of the \$15,000,000 total penalty that DBSI agreed to pay
9 pursuant to the Settlement. The payment to the Oregon Department of Consumer and Business
10 Services includes a civil penalty of \$38,283.86 (thirty-eight thousand, two hundred eighty-three
11 dollars and eighty-six cents) for the General Fund of the Oregon State Treasury, pursuant to ORS
12 59.995(1), and \$2,014.94 (two thousand fourteen dollars and ninety-four cents) for the Oregon
13 Department of Consumer and Business Services Investor Education Program Fund. The payment
14 to the Oregon Department of Consumer and Business Services is due and payable within ten (10)
15 days of the entry of this Order.

16 2. DBSI shall take certain measures, enumerated below, with respect to all current
17 and former clients of DBSI that purchased "Eligible ARS", defined below, from DBSI on or
18 before February 13, 2008 (the "Relevant Class"). For purposes of this Order, "Eligible ARS"
19 shall be defined as ARS purchased from DBSI that were subject to auctions that failed at least
20 once between February 13, 2008, and August 31, 2008.

21 3. DBSI shall have offered to purchase at par Eligible ARS, that were purchased
22 from DBSI prior to February 13, 2008, held by: (i) all individuals; (ii) legal entities forming an
23 investment vehicle for family members including but not limited to IRA accounts, Trusts, Family
24 Limited Partnerships and other legal entities performing a similar function; (iii) all charities and
25 non-profits; and (iv) small to medium sized businesses with assets of \$10 million dollars or less
26 with Deutsche Bank (collectively, "Individual Investors").

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1 a. DBSI shall have completed all purchases from Individual Investors who
2 accept the offer (i) prior to November 19, 2008, by November 19, 2008, and (ii) prior
3 to December 31, 2008, by December 31, 2008. For any Individual Investor who
4 accepted the offer between December 31, 2008, and June 30, 2009, DBSI shall have
5 completed the purchase within seven business days of DBSI's receipt of his or her
6 acceptance. However, Individual Investors may have requested that DBSI purchase
7 the Eligible ARS on the next scheduled auction date after DBSI's receipt of its
8 acceptance, in which event DBSI shall have completed the purchase within seven
9 business days of that auction;

10 b. DBSI shall have provided notice to customers of the settlement terms and
11 DBSI shall have established a dedicated telephone assistance line, with appropriate
12 staff, to respond to questions from customers concerning the terms of this Order;

13 4. No later than November 19, 2008, any DBSI Individual Investor that DBSI has
14 reasonably identified who sold ARS below par between February 13, 2008, and August 31, 2008,
15 shall have been paid the difference between par and the price at which the investor sold the ARS;

16 5. DBSI shall consent to participate, at the Eligible Customer's election, in the
17 special arbitration procedures as briefly described below. Under these procedures, the Special
18 Arbitration Process that applies to firms that have entered into settlements with state regulators
19 (the "State SAP"), under the auspices of Financial Industry Regulatory Authority ("FINRA"),
20 will be available for the exclusive purpose of arbitrating any Individual Investor's consequential
21 damages claim:

22 a. No later than November 19, 2008, DBSI shall have notified those DBSI
23 Individual Investors who own ARS, pursuant to the terms of the Settlement, that a
24 public arbitrator (as defined by section 12100(u) of the NASD Code of Arbitration
25 Procedures for Customer Disputes, eff. April 16, 2007), under the auspices of
26 FINRA, would be available for the exclusive purpose of arbitrating any DBSI



- 1 Individual Investor’s consequential-damages claim;
- 2 b. Arbitration shall be conducted by public arbitrators and DBSI will pay all
- 3 applicable forum and filing fees;
- 4 c. Any DBSI Individual Investors who choose to pursue such claims shall
- 5 bear the burden of proving that they suffered consequential damages and that such
- 6 damages were caused by investors’ inability to access funds consisting of investors’
- 7 ARS holdings at DBSI;
- 8 d. DBSI shall be able to defend itself against such claims; provided,
- 9 however, that DBSI shall not contest in these arbitrations liability related to the sale
- 10 of ARS; and provided further that DBSI shall not be able to use as part of its defense
- 11 a DBSI Individual Investor’s decision not to borrow money from DBSI;
- 12 e. Individual Investors who elect to use the State SAP provided for in this
- 13 Order shall not be eligible for punitive damages, or any other type of damages other
- 14 than consequential damages. The State SAP will govern the availability of attorneys’
- 15 fees.
- 16 f. All customers, including but not limited to Individual Investors who avail
- 17 themselves of the relief provided pursuant to this Order, may pursue any remedies
- 18 against DBSI available under the law. However, Individual Investors that elect to use
- 19 the special arbitration process set forth above are limited to the remedies available in
- 20 that process and may not bring or pursue a claim relating to Eligible ARS in another
- 21 forum.
- 22 6. DBSI shall endeavor to work with issuers and other interested parties, including
- 23 regulatory and governmental entities, to expeditiously provide liquidity solutions for institutional
- 24 investors not covered by paragraph 3 immediately above. Beginning November 19, 2008, and
- 25 then quarterly after that, DBSI shall submit a written report to the representative specified by
- 26 NASAA (“NASAA Representative”) outlining the efforts in which DBSI has engaged and the



1 results of those efforts with respect to DBSI institutional investors' holdings in ARS. DBSI shall
2 confer with the NASAA Representative no less frequently than quarterly to discuss DBSI's
3 progress to date. Such quarterly reports shall continue until no later than December 31, 2009.
4 Following every quarterly report, the NASAA Representative shall advise DBSI of any concerns
5 and, in response, DBSI shall discuss how DBSI plans to address such concerns;

6 7. DBSI shall have refunded refinancing fees DBSI has received from municipal
7 auction rate issuers that issued such securities through DBSI in the initial primary market
8 between August 1, 2007, and February 13, 2008, and refinanced those securities after February
9 13, 2008; and

10 8. DBSI shall have made its best efforts to identify Individual Investors who took
11 out loans from DBSI, between February 13, 2008, and June 30, 2009, that were secured by
12 Eligible ARS that were not successfully auctioning at the time the loan was taken out from
13 DBSI. DBSI shall have refunded to those Individual Investors any interest associated with the
14 ARS-based portion of those loans in excess of the total interest and dividends received on the
15 ARS during the duration of the loan. Such refunds shall have occurred no later than July 31,
16 2009.

17 GENERAL PROVISIONS

18 9. This Order concludes the investigation by DFCS and any other action that the
19 Director could commence under the Oregon Securities Law on behalf of Oregon as it relates to
20 DBSI's marketing and sale of ARS to DBSI's "Individual Investors," as defined above.

21 10. The Director shall refrain from taking legal action, if necessary, against DBSI
22 with respect to its institutional investors until November 19, 2008.

23 11. The Director will not seek additional monetary penalties from Deutsche Bank
24 relating to DBSI's marketing and sale of ARS.

25 12. If payment is not made by DBSI, or if DBSI defaults in any of its obligations set
26 forth in this Order, the Director may vacate this Order, at her sole discretion, upon ten (10) days

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1 notice to DBSI and without opportunity for administrative hearing.

2 13. This Order is not intended to indicate that Deutsche Bank or any of its affiliates or
3 current or former employees shall be subject to any disqualifications contained in the federal
4 securities law, the rules and regulations thereunder, the rules and regulations of self regulatory
5 organizations or various states' securities laws including any disqualifications from relying upon
6 the registration exemptions or safe harbor provisions. In addition, this Order is not intended to
7 form the basis for any such disqualifications.

8 14. For any person or entity not a party to this Order, this Order does not limit or create
9 any private rights or remedies against Deutsche Bank, limit or create liability of Deutsche Bank, or
10 limit or create defenses of Deutsche Bank to any claims.

11 15. Nothing herein shall preclude the State of Oregon, its departments, agencies, boards,
12 commissions, authorities, political subdivisions and corporations (collectively, "State Entities"),
13 other than the Director and only to the extent set forth in paragraph III.9 above, and the officers,
14 agents or employees of State Entities from asserting any claims, causes of action, or applications for
15 compensatory, nominal and/or punitive damages, administrative, civil, criminal, or injunctive relief
16 against Deutsche Bank in connection with the marketing and sale of ARS at DBSI.

17 16. This Order shall not disqualify Deutsche Bank or any of its affiliates or current or
18 former employees from any business that they otherwise are qualified or licensed to perform
19 under applicable state law and this Order is not intended to form the basis for any
20 disqualification.

21 Dated this 27th day of January, 2010.

22
23 CORY STREISINGER, Director
Department of Consumer and Business Services

24
25 By: /s/ David Tatman
26 David C. Tatman, Administrator
Division of Finance and Corporate Securities

1 **CONSENT TO ENTRY OF ORDER BY DBSI**

2 DBSI hereby acknowledges that it has been served with a copy of this Order, has read the
3 foregoing Order, is aware of its right to a hearing and appeal in this matter, and has waived the
4 same.

5 DBSI admits the jurisdiction of the Director, neither admits nor denies the Findings of Fact
6 and Conclusions of Law contained in this Order; and consents to entry of this Order by the Director
7 as settlement of the issues contained in this Order.

8 DBSI states that no promise of any kind or nature whatsoever was made to it to induce it to
9 enter into this Order and that it has entered into this - Order voluntarily.

10 Joseph Polzzott represents that he is a Managing Director of DBSI and that, as such, has
11 been authorized by DBSI to enter into this - Order for and on behalf of DBSI.

12 DBSI agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard
13 to any state, federal, or local tax for any administrative monetary penalty that DBSI shall pay
14 pursuant to this Order.

15 Dated this 20th day of January, 2010.

16 DEUTSCHE BANK SECURITIES INC.

17 By: /s/ Joseph Polzzott

18 Joseph Polzzott
19 (Printed Name of Signator)

20 Title: Managing Director / General Counsel

21 SUBSCRIBED AND SWORN TO before me this 20th day of January, 2010.

22 /s/ Andrew Weinberg
23 Notary Public

24 /s/ Andrew Weinberg
(Printed Name of Notary Public)

25 Notary Public for the State of: New York

26 My commission expires: 7/2011

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1 **CONSENT TO ENTRY OF ORDER BY DBSI**

2 DBSI hereby acknowledges that it has been served with a copy of this Order, has read the
3 foregoing Order, is aware of its right to a hearing and appeal in this matter, and has waived the
4 same.

5 DBSI admits the jurisdiction of the Director, neither admits nor denies the Findings of Fact
6 and Conclusions of Law contained in this Order; and consents to entry of this Order by the Director
7 as settlement of the issues contained in this Order.

8 DBSI states that no promise of any kind or nature whatsoever was made to it to induce it to
9 enter into this Order and that it has entered into this - Order voluntarily.

10 Robert Rice represents that he is a Managing Director of DBSI and that, as such, has been
11 authorized by DBSI to enter into this - Order for and on behalf of DBSI.

12 DBSI agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard
13 to any state, federal, or local tax for any administrative monetary penalty that DBSI shall pay
14 pursuant to this Order.

15 Dated this 21st day of January, 2010.

16 DEUTSCHE BANK SECURITIES INC.

17 By: /s/ Robert E. Rice

18 Robert E. Rice
19 (Printed Name of Signator)

20 Title: Managing Director

21 SUBSCRIBED AND SWORN TO before me this 21st day of January, 2010.

22 /s/ Andrew Weinberg
23 Notary Public

24 /s/ Andrew Weinberg
25 (Printed Name of Notary Public)

26 Notary Public for the State of: New York

My commission expires: 7/2011

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