

*United States Senate*

***PERMANENT SUBCOMMITTEE ON INVESTIGATIONS***

*Committee on Homeland Security and Governmental Affairs*

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*Carl Levin, Chairman*

*John McCain, Ranking Minority Member*

# **E X H I B I T S**

**Part 4 of 4 (Exhibits 52-68)**

Hearing On

***ABUSE OF STRUCTURED  
FINANCIAL PRODUCTS:  
Misusing Basket Options to  
Avoid Taxes and Leverage Limits***

**July 22, 2014**

**EXHIBIT LIST**

**Hearing On**

***ABUSE OF STRUCTURED FINANCIAL PRODUCTS:  
Misusing Basket Options to  
Avoid Taxes and Leverage Limits***

**July 22, 2014**

1. a. *The Fiction of Independence*, charts prepared by the Permanent Subcommittee on Investigations.
  - b. *Rentec Control of Palomino*, quotes taken from 6/24/2009 Barclays Memorandum to PwC. [BARCLAYS-PSI-139757-766, at 763-764, Exhibit #53, below.]
  - c. *Medallion Master Funds* [RT-PSI-00363694]
  - d. *Signatories to Franconia-Rentec Investment Advisory Agreement*  
[RT-PSI-0396355, Exhibit #6, below.]  
*Signatories to Mosel Limited Partnership Agreement*  
[RT-PSI-00396411-412, Exhibit #8, below.]  
*Signatories to Bass-Rentec Investment Advisory Agreement*  
[RT-PSI-00396321, Exhibit #35, below.]  
*Signatories to Badger Holdings Ltd. Partnership Agreement*  
[RT-PSI-00396313-314, Exhibit #4, below.]
2. Internal Revenue Service Generic Legal Advice Memorandum (GLAM), released November 12, 2010, re: *Hedge Fund Basket Option Contracts (The contract does not function like an option, and should not be treated as such.)*. [BARCLAYS-PSI-748148-158]

**Documents Related to Renaissance Technologies (RenTec):**

3. RenTec email, dated September 2008, re: *Re-shuffle- Follow-up (I confirmed that there is no prohibition against end-of-day transfers in our new MAPS documentation. We may reshuffle the constituents of the underlying options at the end of the day, at the current closing price. \* \* \* Mark Silver was going [to] discuss with you the ability to optimize the end of day re-shuffle process in order to keep the number of position re-shuffles to a manageable amount and below the radar of DB.)*. [RT-PSI-00068362]
4. RenTec/Deutsche Bank email, dated November 2008, re: *DB counteroffer (Daniel Koranyi wrote: ... Colin points out that the Optimal Execution paper supports our contention that any portfolio they would find themselves having to liquidate would be low-risk, and could be liquidated slowly if required. The portfolio would be well diversified, market-neutral, and with low liquidity imbalance....)*. [RT-PSI-00368695-697]

5. RenTec email, dated August 2011, re: *US portfolio shift - overrides? (Management has decided to shift some portfolio from the Palomino loss-protected managed account to the Deutsche (DBAG) loss-protected managed accounts. The total amount of portfolio to shift, for now, is USD 4e9).* [RT-PSI-00364418]

**Documents Related to MAPS Transactions:**

6. *Investment Advisory Agreement* between Renaissance Technologies Corp. and Franconia Equities Ltd., dated March 30, 2000. (*Advisor is authorized, without further approval by or notice to the Client, to make all investment decisions concerning the Account....*) [RT-PSI-00396351-355]
7. *Barrier Option Transaction* confirmation, dated March 14, 2012, between Deutsche Bank AG, London Branch and Franconia Equities Ltd. (*Buyer has made an independent judgment of the experience and expertise of the Investment Advisor. \*\*\* Other than as provided above, Buyer agrees that it shall not contact directly the Investment Advisor regarding the terms or subject matter of this Transaction.*). [DB-PSI 00123196-208]
8. *Mosel Equities L.P., Limited Partnership Agreement*, dated October 26, 2007. (*[T]he General Partner shall have complete and exclusive responsibility for managing and administering the affairs of the Partnership, and shall have the power and authority to do all things necessary or proper to carry out its duties hereunder.*) [RT-PSI-00396394-413]
9. *Amended & Restated Investment Advisory Agreement*, dated November 16, 2007, between Deutsche Bank AG London and Renaissance Technologies LLC. [RT-PSI-00000914-931]
10. RenTec/Deutsche Bank email, dated December 2007, re: *Buy Back Request (We've been unable to maintain a borrow to fully cover your following short position. Please confirm your willingness to buy this position back as we're exposed to being bought in (any cost/short sale fines will be passed on)[.] Due to the illiquidity of this stock at present I must also ask you not to short any more.*) [RT-PSI-00004630-632]
11. RenTec/Deutsche Bank email, dated February 2008, re: *UK MAPS (However, what you described faced some general objection where DB could be argued to have been effectively fronting for an unregulated fund.... Not thought to be a good idea then and following the Soc. Gen. fiasco I imagine there would be even more twitching now.)*. [RT-PSI-00062957-959]
12. *Deutsche Bank Maps: New Process/Procedures As of May 15, 2008 (Portfolio rebalancing due to Option Exercise \*\*\* Rentec Fund Operations group will reallocate the positions in the sub-account underlying the exercised option to the remaining options based on their relative cash settlement amounts....)*. [RT-PSI-00002319-322]

13. RenTec/Deutsche Bank email, dated June 2008, re: *Language (Staggering options: You wish to staffer options once every 3 months. My suggestion is that you stagger options by NAV also, so there is at least 6 points in NAV difference between different options.)*. [RT-PSI-00054256-257]
14. Deutsche Bank email, dated June 2008, re: *What we need coded on PEAS apart from guidelines (The anticipated leverage amt is not randomly chosen. It is chosen so that the funding cost (which we will call the "optionality value") on the long side.... ...is between 20-25% of the initial premium (100 in the above)*. [DB-PSI 00010767-769]
15. *Managed Account Products, Option Account Profile, DBAG MAPS Rentech Mosel Equities LP Option Account 1*, dated June 24, 2008. [DB-PSI 00001599]
16. Deutsche Bank email, dated June 2008, re: *Tentative: MAPS Working Group... (...if one option is near breaching the barrier and they [RenTec] want to reallocate trades from that options to others that are at capacity while still being under the 33bn GMV [Gross Market Value] threshold. Based on prior conversations they want to keep their flexibility around allocations.)*. [DB-PSI 00025033-034]
17. GWA/Deutsche Bank email, dated July 2008, re: *George Weiss MAPS Investment Guidelines - PLEASE READ (Please transfer all the positions mentioned in Rule 11 and Rule 12 to OGI account from the MAPS account \*\*\* He will be able to do the crosses requested under Rule 11 & Rule 12 in the AM)*. [GWALLC-PSI-0002504-505]
18. RenTec/Deutsche Bank email, dated July 2008, re: *Optionality Value (While this formula will give a desired result at the current interest levels, as interest rates increase (and we could potentially require a longer dated option) the Optionality Value could get prohibitively high even to the point of exceeding the total amount of premium. I played around with other formulas but still came up against the same conundrum)*. [RT-PSI-00046119-121]
19. Excerpt of *Deutsche Bank, GPF Business Development, CTB Program Portfolio, September 2008*. *(The object of this initiative is to provide a New Multiple MAPS structure that will more closely resemble a traditional options structure – premium risk.)*. [DB-PSI 00116157-160, 177]
20. GWA email, dated October 2008, re: *db maps account inbalance (just got a call from db claiming we have too much net long exposure in maps and want just to bring the portfolio back within 5% exposure within a week ... maybe we can cross some position over to ybs next week)*. [GWALLC-PSI-0002328]



21. Deutsche Bank/RenTec email, dated October 2008, re: *DB-Rentec - Response to Issues Discussed on 10/16 (In any event, expanding this to 20 Exchange Business Days does not work from a tax standpoint. 20 Exchange Business Days to make a termination decision under a 13-month options tilts the balance strongly in favor of viewing the accrual of this termination right into the effective conversion of the option into an American style option.)*. [DB-PSI 00079017-021]
22.
  - a. Excerpt of transcript of telephone conversation on November 7, 2008, between Satish Ramakrishna and William Broeksmit (Mr. Ramakrishna: *[S]o that's the way option is supposed to work ... this is structured as an option because* Mr. Broeksmit: *Yeah for tax reasons* Mr. Ramakrishna: *For tax reason but the ... option make it clear that the premium is only ... commitment that the option holder has*). [DB-PSI 00122458]
  - b. Excerpt of transcript of telephone conversation on November 6, 2008, between Peter Brown and Satish Ramakrishna (*[T]he models don't see the government intervention but we do and we are nervous that something could happen. ... So we have actually intervened and we do that from time to time when things like this happen.*). [DB-PSI 00122457]
23. RenTec/Deutsche Bank email, dated December 2008, re: *Test of representations (It will be operationally feasible for DB to create Designed Positions, both by not executing transactions directed by the Advisor and by unwinding or liquidating Effected Positions without the direction of the Advisor.)*. [RT-PSI-00236253-258]
24. *Master Investment Advisory Agreement*, dated December 15, 2008, between Deutsche Bank AG London and Renaissance Technologies LLC (*...supervise and direct the investment and reinvestment of all assets in the Account, and engage in such transactions on behalf of the Client's Account, in the Advisor's discretion and without prior consultation with the Client, subject only to the terms of this Agreement, in any and all forms of securities or other property....*) [DB-PSI-00000001-047]
25. Deutsche Bank/GWA email, dated February 2009, re: *MAPs comments (Loss of the cross collateralization (ability to borrow against the excess equity) of the option. Historically, we have been able to fund the operating expenses of our business by borrowing against the excess equity value of the option.)*. [DB-PSI 00033762-765]
26. Deutsche Bank email, dated August 2009, re: *RenTech MAPS (If client started the day with maximum leverage (it has never done so), longs would have to underperform shorts by 11% to burn through capital and put us into non-recourse loss territory. We have triggers in place that allow us to seize control of the portfolio at any point during the day if half of the capital is depleted (ie, 5.5% long underperformance of shorts).*). [DB-PSI 00006983-984]
27. *Barrier Option Transaction confirmation*, October 8, 2009, between Deutsche Bank AG, London Branch and Mosel Equities L.P. (*Buyer has made an independent judgment of the experience and expertise of the Investment Advisor. Buyer agrees that it shall not attempt to direct or influence the choice of investments in the Basket.*). [DB-PSI 00000181-209]

28. Deutsche Bank/GWA email, dated October 2009, re: *DB Options - possible new developments (...codification of the economic substance doctrine which, if enacted, could have serious implications with respect to the DB option transaction.)*.  
[DB-PSI 00036241-244]
29. Deutsche Bank/GWA email, dated October 2009, re: *DB/Weiss MAPS option (Cross selling: DB will not allow Weiss to cross sell positions held in the DB account to other prime brokers in connection with its routine rebalancing activities.)*.  
[DB-PSI 00036700-701]
30. Deutsche Bank email, dated November 2009, re: *Rentec Mosel EurOption #4 (Problem is they were targeting the 7X Init Leverage again but that only gets us to a 16.6% Optionality Val. We either need 8.45X Init Leverage or Libor + 133bps Term Rate?????)*.  
[DB-PSI 00008625-627]
31. Deutsche Bank email, dated February 2012, re: *Two Sigma Follow-up (Non-recourse financing is one option (MAPS is just a name for that)....)*. [DB-PSI 00045265-266]
32. Deutsche Bank email, dated September 2011, re: *quick summary on Rentec (Im hoping you have a rough idea of the situation re the MAPS trades. In order to resolve the question of[:] - Owner of option controlling the entire underlying - Option (really the earliest version) looks like a margin account[.] I was thinking of using a CPPI like structure[.]).*  
[DP-PSI 00112132-133]
33. Deutsche Bank email, dated November 2011, re: *Rentec (That's the result of having a real option.)*. [DB-PSI 00112522-523]
34. Deutsche bank email, dated December 2011, re: *Rentec confirm and IMAs (Please see below the changes to the Rentec confirm suggested by U.S. tax. I note that some of these changes are in response to changes suggested by Rentecs counsel, Winston & Strawn. I have not been privy to such communications. I trust you have been involved.)*.  
[DB-PSI 00020740-748]

**Documents Related to COLT Transactions:**

35. *Investment Advisory Agreement* between Renaissance Technologies Corp. and Bass Equities Ltd., dated September 1, 2002. (*Advisor is authorized, without further approval by or notice to the Client, to make all investment decisions concerning the Account....*)  
[RT-PSI-00396318-321]
36. Barclays *Project Colt, New Product Proposal*, dated May 28, 2002, (*COLT provides an after tax benefit to these investors through the conversion of their return from the fund from short term capital gains (taxed at 39.6%) to long term capital gains (taxed at 20%).*).  
[BARCLAYS-PSI-212544-557]

37. Correspondence between Barclays and Financial Services Authority re: *PROJECT COLT*, dated July 4, August 16, September 5, and September 13, 2002. [BARCLAYS-PSI-005241-243, 255-257, 260-261, and 258-259]
38. Barclays Memo, dated August 22, 2002, re: *SCM [Structured Capital Markets] Approvals paper - Project COLT (COLT provides an after tax benefit to these investors [RenTec] through the conversion of their return from the fund from short term capital gains (taxed at 39.6%) to long term capital gains (taxed at 20%). This would be achieved by substituting the Fund's direct execution of its trading strategy with the cash settled call option over a Barclays proprietary account whose performance substantially replicates the Fund's trading strategy.)*. [BARCLAYS-PSI-212590-598]
39. Letter Agreement, dated September 30, 2002, between Barclays Bank PLC and Bass Equities Ltd. (COLT Transaction). [BARCLAYS-PSI-212918-932]
40. Barclays Memo, dated April 4, 2003, re: *SCM Approvals paper - Project COLT (Renaissance II) (Palomino will not have any credit risk or market risk in the transaction, due to the fact that ... its PB account is hedged by the Synthetic Call Option and Prime Brokerage effectively has taken the downside risk. The risk borne by Prime Brokerage is akin to the risks taken in a normal collateralised [sic] Prime Brokerage relationship.)*. [BARCLAYS-PSI-213947-953]
41. *Badger Holdings L.P., Limited Partnership Agreement*, dated August 17, 2004. ([T]he General Partner shall have complete and exclusive responsibility for managing and administering the affairs of the Partnership, and shall have the power and authority to do all things necessary or proper to carry out its duties hereunder.) [RT-PSI-00396296-315]
42. Barclays Capital Memo to SCM Approvals Committee, dated September 3, 2004, re: *Approvals paper – COLT V: Renaissance Restructuring (The risk borne by Prime Brokerage is akin to the risks taken in a normal collateralised [sic] Prime Brokerage relationship, where the risks generally are confined to catastrophic losses occurring over a short period of time.)*. [BARCLAYS-PSI-004161-165]
43. *Indemnity Agreement*, dated October 1, 2004, among Barclays Bank PLC, Palomino Limited, Badger Holdings L.P., Medallion International Limited, Medallion Capital Investments Ltd., Medallion Associates L.P., Medallion Fund L.P., and Medallion RMP Fund L.P. [BARCLAYS-PSI-632877-904]
44. Letter Agreement, dated December 21, 2005, between Barclays Bank PLC and Palomino Limited (COLT Transaction). [BARCLAYS-PSI-002879-896]
45. *Investment Management Agreement*, effective October 1, 2004, between Palomino Limited and Renaissance Technologies Corporation ([T]he Manager shall have full discretion and authority, without obtaining the Client's prior approval, to manage the investment and trading of the Accounts....]. [BARCLAYS-PSI-574664-686]

46. Barclays email, dated April 2009, re: *June Balance sheet targets (Rentec wasn't comfortable with directly signing off on the deconsolidation, as they didn't view this to be their problem. They are now considering a proposal to include some new language in their investment management document which would require them to sign off should we seek to reconsolidate at a later date.)*. [BARCLAYS-PSI-025382-383]
47. Barclays email, dated April 2009, re: *Colt (Marty Malloy spoke with RenTec today and they have indicated that they are fine with the proposal in principle, although they apparently mentioned that their tax counsel would also be putting together a letter agreement of some kind for us to review in the next couple days.)*. [BARCLAYS-PSI-588643]
48. Barclays email, dated April 2009, re: *Palomino letter*, attaching April 29, 2009 letter from Renaissance Technologies to Barclays Bank re: Palomino Limited Investment Management Agreement. *(Please find the attached letter highlighting our concerns and representations that Renaissance would like Barclays to make in connection with the changes you are contemplating for Palomino.)*. [BARCLAYS-PSI-326572-575]
49. Barclays/RenTec email, dated May 2009 *(My guys have some comment on the letter and would like to discuss with our lawyers and Ed.)*. [BARCLAYS-PSI-285585-586]
50. Barclays/PwC email, dated May 2009, re: *Palomino to PwC 20/5/09 (...set up for the benefit of Renaissance, who are exposed to the majority of risks and reward.)*. [BARCLAYS-PSI-328074-077]
51. Barclays email, dated June 2009, re: *Project COLT - articles amendment (...restrict the activities of Palomino to those it is currently engaged in under the COLT transaction.)*. [BARCLAYS-PSI-577747]
52. Rentec/Barclays/Winston Strawn/OrrickHerrington/WalkersGlobal/ email, dated June 2009, re: *Palomino Limited - side letter (with attachments)*. [RT-PSI-00361844-847, RT-PSI-00361879-881, RT-PSI-00235499-500]
53. Barclays Capital Memo, dated June 24, 2009, re: Palomino Limited *(RenTec controls the major activities of Palomino and is exposed to substantially all significant risks and rewards arising from the activities carried out through the PB Accounts, being the only permitted activities of Palomino. Consequently, under IAS 27.13 and SIC 12, BBPLC should de-consolidate Palomino from the date these proposed amendments are effective because they give rise to a loss of control (IAS 27.32).)*. [BARCLAYS-PSI-139757-766]
54. Barclays email and Memo, dated June 2009, re: *Project COLT - Orphan Note (It has been agreed with BarCap Finance and PricewaterhouseCoopers ("PwC") that, following proposed amendments to Palomino's memorandum and articles of association (the "Articles") and the giving of a covenant by Barclays, as sole shareholder of Palomino, that it will not seek to amend the Articles in the future without the consent of Renaissance Technologies LLC ("RenTec"), Barclays will cease to consolidate Palomino under IFRS.)*. [BARCLAYS-PSI-026163-165]

55. Renaissance Technologies LLC letters, both dated June 26, 2009, re: *Palomino Limited (Barclays hereby further covenants to Renaissance that it shall not make any amendments or modifications to the Memorandum and Articles of Association of Palomino after the date hereof without first obtaining the prior written consent thereto of Renaissance.)*. [RT-PSI-00236651-655 and 00236914-918]
56. Letter Agreement, dated June 26, 2009, between Barclays Banks PLC, Badger Holdings L.P, Renaissance Technologies LLC and Palomino Limited. [BARCLAYS-PSI-730031-032]
57. *The Companies Laws ... Memorandum and Articles of Association of Palomino Limited*, dated June 26, 2009. [RT-PSI-00234974-998]
58. Barclays emailed, dated June 2010, re: *Renaissance*, attaching *Barclays Capital, Portfolio Analysis of Renaissance Portfolios, CRA*, dated June 2010. [BARCLAYS-PSI-330659-682]
59. Barclays email, dated May 2010, re: *COLT XIX - Draft SCM Approvals Notification (The options reference the value of these PB [Prime Brokerage] accounts, which is equivalent to them referencing the assets directly, and therefore there is no leakage between the value of the assets ... and the value of the options. Thus, the net effect is that Barclays is extending senior financing to RenTec.)*. [BARCLAYS-PSI-010082-083]
60. Barclays email, dated November 2010, re: *Privileged - Colt (This [the GLAM] is a detailed write up of Colt concluding it doesn't work. We can discuss on MDs [managing directors] call but I intend to reach out to RenTec and Ed Cohen this morning to make sure they are aware. We will also confirm it does not impact Barclays. The only issue for Barclays I could see is some deemed wht [withholding] agent issue as the memo concludes that RenTec are the legal owner of the stocks. To me this would signal that IRS is inevitably going to litigate Colt.)*. [BARCLAYS-PSI-748506-507]
61. Barclays Memo to SCM US Approvals Committee, dated October 3, 2012, re: *COLT XXVII (The tax risk is assumed by the Client. The New Option Transaction does not meaningfully increase Barclays' reputation risk in relation to the Option Transactions, because writing a new option (or exercising an existing one) should be viewed as the maintenance of a longstanding structure.)*. [BARCLAYS-PSI-016946-947]
62. Barclays Memo to Tax Risk Committee, dated October 3, 2012: re: *COLT (There is a reputation risk for Barclays, especially if the matter proceeds to court and the IRS's challenge and Barclays' role become publicly disclosed.)*. [BARCLAYS-PSI-016951-952]
63. Barclays email, dated October 2012, re: *COLT SCM Transaction/Important (The SCM US Approvals Committee recently approved an option transaction in which US tax reputation risk is an issue, and the Committee has engaged in the Tax Risk Committee on the transaction.)*. [BARCLAYS-PSI-748590]

64. Barclays Memo to Tax Risk Committee, dated October 12, 2012, re: *COLT (This memo explains the background to an investment structure which has been in place for 10 years and explains why, notwithstanding the publicity risk that Barclays is subject to as a witness to the case if the Client proceeds to litigate in court, we believe it remains an appropriate transaction for Barclays to be a party to.)*. [BARCLAYS-PSI-018114-116]
65. Barclays Memo to SMC US Approvals Committee, dated November 2012, re: *Project COLT XXVII (Renaissance Technologies) - Approvals Notification (SCM has notified and received approval from the following in relation to proceeding with the proposed transaction: Tax, Finance, Credit Risk, Market Risk, Regulatory, Legal, Compliance, and Operations.)*. [BARCLAYS-PSI-017091-093]
66. Barclays email, dated November 2012, re: *Palomino options (...it was agreed that any exit from this structure would not result in the 60 days notice would be given, rather there would be more notice meaning that Reny would not have to close out the option and suffer short term capital gains tax.)*. [BARCLAYS-PSI-322103]
67. *BARCLAYS, New COLT Transaction, Transaction Review Committee, December 2013, (A reputational risk may arise to Barclays if the Original COLT Transaction proceeds to court or is included in a public hearing. However, it is considered that the New COLT Transaction does not meaningfully increase Barclays' reputation risk in relation to the COLT Transactions, especially as it eliminate the Rate Differential Benefit.)*. [BARCLAYS-PSI-748587-589]
68. Excerpts of *Securities and Exchange Commission Form 20-F*, Annual Reports for Barclays PLC, Barclays Bank PLC, reflecting that Palomino was not controlled by Barclays.
  - a. Fiscal year ended December 31, 2009;
  - b. Fiscal year ended December 31, 2010;
  - c. Fiscal year ended December 31, 2011;
  - d. Fiscal year ended December 31, 2012; and
  - e. Fiscal year ended December 31, 2013.*(...they are excluded from consolidation because the Group either cannot direct the financial and operating policies of these entities, or on the grounds that another entity has a superior economic interest in them.)*

To: Jonathan Mayers[jmayers@rentec.com]  
Cc: Jim Rowen[jrowen@rentec.com]  
From: Tom Kerns  
Sent: Mon 6/22/2009 12:38:44 PM  
Importance: Normal  
Subject: Re: [Fwd: FW: Palomino Limited - side letter]

[REDACTED]

Jonathan Mayers wrote:

> Tom, Jim,

>

[REDACTED]

> Thanks,

>

>

> Jonathan

>

> ----- Original Message -----

> Subject: FW: Palomino Limited - side letter

> Date: Mon, 22 Jun 2009 12:22:45 -0400

> From: <Abhinav.Shah@barclayscapital.com>

> To: <jmayers@rentec.com>

> CC: <Simon.Constant@barclayscapital.com>

>

>

>

> Jonathan

>

> As discussed.

>

> I am just finding out John Strac's new fax number and will send the  
> email you requested shortly.

>

> Regards.

>

> Ab

>

>

> \*Abhinav Shah\* |\* BARCLAYS CAPITAL\*

> 745 Seventh Avenue | 6th Floor | New York, NY 10019

> \*P\*: +1 212 526 0060 |\* F\*: +1 212 412 5681 |\* C\*:

> \*E-mail\*: abhinav.shah@barcap.com

>

> IRS Circular 230 Disclaimer: Barclays Capital and its affiliates do  
> not provide tax advice. Please note that (i) any discussion of US tax  
> matters contained in this communication (including any attachments)  
> cannot be used by you for the purpose of avoiding tax penalties, (ii)  
> this communication was written to support the promotion or marketing  
> of the matters addressed herein, (iii) you should seek advice based on  
> your particular circumstances from an independent tax advisor.

[REDACTED] = Redacted by the Permanent  
Subcommittee on Investigations

Permanent Subcommittee on Investigations

EXHIBIT #52



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> \*From:\* Shah, Abhinav: Barclays Capital (NYK)  
> \*Sent:\* 11 June 2009 22:07  
> \*To:\* ECohen@winston.com  
> \*Cc:\* Samy, Sharad; Constant, Simon: Barclays Capital (NYK); Chinyin  
> Johnston; Rose, Matthew  
> \*Subject:\* RE: Palomino Limited - side letter

>  
> Ed

>  
> Just following up on this. I have also attached a draft of an  
> Interagency Letter that we would like to enter into upon entering into  
> the letter agreement (similar to that which both parties enter into  
> whenever new options are entered into), although please note that this  
> may be subject to additional comments from the firm's CFO who has yet  
> to review it.

>  
> Would it be possible to speak early next week on the documents so that  
> we can move this forward?

>  
> Regards.

>  
> Ab

>  
> \*\* \*Abhinav Shah\* |\* BARCLAYS CAPITAL\*  
> 745 Seventh Avenue | 6th Floor | New York, NY 10019  
> \*P\*: +1 212 526 0060 |\* F\*: +1 212 412 5681 |\* C\*: + [REDACTED]  
> \*E-mail\*: abhinav.shah@barcap.com

>  
> IRS Circular 230 Disclaimer: Barclays Capital and its affiliates do  
> not provide tax advice. Please note that (i) any discussion of US tax  
> matters contained in this communication (including any attachments)  
> cannot be used by you for the purpose of avoiding tax penalties, (ii)  
> this communication was written to support the promotion or marketing  
> of the matters addressed herein, (iii) you should seek advice based on  
> your particular circumstances from an independent tax advisor.

>  
>  
>

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> \*From:\* Louise Johns [mailto:Louise.Johns@walkersglobal.com]  
> \*Sent:\* 03 June 2009 10:14  
> \*To:\* Rose, Matthew; ECohen@winston.com  
> \*Cc:\* Samy, Sharad; Constant, Simon: Barclays Capital (NYK); Shah,  
> Abhinav: Barclays Capital (NYK); Chinyin Johnston  
> \*Subject:\* RE: Palomino Limited - side letter

>  
> Dear Ed,

>  
> Further to Matthew's email below, I attach a draft of the amended  
> Memorandum and Articles of Association of Palomino Limited. I also  
> attach a redline against the Memorandum and Articles of Association of  
> Palomino Limited currently in force.

----- = Redacted by the Permanent  
Subcommittee on Investigations



>  
> Kind regards,  
>  
> Louise  
>  
> \*Louise Johns\*  
>  
> \*WALKERS\*  
>  
> 6 Gracechurch Street, London EC3V 0AT  
> Tel: +44 (0)20 7220 4972 (direct) / 4999 (main)  
> Fax: +44 (0)20 7220 4998  
> email: louise.johns  
> <mailto:louise.johns@walkersglobal.com>@walkersglobal.com  
> <mailto:louise.johns@walkersglobal.com>  
> website: www.walkersglobal.com  
>  
> \*Secretary:\*  
>  
>  
>  
> \*J'hanna Pilkington\*  
> Tel: +44 (0) 20 7398 4921 (direct)  
> email: j'hanna.pilkington@walkersglobal.com  
> <mailto:j%27hanna.pilkington@walkersglobal.com>  
>  
>  
>  
> -----  
> \*From:\* Rose, Matthew [mailto:mgrose@orrick.com]  
> \*Sent:\* 03 June 2009 10:16 AM  
> \*To:\* ECohen@winston.com  
> \*Cc:\* Samy, Sharad; Simon.Constant@barclayscapital.com;  
> Abhinav.Shah@barclayscapital.com; Louise Johns; Chinyin Johnston  
> \*Subject:\* Palomino Limited - side letter  
>  
> Dear Ed  
>  
> I attach the draft side letter in respect of the Investment Management  
> Agreement between Palomino and Renaissance. A draft of the amended  
> articles of association will be sent shortly. If possible, please  
> could you provide your comments by the end of this week.  
>  
> Many thanks and kindest regards  
>  
> Matthew  
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>  
> <http://www.orrick.com/>  
> \*Matthew G. Rose\*  
> /trainee solicitor/  
> \*ORRICK, HERRINGTON & SUTCLIFFE\*  
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> mgrose@orrick.com <mailto:mgrose@orrick.com>  
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[•], 2009

Mr. Martin Malloy  
Managing Director  
Barclays Bank PLC, New York Branch  
745 7th Avenue, 6th Floor  
New York, NY 10019

Re: Palomino Limited

Dear Martin

We refer to our recent discussions regarding (i) the Investment Management Agreement (the "Investment Management Agreement"), effective as of October 1, 2004, as amended and restated with effect on June 13, 2008, between Palomino Limited ("Palomino") and Renaissance Technologies, LLC ("Renaissance"), as amended, restated or supplemented from time to time, and the transactions contemplated therein (the "IMA Transactions"); (ii) the ISDA Master Agreement (the "Badger Master Agreement"), dated as of October 1, 2004, between Barclays Bank PLC ("Barclays") and Badger Holdings L.P. ("Badger"), the confirmations executed by Barclays and Badger in connection therewith, each as amended, restated or supplemented from time to time, and the transactions contemplated therein (the "Badger Transactions"); and (iii) the ISDA Master Agreement (the "Palomino Master Agreement"), dated as of September 30, 2002, between Barclays and Palomino, the confirmations executed by Barclays and Palomino in connection therewith, each as amended, restated or supplemented from time to time, and the transactions contemplated therein (the "Palomino Transactions"), and together with the IMA Transactions and the Badger Transactions, the "Transactions"). Capitalized terms used herein but not defined herein shall have the meanings ascribed to such terms in the Investment Management Agreement, and, if not defined therein, in the Badger Master Agreement, and, if not defined therein, in the Palomino Master Agreement.

You have advised us that certain amendments (the "Amendments") to the Amended and Restated Memorandum and Articles of Association (the "Memorandum and Articles of Association") of Palomino have been executed as of the date hereof, a copy of which is attached hereto as Exhibit A.

In connection with the execution of such Amendments, Barclays hereby (i) represents and warrants as of the date hereof to each of Badger and Palomino, respectively, that each representation and warranty made by Barclays to Badger and Palomino, as the case may be,

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in respect of the Transactions under the Badger Master Agreement and the Palomino Master Agreement, respectively, are true and correct as of the date hereof and (ii) covenants as of the date hereof to each of Badger and Palomino, respectively, that it shall continue to perform each covenant owed by it, as the case may be, under the Badger Master Agreement and the Palomino Master Agreement, respectively.

In connection with the execution of such Amendments, Palomino hereby (i) represents and warrants as of the date hereof to each of Renaissance and Barclays, respectively, that each representation and warranty made by Palomino to Renaissance and Barclays, as the case may be, in respect of the Transactions under the Investment Management Agreement and the Palomino Master Agreement, respectively, are true and correct as of the date hereof and (ii) covenants as of the date hereof to each of Renaissance and Barclays, respectively, that it shall continue to perform each covenant owed by it, as the case may be, under the Investment Management Agreement and the Palomino Master Agreement, respectively.

Barclays hereby confirms to Renaissance that the Amendments are not intended to and shall not be used by Barclays to restrict the rights or powers of Palomino in respect of any Transaction under the Investment Management Agreement to (i) reject any purchase or sale of securities designated for execution by Renaissance under the Investment Management Agreement; (ii) in the case of a sale rejected by Palomino, continue to own such securities; or (iii) sell any securities that it may own under the Investment Management Agreement without direction from Renaissance.

Barclays hereby further covenants to Renaissance that it shall not make any amendments or modifications to the Memorandum and Articles of Association of Palomino after the date hereof without first obtaining the prior written consent thereto of Renaissance.

If you acknowledge the foregoing, please sign and return one copy of this letter, which will constitute your confirmation with respect to the subject matter hereof.

Very truly yours,

RENAISSANCE TECHNOLOGIES LLC

By:

\_\_\_\_\_  
Name: Mark Silber  
Title: Vice President

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Acknowledged and Confirmed  
this [●] day of [●] 2009:

BARCLAYS BANK PLC, NEW YORK BRANCH

By: \_\_\_\_\_  
Name:  
Title:

Acknowledged and Confirmed  
this [●] day of [●] 2009:

PALOMINO LIMITED

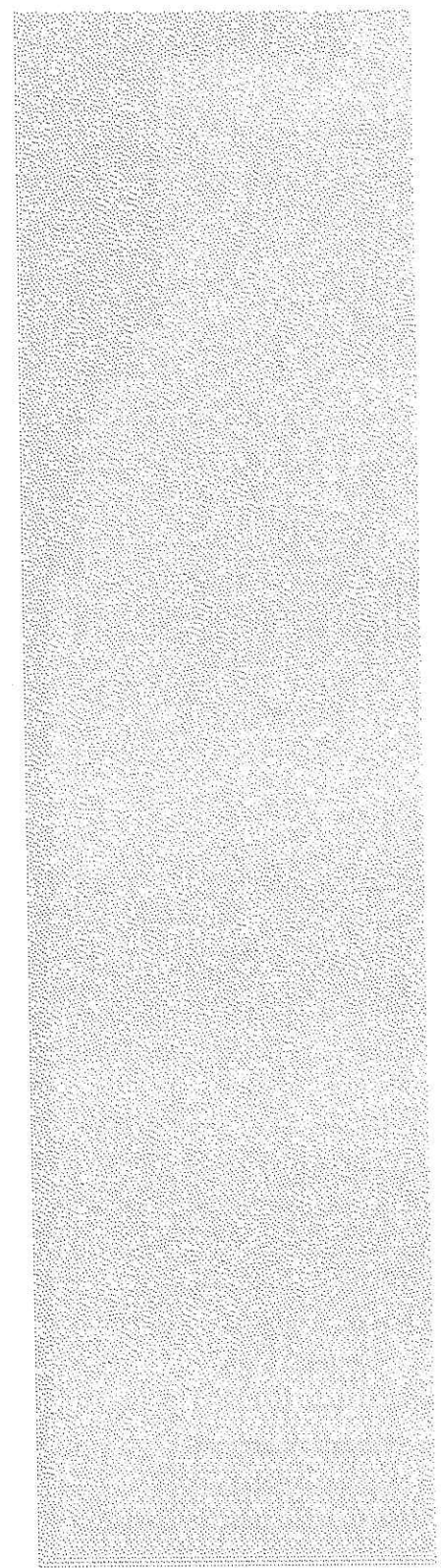
By: \_\_\_\_\_  
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Acknowledged and Confirmed  
this [●] day of [●] 2009:

BADGER HOLDINGS L.P.

By: \_\_\_\_\_  
Name:  
Title:

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Badger Holdings L.P.  
c/o Renaissance Technologies LLC  
800 Third Avenue, 33<sup>rd</sup> Floor  
New York, New York 10022

Renaissance Technologies I.L.C  
800 Third Avenue, 33<sup>rd</sup> Floor  
New York, New York 10022

Attention: Mr. Mark Silber

[•] June 2009

Dear Sirs,

We refer to the letter agreement dated on or around the date of this letter between ourselves, yourselves and Palomino Limited (“**Palomino**”) in connection with the proposed amendments to the Memorandum and Articles of Association of Palomino (the “**Agreement**”).

We represent to you that:

- a) we and our affiliates are not entering into the Agreement and the transactions referred to therein for the purpose of achieving a financial statement objective that could be construed as materially misrepresenting the financial condition of us or that of any affiliate;
- b) the transactions referred to in the Agreement will be accounted for in our group consolidated financial statements in conformity with International Financial Reporting Standards (“**IFRS**”);
- c) the transactions referred to in the Agreement will be disclosed in our group consolidated financial statements and otherwise as and to the extent necessary to comply with IFRS and all applicable laws; and
- d) the transactions referred to in the Agreement have been reviewed and approved by appropriate personnel in accordance with our internal review and approval procedure.

You represent to us that:

- a) you and your affiliates are not entering into the Agreement for the purpose of achieving a financial statement objective that could be construed as materially misrepresenting the financial condition of you or that of any affiliate;
- b) your financial statements are prepared in conformity with accounting principles generally accepted in the United States of America (“**US GAAP**”);
- c) you have considered the impact of the transactions referred to in the Agreement and concluded that they do not impact your current accounting treatment of and disclosures in relation to existing transactions between ourselves, yourselves and Palomino under US GAAP in your financial statements;
- d) [as each of you is deemed to be an “investment company”, as that term is defined in the AICPA Audit and Accounting Guide for Investment Companies, you do not believe that FASB Interpretation No. 46 (revised December 2003), “Consolidation of Variable Interest Entities”, as amended by FASB Staff Position No. FIN 46(R)-7, “Application of FASB Interpretation No. 46(R) to Investment Companies” is applicable to you;] and
- e) the transactions referred to in the Agreement have been reviewed and approved by appropriate personnel in accordance with your internal review and approval procedure.

This letter shall be governed by, and shall be construed in accordance with, the laws of the State of New York.

Yours sincerely,

.....  
**For and on behalf of Barclays Bank PLC, NY Branch**

We hereby acknowledge receipt of and agree to the terms of this letter.

.....  
**For and behalf of Badger Holdings L.P.**

.....  
**For and behalf of Renaissance Technologies LLC**





To PwC  
From SCM  
Date 24 June 2009  
Subject Palomino Limited ("Palomino")

## Memo

1.1

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I. **Introduction**

The purpose of this memo is to set out the proposed accounting treatment relating to Palomino.

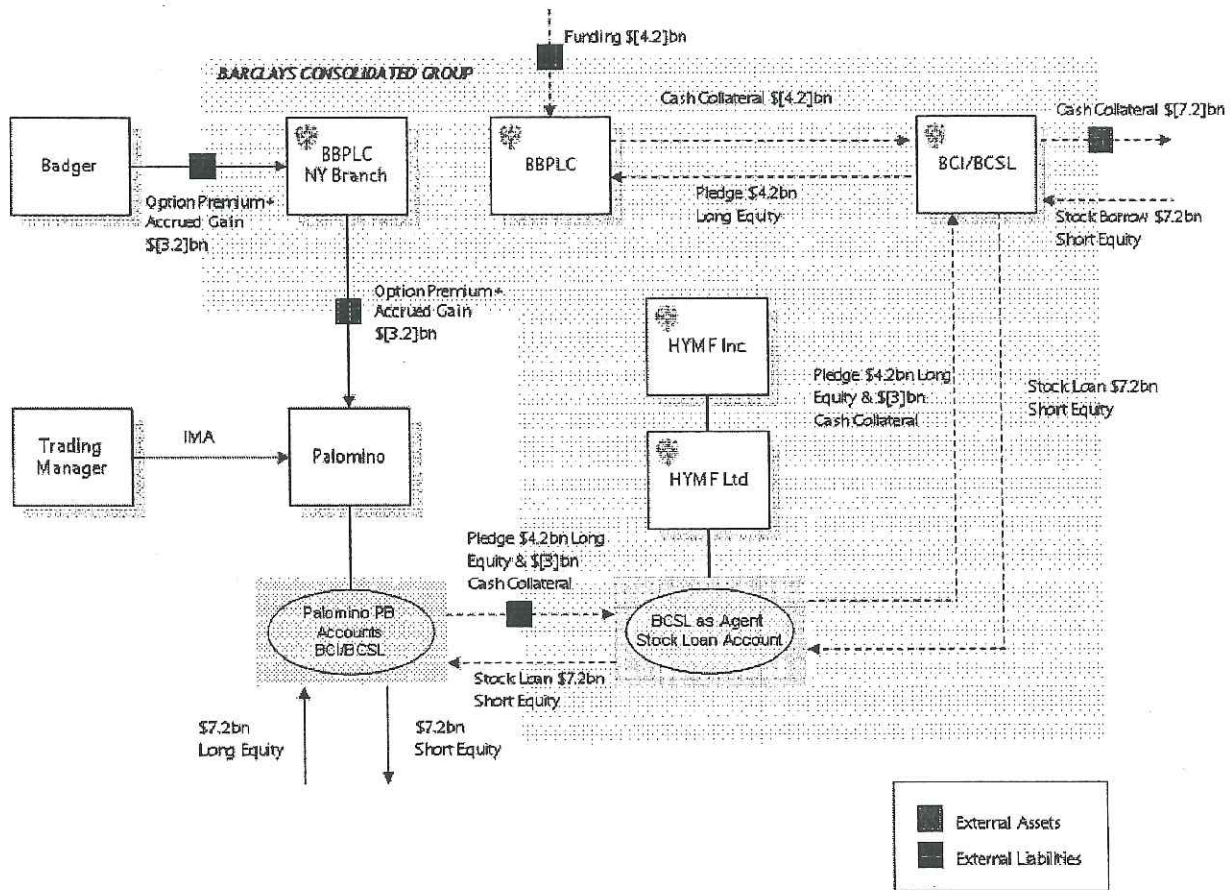
II. **Background**

Palomino is a Cayman Islands incorporated, UK tax resident wholly owned subsidiary of Barclays Bank PLC ("BBPLC"). The only activity Palomino currently engages in is its involvement in the Project Colt transaction. Project Colt involves Palomino holding prime brokerage accounts (the "PB Accounts") with Barclays Capital Inc. ("BCI") and Barclays Capital Securities Limited ("BCSL"). Palomino has appointed Renaissance Technologies LLC ("RenTec") as manager (the "Trading Manager") of the PB Accounts pursuant to an Investment Management Agreement (the "IMA"). In its capacity as the Trading Manager, RenTec implements a long-short statistical arbitrage strategy. In addition, Palomino has written a number of cash settled call options to BBPLC New York Branch ("BBPLC NY") referencing the PB Accounts. In turn, BBPLC NY has written an equivalent number of cash settled call options to Badger Holdings L.P. ("Badger"), a subsidiary of RenTec, also referencing the PB Accounts.

The funding of the PB Accounts is undertaken by the Barclays Capital Prime Services Group ("Prime Services") through the Revised Stock Loan Arranged Transfer ("RSLAT") facility. Short positions in the PB Accounts are covered via a stock loan from BCSL or HYMF (Cayman) Limited ("HYMF") and such stock loans are secured by a pledge of the long positions in the PB Accounts (along with some excess cash in the PB Accounts). HYMF in turn borrows the stock from BCI. BCI and BCSL either borrow the stock from the market versus cash collateral, general collateral or from current inventory. The RSLAT facility implemented in Project Colt is identical to RSLAT facilities implemented for other standard client prime brokerage accounts operated by Prime Services for other clients.



III. Transaction Diagram



IV. Palomino Ownership Structure

- Palomino has 1,000 shares issued and outstanding with a par value of USD \$1 each. BBPLC currently owns 100% of the share capital in Palomino and has 100% of the votes in Palomino.
- The current directors of Palomino are David Simpson, James Sixsmith, Lauren Malafrente (US tax resident) and Sadat Mannan (alternate to David Simpson). All of the directors are employees of Barclays Capital (BBPLC) and only BBPLC has the power to appoint or remove the directors.

V. Prime Brokerage Agreements and PB Accounts

Pursuant to the prime brokerage agreements, Palomino has currently established four prime brokerage accounts, three with BCI and one with BCSL who, in turn, provide settlement, financing and securities lending services to Palomino. The Trading Manager (and, for purposes of clarity, not BCI or BCSL in their capacities as prime brokers) is solely responsible for determining, *inter alia*, which transactions Palomino should enter into and whether the transaction is consistent with the IMA and the investment guidelines contained therein. Where the Trading Manager places an order to be executed by a broker on behalf of Palomino, BCI and/or BCSL settle the transaction in their respective capacities as Palomino's prime brokers. Palomino is the beneficial owner of the securities in the PB Accounts; although the securities are held by BCI and BCSL, their custodians, agents or nominees, they must be clearly identified as belonging to Palomino. Each PB Account held with either BCI or BCSL is a separate account, but these are not legally "ring fenced" from each other because both BCI and BCSL would have a separate claim on all of the assets of Palomino, subject to the limitation of recourse provisions



set forth therein, in the event of an insolvency of Palomino, whether the assets are held in the PB Accounts with BCI or in the PB Account with BCSL.

To the extent that Palomino purchases securities on margin, the securities are held by BCI or BCSL as collateral for a margin loan that may be extended by BCI or BCSL, as the case may be, pursuant to the respective prime brokerage agreements. Palomino grants a first priority perfected security interest in the collateral to BCI and BCSL as continuing security for the payment of outstanding margin loans. BCI and BCSL only have recourse to the collateral pledged to them by Palomino in support of any obligations of Palomino owed to either of them under either of the prime brokerage agreements. To the extent that the value of the pledged collateral would be insufficient to cover the amount owed by Palomino under any margin loan from either BCI or BCSL, BCI and BCSL would become general creditors of Palomino. These arrangements are identical to other standard client prime brokerage accounts operated by Prime Services for other clients.

VI. Options

- a. The options entered into between Palomino and BBPLC NY Branch (the "Barclays' Options") reference all of the PB Accounts (i.e. it is not the case that an option references an individual PB Account). The value of each of the Barclays' Options is determined by reference to a relevant portion of the gains or losses on all of the PB Accounts according to the outstanding term and size of the upfront premium on each individual option. It should be noted that the Barclays' Options only reference the PB Accounts in the name of Palomino and do not reference assets and liabilities of Palomino existing outside such accounts. Thus, upon exercise of any of the Barclays' Options, Palomino effectively pays BBPLC NY Branch the greater of (i) zero and (ii) the sum of the upfront premium plus or minus a relevant portion of the gains and losses on the position in all of the PB Accounts.

The Barclays' Options can only be cash settled (i.e. the underlying securities cannot be delivered in settlement of the Barclays' Options even if there is no market liquidity) and they are freely exercisable by BBPLC NY Branch at any time. Upon exercise of any of the Barclays' Options by BBPLC NY Branch, there is no requirement that the Trading Manager liquidate the positions in the PB Accounts.

The aggregate of the upfront premiums paid on the outstanding Barclays' Options is \$750m and the current gain on the positions in the PB Accounts is approximately \$750m. The upfront premiums are non-refundable except that they are taken into account in determining the cash settlement amount payable on exercise of any of the Barclays' Options.

The amount payable under the Barclays' Options includes an amount equal to all of the gains generated on the positions in all of the PB Accounts and all of the losses (if any) generated on the positions in all of the PB Accounts, although the latter is capped at the amount of the upfront premiums paid. The trading strategy implemented by the Trading Manager has generated profits on each of the PB Accounts since inception, all of which have been "allocated" to the Barclays' Options. As such, it is considered that BBPLC is directly (RenTec indirectly – see Section X(c) below) exposed to substantially all of the rewards from the PB Accounts through the Barclays' Options. Although details of the trading strategy pursued are closely guarded by the Trading Manager (for obvious reasons), it is expected to continue to generate profits and, as such, it is considered that BBPLC is directly (RenTec indirectly – see Section X(c) below) exposed to substantially all of the risks from the PB Accounts through the exercise of the Barclays' Options as well since any potential future losses are more than adequately covered by the upfront premiums paid and any accrued gains to date on the positions in the PB Accounts. The investment guidelines incorporated into the IMA contain leverage, concentration and diversification limitations which reduce the gap risk to a level where Barclays Global Financial Risk Management group ("GFRM") are comfortable that, on a forced liquidation of the positions in the PB Accounts (e.g. in circumstances where BBPLC assumes control of the PB Accounts by virtue of the PB Accounts exceeding agreed leverage ratios), BBPLC would not suffer economic loss because the upfront premiums paid are sufficient to absorb any

decline in value of the positions in the PB Accounts in the time that it would take to unwind all the positions.

- b. The options entered into between BBPLC NY Branch and Badger (the "**Badger Options**") work in the same way (i.e. their value is determined by reference to a relevant portion of the gains or losses on all of the PB Accounts according to the outstanding term and size of the upfront premium on each individual option). The Barclays' Options and the Badger Options are essentially "back-to-back" arrangements in that when a new Badger Option is entered into, a new Barclays' Option will be entered into on mirror terms (i.e. the premiums under each such option will be the same and each option will create the same economic exposure to the PB Accounts). Thus, upon exercise of any of the Badger Options, BBPLC NY Branch effectively pays Badger the greater of (i) zero and (ii) the sum of the upfront premium plus or minus a relevant portion of the gains and losses on the positions in all of the PB Accounts.

The Badger Options can only be cash settled and they are freely exercisable by Badger at any time. It should be noted that there is no legal requirement for the Barclays' Options to be exercised in the event a Badger Option is exercised or for the Trading Manager to liquidate the positions in the PB Accounts.

As with the outstanding Barclays' Options, the aggregate of the upfront premiums paid on the outstanding Badger Options is \$750m and the current gain on the positions in the PB Accounts is approximately \$750m. The upfront premiums are non-refundable except that they are taken into account in determining the cash settlement amount payable on exercise of any of the Badger Options.

The confirmations in relation to the Badger Options include the following language, which demonstrates that the Badger Options are an indirect interest in the PB Accounts:

"Reference Accounts: The BCSL Account, the BCI Account....., each as defined below, and any additional prime brokerage or futures trading account that Party A [BBPLC NY Branch] and Party B [Badger] shall designate by mutual agreement as a "Reference Account", provided that such additional prime brokerage or futures trading account has been established with Barclays Bank PLC, Barclays Capital Inc. or Barclays Capital Securities Limited by and in the name of Palomino Limited."

"BCSL Account means the prime brokerage accounts established by and in the name of Palomino Limited ("Palomino") with Barclays Capital Securities Limited ("BCSL"), account no. 400262, pursuant to the Amended and Restated Prime Brokerage Agreement, effective as of June 13, 2008, as may be restated, amended, or modified by the parties thereto from time to time (the "BCSL Agreement")."

"BCI Account means the prime brokerage accounts established by and in the name of Palomino with Barclays Capital Inc. ("BCI"), account no. 21000200, 25300200, and 25310200, pursuant to the Amended and Restated Prime Broker Margin Account Agreement, effective as of June 13, 2008, as may be restated, amended, or modified by the parties thereto from time to time (the "BCI Agreement")."



## VII. Investment Management Agreement

- a. The IMA appoints RenTec as the investment manager of all of the PB Accounts therein. RenTec's obligations and rights under the IMA are limited to the PB Accounts and the IMA does not relate to any other activities of Palomino.
- b. Palomino can terminate the IMA for any reason upon the later of (i) the 60<sup>th</sup> calendar day and (ii) the 20<sup>th</sup> exchange business day immediately following the date on which Palomino delivers a prior written termination notice to RenTec.
- c. Palomino has the right to terminate the IMA upon written notice to RenTec specifying the applicable grounds: (i) for Cause (as defined below) or (ii) for Material Cause (as defined below), in each case at any time. The IMA terminates immediately after a written notice is delivered to RenTec.
- d. "Cause", generally, means
  - i. with respect to Palomino: a change in tax law; and
  - ii. with respect to RenTec: (i) a material violation of law, (ii) a material breach of the IMA (other than the investment guidelines in the IMA), (iii) the loss of any material license, (iv) a violation by RenTec of the investment guidelines, to the extent that such violation has not been cured within 5 business days, (v) a Termination Event or an Event of Default as defined under the prime brokerage agreements, or (vi) a bankruptcy or insolvency of RenTec.
- e. "Material Cause" means
  - i. with respect to RenTec (i) a material violation of law which directly relates to any of the PB Accounts, (ii) intentional misconduct or gross negligence, (iii) none of the Key Men is employed by RenTec, (iv) RenTec is prevented, for any reason, from effectively managing any of the PB Accounts, (v) a violation in respect of certain investment guidelines, (vi) the PB Accounts "equity" is less than or equal to USD 78,500,000, or (vii) a bankruptcy or insolvency of RenTec.
- f. In the event of a termination of the IMA, RenTec, at the written request of Palomino, shall be required to conduct an orderly disposition of all positions in the PB Accounts after which the PB Accounts will be wound up and the prime brokerage agreements terminated. If Palomino or a third party investment manager assumes control of the PB Accounts on a termination of the IMA (e.g. following a termination pursuant to a Material Cause event), then Palomino or the third party investment manager would also be required to conduct an orderly disposition of all positions in the PB Accounts after which the PB Accounts will be wound up and the prime brokerage agreements terminated.
- g. Therefore, in most circumstances, RenTec would continue to control the PB Accounts in an unwind scenario. Although Palomino may also be able to control the PB Accounts on a termination of the IMA on the grounds of a Material Cause event, it would only be for the unwind period (i.e. on termination of the IMA, the PB Accounts must in all circumstances be wound up irrespective of who controls the unwind process).
- h. There is no requirement for the call options to be exercised upon a termination of the IMA. However, it is anticipated that Badger would exercise the Badger Options and BBPLC NY Branch would exercise the Barclays' Options. Although there is no requirement to exercise the Barclays' Options if the Badger Options are exercised (and visa versa), if Badger exercised the Badger Options, it is anticipated that BBPLC NY Branch would exercise the Barclays' Options to hedge its position and that Palomino would deliver a termination notice to RenTec in relation to the IMA, which would require RenTec to conduct an orderly disposition of all positions in the PB Accounts.

## VIII. Accounting Summary

- a. There is currently no restriction on the decision making powers of the directors of Palomino and Palomino has been involved in various transactions relating to Project Colt, including migration from the US to the UK for tax purposes. The directors have always had the right to commit Palomino to new business (e.g. opening prime brokerage accounts on behalf of other clients). Palomino has historically been viewed as an IAS 27 operating entity under IFRS given the wide activities that could be conducted through Palomino at the discretion of BBPLC and for its benefit and has therefore been consolidated by BBPLC.
- b. Going forward, it is proposed that the activities of Palomino will be restricted to those associated with the pre-defined activities of Project Colt only. In order to achieve this, it is proposed that the Articles of Association of Palomino (the "**Articles**") will be amended accordingly (as described further in Section IX below) and that BBPLC, RenTec, Badger and Palomino will enter into a side letter agreement (the "**Side Letter**") under which BBPLC, as sole shareholder of Palomino, will covenant not to amend the Articles further without the prior written consent of RenTec.
- c. Following the proposed amendments to the Articles and the entry into the Side Letter, BBPLC will de-consolidate Palomino because it no longer controls the entity under IAS 27 or SIC 12. RenTec will control Palomino as it will effectively determine the activities of Palomino, namely the trading activity in the PB Accounts, and, taking into account the totality of the transaction, absorbs significantly all of the benefits and the majority of the risks of Palomino through the Badger Options and the Barclays' Options.
- d. From a BBPLC consolidation perspective, not consolidating Palomino and the positions in the PB Accounts will be consistent with the balance sheet treatment of other standard (yet economically similar) prime brokerage accounts where BBPLC does not consolidate the positions held in the accounts. An analysis of Project Colt compared to other standard prime brokerage arrangements is set out below.

## IX. Amendments to the Articles and the Side Letter

As mentioned above, BBPLC, as sole shareholder of Palomino, will amend the Articles to ensure that the only activities that Palomino is permitted to carry out relate solely to the Project Colt transaction. In summary, the restrictions to be incorporated into the Articles are expected to be as follows:

- a. Palomino will only be permitted to hold prime brokerage accounts with BCI, BCSL or other members of the Barclays group;
- b. RenTec is the only trading manager that can be appointed to manage positions in any prime brokerage accounts pursuant to any investment management agreement other than in relation to the existing IMA;
- c. Palomino will only be permitted to issue cash settled derivatives over prime brokerage accounts in respect of which RenTec is the trading manager; and
- d. Palomino will be required to invest any surplus cash with BBPLC or in AAA-rated government securities.

Therefore, Palomino will not be permitted to carry out any other activities other than those listed in a-d above.

As BBPLC is and will remain the sole shareholder of Palomino, BBPLC will continue to have the right to amend the Articles. It is not possible to legally prevent this since this is a right that any shareholder with the appropriate amount of voting control would be able to exercise. However, it is proposed that BBPLC will enter into the Side Letter, covenanting to RenTec that BBPLC, as sole shareholder of Palomino, will not amend the Articles further without the prior written consent of RenTec. As such, if BBPLC sought to amend the Articles without the prior written consent of RenTec, BBPLC would be in breach of contract.



## X. Consolidation Analysis

Palomino is considered to be one entity rather than a number of ring-fenced silos because no assets and liabilities are legally ring-fenced from each other as explained in Section V. above. The consolidation analysis below therefore considers the consolidation of Palomino in its entirety as a single entity.

IAS 27 requires the entity that controls Palomino to consolidate it. Control is the power to govern the operating and financial policies of Palomino so as to obtain benefit from its activities. Although BBPLC owns 100% of the ordinary shares of Palomino. RenTec has the power to govern the financial and operating decisions for its benefit due to the decisions it makes over Palomino's activities under the IMA (IAS 27.13) and under the SIC 12 analysis below.

SIC 12 indicates that a special purpose entity (an "SPE") is an entity created to accomplish a narrow and well defined objective whose activities are usually substantially pre-determined. Following the proposed amendment to the Articles and the entry into the Side Letter, Palomino will be an SPE because it will only conduct the prime brokerage activities specified and managed by RenTec, which are narrowly defined. An analysis of the circumstances set out in paragraph 10 of SIC 12 which should be taken into account in determining whether an entity controls an SPE and should consolidate the SPE has been set out below.

- a. *Activities:* Palomino was created solely to enable RenTec (sponsor) to benefit (through the Badger Options and the Barclays' Options) from its long-short statistical arbitrage strategy in an efficient manner (we understand that RenTec also obtains an additional tax benefit under the transactions as its profits on the Badger Options will generally be subject to tax at the long term capital gains tax rate of 15% rather than the ordinary income tax rate of 35%). As such, RenTec has transferred assets from Badger, in the form of option premiums, to Palomino (via BBPLC) and has obtained the right to use those assets as Trading Manager. BBPLC (the capital provider), on the other hand, provides funding to the PB Accounts through the RSLAT facility in the form of stock loans collateralised by long positions within the PB Accounts and benefits from arms length prime brokerage fees only. Accordingly, it is clear that the activities of Palomino are being conducted on behalf of RenTec according to its specific business needs so that RenTec obtains the benefits from Palomino's operation.
- b. *Decision Making:* The trading activities of Palomino in relation to the PB Accounts are managed solely by RenTec as the Trading Manager such that RenTec can obtain the majority of the benefits from Palomino's activities (through the Badger Options and the Barclays' Options), all within investment guidelines agreed with BBPLC designed to protect Barclays funding.

As described in Section VII in relation to the IMA, the PB Accounts are controlled by RenTec. In the event of a termination of the IMA, RenTec would be expected, in most circumstances, to control the unwind of the positions (by written request of Palomino). It is possible that Palomino could appoint BBPLC or another third party to take control for the unwind; however, this control can only be exercised in the close out period after which all PB Accounts and prime brokerage agreements are already required to be terminated. As a result, it can be concluded that BBPLC has very limited decision-making powers in relation to Palomino.

Through the proposed amendments to the Articles, the activities of Palomino will be restricted to holding and overseeing the PB Accounts managed by RenTec, as set out in Section IX. above.

- c. *Benefits:* RenTec is effectively entitled (through the Badger Options and the Barclays' Options) to 100% of the benefits from Palomino's trading activities less any prime brokerage fees paid to BCI and BCSL in respect of the PB Accounts. Such prime brokerage fees are based on standard market rates and are not based on the performance of the trading strategy. Accordingly, BBPLC does not benefit or suffer if the trading strategy implemented by RenTec over or under performs.

The Badger Options are considered to be indirect interests in Palomino due to the clear linkage and purpose of the back-to-back option arrangements as set out in Section VI. above.

The prime brokerage fees received by the Barclays Group in relation to Project Colt are approximately \$[45]m per annum compared to the historical returns of the RenTec long-short statistical arbitrage strategy in excess of \$[1]bn per annum. The return on each of the historical options compared to the initial option premium is provided in Appendix 1 hereto.

We understand that RenTec also obtains an additional tax benefit under the transactions as its profits on the Badger Options will generally be subject to tax at the long term capital gains tax rate of 15% rather than the ordinary income tax rate of 35%.

- d. *Risks:* RenTec is exposed to 100% of the risks from Palomino's trading activities up to a maximum of the call option premiums (currently \$750m). BBPLC is exposed to the gap risk on the securities (i.e. the risk that the value of the positions in the PB Accounts falls by an amount greater than the aggregate of the call option premiums prior to the time when Palomino is able to cause an unwind of the positions in the PB Accounts). The investment guidelines in the IMA agreed with BBPLC impose limits on liquidity, sector exposure, size and leverage in order to substantially reduce the risk that any gap risk loss is greater than the call option premiums. The limits are such that Barclays Credit and Market Risk departments are comfortable the gap risk is managed within acceptable limits. As an example, in August 2008, the PB Accounts suffered the worst trading period since the start of the transaction and the limits imposed under the IMA to allow Palomino to unwind the transaction when gap risk reaches an unacceptable level were not breached:

Aggregate loss over period:	23%, compared to 90% before BBPLC controls unwind and 100% before BBPLC is exposed to losses;
Maximum leverage:	14.2:1, compared to 20:1 before the deal is unwound with RenTec continuing as Trading Manager, and 22:1 before BBPLC controls unwind;
Maximum gross positions:	\$25.5bn, compared to \$40bn before BBPLC controls unwind;
Net Long/Short position:	\$2bn, compared to \$4bn before BBPLC controls unwind;
Sector positions:	The sector position covenants in the investment guidelines were not breached during this period.

As a result, RenTec is exposed to the substantial majority of the risks from Palomino's trading activities. Only in extreme circumstances that have yet to be experienced would BBPLC bear any losses from the positions in the PB Accounts. In addition, RenTec has indemnified Barclays for any tax risks arising as a result of Project Colt.

The Badger Options are considered to be indirect interests in Palomino due to the clear linkage and purpose of the back-to-back option arrangements as set out in Section VI above.

- e. *Conclusion:* Following the proposed amendments to the Articles and the entry into the Side Letter, RenTec controls the major activities of Palomino and is exposed to substantially all significant risks and rewards arising from the activities carried out through the PB Accounts, being the only permitted activities of Palomino. Consequently, under IAS 27.13 and SIC 12, BBPLC should de-consolidate Palomino from the date these proposed amendments are effective because they give rise to a loss of control (IAS 27.32).

## XI. Disclosure Requirements

The disclosure requirements under IAS 27.41(b) will be covered under the generic disclosure provided as a note to the accounts in the Barclays Consolidated Financial Statements.



The de-consolidation of Palomino is not expected to give rise to a material gain or loss and therefore no specific disclosure is proposed in relation to IAS 27.41(f).

Pursuant to s231(5) CA 1985, Barclays is required to disclose in its financial statements certain details in relation to entities in which the Barclays group's voting rights exceed 50% but which are not consolidated for accounting purposes, e.g. name of entity, country of registration or incorporation of entity, percentage of ordinary share capital held. Since Barclays will continue to hold 100% of the ordinary share capital and, therefore, 100% of the voting rights in Palomino, Palomino should be disclosed in the relevant note in the audited consolidated financial statements of Barclays for the year ended 31 December 2009.

## XII. Comparison to standard Prime Brokerage Arrangements

Under a standard prime brokerage arrangement, the prime broker generally does not consolidate the long and short positions held in the prime brokerage account but recognises balance sheet for the net financing provided. This treatment is adopted by Barclays in respect of all of its standard prime brokerage arrangements with other clients.

Project Colt provides RenTec with a number of enhancements compared to a standard prime brokerage agreement:

- a. the long-short statistical arbitrage strategy is able to operate at a higher leverage ratio than would otherwise be available; and
- b. Badger recognises long term capital gains for tax purposes on exercise of the Badger Options outstanding for more than 12 months.

Notwithstanding the additional benefits to RenTec through Project Colt, the allocation of the risk and rewards generated by the trading activities in the PB Accounts are substantially passed through to RenTec under the call options consistent with a standard prime brokerage arrangement. Hence, it is appropriate to treat the long and short positions held in the PB Accounts under both Project Colt and other prime brokerage arrangements as off balance sheet in respect of BBPLC.

## XIII. BBPLC Consolidated Balance Sheet

### *Non-consolidation of Palomino*

If BBPLC does not consolidate Palomino, the BBPLC consolidated balance sheet, based on the balances as at 17 June 2009, would be as follows (as such, it should be noted that the long and short equity positions held by Palomino through its PB Accounts would be off balance sheet):

\$7.2bn – cash collateral posted by BCI/BCSL on stock borrows to cover PB shorts	\$4.2bn – funding for cash collateral (excess cash in Palomino also funds the cash collateral)
\$3.2bn – investment in call options sold by Palomino to BBPLC	\$3.2bn – liabilities in respect of call options sold by BBPLC to Badger
	\$3bn – cash collateral received from PB Accounts on stock loan
<b>\$10.4bn Total Assets</b>	<b>\$10.4bn Total Liabilities</b>



*Consolidation of Palomino*

Under the current consolidated accounting treatment, the PB accounts are included on balance sheet and the consolidated balance sheet would be as follows:

\$7.4bn long positions in PB Accounts	\$7.2bn short positions in PB Accounts
\$7.2bn – cash collateral posted by BCI/BCSL on stock borrows to cover PB shorts	\$4.2bn – funding for cash collateral (excess cash in Palomino also funds the cash collateral)
	\$3.2bn – liabilities in respect of call options sold by BBPLC to Badger
<b>\$14.6bn Total Assets</b>	<b>\$14.6bn Total Liabilities</b>

**From:** Shah, Abhinav: Barclays Capital (NYK) </o=bzw/ou=europe/cn=recipients/cn=exchange recipients/cn=shahab>  
**Sent:** Wed Jun 24 2009 17:11:06 EDT  
**To:** McSweeney, Louise: Finance (LDN) </o=bzw/ou=europe/cn=ldn ad users/cn=users/cn=mcsweenl>  
Malloy, Marty: CFG Mgmt (NYK) </o=bzw/ou=usa/cn=recipients/cn=markets/cn=malloym>; Wade, Graham:  
**CC:** Barclays Capital (NYK) </o=bzw/ou=europe/cn=recipients/cn=exchange recipients/cn=wadeg>; Constant,  
Simon: Barclays Capital (NYK) </o=bzw/ou=europe/cn=ldn ad users/cn=users/cn=constans>  
**Subject:** Project COLT - Orphan Note  
**Attachments:** Memo to SCM Finance re Orphan.Policy\_Final 24 June 09.doc

**Importance:** Normal  
**Priority:** Normal  
**Sensitivity:** None

Louise

Please find attached the final Orphan Note.

I had provided a draft of the Interagency Letter to Martin. RenTec have now agreed the form of this, so I will send the final version on to him for signing.

I have finalised the Memo for PwC and will circulate it shortly.

Execution of documents etc is scheduled for Friday.

Regards.

Ab

Abhinav Shah | BARCLAYS CAPITAL  
745 Seventh Avenue | 6th Floor | New York, NY 10019  
P: +1 212 526 0060 | F: +1 212 412 5681 | C: [REDACTED]  
E-mail: abhinav.shah@barcap.com

[REDACTED] = Redacted by the Permanent  
Subcommittee on Investigations

IRS Circular 230 Disclaimer: Barclays Capital and its affiliates do not provide tax advice. Please note that (i) any discussion of US tax matters contained in this communication (including any attachments) cannot be used by you for the purpose of avoiding tax penalties, (ii) this communication was written to support the promotion or marketing of the matters addressed herein, (iii) you should seek advice based on your particular circumstances from an independent tax advisor.

# Memo

# BARCLAYS

**To** SCM Finance  
**From** Abhinav Shah  
**cc** Graham Wade / Marty Malloy  
**Date** 24 June 2009  
**Subject** Project Colt – Orphan Policy

---

## 1. Summary

- 1.1 SCM and Prime Brokerage have recently undertaken a review of the Project Colt IFRS consolidated accounting treatment of Palomino Limited ("**Palomino**"), a wholly owned subsidiary of Barclays Bank PLC ("**Barclays**"). It has been agreed with BarCap Finance and PricewaterhouseCoopers ("**PwC**") that, following proposed amendments to Palomino's memorandum and articles of association (the "**Articles**") and the giving of a covenant by Barclays, as sole shareholder of Palomino, that it will not seek to amend the Articles in the future without the consent of Renaissance Technologies LLC ("**RenTec**"), Barclays will cease to consolidate Palomino under IFRS.
- 1.2 By way of background, Project Colt was approved by the SCM Approvals Committee on 2 September 2002 and by the NPC (both Global and U.S.) on 30 July 2002. In each transaction, Badger Holdings L.P. ("**Badger**"), a fund managed by RenTec, buys one or more call options (the "**Badger Options**") from Barclays Bank PLC, NY Branch ("**Barclays NY**"). In turn, Barclays NY buys call options (the "**Barclays Options**") with identical terms from Palomino. The Badger Options and the Barclays Options reference a set of prime brokerage accounts (the "**PB Accounts**") held by Palomino with Barclays Capital Inc. ("**BCI**") and Barclays Capital Securities Limited ("**BCSL**"). Palomino has appointed RenTec as trading manager for the PB Accounts under an investment management agreement ("**IMA**"). RenTec is subject to investment guidelines, which permit the PB Accounts to consist solely of (i) cash, (ii) long or short positions in equities, depository receipts, or similar equity-related instruments, or (iii) contracts for difference.

## 2. Barclays Orphan Policy

- 2.1 As a result of deconsolidating Palomino, it is our expectation that Palomino will become an "Orphan Entity" since it will not be consolidated by either Barclays or any other party, including RenTec and Badger.
- 2.2 The Barclays Group's "Orphan Policy" requires that the accounting status and proposed accounting treatment have been confirmed by Barclays Finance and PwC unless the cluster FD determines that the risk presented by the creation of an "Orphan Entity" does not warrant this. As stated above in Section 1.1, BarCap Finance and PwC have agreed the Barclays accounting analysis in this case.
- 2.3 The Barclays Group's "Orphan Policy" also requires that reasonable efforts are made to confirm with the external auditors of other parties to the transaction (who are also not consolidating the entity) that they are comfortable with the proposed accounting treatment. To the extent that this confirmation is not obtained, this should be a factor that is taken into account in determining whether the risk associated with the creation of a new orphan entity, in this case Palomino, is acceptable.



2.4 In this particular case, the above confirmation has not been sought from RenTec's auditors since the relevant businesses within Barclays Capital have been able to get comfortable with the risk presented by the creation of Palomino as an orphan for the following reasons:

- In the context of previous call options entered into between Badger and Barclays NY including two new options entered into as recently as 5 June 2009 and as part of the proposed amendments summarised above, Badger (the general partner of which is RenTec) has represented to Barclays in each applicable "Interagency Letter" that, as an investment company, it does not believe that FIN 46-R is applicable to it. Accordingly, it is not necessary for them to consider whether they are required to consolidate Palomino or not under FIN 46-R of US GAAP.
- Palomino was previously consolidated by Barclays and the proposed amendments have been initiated by Barclays rather than the client and should not therefore give rise to concerns that the client is seeking to create an orphan. In the Interagency Letter to be delivered as part of the proposed amendments summarised above, Badger and RenTec have also represented to Barclays that they have considered the impact of the proposed transactions and determined that their current accounting treatment and disclosure in their financial statements in relation to existing transactions between Badger, Barclays, Palomino and RenTec remains the same.
- RenTec have verbally confirmed that whilst audited accounts are prepared for RenTec and Badger, these are not publicly available. Hence, there is no material risk that a reader of their financial statements, especially given that RenTec is a privately held company, will be seeking to rely on such financial statements for any purpose.
- Finally, SCM and Prime Brokerage have verbally informed RenTec and Badger that Barclays do not intend to consolidate Palomino under IFRS.

2.5 Taking into account the above reasons, SCM and Prime Brokerage consider that it is not necessary to seek additional confirmation from Badger or RenTec's auditors that neither entity will be consolidating Palomino further to the proposed amendments summarised above.

June 26, 2009

Mr. Martin Malloy  
Managing Director  
Barclays Bank PLC, New York Branch  
745 7th Avenue, 6th Floor  
New York, NY 10019

Re: Palomino Limited

Dear Martin:

We refer to our recent discussions regarding (i) the Investment Management Agreement (the "Investment Management Agreement"), effective as of October 1, 2004, as amended and restated with effect on June 13, 2008, between Palomino Limited ("Palomino") and Renaissance Technologies LLC ("Renaissance"), as amended, restated or supplemented from time to time, and the transactions contemplated therein (the "IMA Transactions"); (ii) the ISDA Master Agreement (the "Badger Master Agreement"), dated as of October 1, 2004, between Barclays Bank PLC ("Barclays") and Badger Holdings L.P. ("Badger"), the confirmations executed by Barclays and Badger in connection therewith, each as amended, restated or supplemented from time to time, and the transactions contemplated therein (the "Badger Transactions"); and (iii) the ISDA Master Agreement (the "Palomino Master Agreement"), dated as of September 30, 2002, between Barclays and Palomino, the confirmations executed by Barclays and Palomino in connection therewith, each as amended, restated or supplemented from time to time, and the transactions contemplated therein (the "Palomino Transactions"), and together with the IMA Transactions and the Badger Transactions, the "Transactions". Capitalized terms used herein but not defined herein shall have the meanings ascribed to such terms in the Investment Management Agreement, and, if not defined therein, in the Badger Master Agreement, and, if not defined therein, in the Palomino Master Agreement.

You have advised us that certain amendments (the "Amendments") to the Amended and Restated Memorandum and Articles of Association (the "Memorandum and Articles of Association") of Palomino have been executed as of the date hereof, a copy of which is attached hereto as Exhibit A.

In connection with the execution of such Amendments, Barclays hereby (i) represents and warrants as of the date hereof to each of Badger and Palomino, respectively, that each representation and warranty made by Barclays to Badger and Palomino, as the case may be,

Permanent Subcommittee on Investigations

EXHIBIT #55



in respect of the Transactions under the Badger Master Agreement and the Palomino Master Agreement, respectively, are true and correct as of the date hereof and (ii) covenants as of the date hereof to each of Badger and Palomino, respectively, that it shall continue to perform each covenant owed by it, as the case may be, under the Badger Master Agreement and the Palomino Master Agreement, respectively.

In connection with the execution of such Amendments, Palomino hereby (i) represents and warrants as of the date hereof to each of Renaissance and Barclays, respectively, that each representation and warranty made by Palomino to Renaissance and Barclays, as the case may be, in respect of the Transactions under the Investment Management Agreement and the Palomino Master Agreement, respectively, are true and correct as of the date hereof and (ii) covenants as of the date hereof to each of Renaissance and Barclays, respectively, that it shall continue to perform each covenant owed by it, as the case may be, under the Investment Management Agreement and the Palomino Master Agreement, respectively.

Barclays hereby confirms to Renaissance that the Amendments are not intended to and shall not be used by Barclays or its affiliates to restrict the rights or powers of Palomino in respect of any Transaction under the Investment Management Agreement to (i) reject any purchase or sale of securities designated for execution by Renaissance under the Investment Management Agreement; (ii) in the case of a sale rejected by Palomino, continue to own such securities; or (iii) sell any securities that it may own under the Investment Management Agreement without direction from Renaissance.

Barclays hereby further covenants to Renaissance that it shall not make any amendments or modifications to the Memorandum and Articles of Association of Palomino after the date hereof without first obtaining the prior written consent thereto of Renaissance; provided that the Investment Management Agreement has not been terminated by either Palomino or Renaissance.

If you acknowledge the foregoing, please sign and return one copy of this letter, which will constitute your confirmation with respect to the subject matter hereof.

Very truly yours,

RENAISSANCE TECHNOLOGIES LLC

By:

  
Name: Mark S. Lee  
Title: Executive Vice President

Page 3

Acknowledged and Confirmed  
this 26th day of June 2009:

**BARCLAYS BANK PLC, NEW YORK BRANCH**

By: \_\_\_\_\_  
Name:  
Title:

Page 4

Acknowledged and Confirmed  
this 26th day of June 2009:

**PALOMINO LIMITED**

By: \_\_\_\_\_  
Name:  
Title:




Page 5

Acknowledged and Confirmed  
this 26th day of June 2009:

BADGER HOLDINGS L.P.

BY: RENAISSANCE TECHNOLOGIES LLC  
AS Sole Manager/Partner

By:

  
Name: MARK SILSBY  
Title: EXECUTIVE VICE PRESIDENT

June 26, 2009

Mr. Martin Malloy  
Managing Director  
Barclays Bank PLC, New York Branch  
745 7th Avenue, 6th Floor  
New York, NY 10019

Re: Palomino Limited

Dear Martin

We refer to our recent discussions regarding (i) the Investment Management Agreement (the "Investment Management Agreement"), effective as of October 1, 2004, as amended and restated with effect on June 13, 2008, between Palomino Limited ("Palomino") and Renaissance Technologies LLC ("Renaissance"), as amended, restated or supplemented from time to time, and the transactions contemplated therein (the "IMA Transactions"); (ii) the ISDA Master Agreement (the "Badger Master Agreement"), dated as of October 1, 2006, between Barclays Bank PLC ("Barclays") and Badger Holdings L.P. ("Badger"), the confirmations executed by Barclays and Badger in connection therewith, each as amended, restated or supplemented from time to time, and the transactions contemplated therein (the "Badger Transactions"); and (iii) the ISDA Master Agreement (the "Palomino Master Agreement"), dated as of September 30, 2002, between Barclays and Palomino, the confirmations executed by Barclays and Palomino in connection therewith, each as amended, restated or supplemented from time to time, and the transactions contemplated therein (the "Palomino Transactions"), and together with the IMA Transactions and the Badger Transactions, the "Transactions"). Capitalized terms used herein but not defined herein shall have the meanings ascribed to such terms in the Investment Management Agreement, and, if not defined therein, in the Badger Master Agreement, and, if not defined therein, in the Palomino Master Agreement.

You have advised us that certain amendments (the "Amendments") to the Amended and Restated Memorandum and Articles of Association (the "Memorandum and Articles of Association") of Palomino have been executed as of the date hereof, a copy of which is attached hereto as Exhibit A.

In connection with the execution of such Amendments, Barclays hereby (i) represents and warrants as of the date hereof to each of Badger and Palomino, respectively, that each representation and warranty made by Barclays to Badger and Palomino, as the case may be,

in respect of the Transactions under the Badger Master Agreement and the Palomino Master Agreement, respectively, are true and correct as of the date hereof and (ii) covenants as of the date hereof to each of Badger and Palomino, respectively, that it shall continue to perform each covenant owed by it, as the case may be, under the Badger Master Agreement and the Palomino Master Agreement, respectively.

In connection with the execution of such Amendments, Palomino hereby (i) represents and warrants as of the date hereof to each of Renaissance and Barclays, respectively, that each representation and warranty made by Palomino to Renaissance and Barclays, as the case may be, in respect of the Transactions under the Investment Management Agreement and the Palomino Master Agreement, respectively, are true and correct as of the date hereof and (ii) covenants as of the date hereof to each of Renaissance and Barclays, respectively, that it shall continue to perform each covenant owed by it, as the case may be, under the Investment Management Agreement and the Palomino Master Agreement, respectively.

Barclays hereby confirms to Renaissance that the Amendments are not intended to and shall not be used by Barclays or its affiliates to restrict the rights or powers of Palomino in respect of any Transaction under the Investment Management Agreement to (i) reject any purchase or sale of securities designated for execution by Renaissance under the Investment Management Agreement; (ii) in the case of a sale rejected by Palomino, continue to own such securities; or (iii) sell any securities that it may own under the Investment Management Agreement without direction from Renaissance.

Barclays hereby further covenants to Renaissance that it shall not make any amendments or modifications to the Memorandum and Articles of Association of Palomino after the date hereof without first obtaining the prior written consent thereto of Renaissance; provided that the Investment Management Agreement has not been terminated by either Palomino or Renaissance.

If you acknowledge the foregoing, please sign and return one copy of this letter, which will constitute your confirmation with respect to the subject matter hereof.

Very truly yours,

RENAISSANCE TECHNOLOGIES LLC

By:

.....  
Name: Mark Silber  
Title: Vice President

Page 5

Acknowledged and Confirmed:  
this 26th day of June 2009;

BARCLAYS BANK PLC, NEW YORK BRANCH

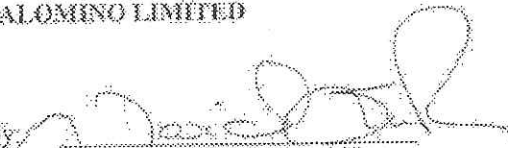
By:   
Name: *Norah Dwyer*  
Title: *Director*



Page 4

Acknowledged and Confirmed  
this 26th day of June 2009:

**PALOMINO LIMITED**

By:   
Name: DA SIMPSON  
Title: DIRECTOR

.....

Page 5

Acknowledged and Confirmed  
this 26th day of June 2009;

**BADGER HOLDINGS L.P.**

By: \_\_\_\_\_  
Name:  
Title:

Badger Holdings L.P.  
c/o Renaissance Technologies LLC  
800 Third Avenue, 33<sup>rd</sup> Floor  
New York, New York 10022

Renaissance Technologies LLC  
800 Third Avenue, 33<sup>rd</sup> Floor  
New York, New York 10022

Attention: Mr. Mark Silber

26 June 2009

Dear Sirs,

We refer to the letter agreement dated on or around the date of this letter between ourselves, yourselves and Palomino Limited ("Palomino") in connection with the proposed amendments to the Memorandum and Articles of Association of Palomino (the "Agreement").

We represent to you that:

- a) we and our affiliates are not entering into the Agreement and the transactions referred to therein for the purpose of achieving a financial statement objective that could be construed as materially misrepresenting the financial condition of us or that of any affiliate;
- b) the transactions referred to in the Agreement will be accounted for in our group consolidated financial statements in conformity with International Financial Reporting Standards ("IFRS");
- c) the transactions referred to in the Agreement will be disclosed in our group consolidated financial statements and otherwise as and to the extent necessary to comply with IFRS and all applicable laws; and
- d) the transactions referred to in the Agreement have been reviewed and approved by appropriate personnel in accordance with our internal review and approval procedure.

You represent to us that:


- a) you and your affiliates are not entering into the Agreement for the purpose of achieving a financial statement objective that could be construed as materially misrepresenting the financial condition of you or that of any affiliate;
- b) your financial statements are prepared in conformity with accounting principles generally accepted in the United States of America ("US GAAP");
- c) you have considered the impact of the transactions referred to in the Agreement and concluded that they do not impact your current accounting treatment of and disclosures in relation to existing transactions between ourselves, yourselves and Palomino under US GAAP in your financial statements;
- d) as each of you is deemed to be an "investment company" as that term is defined in the AICPA Audit and Accounting Guide for Investment Companies, you do not believe that FASB Interpretation No. 46 (revised December 2003), "Consolidation of Variable Interest Entities", as amended by FASB Staff Position No. FIN 46(R)-7, "Application of FASB Interpretation No. 46(R) to Investment Companies" is applicable to you; and
- e) the transactions referred to in the Agreement have been reviewed and approved by appropriate personnel in accordance with your internal review and approval procedure.


This letter shall be governed by and shall be construed in accordance with the laws of the State of New York.

Yours sincerely,

For and on behalf of Barclays Bank PLC, NY Branch

We hereby acknowledge receipt of and agree to the terms of this letter.

  
For and behalf of Badger Holdings L.P.

  
For and behalf of Renaissance Technologies LLC



**THE COMPANIES LAW (AS AMENDED)**  
**COMPANY LIMITED BY SHARES**  
**AMENDED AND RESTATED MEMORANDUM AND ARTICLES**  
**OF ASSOCIATION**  
**OF**  
**PALOMINO LIMITED**  
**(ADOPTED PURSUANT TO SPECIAL RESOLUTION DATED 26 JUNE 2009)**



Walker House, 87 Mary Street, George Town  
Grand Cayman KY1-9001, Cayman Islands  
T 345 949 0100 F 345 949 7886 www.walkersglobal.com

**REF:LMJ/jjp/L01855**

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**Permanent Subcommittee on Investigations**

**EXHIBIT #57**

THE COMPANIES LAW (AS AMENDED)

COMPANY LIMITED BY SHARES

**AMENDED AND RESTATED MEMORANDUM OF ASSOCIATION**

OF

**PALOMINO LIMITED**

**(ADOPTED PURSUANT TO SPECIAL RESOLUTION DATED 26 JUNE 2009)**

1. The name of the Company is Palomino Limited.
2. The Registered Office of the Company will be situated at the offices of **Walkers Corporate Services Limited, Walker House, 87 Mary Street, George Town, Grand Cayman, KY1-9002 Cayman Islands** or at such other location as the Directors may from time to time determine.
3. The objects for which the Company is established are, subject to the provisions of the Company's Articles of Association, unrestricted and the Company shall have full power and authority to carry out any object not prohibited by any law as provided by Section 7(4) of The Companies Law.
4. The Company shall have and be capable of exercising all the functions of a natural person of full capacity irrespective of any question of corporate benefit as provided by Section 27(2) of the Companies Law.
5. Nothing in the preceding sections shall be deemed to permit the Company to carry on the business of a Bank or Trust Company without being licensed in that behalf under the provisions of the Banks and Trust Companies Law (2001 Revision), or to carry on Insurance Business from within the Cayman Islands or the business of an Insurance Manager, Agent, Sub-agent or Broker without being licensed in that behalf under the provisions of the Insurance Law (2001 Revision), or to carry on the business of Company Management without being licensed in that behalf under the provisions of the Companies Management Law (2001 Revision).
6. The Company will not trade in the Cayman Islands with any person, firm or corporation except in furtherance of the business of the Company carried on outside the Cayman Islands; provided that nothing in this section shall be construed as to prevent the Company effecting and concluding contracts in the Cayman Islands, and exercising in the Cayman Islands all of its powers necessary for the carrying on of its business outside the Cayman Islands.
7. The liability of the Members is limited to the amount, if any, unpaid on the shares respectively held by them.
8. The capital of the Company is **US\$10,000,000,000.00** divided into **10,000,000,000** shares of a nominal or par value of **US\$1.00** each provided always that, subject to the Companies Law and the Company's Articles of Association, the Company shall have the power to redeem or purchase any of its shares and to sub-divide or consolidate the said shares or any of them and to issue all or any part of its capital whether original, redeemed, increased or reduced with or without any preference, priority, special privilege or other rights or subject to any postponement of rights or to any conditions or restrictions whatsoever and so that unless the conditions of issue shall otherwise expressly provide every issue of shares whether stated to be ordinary preference or otherwise shall be subject to the powers on the part of the Company hereinbefore provided.
9. The Company may exercise the power contained in the Companies Law to deregister in the Cayman Islands and be registered by way of continuation in some other jurisdiction.

CERTIFIED TO BE A TRUE AND CORRECT COPY

SIG. \_\_\_\_\_

**D. EVADNE EBANKS**  
Assistant Registrar

Date. 30 June 2009



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THE COMPANIES LAW (AS AMENDED)

COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

OF

PALOMINO LIMITED

TABLE A

The Regulations contained or incorporated in Table 'A' in the First Schedule of the Companies Law shall not apply to Palomino Limited (the "**Company**") and the following Articles shall comprise the Articles of Association of the Company.

INTERPRETATION

1. In these Articles, the following defined terms will have the meanings ascribed to them, if not inconsistent with the subject or context:

"**Barclays Bank PLC**" means Barclays Bank PLC, a public limited company incorporated in England and Wales (with registered number 01026167) whose registered address is 1 Churchill Place, London E14 5HP, United Kingdom;

"**Barclays Deposits**" means cash deposits made with Barclays Bank PLC;

"**Barclays Group**" means Barclays Bank PLC and any entity which is wholly owned by Barclays Bank PLC, whether directly or indirectly;

"**Companies Law**" means the Companies Law (as amended) of the Cayman Islands;

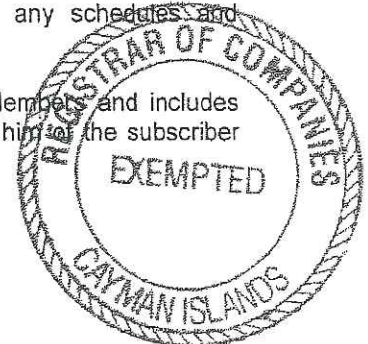
"**Directors**" and "Board of Directors" means the Directors of the Company for the time being, or as the case may be, the directors assembled as a Board or as a committee thereof;

"**Eligible Assets**" means Barclays Deposits and/or debt issued by a sovereign body carrying a senior unsecured long term rating equal to the highest rating available from a recognised rating agency;

"**Investment Management Agreement**" means an agreement to which the Company is a party under which a third party provides investment management services for the benefit of the Company;

"**ISDA Agreement**" means an agreement in the form prescribed by the International Swaps and Derivatives Association Inc. as an ISDA Master Agreement, including any schedules and confirmations thereto;

"**Member**" means a person whose name is entered in the Register of Members and includes each subscriber to the Memorandum of Association pending the issue to him of the subscriber share or shares;



**"Memorandum of Association"** means the memorandum of association of the Company, as amended and re-stated from time to time;

**"Office"** means the registered office of the Company as required by the Companies Law;

**"Ordinary Resolution"** means a resolution:

- (a) passed by a simple majority of such Members as, being entitled to do so, vote in person or, where proxies are allowed, by proxy at a general meeting of the Company and where a poll is taken regard shall be had in computing a majority to the number of votes to which each Member is entitled; or
- (b) approved in writing by all of the Members entitled to vote at a general meeting of the Company in one or more instruments each signed by one or more of the Members and the effective date of the resolution so adopted shall be the date on which the instrument, or the last of such instruments, if more than one, is executed;

**"paid up"** means paid up as to the par value in respect of the issue of any shares and includes credited as paid up;

**"PB Accounts"** means prime brokerage accounts in the name of the Company held with any member of the Barclays Group and opened pursuant to PB Agreements entered into between the Company and any member of the Barclays Group;

**"PB Agreement"** means a prime brokerage agreement between any member of the Barclays Group and the Company pursuant to which such member of the Barclays Group provides prime brokerage services for the benefit of the Company;

**"Register of Members"** means the register to be kept by the Company in accordance with the Companies Law;

**"Renaissance Technologies, LLC"** means Renaissance Technologies, LLC, a limited liability company formed under the laws of the State of Delaware, United States of America;

**"Seal"** means the Common Seal of the Company (if adopted) including any facsimile thereof;

**"share"** means any share in the capital of the Company, including a fraction of any share;

**"signed"** includes a signature or representation of a signature affixed by mechanical means; and

**"Special Resolution"** means a resolution passed in accordance with Section 60 of the Companies Law, being a resolution:

- (a) passed by a majority of not less than two-thirds of such Members as, being entitled to do so, at a general meeting of the Company of which notice specifying the intention to propose the resolution as a Special Resolution has been duly given and where a poll is taken regard shall be had in computing a majority to the number of votes to which each Member is entitled; or
- (b) approved in writing by all of the Members entitled to vote at a general meeting of the Company in one or more instruments each signed by one or more of the Members and the effective date of the Special Resolution so adopted shall be the date on which the instrument or the last of such instruments if more than one, is executed.

2. In these Articles, save where the context requires otherwise:

- (a) words importing the singular number shall include the plural number and vice versa;



- (b) words importing the masculine gender only shall include the feminine gender;
  - (c) words importing persons only shall include companies or associations or bodies of persons, whether corporate or not;
  - (d) "may" shall be construed as permissive and "shall" shall be construed as imperative;
  - (e) references to a "dollar" or "dollars" or \$ is a reference to dollars of the United States;
  - (f) references to a statutory enactment shall include reference to any amendment or re-enactment thereof for the time being in force;
  - (g) reference to any determination by the Directors shall be construed as a determination by the Directors in their sole and absolute discretion and shall be applicable either generally or in any particular case; and
  - (h) reference to "in writing" shall be construed as written or represented by any means reproducible in writing, including any form of print, lithograph, email, facsimile, photograph or telex or represented by any other substitute or format for storage or transmission for writing or partly one and partly another.
3. Subject to the last two preceding Articles, any words defined in the Companies Law shall, if not inconsistent with the subject or context, bear the same meaning in these Articles.

#### PRELIMINARY

4. The business of the Company may be commenced at any time after incorporation.
5. The Office shall be at such address in the Cayman Islands as the Directors may from time to time determine. The Company may in addition establish and maintain such other offices and places of business and agencies in such places in the United Kingdom as the Directors may from time to time determine.

#### PERMITTED ACTIVITIES

6. The Company may not enter into any transactions other than the following:
- (a) entering into an Investment Management Agreement with Renaissance Technologies, LLC, or any affiliate thereof, and any transactions permitted under the terms of any such Investment Management Agreement;
  - (b) entering into PB Agreements and any transactions permitted under the terms of any such PB Agreements;
  - (c) opening PB Accounts pursuant to PB Agreements and entering into transactions directly related to the activities conducted with respect to the PB Accounts;
  - (d) entering into one or more ISDA Agreements with Barclays Bank PLC;
  - (e) entering into option transactions pursuant to ISDA Agreements with Barclays Bank PLC; and
  - (f) investing in Eligible Assets other than pursuant to the terms of any Investment Management Agreement.

## SHARES

7. Subject as otherwise provided in these Articles, all shares for the time being and from time to time unissued shall be under the control of the Directors, and may be re-designated, allotted or disposed of in such manner, to such persons and on such terms as the Directors in their absolute discretion may think fit.
8. The Company may, insofar as may be permitted by law, pay a commission to any person in consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally for any shares. Such commissions may be satisfied by the payment of cash or the lodgement of fully or partly paid-up shares or partly in one way and partly in the other. The Company may also on any issue of shares pay such brokerage as may be lawful.

## VARIATION OF RIGHTS ATTACHING TO SHARES

9. If at any time the share capital is divided into different classes of shares, the rights attaching to any class (unless otherwise provided by the terms of issue of the shares of that class) may be varied or abrogated with the consent in writing of the holders of two-thirds of the issued shares of that class, or with the sanction of a resolution passed by at least a two-thirds majority of the holders of shares of the class at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these Articles relating to general meetings of the Company shall mutatis mutandis apply, but so that the necessary quorum shall be at least an entity holding or representing at least one-third of the issued shares of the class and that any holder of shares of the class may demand a poll.
10. The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied or abrogated by the creation or issue of further shares ranking *pari passu* therewith or the redemption or purchase of shares of any class by the Company.

## CERTIFICATES

11. Every person whose name is entered as a member in the Register of Members shall, without payment, be entitled to a certificate in the form determined by the Directors. Such certificate may be under the Seal. All certificates shall specify the share or shares held by that person and the amount paid up thereon, provided that in respect of a share or shares held jointly by several persons the Company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all. All certificates surrendered to the Company for transfer shall be cancelled and no new certificates shall be issued until the former certificate for a like number of shares shall have been surrendered or cancelled.
12. If a share certificate is defaced, lost or destroyed it may be renewed on such terms, if any, as to evidence and indemnity as the Directors think fit.

## FRACTIONAL SHARES

13. The Directors may issue fractions of a share of any class of shares, and, if so issued, a fraction of a share (calculated to three decimal points) shall be subject to and carry the corresponding fraction of liabilities (whether with respect to any unpaid amount thereon, contribution, calls or otherwise), limitations, preferences, privileges, qualifications, restrictions, rights (including,



without limitation, voting and participation rights) and other attributes of a whole share of the same class of shares.

#### LIEN

14. The Company shall have a first priority lien and charge on every partly paid share for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the Company shall also have a first priority lien and charge on all partly paid shares standing registered in the name of a Member (whether held solely or jointly with another person) for all moneys presently payable by him or his estate to the Company, but the Directors may at any time declare any share to be wholly or in part exempt from the provisions of this Article. The Company's lien, if any, on a share shall extend to all distributions payable thereon.
15. The Company may sell, in such manner as the Directors may determine, any shares on which the Company has a lien, but no sale shall be made unless an amount in respect of which the lien exists is presently payable nor until the expiration of fourteen days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the persons entitled thereto by reason of his death or bankruptcy.
16. For giving effect to any such sale the Directors may authorise some person to transfer the shares sold to the purchaser thereof. The purchaser shall be registered as the holder of the shares comprised in any such transfer and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.
17. The proceeds of the sale after deduction of expenses, fees and commission incurred by the Company shall be received by the Company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale.

#### CALLS ON SHARES

18. The Directors may from time to time make calls upon the Members in respect of any moneys unpaid on their partly paid shares, and each Member shall (subject to receiving at least fourteen days' notice specifying the time or times of payment) pay to the Company at the time or times so specified the amount called on such shares.
19. The joint holders of a share shall be jointly and severally liable to pay calls in respect thereof.
20. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of eight percentum per annum from the day appointed for the payment thereof to the time of the actual payment, but the Directors shall be at liberty to waive payment of that interest wholly or in part.
21. The provisions of these Articles as to the liability of joint holders and as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.
22. The Directors may make arrangements on the issue of partly paid shares for a difference between the Members, or the particular shares, in the amount of calls to be paid and in the times of payment.



23. The Directors may, if they think fit, receive from any Member willing to advance the same all or any part of the moneys uncalled and unpaid upon any partly paid shares held by him, and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding without the sanction of an Ordinary Resolution, eight percent. per annum) as may be agreed upon between the Member paying the sum in advance and the Directors.

#### FORFEITURE OF SHARES

24. If a Member fails to pay any call or instalment of a call in respect of partly paid shares on the day appointed for payment, the Directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.
25. The notice shall name a further day (not earlier than the expiration of 14 days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.
26. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by notice has been made, be forfeited by a resolution of the Directors to that effect.
27. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the Directors think fit.
28. A person whose shares have been forfeited shall cease to be a Member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the Company all moneys which at the date of forfeiture were payable by him to the Company in respect of the shares forfeited, but his liability shall cease if and when the Company receives payment in full of the amount unpaid on the shares forfeited.
29. A statutory declaration in writing that the declarant is a Director, and that a share has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts in the declaration as against all persons claiming to be entitled to the share.
30. The Company may receive the consideration, if any, given for a share on any sale or disposition thereof pursuant to the provisions of these Articles as to forfeiture and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of and that person shall be registered as the holder of the share, and shall not be bound to see to the application of the purchase money, if any, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the disposition or sale.
31. The provisions of these Articles as to forfeiture shall apply in the case of non-payment of any sum which by the terms of issue of a share becomes due and payable, whether on account of the amount of the share, or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

#### TRANSFER OF SHARES

32. The instrument of transfer of any share shall be in any usual or common form or such other form as the Directors may, in their absolute discretion, approve and be executed by or on behalf of the transferor and if in respect of a nil or partly paid up share, or if so required by the Directors, shall also be executed on behalf of the transferee and shall be accompanied by the certificate (if any)

of the shares to which it relates and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer. The transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the Register of Members in respect thereof.

33. The Directors may in their absolute discretion decline to register any transfer of shares without assigning any reason therefor. If the Directors refuse to register a transfer of any shares, they shall within two months after the date on which the transfer was lodged with the Company send to the transferee notice of the refusal.
34. The registration of transfers may be suspended at such times and for such periods as the Directors may, in their absolute discretion, from time to time determine, provided always that such registration shall not be suspended for more than 45 days in any year.
35. All instruments of transfer which are registered shall be retained by the Company, but any instrument of transfer which the Directors decline to register shall (except in any case of fraud) be returned to the person depositing the same.

#### **TRANSMISSION OF SHARES**

36. The legal personal representative of a deceased sole holder of a share shall be the only person recognised by the Company as having any title to the share. In the case of a share registered in the name of two or more holders, the survivors or survivor, or the legal personal representatives of the deceased survivor, shall be the only person recognised by the Company as having any title to the share.
37. Any person becoming entitled to a share in consequence of the death or bankruptcy of a Member shall upon such evidence being produced as may from time to time be required by the Directors, have the right either to be registered as a Member in respect of the share or, instead of being registered himself, to make such transfer of the share as the deceased or bankrupt person could have made; but the Directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or bankrupt person before the death or bankruptcy.
38. A person becoming entitled to a share by reason of the death or bankruptcy of a Member shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered Member, except that he shall not, before being registered as a Member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the Company.

#### **ALTERATION OF SHARE CAPITAL**

39. The Company may from time to time by Ordinary Resolution increase the share capital by such sum, to be divided into shares of such Classes and amount, as the resolution shall prescribe.
40. The Company may by Ordinary Resolution:
  - (a) consolidate and divide all or any of its share capital into shares of a larger amount than its existing shares;
  - (b) convert all or any of its paid up shares into stock and reconvert that stock into paid up shares of any denomination;
  - (c) subdivide its existing shares, or any of them into shares of a smaller amount provided that in the subdivision the proportion between the amount paid and the amount, if any,



unpaid on each reduced share shall be the same as it was in case of the share from which the reduced share is derived; and

- (d) cancel any shares that, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person and diminish the amount of its share capital by the amount of the shares so cancelled.

- 41. The Company may by Special Resolution reduce its share capital and any capital redemption reserve in any manner authorised by law.

#### **REDEMPTION AND PURCHASE OF SHARES**

- 42. Subject to the provisions of the Companies Law, the Company may:
  - (a) issue shares on terms that they are to be redeemed or are liable to be redeemed at the option of the Company or the Member on such terms and in such manner as the Directors may, before the issue of such shares, determine;
  - (b) purchase its own shares (including any redeemable shares) on such terms and in such manner as the Directors may determine and agree with the Member; and
  - (c) make a payment in respect of the redemption or purchase of its own shares otherwise than out of profits or the proceeds of a fresh issue of shares.
- 43. Any share in respect of which notice of redemption has been given shall not be entitled to participate in the profits of the Company in respect of the period after the date specified as the date of redemption in the notice of redemption.
- 44. The redemption or purchase of any share shall not be deemed to give rise to the redemption or purchase of any other share.
- 45. The Directors may when making payments in respect of the redemption or purchase of shares, if authorised by the terms of issue of the shares being redeemed or purchased or with the agreement of the holder of such shares, make such payment either in cash or in specie.

#### **CLOSING REGISTER OF MEMBERS OR FIXING RECORD DATE**

- 46. For the purpose of determining those Members that are entitled to receive notice of, attend or vote at any meeting of Members or any adjournment thereof, or those Members that are entitled to receive payment of any dividend, or in order to make a determination as to who is a Member for any other purpose, the Directors may provide that the Register of Members shall be closed for transfers for a stated period which shall not exceed in any case 40 days. If the Register of Members shall be so closed for the purpose of determining those Members that are entitled to receive notice of, attend or vote at a meeting of Members the register shall be so closed for at least 10 days immediately preceding such meeting and the record date for such determination shall be the date of the closure of the Register of Members.
- 47. In lieu of or apart from closing the Register of Members, the Directors may fix in advance a date as the record date for any such determination of those Members that are entitled to receive notice of, attend or vote at a meeting of the Members and for the purpose of determining those Members that are entitled to receive payment of any dividend the Directors may, at or within 90 days prior to the date of declaration of such dividend fix a subsequent date as the record date for such determination.



48. If the Register of Members is not so closed and no record date is fixed for the determination of those Members entitled to receive notice of, attend or vote at a meeting of Members or those Members that are entitled to receive payment of a dividend, the date on which notice of the meeting is posted or the date on which the resolution of the Directors declaring such dividend is adopted, as the case may be, shall be the record date for such determination of Members. When a determination of those Members that are entitled to receive notice of, attend or vote at a meeting of Members has been made as provided in this Article, such determination shall apply to any adjournment thereof.

#### **GENERAL MEETINGS**

49. The Directors may, whenever they think fit, convene a general meeting of the Company. All general meetings shall be held in the United Kingdom.
50. General meetings shall also be convened on the requisition in writing of any Member or Members entitled to attend and vote at general meetings of the Company who hold not less than 10 per cent of the paid up voting share capital of the Company deposited at the Office specifying the objects of the meeting for a date no later than 21 days from the date of deposit of the requisition signed by the requisitionists, and if the Directors do not convene such meeting for a date not later than 45 days after the date of such deposit, the requisitionists themselves may convene the general meeting in the same manner, as nearly as possible, as that in which general meetings may be convened by the Directors, and all reasonable expenses incurred by the requisitionists as a result of the failure of the Directors to convene the general meeting shall be reimbursed to them by the Company.
51. If at any time there are no Directors, any two Members (or if there is only one Member then that Member) entitled to vote at general meetings of the Company may convene a general meeting in the same manner as nearly as possible as that in which general meetings may be convened by the Directors.

#### **NOTICE OF GENERAL MEETINGS**

52. At least seven days' notice in writing counting from the date service is deemed to take place as provided in these Articles specifying the place, the day and the hour of the meeting and, in case of special business, the general nature of that business, shall be given in the manner hereinafter provided or in such other manner (if any) as may be prescribed by the Company by Ordinary Resolution to such persons as are, under these Articles, entitled to receive such notices from the Company, but with the consent of all the Members entitled to receive notice of some particular meeting and attend and vote thereat, that meeting may be convened by such shorter notice or without notice and in such manner as those Members may think fit.
53. The accidental omission to give notice of a meeting to or the non-receipt of a notice of a meeting by any Member shall not invalidate the proceedings at any meeting.

#### **PROCEEDINGS AT GENERAL MEETINGS**

54. All business carried out at a general meeting shall be deemed special with the exception of sanctioning a dividend, the consideration of the accounts, balance sheets, any report of the Directors or of the Company's auditors, the appointment and removal of Directors and the fixing of the remuneration of the Company's auditors. No special business shall be transacted at any general meeting without the consent of all Members entitled to receive notice of that meeting unless notice of such special business has been given in the notice convening that meeting.
55. No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business. Save as otherwise provided by these

Articles, one or more Members holding at least a majority of the paid up voting share capital of the Company present in person or by proxy shall be a quorum.

56. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the Member or Members present and entitled to vote shall form a quorum.
57. If the Directors wish to make this facility available to Members for a specific or all general meetings of the Company, a Member may participate in any general meeting of the Company, by means of a telephone or similar communication equipment by way of which all persons participating in such meeting can hear each other and such participation shall be deemed to constitute presence in person at the meeting.
58. The chairman, if any, of the Directors shall preside as chairman at every general meeting of the Company.
59. If there is no such chairman, or if at any general meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the Members present shall choose any person present to be chairman of that meeting.
60. The chairman may with the consent of any general meeting at which a quorum is present (and shall if so directed by the meeting) adjourn a meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting, or adjourned meeting, is adjourned for 14 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
61. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by one or more Members present in person or by proxy entitled to vote, and unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the Company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.
62. If a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
63. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.
64. A poll demanded on the election of a chairman of the meeting or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

#### VOTES OF MEMBERS

65. Subject to any rights and restrictions for the time being attached to any share, on a show of hands every Member present in person and every person representing a Member by proxy shall, at a general meeting of the Company, each have one vote and on a poll every Member and every



person representing a Member by proxy shall have one vote for each share of which he or the person represented by proxy is the holder.

66. In the case of joint holders the vote of the senior who tenders a vote whether in person or by proxy shall be accepted to the exclusion of the votes of the other joint holders and for this purpose seniority shall be determined by the order in which the names stand in the Register.
67. A Member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, or other person in the nature of a committee appointed by that court, and any such committee or other person, may vote by proxy.
68. No Member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares carrying the right to vote held by him have been paid.
69. On a poll votes may be given either personally or by proxy.
70. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing or, if the appointor is a corporation, either under seal or under the hand of an officer or attorney duly authorised. A proxy need not be a Member.
71. An instrument appointing a proxy may be in any usual or common form or such other form as the Directors may approve.
72. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
73. A resolution in writing signed by all the Members for the time being entitled to receive notice of and to attend and vote at general meetings of the Company (or being corporations by their duly authorised representatives) shall be as valid and effective as if the same had been passed at a general meeting of the Company duly convened and held.

#### **CORPORATIONS ACTING BY REPRESENTATIVES AT MEETINGS**

74. Any corporation which is a Member or a Director may by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the Company or of any class of Members or of the Board of Directors or of a committee of Directors, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual Member or Director.

#### **DIRECTORS**

75. The name of the first Director(s) shall either be determined in writing by a majority (or in the case of a sole subscriber that subscriber) of, or elected at a meeting of, the subscribers of the Memorandum of Association.
76. The Company may by Ordinary Resolution appoint any person to be a Director.
77. Subject to the provisions of these Articles, a Director shall hold office until such time as he is removed from office by Ordinary Resolution.



78. The Company may by Ordinary Resolution from time to time fix the maximum and minimum number of Directors to be appointed but unless such numbers are fixed as aforesaid the number of Directors shall be unlimited.
79. The remuneration of the Directors may be determined by the Board of Directors or by the Company by Ordinary Resolution.
80. There shall be no shareholding qualification for Directors unless determined otherwise by the Company by Ordinary Resolution.
81. The Directors shall have power at any time and from time to time to appoint a person as a Director, either as a result of a casual vacancy or as an additional Director, subject to the maximum number (if any) imposed by the Company by Ordinary Resolution.

#### **ALTERNATE DIRECTOR OR PROXY**

82. Any Director may in writing appoint another person to be his alternate and, save to the extent provided otherwise in the form of appointment, such alternate shall have authority to sign written resolutions on behalf of the appointing Director and to act in such Director's place at any meeting of the Directors at which he is unable to be present. Every such alternate shall be entitled to attend and vote at meetings of the Directors as a Director when the Director appointing him is not personally present and where he is a Director to have a separate vote on behalf of the Director he is representing in addition to his own vote. A Director may at any time in writing revoke the appointment of an alternate appointed by him. Such alternate shall not be an officer of the Company and shall be deemed to be the agent of the Director appointing him. The remuneration of such alternate shall be payable out of the remuneration of the Director appointing him and the proportion thereof shall be agreed between them.
83. Any Director may appoint any person, whether or not a Director, to be the proxy of that Director to attend and vote on his behalf, in accordance with instructions given by that Director, or in the absence of such instructions at the discretion of the proxy, at a meeting or meetings of the Directors which that Director is unable to attend personally. The instrument appointing the proxy shall be in writing under the hand of the appointing Director and shall be in any usual or common form or such other form as the Directors may approve, and must be lodged with the chairman of the meeting of the Directors at which such proxy is to be used, or first used, prior to the commencement of the meeting.

#### **POWERS AND DUTIES OF DIRECTORS**

84. Subject to the provisions of the Companies Law, these Articles and to any resolutions made in a general meeting, the business of the Company shall be managed in the United Kingdom by the Directors, who may pay all expenses incurred in setting up and registering the Company and may exercise all powers of the Company. No resolution passed by the Company in general meeting shall invalidate any prior act of the Directors that would have been valid if that resolution had not been made.
85. The Directors may from time to time appoint any person, whether or not a Director to hold such office in the Company as the Directors may think necessary for the administration of the Company, including but not limited to, the office of president, one or more vice-presidents, treasurer, assistant treasurer, manager or controller, and for such term and at such remuneration (whether by way of salary or commission or participation in profits or partly in one way and partly in another), and with such powers and duties as the Directors may think fit. Any person so appointed by the Directors may be removed by the Directors. The Directors may also appoint one or more of their number to the office of managing director upon like terms, but any such appointment shall ipso facto determine if any managing director ceases from any cause to be a

Director, or if the Company by Ordinary Resolution resolves that his tenure of office be terminated.

86. The Directors may appoint a Secretary (and if need be an Assistant Secretary or Assistant Secretaries) who shall hold office for such term, at such remuneration and upon such conditions and with such powers as they think fit. Any Secretary or Assistant Secretary so appointed by the Directors may be removed by the Directors.
87. The Directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Directors.
88. The Directors may from time to time and at any time by power of attorney (whether under Seal or under hand) or otherwise appoint any company, firm or person or body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or attorneys or authorised signatory (any such person being an "Attorney" or "Authorised Signatory", respectively) of the Company for such purposes and with such powers, authorities and discretion (not exceeding those vested in or exercisable by the Directors under these Articles) and for such period and subject to such conditions as they may think fit, and any such power of attorney or other appointment may contain such provisions for the protection and convenience of persons dealing with any such Attorney or Authorised Signatory as the Directors may think fit, and may also authorise any such Attorney or Authorised Signatory to delegate all or any of the powers, authorities and discretion vested in him.
89. The Directors may from time to time provide for the management of the affairs of the Company in such manner as they shall think fit and the provisions contained in the three next following Articles shall not limit the general powers conferred by this Article **PROVIDED ALWAYS** that the central management and control of the Company shall be conducted in the United Kingdom.
90. The Directors from time to time and at any time may establish any committees, local boards or agencies for managing any of the affairs of the Company and may appoint any persons to be members of such committees or local boards and may appoint any managers or agents of the Company and may fix the remuneration of any such persons.
91. The Directors from time to time and at any time may delegate to any such committee, local board, manager or agent any of the powers, authorities and discretions for the time being vested in the Directors and may authorise the members for the time being of any such local board, or any of them to fill any vacancies therein and to act notwithstanding vacancies and any such appointment or delegation may be made on such terms and subject to such conditions as the Directors may think fit and the Directors may at any time remove any person so appointed and may annul or vary any such delegation, but no person dealing in good faith and without notice of any such annulment or variation shall be affected thereby.
92. Any such delegates as aforesaid may be authorised by the Directors to sub-delegate all or any of the powers, authorities, and discretion for the time being vested in them.

#### **BORROWING POWERS OF DIRECTORS**

93. Subject to Article 6, the Directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking, property and uncalled capital or any part thereof, to issue debentures, debenture stock and other securities whenever money is borrowed or as security for any debt, liability or obligation of the Company or of any third party.



## THE SEAL

94. The Seal shall not be affixed to any instrument except by the authority of a resolution of the Directors provided always that such authority may be given prior to or after the affixing of the Seal and if given after may be in general form confirming a number of affixings of the Seal. The Seal shall be affixed in the presence of a Director or a Secretary (or an Assistant Secretary) or in the presence of any one or more persons as the Directors may appoint for the purpose and every person as aforesaid shall sign every instrument to which the Seal is so affixed in their presence.
95. The Company may maintain a facsimile of the Seal in such countries or places as the Directors may appoint and such facsimile Seal shall not be affixed to any instrument except by the authority of a resolution of the Board of Directors provided always that such authority may be given prior to or after the affixing of such facsimile Seal and if given after may be in general form confirming a number of affixings of such facsimile Seal. The facsimile Seal shall be affixed in the presence of such person or persons as the Directors shall for this purpose appoint and such person or persons as aforesaid shall sign every instrument to which the facsimile Seal is so affixed in their presence and such affixing of the facsimile Seal and signing as aforesaid shall have the same meaning and effect as if the Seal had been affixed in the presence of and the instrument signed by a Director or a Secretary (or an Assistant Secretary) or in the presence of any one or more persons as the Directors may appoint for the purpose.
96. Notwithstanding the foregoing, a Secretary or any Assistant Secretary shall have the authority to affix the Seal, or the facsimile Seal, to any instrument for the purposes of attesting authenticity of the matter contained therein but which does not create any obligation binding on the Company.

## DISQUALIFICATION OF DIRECTORS

97. The office of Director shall be vacated, if the Director:
- (a) becomes bankrupt or makes any arrangement or composition with his creditors;
  - (b) dies or is found to be or becomes of unsound mind;
  - (c) resigns his office by notice in writing to the Company;
  - (d) is removed from office by Ordinary Resolution;
  - (e) is removed from office by notice addressed to him at his last known address and signed by all of his co-Directors (not being less than two in number); or
  - (f) is removed from office pursuant to any other provision of these Articles.

## PROCEEDINGS OF DIRECTORS

98. The Directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings and proceedings as they think fit **PROVIDED THAT** any such meetings must be held in the United Kingdom. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A Director may, and a Secretary or Assistant Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors.
99. A Director or Directors may participate in any meeting of the Board of Directors, or of any committee appointed by the Board of Directors of which such Director or Directors are members, by means of telephone or similar communication equipment by way of which all persons participating in such meeting can communicate with each other and such participation shall be



deemed to constitute presence in person at the meeting. Nothing in this Article shall be deemed to allow a meeting to take place outside the United Kingdom.

100. The quorum necessary for the transaction of the business of the Directors may be fixed by the Directors, and unless so fixed, if there be two or more Directors shall be two, and if there be one Director the quorum shall be one. A Director represented by proxy or by an Alternate Director at any meeting shall be deemed to be present for the purposes of determining whether or not a quorum is present.
101. A Director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Company shall declare the nature of his interest at a meeting of the Directors. A general notice given to the Directors by any Director to the effect that he is a member of any specified company or firm and is to be regarded as interested in any contract which may thereafter be made with that company or firm shall be deemed a sufficient declaration of interest in regard to any contract so made. A Director may vote in respect of any contract or proposed contract or arrangement notwithstanding that he may be interested therein and if he does so his vote shall be counted and he may be counted in the quorum at any meeting of the Directors at which any such contract or proposed contract or arrangement shall come before the meeting for consideration.
102. A Director may hold any other office or place of profit under the Company (other than the office of auditor) in conjunction with his office of Director for such period and on such terms (as to remuneration and otherwise) as the Directors may determine and no Director or intending Director shall be disqualified by his office from contracting with the Company either with regard to his tenure of any such other office or place of profit or as vendor, purchaser or otherwise, nor shall any such contract or arrangement entered into by or on behalf of the Company in which any Director is in any way interested, be liable to be avoided, nor shall any Director so contracting or being so interested be liable to account to the Company for any profit realised by any such contract or arrangement by reason of such Director holding that office or of the fiduciary relation thereby established. A Director, notwithstanding his interest, may be counted in the quorum present at any meeting of the Directors whereat he or any other Director is appointed to hold any such office or place of profit under the Company or whereat the terms of any such appointment are arranged and he may vote on any such appointment or arrangement.
103. Any Director may act by himself or his firm in a professional capacity for the Company, and he or his firm shall be entitled to remuneration for professional services as if he were not a Director; provided that nothing herein contained shall authorise a Director or his firm to act as auditor to the Company.
104. The Directors shall cause minutes to be made in books or loose-leaf folders provided for the purpose of recording:
  - (a) all appointments of officers made by the Directors;
  - (b) the names of the Directors present at each meeting of the Directors and of any committee of the Directors; and
  - (c) all resolutions and proceedings at all meetings of the Company, and of the Directors and of committees of Directors.
105. When the chairman of a meeting of the Directors signs the minutes of such meeting the same shall be deemed to have been duly held notwithstanding that all the Directors have not actually come together or that there may have been a technical defect in the proceedings unless this defect relates to requirements for meetings to be within the United Kingdom.

106. A resolution in writing signed by all the Directors or all the members of a committee of Directors entitled to receive notice of a meeting of Directors or committee of Directors as the case may be (an alternate Director, subject as provided otherwise in the terms of appointment of the alternate Director, being (i) entitled to sign such a resolution on behalf of his appointor and (ii) required to sign such resolution only in the absence of his appointor), shall be as valid and effectual as if it had been passed at a duly called and constituted meeting of the Directors or committee of Directors as the case may be. When signed a resolution may consist of several documents each signed by one or more of the Directors or his duly appointed alternate.
107. The continuing Directors may act notwithstanding any vacancy in their body but if and for so long as their number is reduced below the number fixed by or pursuant to these Articles as the necessary quorum of Directors, the continuing Directors may act for the purpose of increasing the number, or of summoning a general meeting of the Company, but for no other purpose.
108. The Directors may elect a chairman of their meetings and determine the period for which he is to hold office but if no such chairman is elected, or if at any meeting the chairman is not present within fifteen minutes after the time appointed for holding the meeting, the Directors present may choose one of their number to be chairman of the meeting.
109. A committee appointed by the Directors may elect a chairman of its meetings. If no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the meeting, the members present may choose one of their number to be chairman of the meeting.
110. A committee appointed by the Directors may meet and adjourn as it thinks proper **PROVIDED THAT** no meeting may take place outside the United Kingdom. Questions arising at any meeting shall be determined by a majority of votes of the committee members present and in case of an equality of votes the chairman shall have a second or casting vote.
111. All acts done by any meeting of the Directors or of a committee of Directors, or by any person acting as a Director, shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

#### DIVIDENDS

112. Subject to any rights and restrictions for the time being attached to any class or classes of shares, the Directors may from time to time declare dividends (including interim dividends) and other distributions on shares in issue and authorise payment of the same out of the funds of the Company lawfully available therefor.
113. Subject to any rights and restrictions for the time being attached to any class or classes of shares, the Company by Ordinary Resolution may declare dividends, but no dividend shall exceed the amount recommended by the Directors.
114. The Directors may, before recommending or declaring any dividend, set aside out of the funds legally available for distribution such sums as they think proper as a reserve or reserves which shall, in the absolute discretion of the Directors be applicable for meeting contingencies, or for equalising dividends or for any other purpose to which those funds may be properly applied and pending such application may in the absolute discretion of the Directors, either be employed in the business of the Company or, subject to Article 6, be invested in such investments as the Directors may from time to time think fit.



115. Any dividend may be paid by cheque sent through the post to the registered address of the Member or person entitled thereto, or in the case of joint holders, to any one of such joint holders at his registered address or to such person and such address as the member or person entitled, or such joint holders as the case may be, may direct. Every such cheque shall be made payable to the order of the person to whom it is sent or to the order of such other person as the Member or person entitled, or such joint holders as the case may be, may direct.
116. The Directors when paying dividends to the Members in accordance with the foregoing provisions of these Articles may make such payment either in cash or in specie.
117. Subject to any rights and restrictions for the time being attached to any class or classes of shares, all dividends shall be declared and paid according to the amounts paid up on the shares, but if and for so long as nothing is paid up on any of the shares dividends may be declared and paid according to the par value of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this Article as paid on the share.
118. If several persons are registered as joint holders of any share, any of them may give effectual receipts for any dividend or other moneys payable on or in respect of the share.
119. No dividend shall bear interest against the Company.

#### **ACCOUNTS, AUDIT AND ANNUAL RETURN AND DECLARATION**

120. The books of account relating to the Company's affairs shall be kept in such manner as may be determined from time to time by the Directors.
121. The books of account shall be kept at the registered office of the Company, or at such other place or places as the Directors think fit, and shall always be open to the inspection of the Directors.
122. The Directors may from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the Company or any of them shall be open to the inspection of Members not being Directors, and no Member (not being a Director) shall have any right of inspecting any account or book or document of the Company except as conferred by law or authorised by the Directors or by the Company by Ordinary Resolution.
123. The accounts relating to the Company's affairs shall only be audited if the Directors so determine, in which case the financial year end and the accounting principles will be determined by the Directors.
124. The Directors in each year shall prepare, or cause to be prepared, an annual return and declaration setting forth the particulars required by the Companies Law and deliver a copy thereof to the Registrar of Companies in the Cayman Islands.

#### **CAPITALISATION OF RESERVES**

125. Subject to the Companies Law, the Directors may, with the authority of an Ordinary Resolution:
  - (a) resolve to capitalise an amount standing to the credit of reserves (including a share premium account, capital redemption reserve and profit and loss account), whether or not available for distribution;
  - (b) appropriate the sum resolved to be capitalised to the Members in proportion to the nominal amount of shares (whether or not fully paid) held by them respectively and apply that sum on their behalf in or towards:



- (i) paying up the amounts (if any) for the time being unpaid on shares held by them respectively, or
- (ii) paying up in full unissued shares or debentures of a nominal amount equal to that sum,

and allot the shares or debentures, credited as fully paid, to the Members (or as they may direct) in those proportions, or partly in one way and partly in the other, but the share premium account, the capital redemption reserve and profits which are not available for distribution may, for the purposes of this Article, only be applied in paying up unissued shares to be allotted to Members credited as fully paid;

- (c) make any arrangements they think fit to resolve a difficulty arising in the distribution of a capitalised reserve and in particular, without limitation, where shares or debentures become distributable in fractions the Directors may deal with the fractions as they think fit;
- (d) authorise a person to enter (on behalf of all the Members concerned) into an agreement with the Company providing for either:
  - (i) the allotment to the Members respectively, credited as fully paid, of shares or debentures to which they may be entitled on the capitalisation, or
  - (ii) the payment by the Company on behalf of the Members (by the application of their respective proportions of the reserves resolved to be capitalised) of the amounts or part of the amounts remaining unpaid on their existing shares,

and any such agreement made under this authority being effective and binding on all those Members; and

- (e) generally do all acts and things required to give effect to the resolution.

#### SHARE PREMIUM ACCOUNT

- 126. The Directors shall in accordance with the Companies Law establish a share premium account and shall carry to the credit of such account from time to time a sum equal to the amount or value of the premium paid on the issue of any share.
- 127. There shall be debited to any share premium account on the redemption or purchase of a share the difference between the nominal value of such share and the redemption or purchase price provided always that at the discretion of the Directors such sum may be paid out of the profits of the Company or, if permitted by the Companies Law, out of capital.

#### NOTICES

- 128. Any notice or document may be served by the Company or by the person entitled to give notice to any Member either personally, or by posting it airmail or air courier service in a prepaid letter addressed to such Member at his address as appearing in the Register, or by electronic mail to any electronic mail address such Member may have specified in writing for the purpose of such service of notices, or by cable, telex or facsimile should the Directors deem it appropriate. In the case of joint holders of a share, all notices shall be given to that one of the joint holders whose name stands first in the Register in respect of the joint holding, and notice so given shall be sufficient notice to all the joint holders.

129. Any Member present, either personally or by proxy, at any meeting of the Company shall for all purposes be deemed to have received due notice of such meeting and, where requisite, of the purposes for which such meeting was convened.
130. Any notice or other document, if served by (a) post, shall be deemed to have been served five days after the time when the letter containing the same is posted, or (b) facsimile, shall be deemed to have been served upon production by the transmitting facsimile machine of a report confirming transmission of the facsimile in full to the facsimile number of the recipient, or (c) recognised courier service, shall be deemed to have been served 48 hours after the time when the letter containing the same is delivered to the courier service, or (d) electronic mail, shall be deemed to have been served immediately upon the time of the transmission by electronic mail. In proving service by post or courier service it shall be sufficient to prove that the letter containing the notice or documents was properly addressed and duly posted or delivered to the courier service.
131. Any notice or document delivered or sent by post to or left at the registered address of any Member in accordance with the terms of these Articles shall notwithstanding that such Member be then dead or bankrupt, and whether or not the Company has notice of his death or bankruptcy, be deemed to have been duly served in respect of any share registered in the name of such Member as sole or joint holder, unless his name shall at the time of the service of the notice or document, have been removed from the Register of Members as the holder of the share, and such service shall for all purposes be deemed a sufficient service of such notice or document on all persons interested (whether jointly with or as claiming through or under him) in the share.
132. Notice of every general meeting of the Company shall be given to:
- (a) all Members holding shares with the right to receive notice and who have supplied to the Company an address for the giving of notices to them; and
  - (b) every person entitled to a share in consequence of the death or bankruptcy of a Member, who but for his death or bankruptcy would be entitled to receive notice of the meeting.

No other person shall be entitled to receive notices of general meetings.

#### INDEMNITY

133. Every Director (including for the purposes of this Article any alternate Director appointed pursuant to the provisions of these Articles), Secretary, assistant Secretary, or other officer for the time being and from time to time of the Company (but not including the Company's auditors) and the personal representatives of the same (each an "**Indemnified Person**") shall be indemnified and secured harmless out of the assets and funds of the Company against all actions, proceedings, costs, charges, expenses, losses, damages or liabilities incurred or sustained by such Indemnified Person, other than by reason of such Indemnified Person's own dishonesty, wilful default or fraud, in or about the conduct of the Company's business or affairs (including as a result of any mistake of judgment) or in the execution or discharge of his duties, powers, authorities or discretions, including without prejudice to the generality of the foregoing, any costs, expenses, losses or liabilities incurred by such Indemnified Person in defending (whether successfully or otherwise) any civil proceedings concerning the Company or its affairs in any court whether in the Cayman Islands or elsewhere.
134. No Indemnified Person shall be liable:
- (a) for the acts, receipts, neglects, defaults or omissions of any other Director or officer or agent of the Company; or



- (b) for any loss on account of defect of title to any property of the Company; or
- (c) on account of the insufficiency of any security in or upon which any money of the Company shall be invested; or
- (d) for any loss incurred through any bank, broker or other similar person; or
- (e) for any loss occasioned by any negligence, default, breach of duty, breach of trust, error of judgement or oversight on such Indemnified Person's part; or
- (f) for any loss, damage or misfortune whatsoever which may happen in or arise from the execution or discharge of the duties, powers, authorities, or discretions of such Indemnified Person's office or in relation thereto;

unless the same shall happen through such Indemnified Person's own dishonesty, wilful default or fraud.

#### **NON-RECOGNITION OF TRUSTS**

135. No person shall be recognised by the Company as holding any share upon any trust and the Company shall not, unless required by law, be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any of its shares or any other rights in respect thereof except an absolute right to the entirety thereof in each Member registered in the Register of Members.

#### **WINDING- UP**

136. If the Company shall be wound up, the liquidator may, with the sanction of an Ordinary Resolution of the Company divide amongst the Members in specie or kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not) and may, for such purpose set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the Members or different classes of shares. The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories as the liquidator, with the like sanction shall think fit, but so that no Member shall be compelled to accept any shares or other securities whereon there is any liability.

#### **AMENDMENT OF ARTICLES OF ASSOCIATION**

137. Subject to the Companies Law and the rights attaching to the various classes of shares, the Company may at any time and from time to time by Special Resolution alter or amend these Articles in whole or in part.

#### **REGISTRATION BY WAY OF CONTINUATION**

138. The Company may by Special Resolution resolve to be registered by way of continuation in a jurisdiction outside the Cayman Islands or such other jurisdiction in which it is for the time being incorporated, registered or existing. In furtherance of a resolution adopted pursuant to this Article, the Directors may cause an application to be made to the Registrar of Companies to deregister the Company in the Cayman Islands or such other jurisdiction in which it is for the time being incorporated, registered or existing and may cause all such further steps as they consider appropriate to be taken to effect the transfer by way of continuation of the Company.



DISCLOSURE

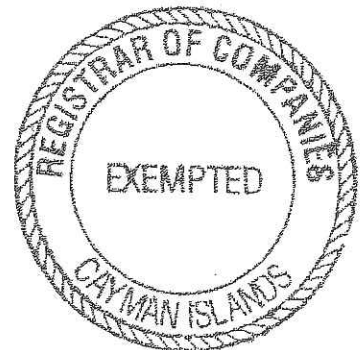
139. The Directors, or any service providers (including the officers, the Secretary and the registered office agent of the Company) specifically authorised by the Directors, shall be entitled to disclose to any regulatory or judicial authority any information regarding the affairs of the Company including without limitation information contained in the Register and books of the Company.

CERTIFIED TO BE A TRUE AND CORRECT COPY

SIG. \_\_\_\_\_

*[Signature]*  
D. EVADNE EBANKS  
Assistant Registrar

Date. 30 June 2009



**From:** Zhang, Jie: GFRM (NYK) </o=bzw/ou=usa/cn=recipients/cn=zhangjie>  
**Sent:** Tue Jun 29 2010 12:52:14 EDT  
**To:** Gargano, Cindy: GFRM (NYK) </o=bzw/ou=usa/cn=recipients/cn=new york/cn=lgarganoc>; Brown, Gerry: GFRM (NYK) </o=bzw/ou=usa/cn=recipients/cn=browgerr>; Dyer, Lansford: GFRM (NYK) </o=bzw/ou=usa/cn=nyk ad users/cn=users/cn=dyerlan>  
**CC:** Wang, Liping: GFRM (NYK) </o=bzw/ou=usa/cn=nyk ad users/cn=users/cn=wanglip>  
**Subject:** RE: Renaissance  
**Attachments:** Renaissance.PPT; CWEmbed3.xls; CWEmbed4.xls

**Importance:** Normal  
**Priority:** Normal  
**Sensitivity:** None

Apologies, that was a typo. Please see the updated one attached.

>  
>-----  
>From: Gargano, Cindy: GFRM (NYK)  
>Sent: Tuesday, June 29, 2010 11:53 AM  
>To: Zhang, Jie: GFRM (NYK); Brown, Gerry: GFRM (NYK); Dyer, Lansford: GFRM (NYK)  
>Cc: Wang, Liping: GFRM (NYK)  
>Subject: RE: Renaissance  
>  
>Ok it says s&p 500 all world index so I thought it was a global index  
>  
>-----  
>From: Zhang, Jie: GFRM (NYK)  
>Sent: Tuesday, June 29, 2010 11:52 AM  
>To: Gargano, Cindy: GFRM (NYK); Brown, Gerry: GFRM (NYK); Dyer, Lansford: GFRM (NYK)  
>Cc: Wang, Liping: GFRM (NYK)  
>Subject: RE: Renaissance  
>  
>Hi Cindy,  
>  
>Slide 12 includes the analysis of Beta stressed on the S&P 500. The result turns to be very close to what we obtained from the MSCI All world Index. Please review.  
>  
>Thanks,  
>Jie Zhang  
>-27392  
>  
>  
>  
>-----  
>From: Gargano, Cindy: GFRM (NYK)  
>Sent: Tuesday, June 29, 2010 11:44 AM  
>To: Zhang, Jie: GFRM (NYK); Brown, Gerry: GFRM (NYK); Dyer, Lansford: GFRM (NYK)  
>Cc: Wang, Liping: GFRM (NYK)  
>Subject: RE: Renaissance  
>







Strictly Private and Confidential

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## Portfolio Analysis of Renaissance Portfolios

CRA

June 2010



Strictly Private and Confidential

## Palomino Equity Portfolio

## Position Overview by Country

- Composed of names of 19 countries

Country Breakdown	Long			Short			Total		
	#	Value (\$mm)	Weight	#	Value (\$mm)	Weight	#	Value (\$mm)	Weight
Country									
Australia	236	95	1.0%	106	82	0.8%	342	177	0.9%
Belgium	28	27	0.3%	14	9	0.1%	42	36	0.2%
Canada	233	176	1.8%	163	189	1.8%	396	365	1.8%
Denmark	25	43	0.4%	9	28	0.3%	34	71	0.4%
Finland	28	29	0.3%	15	52	0.5%	43	81	0.4%
France	117	259	2.6%	40	171	1.7%	157	430	2.1%
Germany	103	172	1.7%	56	280	2.7%	159	453	2.2%
Great Britain	186	202	2.1%	121	180	1.8%	307	383	1.9%
Hong Kong	284	95	1.0%	170	86	0.8%	454	181	0.9%
Italy	67	96	1.0%	45	116	1.1%	113	212	1.1%
Japan	633	401	4.1%	480	404	3.9%	1,113	806	4.0%
Netherlands	47	182	1.8%	9	49	0.5%	56	230	1.1%
Norway	43	64	0.7%	19	16	0.2%	62	81	0.4%
Portugal	12	2	0.0%	11	8	0.1%	23	10	0.1%
South Africa	121	33	0.3%	26	32	0.3%	147	65	0.3%
Spain	33	16	0.2%	36	140	1.4%	69	156	0.8%
Sweden	83	127	1.3%	32	48	0.5%	115	175	0.9%
Switzerland	59	87	0.9%	34	136	1.3%	93	223	1.1%
United States	1,786	7,790	78.7%	1,548	8,247	80.3%	3,334	16,037	79.5%
<b>Total</b>	<b>4,124</b>	<b>9,898</b>	<b>100.0%</b>	<b>2,935</b>	<b>10,274</b>	<b>100.0%</b>	<b>7,059</b>	<b>20,172</b>	<b>100.0%</b>

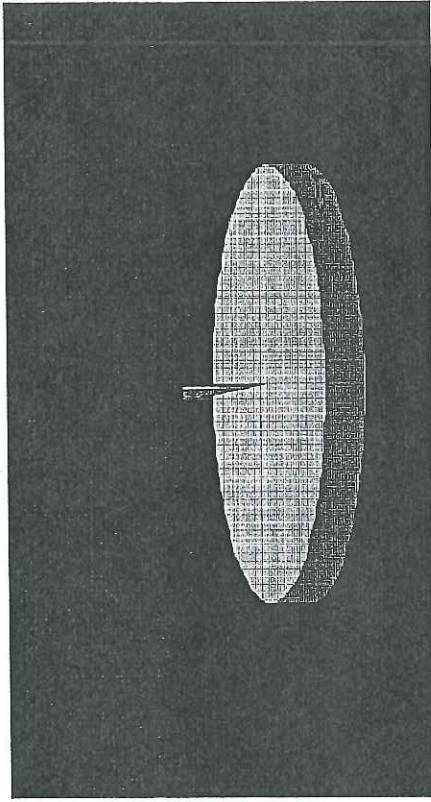




## Distribution of NTD\* -

- NTD distribution across the portfolio – 7059 names with GMV \$20.2bn.

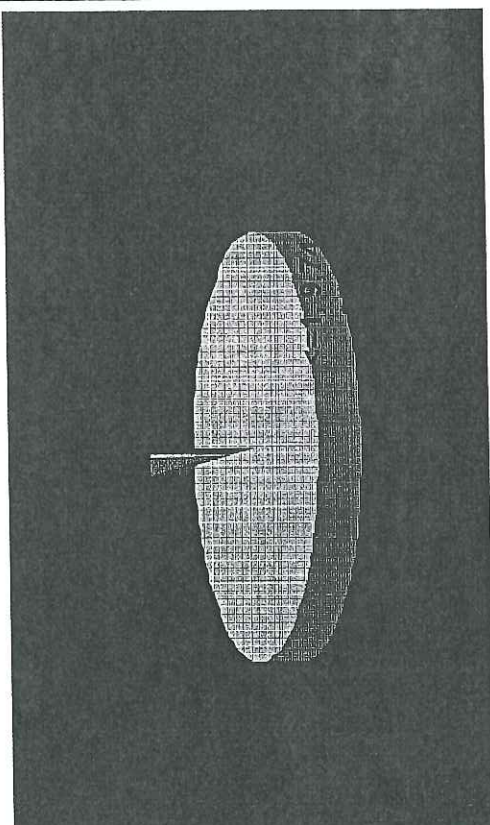
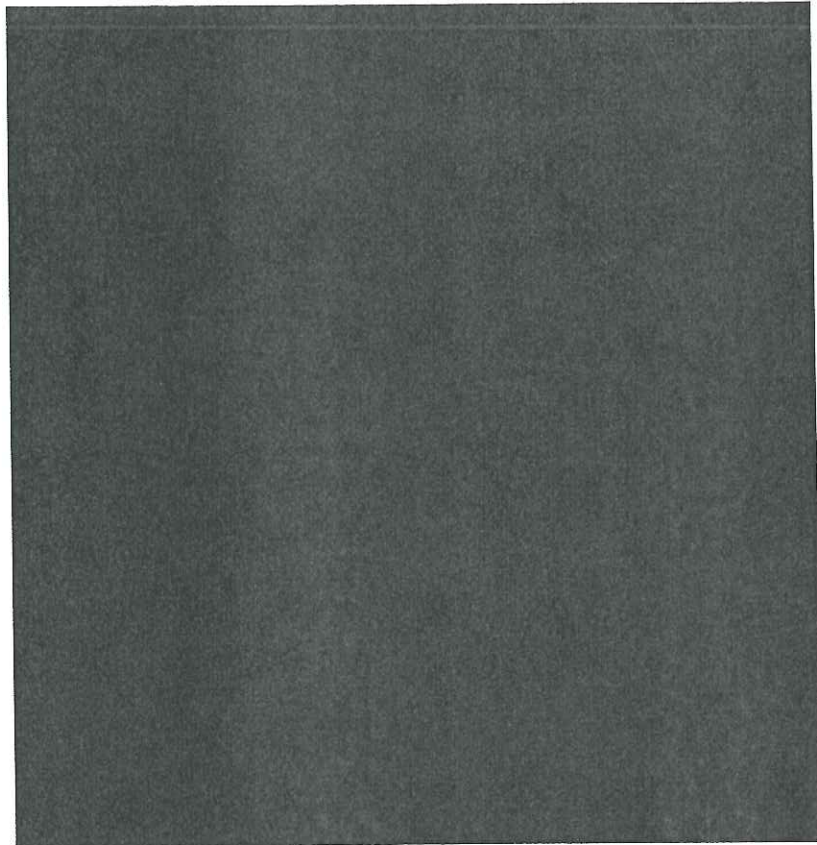
<=1	7,023	(520)	20,009
>1 & <=5	29	110	129
>5 & <=10	5	10	10
>10 & <=20	2	24	24
>20 & <=30	0	0	0
>30 & <=40	0	0	0
>40	0	0	0
<b>Total</b>	<b>7,059</b>	<b>(376)</b>	<b>20,172</b>



## Distribution of NTD - Continued

- The NTD distribution for long/short Portions

<=1	4,094	9,744	9,744
>1&<=5	23	120	120
>5&<=10	5	10	10
>10	2	24	24
<b>Total</b>	<b>4,124</b>	<b>9,898</b>	<b>9,898</b>

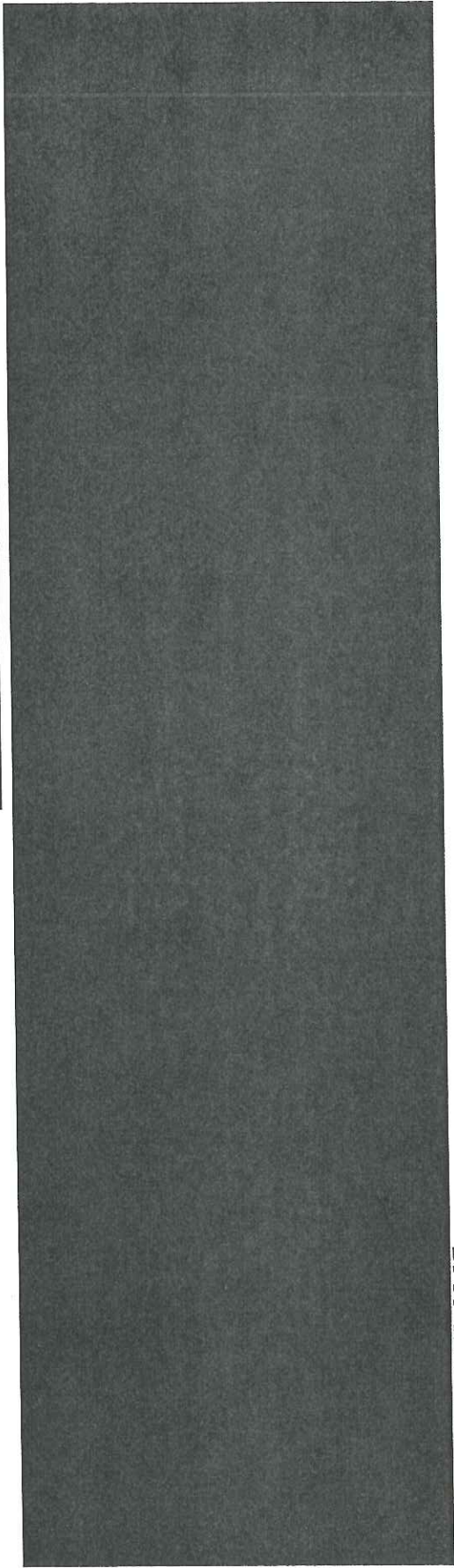
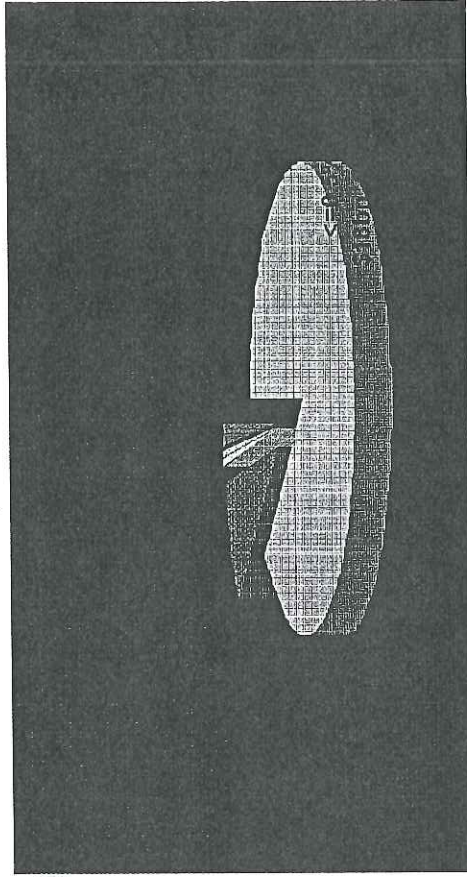




## Distribution of % of Free Float

### ■ Across the Portfolios

<=0.5%	6,602	(775)	18,006
>0.5% & <=1%	207	383	1,704
>1% & <=2%	30	(49)	140
>2% & <=5%	6	(5)	21
>5% & <=10%	0	0	0
>10% & <=25%	1	(2)	2
>25%	0	0	0
n.a.	213	72	300
<b>Total</b>	<b>7,059</b>	<b>(376)</b>	<b>20,172</b>





## Who are those illiquid ones?

>=10D and <20D	Net Position (Shares)	Net Market Value (\$)	Gross Market Value (\$)	% of Free Float
AZNSEK TQ	519,054	23,167,493	23,167,493	n.a
NDADKK TQ	159,622	1,623,774	1,623,774	n.a



## Web-Bench VaR

- 5-Day VaR at 99% Confidence Level

	Names	Gross (\$mm)	Net (\$mm)	Weight	Total Risk (\$mm)	Common Risk (\$mm)	Specific Risk (\$mm)	VaR (\$mm)
	Long	9,898	9,898	49%	340	339	15	790
	Short	10,274	10,274	51%	302	301	13	701
	<b>Total</b>	<b>20,172</b>	<b>(376)</b>	<b>100%</b>	<b>59</b>	<b>56</b>	<b>20</b>	<b>138</b>

- Manually risking the 35 names, with GMV \$2.99mm, dropped from the Web-Bench, we estimated risk around \$1mm, 34% of the GMV.
- For comparison, 5-Day Scaled risk in UVaR at 99% Confidence Level

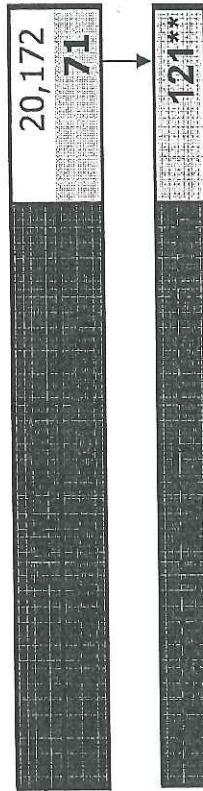
VaR	154
Add-ons	0.004
Equity Liquidity	56
<b>Total Risk</b>	<b>210</b>



## PRISE Execution Cost

- Liquidation Cost is estimated by GMV multiplied by the bps execution cost at 1day bucket. Consistent with execution cost computation in UVaR, the trade period of 1day is chosen to calculate the total liquidation cost.

0.125	51.48
0.25	45.24
0.5	39.94
0.75	37.21
1	35.42*
2	31.54
3	29.53
4	28.21
8	25.32
16	22.82
20	22.09



\*\*\*The rationale behind is that the Volatility, one of the factor in PRISE model, usually spikes during stressed markets. Volatility can be noticeably higher intraday than the previous ones.



## PRISE Execution Cost - Continued

### ■ Liquidation Cost Breakdown by NTD

<=1	7,023	19,999	34.70	69
>1 and <=5	36	173	115.40	2
Other				0
<b>Total</b>	<b>7,059</b>	<b>20,172</b>	<b>35.42</b>	<b>71</b>

### ■ Liquidation Cost Breakdown by Market Capitalization

Small-Cap (<\$1bn)	3,336	1,185	35.37	4
Mid-Cap (>=\$1bn & <\$5bn)	2,303	4,247	35.37	15
Large-Cap (>=\$5bn)	1,420	14,740	35.42	52
<b>Total</b>	<b>7,059</b>	<b>20,172</b>	<b>35.42</b>	<b>71</b>

## Beta Stress Test – FTSE

- Beta regressed on FTSE All World Index as the Portfolio contains international stocks.

	Percentage		
	Long	Short	Total
Correlation	0.98	0.97	67.0%
Beta	1.15	1.00	6.0%

- Shock beta up by 11% (derived from the historical chart in next page)

Beta	Total
	18.0%
Beta Stress Risk (\$mm)	143

\* Calculated given annual 90day vol of FTSE All World ~20%

## Beta Stress Test – S&P

- Beta regressed on S&P 500 as the Portfolio contains 80% of US Equities.

	Percentage		
	Long	Short	Total
Correlation	0.98	0.99	0.55
Beta	1.21	1.08	0.05

- Shock beta up by 11% (derived from the historical chart in next page)

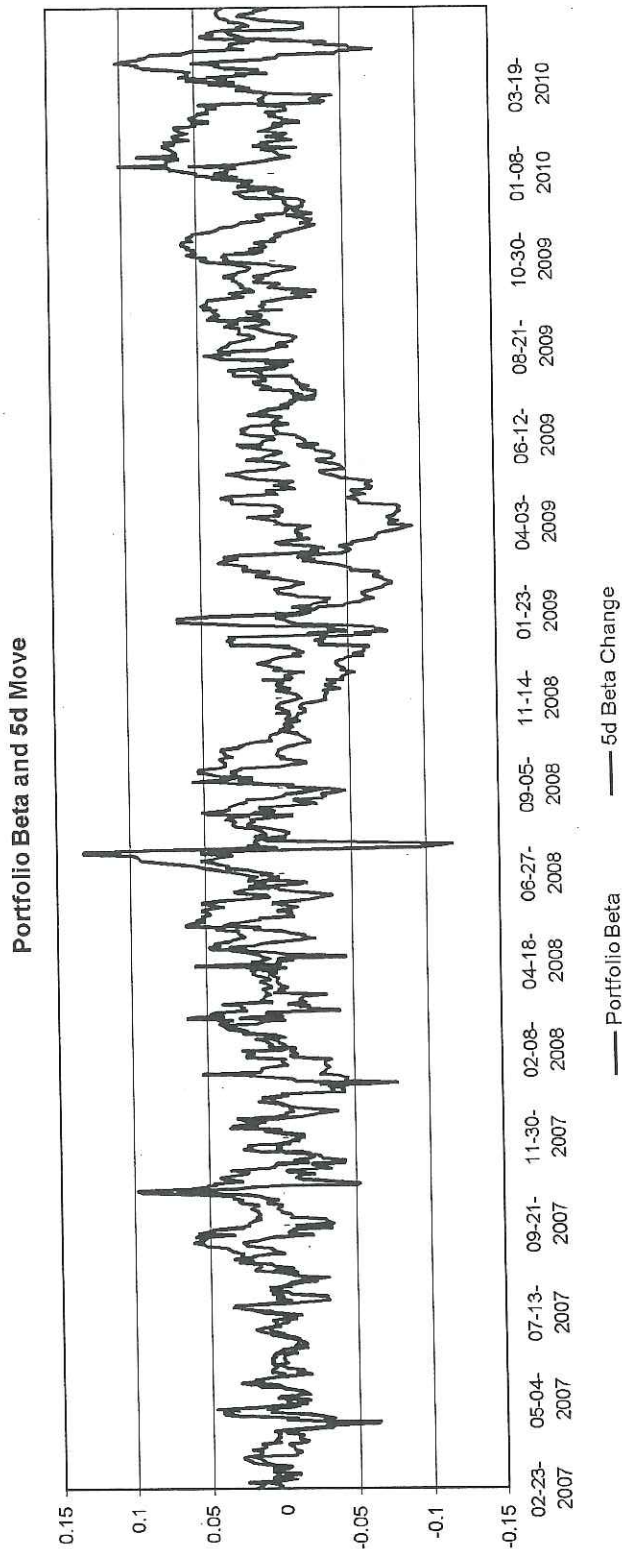
Beta	16.0%
Beta Stress Risk (\$mm)	150

\* Calculated given annual 90day vol of S&P 500 ~21%



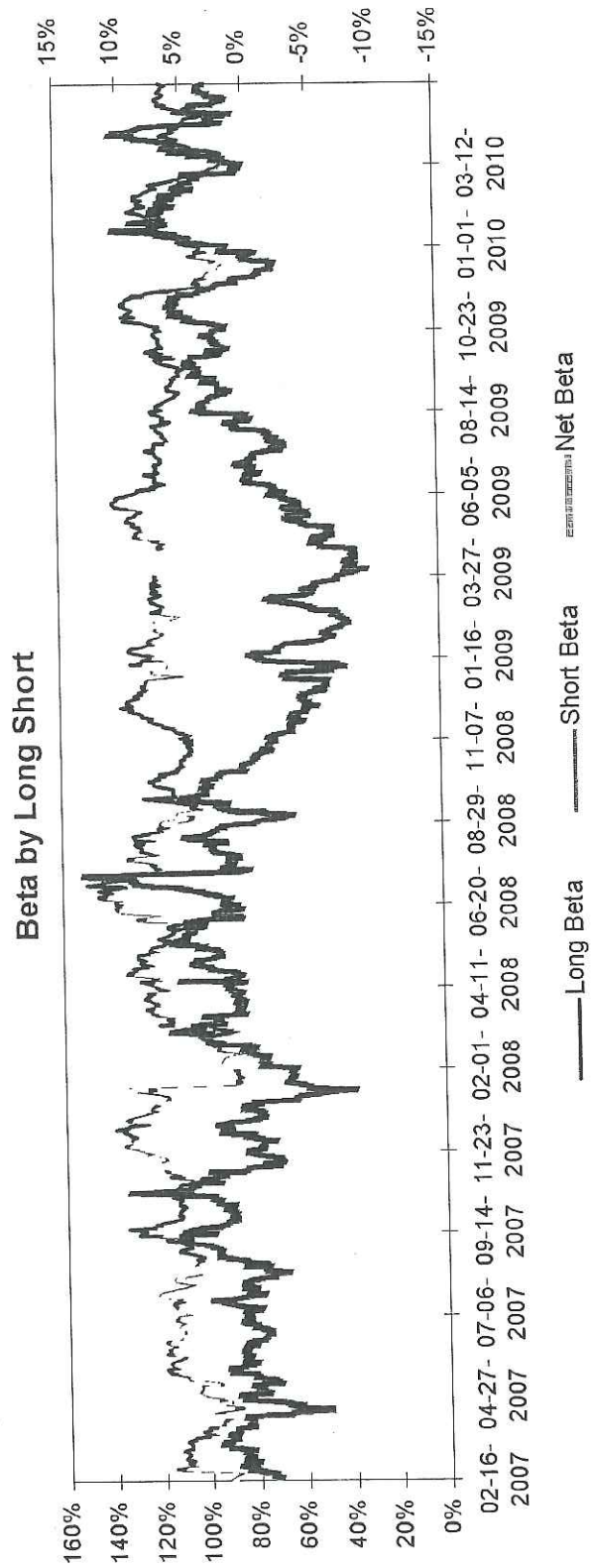
## Portfolio Beta Movements

- From the historical Beta move of the portfolio for the past three year, the 5day Beta absolute movement could go as high as 11%.



## Portfolio Beta Movements

- Historical Simulation of Beta on Long/Short side of the portfolio



## Total Risk

- Combining the above Risk factors

	138
	1
	71
<b>Total</b>	<b>210</b>

- Stressed Risk

	138
	1
	143
	121
<b>Total</b>	<b>403</b>



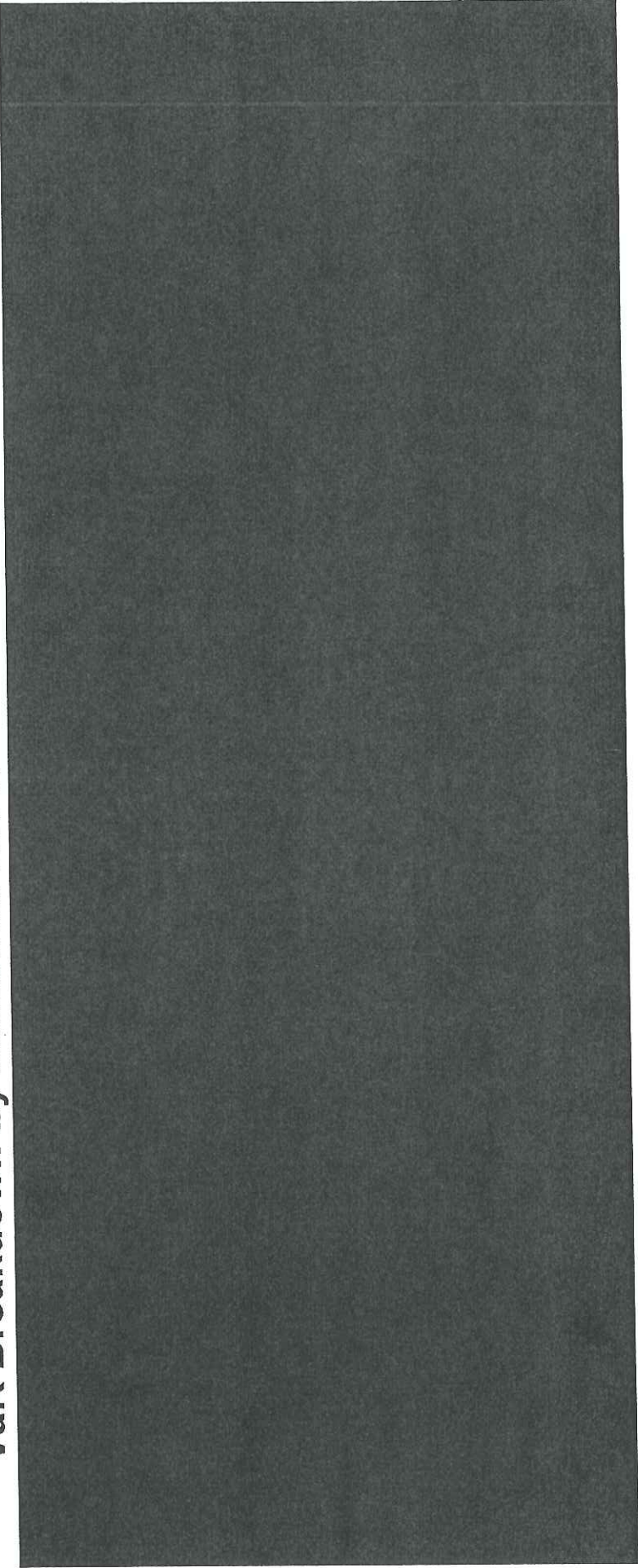


## VaR Breakdown by Industrial Level

■ GICS level 1 for Palomino

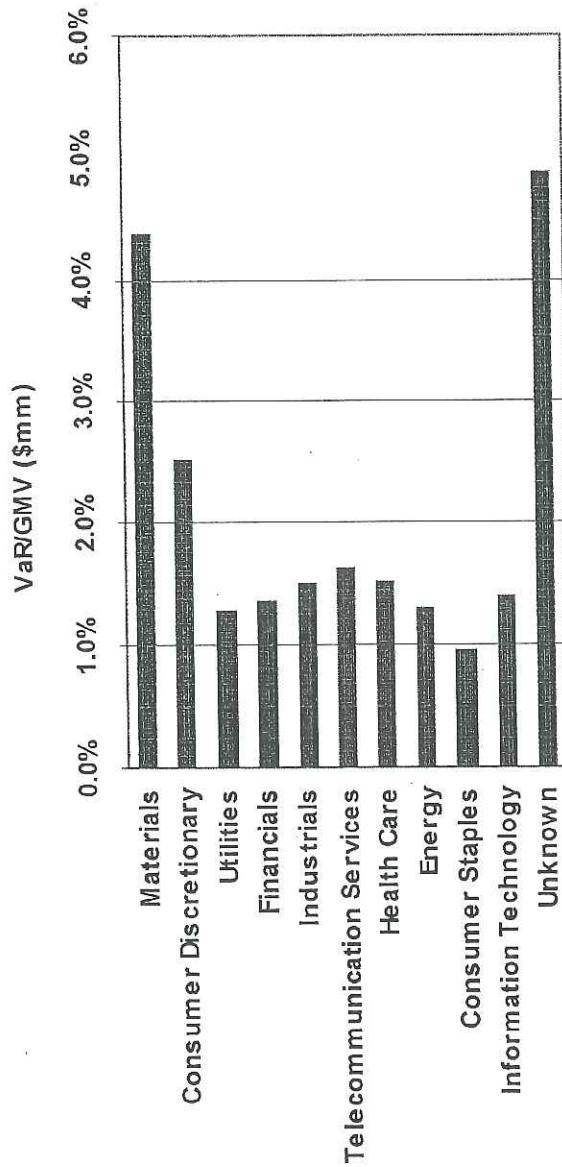
Sector Breakdown	Long					Short					Total				
	#	Value \$mm	Wgt	VaR \$mm	Beta	#	Value \$mm	Wgt	VaR \$mm	Beta	#	Value \$mm	Wgt	VaR \$mm	Net Beta
Sector Level 1	431	1,028	10.4%	126.5	1.47	301	649	6.3%	63.13	(1.35)	732	1,677	8.3%	73.34	0.38
Materials	663	1,749	17.7%	175.2	1.15	435	1,461	14.2%	106.70	(1.02)	1098	3,210	15.9%	81.39	0.16
Discretionary	129	384	3.9%	21.6	0.83	87	264	2.6%	16.51	(0.83)	216	648	3.2%	8.35	0.15
Utilities	689	1,300	13.1%	138.0	1.19	529	1,634	15.9%	161.07	(1.14)	1218	2,933	14.5%	39.98	(0.11)
Financials	713	1,020	10.3%	89.8	1.11	467	1,259	12.3%	110.48	(1.11)	1180	2,279	11.3%	34.32	(0.12)
Industrials	91	376	3.8%	17.8	0.84	57	240	2.3%	15.12	(0.93)	148	616	3.1%	10.06	0.15
Services	324	1,245	12.6%	66.8	0.90	327	1,069	10.4%	54.48	(0.89)	651	2,314	11.5%	35.19	0.07
Health Care	298	762	7.7%	74.2	1.25	197	814	7.9%	82.07	(1.24)	495	1,576	7.8%	20.54	(0.03)
Energy	238	708	7.2%	34.0	0.77	143	888	8.7%	35.37	(0.72)	381	1,596	7.9%	15.27	(0.06)
Consumer Staples	541	1,324	13.4%	108.1	1.12	388	1,994	19.4%	130.75	(1.01)	929	3,319	16.5%	47.06	(0.16)
Information Technology	7	1	0.0%	0.1	0.39	4	3	0.0%	0.18	0.39	11	4	0.0%	0.17	(0.35)
Unknown	4,124	9,898	49.1%	790	1.17	2935	10,274	50.9%	701.44	(0.99)	7059	20,172	100.0%	138	0.07
Portfolio Total															

## VaR Breakdown by Industrial Level



## VaR Breakdown by Industrial Level - Continued

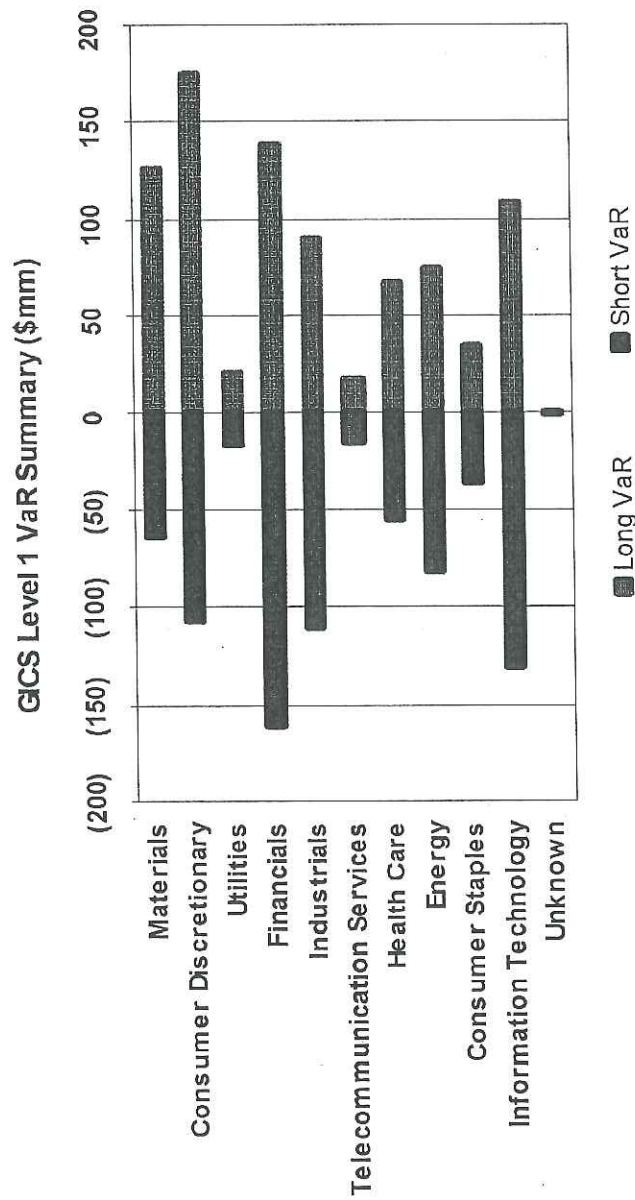
- The VaR/GMV ratio chart for each sectors



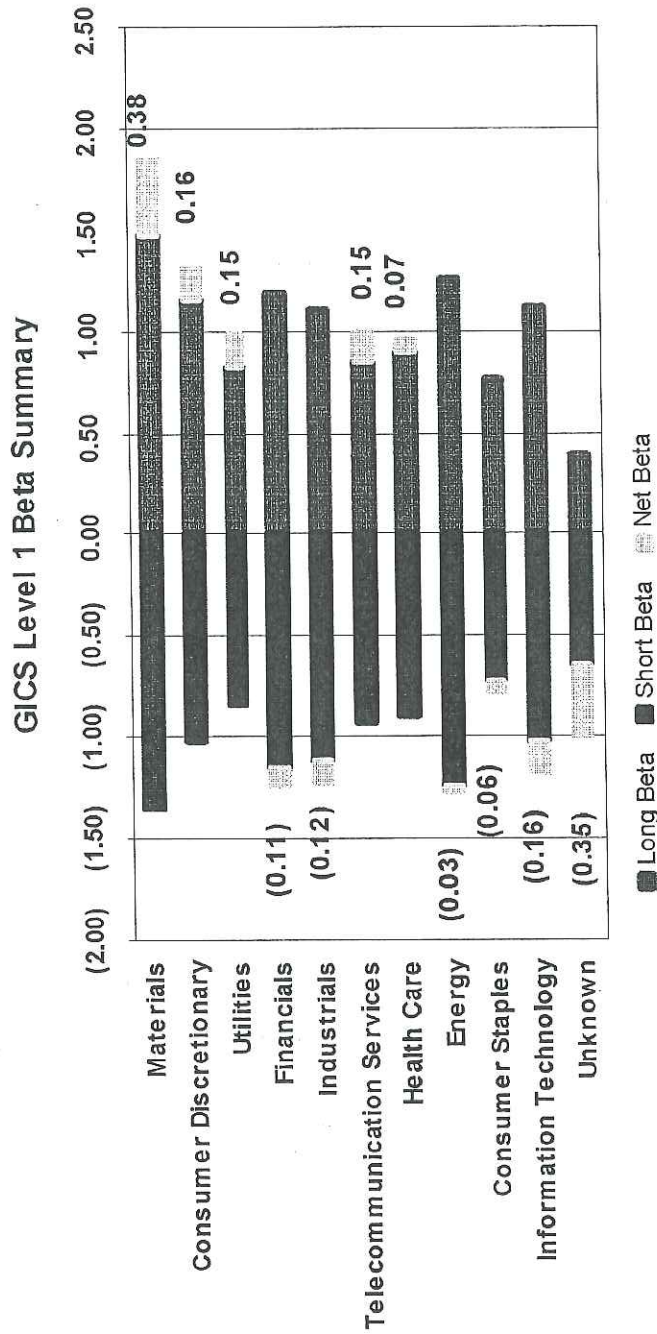


## VaR Breakdown by Industrial Level - Continued

- The summary Chart

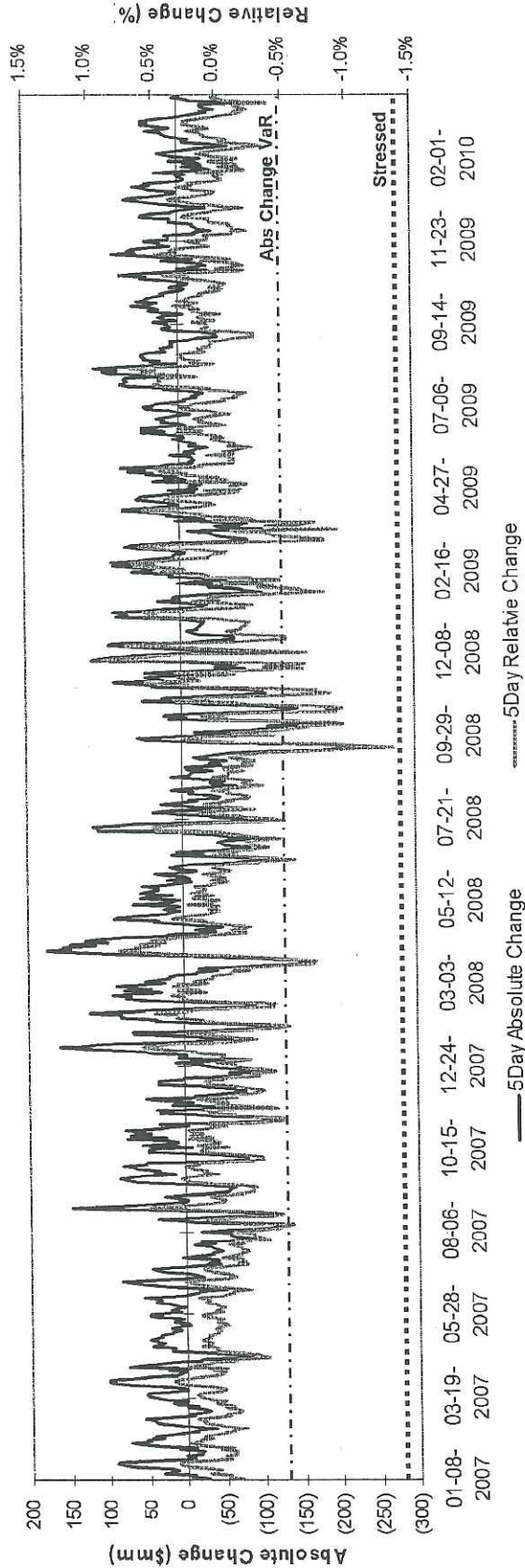


# Beta Breakdown by Industrial Level - Continued



## Portfolio Historical Simulation

- Portfolio Value vs Portfolio 5Day Changes





## Appendix - Liquidity measure of common equity

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- Average Trading Volume
  - 90-day average daily trading volume as a proxy
  - Number of Trading Day (NTD) is calculated for each position

$$NTD = \frac{\textit{Position Shares}}{\textit{90D Avg Daily Trading Volume}}$$

- Free-Float
  - Free-Float (the number of shares available to the public), rather than the outstanding shares, is a better gauge of the market.
  - Percentage of Free-Float (% FF) is calculated for each position

$$\% \textit{ of Free Float} = \frac{\textit{Position Shares}}{\textit{Free - Float}}$$



**From:** Beldner, Brett: Finance (NYK)  
**Sent:** Thursday, May 20, 2010 9:32:31 AM  
**To:** Sherwood, Edward: Barclays Capital (NYK)  
**CC:** Romain, Gary: Finance (LDN)  
**Subject:** RE: COLT XIX - Draft SCM Approvals Notification

Based on the response below, TAG sees the accounting being consistent with our historical treatment for the preceding transactions.

**From:** Sherwood, Edward: Barclays Capital (NYK)  
**Sent:** Wednesday, May 19, 2010 10:58 AM  
**To:** Beldner, Brett: Finance (NYK)  
**Subject:** RE: COLT XIX - Draft SCM Approvals Notification

**Redacted by the Permanent Subcommittee on Investigations**

Brett,

You are correct. The assets of Palomino are actually held in prime brokerage accounts with BCI and BCSL in the name of Palomino. The options reference the value of these PB accounts, which is equivalent to them referencing the assets directly, and therefore there is no leakage between the value of the assets (i.e. the value of the PB accounts) and the value of the options. Thus, the net effect is that Barclays is extending senior financing to RenTec.

This is what was intended by the wording from the Approvals Notification that you have highlighted below.

Thanks,  
Ed

**Edward Sherwood**  
**Barclays Capital**  
6th Floor | 745 Seventh Avenue | New York | NY 10019  
T: +1 212 526 0275 | F: +1 212 412 5681 | C: [REDACTED]  
Email: edward.sherwood@barcap.com

IRS Circular 230 Disclosure: Barclays Capital and its affiliates do not provide tax advice. Please note that (i) any discussion of US tax matters contained in this communication (including any attachments) cannot be used by you for the purpose of avoiding tax penalties; (ii) this communication was written to support the promotion or marketing of the matters addressed herein; and (iii) you should seek advice based on your particular circumstances from an independent tax advisor.

**From:** Beldner, Brett: Finance (NYK)  
**Sent:** Wednesday, May 19, 2010 10:45 AM  
**To:** Sherwood, Edward: Barclays Capital (NYK)  
**Subject:** RE: COLT XIX - Draft SCM Approvals Notification

My understanding was that the option contracts always were explicitly on the assets that reside within Palomino, such that Barclays' only risk is essentially the senior financing that we've provided (e.g., there is no leakage in value between the assets traded at Palomino and the option.)

Please confirm that this is what you mean when you say "The options reference a set of accounts held by Palomino, namely prime brokerage accounts with Barclays Capital Inc. ("BCI") and with Barclays Capital Securities Limited ("BCSL") (the "Accounts")."

Thanks

**From:** Sherwood, Edward: Barclays Capital (NYK)  
**Sent:** Tuesday, May 18, 2010 6:03 PM  
**To:** Mammola, Paolo: GFRM (LDN); Gargano, Cindy: GFRM (NYK); Romain, Gary: Finance (LDN); Beldner, Brett: Finance (NYK); Glover, Michael: Finance (LDN); Currie, James: Finance (NYK); Kleinman, Larry: Group Tax (NYK); Hubbard, Mark: Group Tax (LDN); Versluys, Roger: Finance (LDN); Mcauliffe, Sam: Finance (LDN); Falticeni, Ileana: Compliance (NYK); Sahadi, Nicholas: Compliance (NYK); Kaplan, Alan: Legal (NYK); Schwed, Andrew: Legal (NYK); Forrest, Monty: Operations (NYK); Farrell, Don: Operations (NYK); Dyer, Lansford: GFRM (NYK)  
**Cc:** Shah, Abhinav: Barclays Capital (NYK); Constant, Simon: Barclays Capital (NYK); Greenwood, Nick: Barclays Capital (NYK)  
**Subject:** COLT XIX - Draft SCM Approvals Notification

**Permanent Subcommittee on Investigations**

**EXHIBIT #59**

All

Please find attached a draft SCM Approvals Notification for the new option that RenTec would like to put on next Monday (24th May)

<< File: SCM Approvals Notification - Colt XIX [Draft].doc >>

I would be grateful if you could confirm your approval of the new transaction by close of business NY time Thursday (20th May) prior to circulation of the attached notification to the SCM Approvals Committee.

Should you have any questions, please do not hesitate to contact me.

Kind regards,  
Ed

Edward Sherwood  
Barclays Capital  
6th Floor | 745 Seventh Avenue | New York | NY 10019  
T: +1 212 526 0275 | F: +1 212 412 5681 | C: [REDACTED]  
Email: edward.sherwood@barcap.com

[REDACTED] = Redacted by the Permanent  
Subcommittee on Investigations

IRS Circular 230 Disclosure: Barclays Capital and its affiliates do not provide tax advice. Please note that (i) any discussion of US tax matters contained in this communication (including any attachments) cannot be used by you for the purpose of avoiding tax penalties; (ii) this communication was written to support the promotion or marketing of the matters addressed herein; and (iii) you should seek advice based on your particular circumstances from an independent tax advisor.



**From:** Wade, Graham: Structuring (NYK) </o=bzw/ou=europe/cn=recipients/cn=exchange recipients/cn=wadeg>  
**Sent:** Fri 12 Nov 2010 14:00:57 GMT  
**To:** Siddiq, Nizam: Structuring (NYK) </o=bzw/ou=usa/cn=nyk ad users/cn=users/cn=siddiqn>; Zenios, Jonathan: Structuring (LDN) </o=bzw/ou=europe/cn=recipients/cn=exchange recipients/cn=zeniosj>; Simpson, David: Structuring (LDN) </o=bzw/ou=europe/cn=ldn ad users/cn=users/cn=simpsdav>; Hurrell, Brad: Structuring (LDN) </o=bzw/ou=europe/cn=recipients/cn=exchange recipients/cn=hurrellb>  
**CC:**  
**Subject:** Privileged - Colt  
**Attachments:** Tax Notes Today\_ 2010 TNT 2...pdf

**Importance:** Normal  
**Priority:** Normal  
**Sensitivity:** None

This is a detailed write up of Colt concluding it doesn't work. We can discuss on MDs call but I intend to reach out to RenTec and Ed Cohen this morning to make sure they are aware. We will also confirm it does not impact Barclays. The only issue for Barclays I could see is some deemed wht agent issue as the memo concludes that RenTec are the legal owner of the stocks.

To me this would signal that IRS is inevitably going to litigate Colt.

Thanks

— = Redacted by the Permanent Subcommittee on Investigations

Graham Wade  
Barclays Capital  
Tel. +1 212 526 9938  
Mob. [REDACTED]  
graham.wade@barcap.com

IRS Circular 230 Disclosure: Barclays Capital and its affiliates do not provide tax advice. Please note that (i) any discussion of US tax matters contained in this communication (including any attachments) cannot be used by you for the purpose of avoiding tax penalties; (ii) this communication was written to support the promotion or marketing of the matters addressed herein; and (iii) you should seek advice based on your particular circumstances from an independent tax advisor.

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**From:** Siddiq, Nizam: Structuring (NYK)  
**Sent:** Friday, November 12, 2010 8:43 AM  
**To:** Zenios, Jonathan: Structuring (LDN); Simpson, David: Structuring (LDN); Hurrell, Brad: Structuring (LDN)  
**Cc:** Wade, Graham: Structuring (NYK)  
**Subject:** HF Options

<< File: Tax Notes Today\_ 2010 TNT 2...pdf >>  
Looks a lot like some of the HF options that we have seen.  
Nizam

Permanent Subcommittee on Investigations  
**EXHIBIT #60**

Nizam Siddiq  
Barclays Capital  
745 Seventh Avenue, 6th Floor  
New York, NY 10019  
Tele: (212) 526-1595  
Mobile: [REDACTED]  
Nizam.Siddiq@barcap.com

[REDACTED] = Redacted by the Permanent  
Subcommittee on Investigations

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EK

## Memo

Barclays

To **SCM US Approvals Committee**

From Graham Wade, Maxim Kulikov

Date 3 October 2012

Subject COLT XXVII

# BARCLAYS

This memo sets out the minutes of the meeting of the SCM US Approvals Committee (the "**Committee**") held on 1 October 2012 at which the COLT XXVII option transaction (the "**New Option Transaction**") was considered:

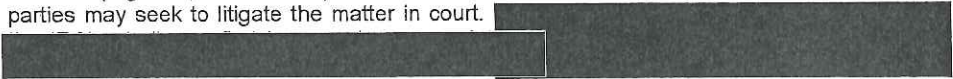
The attendees were as follows:

Gerard LaRocca ("**GL**") (Chairman)  
Phil Jacobs (by phone)  
Mark Hubbard (by phone)  
Larry Kleinman  
Jacob Amato  
Matt Welsh (by phone)  
Alan Kaplan  
Zack Zacharia  
Chris Frieda (by phone)  
Chris Weidler  
Gary Romain (by phone)  
James Currie (by phone)  
Hemal Sanghrajka (by phone)  
Brett Beldner (by phone)  
Richard Gee  
Don Farrell (by phone)

Graham Wade ("**GW**") (by phone)  
Maxim Kulikov  
Chris Levy  
Nizam Siddiq  
Dev Majumdar  
Eugene Kim  
Lydia Asaf (by phone)  
Ajay Nagpal (by phone)  
Ashley Wilson (by phone)  
Marty Malloy (by phone)

After GL opened the meeting, GW discussed the background of the New Option Transaction and prior COLT option transactions (together with the New Option Transaction, the "**Option Transactions**").

There was a lengthy discussion of the Option Transactions, during which the following points, inter alia, were noted:

- Barclays has entered into 26 Option Transactions since 2002.
- The Internal Revenue Service has been challenging Renaissance Technologies LLC and its affiliates (together, the "**Client**") on the tax treatment of the Option Transactions, and the parties may seek to litigate the matter in court. 
- The tax risk is assumed by the Client.
- There is a reputation risk for Barclays, especially if the matter proceeds to court.
- The New Option Transaction does not meaningfully increase Barclays' reputation risk in relation to the Option Transactions, because writing a new option (or exercising an existing one) should be viewed as the maintenance of a longstanding structure.



EK

- Unwinding the Option Transactions may not decrease Barclays' reputation risk, but the Option Transactions could be unwound with 2 months' notice. An unwinding would have material implications for the Client relationship that would need careful management.

The Committee felt that other members of senior management may desire to be informed of the Option Transactions in the context of the current internal and external reviews at Barclays (Project Mango and the Salz Review). The Committee felt the right approach was to approve the New Option Transaction but require that the Option Transactions be reviewed and tabled at the Tax Risk Committee (Matt Hammerstein, Mark Harding, Robert Le Blanc, and Chris Lucas) before year-end when the outcome of Project Mango and the Salz Review is clearer. The Committee also felt that the Tax Risk Committee should be promptly made aware of the Committee's decision to approve the New Option Transaction and be given the opportunity to direct a more immediate or different action.

Subsequent to the meeting, it was agreed with GL that Larry Wieseneck, the chair of the CIB Reputational Risk Committee, should also be promptly informed of the Option Transactions.

The respective infrastructure functions assessed the relevant risks for their areas.

The Committee approved the New Option Transaction, subject to the condition mentioned above. The meeting was concluded.

# Memo

Barclays

To Tax Risk Committee

From SCM US Approvals Committee

Date 3 October 2012

Subject COLT

## BARCLAYS

On 1 October 2012, the SCM US Approvals Committee (the "Committee") approved the execution of the COLT XXVII option transaction (the "New Option Transaction" and, together with the prior COLT option transactions, the "Option Transactions"), subject to any comments that may be raised by additional members of senior management.

### Background

- The Option Transactions were originally approved by the SCM Approvals Committee and the New Products Committee in 2002 and have been subject to regular review by the Committee (most recently in March 2011).
- In each Option Transaction, an affiliate of Renaissance Technologies LLC (together with its affiliates, the "Client") buys a call option from Barclays, which option references a set of prime brokerage accounts held by Barclays (the "Accounts"). The Client has been appointed the investment manager for the Accounts.
- Trading activity in the Accounts generates income for Prime Services (approx. \$100m per year).
- Since 2002, the Client has purchased call options from Barclays 26 times (and subsequently exercised the options, except for the 5 most recent options which remain outstanding).
- The Client plans to enter into the New Option Transaction on 9 October 2012, which would increase the fair market value of the outstanding call options from \$2.69bn to \$2.94bn.
- The Internal Revenue Service (the "IRS") has been challenging the Client on the US tax treatment of the Option Transactions.
  - In 2010, the IRS issued a memo (the "IRS Memo") arguing that options like the ones in the Option Transactions should not be treated as options for tax purposes. Following a detailed review with outside counsel and the Client, the Committee approved the Option Transactions on 3 December 2010 and 10 March 2011.
  - The IRS and the Client may seek to litigate the matter in court.
  - Both the IRS and Her Majesty's Revenue and Customs reviewed Barclays' involvement in the Option Transactions and those reviews are complete with no issues currently outstanding.
- The tax risk is assumed by the Client.
  - [REDACTED]
  - Further, Barclays is entitled to a contractual tax indemnity from the Client.

1

BARCLAYS-PSI-016951

Permanent Subcommittee on Investigations


EXHIBIT #62

- There is a reputation risk for Barclays, especially if the matter proceeds to court and the IRS's challenge and Barclays' role become publicly disclosed.
  - The Committee believes that the New Option Transaction does not meaningfully increase Barclays' reputation risk with respect to the Option Transactions, insofar as any court litigation would relate to prior years and as entering into the New Option Transaction should be viewed as the maintenance of a longstanding structure that has been in existence since 2002.
- Unwinding the Option Transactions may not decrease Barclays' reputation risk, but the Option Transactions could be unwound with 2 months' notice.

#### The New Option Transaction

On 1 October 2012, the principal issue considered by the Committee was the reputation risk associated with the IRS's challenge of the Client's tax treatment of the Option Transactions (which challenge may be litigated in court) and the entry into the New Option Transaction in the current environment.

The IRS's challenge of the Client's tax treatment was previously considered in detail in 2010 when the IRS Memo was issued, and at that time, the Committee concluded that it was appropriate to approve the execution of additional Option Transactions for various reasons:

- The Client bears all the tax risk, is sophisticated, well advised, clearly understands the risk, and wishes to continue the Option Transactions. The Client considers that the Option Transactions provide significant benefits, including enhanced leverage that would make the transaction structure attractive even without tax benefits.
- 
- Any court litigation would relate to prior years, and in that respect, it was felt that unwinding the Option Transactions currently would not reduce Barclays' reputation risk.

The Committee felt the above reasons continued to apply and also noted that Barclays has entered into 26 Option Transactions since 2002 and that entering into the New Option Transaction should be viewed as the maintenance of a longstanding structure. However, the Committee also felt that other members of senior management may desire to be informed of the Option Transactions in the context of the current internal and external reviews at Barclays (Project Mango and the Salz Review).

As a result, the Committee felt the right approach was to approve the New Option Transaction but require that the Option Transactions be reviewed and tabled at the Tax Risk Committee before year-end when the outcome of Project Mango and the Salz Review is clearer. The Committee also felt that the Tax Risk Committee should be promptly made aware of the Committee's decision to approve the New Option Transaction and be given the opportunity to direct a more immediate or different action.

Thus, the Committee decided that the Option Transactions should be raised to your attention on an expedited basis, prior to the execution of the New Option Transaction on 9 October 2012.



---

**From:** Gerard.LaRocca@barclayscapital.com  
**To:** IMCEAEX-\_BZW\_USA\_cn=Recipients\_cn=wiesene1@barclayscapital.com  
**CC:** Graham.Wade@barclayscapital.com; Mark.Merson@barclayscapital.com  
**Sent:** 10/4/2012 11:31:54 AM  
**Subject:** FW: COLT SCM Transaction/Important  
**Attachments:** Notice re COLT.DOCX

Larry,

The SCM US Approvals Committee recently approved an option transaction in which US tax reputation risk is an issue, and the Committee has engaged the Tax Risk Committee on the transaction. I wanted to also let you know about this matter, given your capacity as the chair of the CIB Reputational Risk Committee.

The attached notice was sent to the Tax Risk Committee and provides additional information. Please let me or Graham Wade know if you have any questions.

---

**From:** LaRocca, Gerard : Investment Bank (NYK)  
**Sent:** Thursday, October 04, 2012 7:31 AM  
**To:** Lucas, Chris : Group Exec; Le Blanc, Robert: Group Risk (LDN); Harding, Mark : Legal; Hammerstein, Matt : Group Centre  
**Cc:** Wade, Graham: Structuring (LDN); Jacobs, Philip: Finance (NYK)  
**Subject:** COLT SCM Transaction/Important

The SCM US Approvals Committee recently approved an option transaction, which is scheduled for execution on 9 October 2012 and in which US tax reputation risk is an issue, and the Committee desires that the transaction (and related prior transactions) be reviewed and tabled at the Tax Risk Committee before year-end when the outcome of Project Mango and the Salz Review is clearer. The Committee also feels that the TRC should be promptly made aware of the Committee's decision and given the opportunity to direct a more immediate or different action.

The attached notice provides additional information. Please let me or Graham Wade know if you have any questions.

# Memo

Barclays

To Tax Risk Committee

From SCM

Date 12 October 2012

Subject COLT

## BARCLAYS

This memo explains the background to an investment structure which has been in place for 10 years and explains why, notwithstanding the publicity risk that Barclays is subject to as a witness to the case if the Client proceeds to litigate in court, we believe it remains an appropriate transaction for Barclays to be a party to.

The COLT XXVII option transaction (the "New Option Transaction" and, together with the prior COLT option transactions, the "Option Transactions") was executed on 9 October 2012. The SCM US Approvals Committee approved the New Option Transaction on 1 October 2012, the chair of the CIB Reputational Risk Committee (Larry Wieseneck) was notified of the New Option Transaction on 4 October 2012, and the Tax Risk Committee discussed the Option Transactions on 8 October 2012.

The Option Transactions were originally approved by the SCM Approvals Committee and the New Products Committee in 2002 and have been subject to regular review by the SCM US Approvals Committee (prior to October 2012, most recently in March 2011).

### Background

#### *Investment Structure*

In each Option Transaction, an affiliate of Renaissance Technologies LLC (together with its affiliates, the "Client") buys a call option from Barclays, which option references a set of prime brokerage accounts held by Barclays (the "Accounts"). Further, the Client has been appointed the investment manager for the Accounts.

Barclays has benefited from the Option Transactions primarily from the revenue generated for Prime Services by the trading activity in the Accounts. Since 2002, the revenue has totalled £322.7m. The Option Transactions are the principal structure by which the Client deals with Barclays.<sup>1</sup>

<sup>1</sup> Outside of the Option Transactions, Barclays has received approximately £12m from the Client for the period January 2011 through September 2012.

2002	£7.0	2008	£53.4
2003	£7.2	2009	£37.5
2004	£15.9	2010	£29.8
2005	£20.0	2011	£56.7
2006	£16.8	2012	£59.9 <sup>2</sup>
2007	£18.6		
<b>Total</b>			<b>£322.8m</b>

#### *Tax Risk*

The Internal Revenue Service (the "IRS") has been auditing the Client's US tax treatment of the Option Transactions. In 2010, the IRS issued a memo (the "IRS Memo") arguing that options like the ones in the Option Transactions should not be treated as options for tax purposes, and that the option owner should be treated as the owner of the referenced accounts. The IRS and the Client may seek to litigate the matter in court. Before going to court, we expect the Client to go to Appeals (which is an informal administrative forum where disagreements between taxpayers and the IRS can be resolved in private without the formality and publicity of a court trial).

On 9 October 2012, the IRS issued a summons requiring Barclays to provide certain documents (and we understand the IRS issued a similar summons to Deutsche Bank, which has entered into a similar investment structure with the Client), and therefore, we expect that Barclays (and Deutsche Bank) will be called as witnesses in due course.

#### *Sophistication of the Client*

The Client is a very sophisticated investment firm and one of the most successful hedge funds in the statistical arbitrage space with an almost uniquely successful track record. Since 2002, the Client has purchased call options from Barclays 27 times (and subsequently exercised those options, except for the 6 most recent options, which remain outstanding). The average premium paid for the Option Transactions has been approximately \$190m. The substantial premiums for the Option Transactions have been funded by the Client's owners and employees, with no third-party investors.

It was the Client that originally approached Barclays with the idea of the Option Transactions, and the Client has implemented a similar investment structure with Deutsche Bank. The tax and reputational risks in the structure have been discussed with the Client. The structure is overseen by the Client's CFO and COO. (The CFO, who has been with the Client since 1983, is a former CPA with the firm of Seidman & Seidman (now BDO USA) and holds a law degree from NYU law school in tax law. The COO, who has been with the Client since 2008, was formerly the CFO of SAC Capital and the head of Deutsche Bank's Global Equity Finance and Prime Broker businesses.)

A major law firm (Winston & Strawn) has been advising the Client on the tax and legal issues with respect to the Option Transactions.

#### **Why the Option Transactions Remain Appropriate Notwithstanding the IRS Challenge**

- 

The IRS has argued that the Client should be treated as the owner of the Accounts, because the value of the call options reflect all of the potential for gain on the Accounts and substantially all of the risk of loss. The IRS has argued that Barclays' gap risk, whereby the value of the Accounts falls by an amount in excess of the option premium, is remote and merely theoretical. However, Barclays assumes significant gap risk with respect to the leveraged long-short statistical arbitrage strategy followed by the Accounts. The Accounts

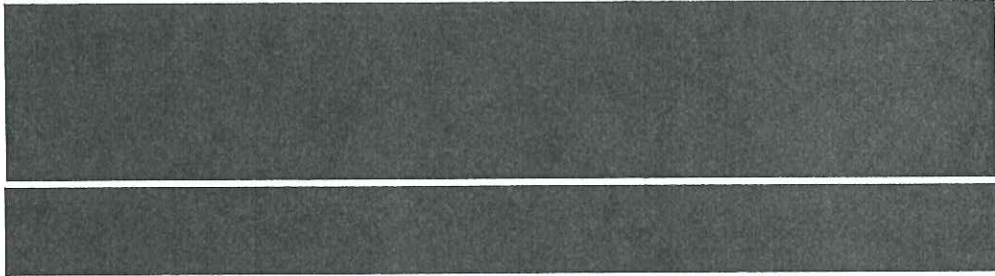
<sup>2</sup> Annualized based on year-to-date revenue as of 30 September 2012.



have performed positively because of the Client's successful investment advice, rather than the Option Transactions' inherent structure.

For example, in August 2007, there was a high level of volatility in the statistical arbitrage industry, and several investment firms were effectively put out of business. The Client was not immune to the volatility, the trading activity in the Accounts came to close to breaching the risk parameters, and Barclays' senior management had to be alerted to the potential imminent financial loss faced by Barclays on the Accounts.

Moreover, the Option Transactions are in the form of options, are cash-settled, do not convey legal title, and permit the Client to access gains only upon exercise. Importantly, in contrast to an owner of the Accounts, the Client would have no claims on the Accounts in a bankruptcy of Barclays and would merely be a general creditor. This feature is ignored by the IRS Memo.



- Both the IRS and Her Majesty's Revenue and Customs reviewed Barclays' involvement in the Option Transactions and those reviews are complete with no issues currently outstanding. [REDACTED] Discussions regarding the Option Transactions with the IRS to date have had no impact on Barclays' relationship with the IRS, and there is no reason to expect a future impact.
- [REDACTED] Further, Barclays is entitled to a contractual tax indemnity from the Client.
- It is also important to note that the structure does not reduce the amount of the Client's taxable income; it merely changes the character of the income from short-term capital gains to long-term capital gains, which has a tax rate benefit. Accordingly, the structure can be viewed as having lower tax risk than other types of tax planning (e.g., completely mitigating taxable income).
- There is a reputation risk for Barclays, especially if the matter proceeds to court and the IRS's challenge and Barclays' role become publicly disclosed. However, continuing with the Option Transactions should not meaningfully increase Barclays' reputation risk, insofar as any court litigation would relate to the entire structure. Barclays' role will be that of a witness (alongside Deutsche Bank) and, provided Barclays fully cooperates with the process, there is no reason to expect damaging accusations from the IRS or the court. In particular, Barclays could not be considered to have sold a risky investment structure to an unsophisticated investor that did not understand the risk.
- The Client wishes to continue with the Option Transactions, and Barclays' relationship with the Client since 2002 has been primarily through the Option Transactions. Moreover, the Client's fundamental trading operations with Barclays have been integrated through the structure, and a rapid unwinding would disrupt the Client's activities. Further, the Client has asserted to Barclays and the IRS that it would like to maintain the structure regardless of the tax benefits. Accordingly, unwinding the transaction will be highly damaging to our relationship with the Client.

# Memo

To SCM US Approvals Committee  
From Maxim Kulikov, Rama Subramaniam  
Date [-] November 2012  
Subject Project COLT XXVIII (Renaissance Technologies) –  
Approvals Notification

# BARCLAYS

Structured Capital Markets ("SCM") and Prime Services have been in discussions with Renaissance Technologies LLC ("Renaissance") regarding the purchase of two new call options from Barclays Bank PLC ("BBPLC") for a total premium of approximately \$400m on or around 27 November 2012, which will be effective on or around 28 November 2012.

By way of background, the COLT transaction was approved by the SCM Approvals Committee on 2 September 2002 and by the NPC (both Global and US) on 30 July 2002. In each COLT transaction, an entity (which, since 2004, has been Badger Holdings L.P. ("Badger")) managed by Renaissance, buys one or more call options from BBPLC. In turn, BBPLC buys call options with parallel terms from Palomino Limited ("Palomino"), an entity wholly-owned by BBPLC but not consolidated for IFRS accounting purposes. The call options reference a set of accounts held by Palomino, namely prime brokerage accounts with Barclays Capital Inc. ("BCI") and with Barclays Capital Securities Limited ("BCSL") (the "Accounts"). Palomino has appointed Renaissance as trading manager for the Accounts. Renaissance is subject to investment guidelines, which permit the Accounts to consist solely of (i) cash, (ii) long or short positions in equities, depository receipts, or similar equity-related instruments, or (iii) contracts for difference.

Prior to COLT XXVII, BBPLC's positions with respect to call options were booked in BBPLC's New York Branch. Beginning with COLT XXVII, BBPLC's positions have been booked in BBPLC's London Branch. For US tax purposes, BBPLC's and Palomino's income with respect to the COLT transaction should continue to be effectively connected to a US trade or business.

COLT I was executed on 30 September 2002. Subsequently, Renaissance purchased call options in the following transactions:

COLT Options Written			
Deal Name	Trade Date	Deal Name	Trade Date
COLT I	30-Sep-02	COLT XIV	3-Nov-08
COLT II	9-May-03	COLT XV	12-Dec-08
COLT III	14-Jan-04	COLT XVI	5-Jun-09
COLT IV	1-Jun-04	COLT XVII	5-Jun-09
COLT V	1-Oct-04	COLT XVIII	7-Oct-09
COLT VI	21-Dec-05	COLT XIX	24-May-10
COLT VII	6-Dec-06	COLT XX	27-Sep-10
COLT VIII	13-Mar-07	COLT XXI	3-Dec-10
COLT IX	22-Jun-07	COLT XXII	11-Mar-11
COLT X	10-Aug-07	COLT XXIII	13-Oct-11
COLT XI	14-Dec-07	COLT XXIV	12-Dec-11
COLT XII	21-Apr-08	COLT XXV	18-Apr-12
COLT XIII	13-Jun-08	COLT XXVI	19-Jun-12
		COLT XXVII	9-Oct-12



In 2010, the Internal Revenue Service (the "IRS") released an advice memorandum describing their position on the treatment of the COLT transaction. In AM 2010-005, the IRS concluded that the call option does not function as an option and should not be treated as one for US tax purposes. In addition, the IRS concluded that Badger should be treated as the US tax owner of the equities in the managed account.

Further, Barclays is entitled to indemnification from Badger and the affiliated Renaissance funds under the transaction documents should the IRS attempt to collect such withholding tax as well as interest and penalties from Barclays.

The IRS memorandum was discussed in the SCM US Approvals Committee Meetings in respect of entry into COLT XXI, XXII, and XXVII. Entry into the call options was approved by Tax and by the SCM US Approvals Committee. SCM provided notification of entry into the other COLT options. In April 2012, SCM was informed by Renaissance that the IRS has formally challenged Renaissance's position and that the challenge will be taken to Appeals within the IRS. In October 2012, the IRS issued a summons requiring Barclays to provide documents regarding the COLT transaction. The Tax Risk Committee was informed of the foregoing issues regarding the COLT transaction and approved the continuation of the transaction, with the understanding that the COLT transaction will be further reviewed in early 2013 following the completion of the Mango / TRANSFORM workstreams. There have been no other material developments regarding these issues.

#### Economic Benefit

Barclays benefits via the spread earned on executing the underlying equity transactions and debit & credit balances maintained on the Accounts. SCM receives a structuring fee from Prime Services equal to 6.5bps on the market value of the short positions in the Accounts (approx. \$[5]m per annum).

Key financial data is set out below:

Product limit	<i>n/a</i>
Estimated revenue (post costs, except legals)	1) <i>SCM fee of 6.5bps (approx. \$[5]m p.a.)</i> 2) <i>Prime Services income of approximately \$[95]m per annum from the Accounts.</i>
Tax capacity	<i>Tax capacity generated equal to Prime Services income</i>
<i>Return on Tax capacity</i>	<i>n/a</i>
RWAs	<i>Assumed by Prime Services</i>
<i>Return on RWAs</i>	<i>n/a</i>
PUG	<i>None</i>
Balance Sheet	<i>Approximately \$3.5bn in relation to the BBPLC - Palomino Options split 75% Prime Services, 25% SCM</i>

As per the previous call options, the COLT XXVIII options will have a maturity of 3 years or less and will be cash settled. Upon entry into the COLT XXVIII options, the weightings of the existing call options will be rebalanced and the aggregate notional of all the call options (including the COLT XXVIII options) will be \$1,800m. Renaissance has also informed BBPLC that it intends to exercise options XXII, XXIII, and XXIV in December 2012. Using current net asset value balances, the exercise of the three options and the addition of the two new options will, on net, bring the balance from \$3.1bn to \$1.5bn.

Simultaneous with its writing of the two COLT XXVIII options to Badger for premiums of approximately \$250m and \$150m, BBPLC will enter into two call options with Palomino that matches the obligations of BBPLC under the COLT XXVIII options for premiums of approximately \$250.2m and \$150.1m. The call option premiums received by BBPLC reflect the economic benefit and cost of the COLT transactions for BBPLC, and the call option premiums received by Palomino reflect the economic benefit and cost of the COLT transactions for Palomino.



Since the terms of the COLT XXVIII options will not alter the terms of the existing COLT transaction, SCM intends to proceed with the COLT XXVIII options without seeking new approval from the SCM US Approvals Committee; however, it has been agreed that COLT XXVIII will be brought to the attention of the Tax Risk Committee ahead of execution. SCM has notified and received approval from the following in relation to proceeding with the proposed transaction: Tax, Finance, Credit Risk, Market Risk, Regulatory, Legal, Compliance, and Operations.

**From:** Sixsmith, James: Prime Brokerage (LDN) </o=bzw/ou=europe/cn=recipients/cn=exchange recipients/cn=sixsmitj>  
**Sent:** Fri Nov 23 2012 10:28:33 EST  
**To:** Malloy, Marty: CFG Mgmt (NYK) </o=bzw/ou=usa/cn=recipients/cn=markets/cn=malloym>  
**CC:**  
**Subject:** Palomino options  
**Attachments:**

**Importance:** High  
**Priority:** Urgent  
**Sensitivity:** None

Hi Marty,

The new options were approved today but David did raise a question around whether Reny should be made aware that if Transform results in the termination of the Colt structure, this could mean the 60 day notice is given on these new options. Chris Levy said that Ajay had talked with Chris Lucas about this scenario, but it was agreed that any exit from this structure would not result in the 60 day notice would be given, rather there would be more notice meaning that Reny would not have to close out the option and suffer short term capital gains tax.

I think David will send Graham a mail on this which may be sent on to Ajay to validate this conversation between Chris and Ajay.

This is just a heads-up, and let me know if what I've described is unclear.

Thanks,  
James



New COLT Transaction  
Transaction Review Committee  
December 2013

Confidential Presentation 1  
For Internal Use Only



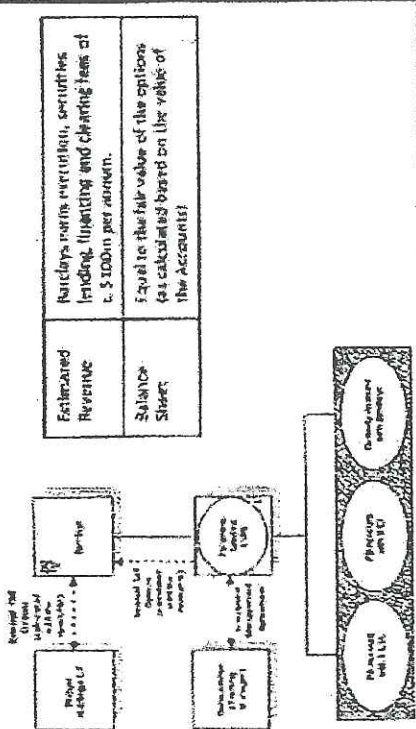
## The New COLT Transaction

### High Level Overview

- Prime Services and Moller: Structuring and requesting approval to enter into new option transactions (the New COLT Transaction) with Renaissance Technologies LLC (Renaissance).
- Under the New COLT Transaction, Badger Holdings L.P. (Badger), an entity managed by Renaissance Technologies LLC (Renaissance), will buy one or more call options (Original Options) from Barclays Bank PLC (Barclays). In turn, Barclays will buy one or more call options (New Options) from Renaissance Limited (Renaissance), an entity wholly-owned by Barclays (Barclays). The maturity of the options will not be greater than 11 months. The Original Options and the New Options will reference a set of accounts held by Renaissance, namely prime leverage accounts with Barclays Capital Inc. (BCI) and Barclays Capital Securities Limited (BCSL) and a custody account with Barclays NY Branch (together The Accounts).
- Palmiroc appoints Renaissance as trading manager for the Accounts in return for ongoing management fees. Renaissance is subject to investment guidelines under its investment management agreement with Palmiroc.
- The New COLT Transaction enables Renaissance to build upon its successful track record in the statistical arbitrage space. The New COLT Transaction also allows Barclays to maintain its long-standing relationship with Renaissance, who has been a valuable client for over 13 years.

### Background and Commercial Drivers

- The original COLT Transaction (the Original COLT Transaction) was executed on 30 September 2002. Renaissance has purchased 28 COLT options from Barclays, the latest being COLT XXVIII executed 27 November 2012. Renaissance subsequently exercised 24 COLT options, leaving 5 options outstanding.
- Barclays is expected to benefit from the spread earned on entering and financing the underlying equity transactions (initially by S. V. Ivan P.A.) in addition, the New COLT Transaction provides increasing benefits to Barclays beyond what is achieved through an ordinary prime brokerage arrangement, including: (i) capital trade flows for up to 11 months; (ii) transparency into the trading activity in the Accounts; (iii) control over the investment criteria through the investment management agreement; (iv) net participation rights for 100% of the collateral, and (v) the value of the Accounts is deemed to be zero if the value of the Accounts falls to an amount equal to 10% of the option premiums.
- From Renaissance's perspective, the New COLT Transaction provides them with committed balance sheet, liquidity and leverage (including on margin calls) beyond the premium for other Barclays prime brokerage arrangements, given Barclays' transparency and control of the trading activity in the Accounts.
- Each of the Original COLT Transactions has had a maturity of up to 5 years. Where the COLT options were exercised more than a year after purchase, Renaissance has been able to claim a 20% reduction in the US tax rate applied to income on the call option investments (the Rate Differential Benefit).
- In 2010, the IRS released a memorandum describing their position on the treatment of a transaction similar to that of the Original COLT Transaction. In October 2012, the IRS issued a memorandum requiring Barclays to provide documents. In early 2013, the Subcommittee initiated an investigation that resulted in the Original COLT Transaction.
- On 25 March 2013, following the conclusion of Barclays' strategic review (TRANSFORM), the Tax Risk Committee agreed that Renaissance be permitted to enter into the New COLT Transaction with the maturity of the options no greater than 11 months. US individual investors of Renaissance would no longer claim the Rate Differential Benefit.



Our Tax Principles requires that certain planning must:

- Appear genuine commercial activity.
- See Background and Commercial Drivers for a complete discussion. However, in summary, the New COLT Transaction allows Renaissance to build upon its uniquely successful and profitable track record in the statistical arbitrage space. The New COLT Transaction is expected to generate significant tax benefits to Barclays for the trading period by 2015 via VCLT.
- Employ both generally accepted custom and practice, in addition to the law and the UK Code of Practice on Taxation for Banks.
- Barclays expects to be taxed on its economic profit and loss, consistent with other "business as usual" activities.
- US individual investors of Renaissance will be taxed on the short-term capital gain/loss on any gain or loss in the year in which the option is exercised.
- Be of a type that the tax authorities would expect.
- It is believed that the IRS and the Subcommittee have questioned the Original COLT Transaction because of the Rate Differential Benefit and that an offer to Renaissance to enter into the New COLT Transaction (i.e. without the Rate Differential Benefit) would remove much of the profitability as to whether the New COLT Transaction would be "a type that the tax authorities would expect".
- Only take place with customers and clients sophisticated enough to assess its risks.
- Renaissance is a very sophisticated investment firm and one of the most successful hedge funds in the statistical arbitrage space with an almost uniquely successful track record. Since 2002, Renaissance has purchased 28 COLT options from Barclays (and subsequently exercised) 24 of those options). The substantial premiums for the Original COLT options have been received by Renaissance's owners and employees, with no third-party investors.
- It was Renaissance that originally approached Barclays with the idea of the Original COLT Transaction, the structure is consistent with Renaissance's CEO and CDO.
- The structure was seen to be consistent with our purpose and value.
- As discussed above, the New COLT Transaction supports genuine commercial activity, including the plans relating to the prime leverage accounts and enables Renaissance to build upon its successful track record in the statistical arbitrage space. The transaction as a whole is not an end element of it. It is consistent with Renaissance's business and value.

## Short Term COLT Transaction

### Key risks identified

- A reputational risk may arise to Barclays if the Original COLT Transaction proceeds to court or is included in a public hearing. However, it is considered that the New COLT Transaction does not result in any increase in Barclays' reputational risk in relation to the COLT Transactions, especially as it eliminates the Net Differential Benefit.
- Market risk on Palomino's positions is hedged, in part, by the Extended Call Options.
- Reversance is exposed to 100% of the risk from Palomino's trading activity up to a maximum of the call option premiums. Barclays, as a group, is exposed to the gap risk on the securities (i.e. the risk that the value of the positions in the Accounts falls by an amount greater than the aggregate of the call option premiums prior to the time when Palomino is able to cause an unwind of the positions in the Accounts) (Gap Risk). The Investment Guidelines in the IMA impose limits on liquidity, sector exposure, size and leverage in order to substantially reduce the risk that any Gap Risk loss is greater than the call option premiums. The limits are such that Barclays' Credit and Market Risk departments are comfortable the Gap risk is managed within acceptable limits.
- The risks of COLT generally are reduced by the following risk management techniques:
  - > An option expires with zero value if its value falls to 10% or less of the premium amount;
  - > Should the equity value of the Accounts fall to an amount equal to 10% of the option premiums, Palomino will have the right to liquidate the positions;
  - > Strict Investment Guidelines - ability to terminate the IMA if non adherence;
  - > Monitoring of trading by RIE to ensure adherence to Investment Guidelines;
  - > Trades outside of the Investment Guidelines being transferred out of the Accounts to Palomino's own account;
  - > Ability to reduce leverage if Trading Strategy at risk profile changes;
  - > Palomino being able to terminate the IMA for any reason upon 60 calendar day notice.

### Appendices

1.	Transaction Description
2.	Economic Benefit
3.	Legal
4.	Risk
5.	Regulatory
6.	Tax Analysis
7.	Accounting
8.	Compliance
9.	Miscellaneous



UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549

FORM 20-F

(Mark One)

REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR 12(g) OF THE  
SECURITIES EXCHANGE ACT OF 1934

OR

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2009

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

OR

SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934

Date of event requiring this shell company report \_\_\_\_\_

Commission file numbers

Barclays PLC

1-09246

Barclays Bank PLC

1-10257

**BARCLAYS PLC**  
**BARCLAYS BANK PLC**

(Exact Names of Registrants as Specified in their Charter[s])

ENGLAND

(Jurisdiction of Incorporation or Organization)

1 CHURCHILL PLACE, LONDON E14 5HP, ENGLAND

(Address of Principal Executive Offices)

PATRICK GONSALVES, +44 (0)20 7116 2901, PATRICK.GONSALVES@BARCLAYS.COM

1 CHURCHILL PLACE, LONDON E14 5HP, ENGLAND

\*(Name, Telephone, E-mail and/or Facsimile number and Address of Company Contact Person)

Securities registered or to be registered pursuant to Section 12(b) of the Act:

**Barclays PLC**

Title of Each Class	Name of Each Exchange On Which Registered
25p ordinary shares	New York Stock Exchange*
American Depository Shares, each representing four 25p ordinary shares	New York Stock Exchange

\* Not for trading, but in connection with the registration of American Depository Shares, pursuant to the requirements of the Securities and Exchange Commission.

**Barclays Bank PLC**

Permanent Subcommittee on Investigations

**EXHIBIT #68**



## Notes to the accounts

### For the year ended 31st December 2009

#### 41 Investment in subsidiaries continued

##### Entities where the Group's interest exceeds 50% which are excluded from consolidation

Although the Group's interest in the equity voting rights in certain entities exceeds 50%, or it may have the power to appoint a majority of their Boards of Directors, they are excluded from consolidation because the Group either cannot direct the financial and operating policies of these entities, or on the grounds that another entity has a superior economic interest in them. Consequently, these entities are not deemed to be controlled by Barclays.

The table below includes information in relation to such entities as required by the Companies Act 2006 Section 410(2)(b).

Country of registration or incorporation	Name	Percentage of ordinary share capital held %	Equity share-holders' funds £m	Retained loss for the year £m
UK	Fitzroy Finance Limited	100	–	–
Cayman Islands	Palomino Limited	100	1	–

#### 42 Related party transactions and Directors' remuneration

##### a) Related party transactions

Parties are considered to be related if one party has the ability to control the other party or exercise significant influence over the other party in making financial or operation decisions, or one other party controls both. The definition includes subsidiaries, associates, joint ventures and the Group's pension schemes, as well as other persons.

##### Subsidiaries

Transactions between Barclays PLC and subsidiaries also meet the definition of related party transactions. Where these are eliminated on consolidation, they are not disclosed in the Group financial statements. Transactions between Barclays PLC and its subsidiary, Barclays Bank PLC are fully disclosed in its balance sheet and income statement. A list of the Group's principal subsidiaries is shown in Note 41.

##### Associates, joint ventures and other entities

The Group provides banking services to its associates, joint ventures, the Group pension funds (principally the UK Retirement Fund) and to entities under common directorships, providing loans, overdrafts, interest and non-interest bearing deposits and current accounts to these entities as well as other services. Group companies also provide investment management and custodian services to the Group pension schemes. The Group also provides banking services for unit trusts and investment funds managed by Group companies and are not individually material. All of these transactions are conducted on the same terms as third-party transactions.

##### Entities under common directorships

The Group enters into normal commercial relationships with entities for which members of the Group's Board also serve as Directors. The amounts included in the Group's financial statements relating to such entities that are not publicly listed are shown in the table opposite under Entities under common directorships.

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549

FORM 20-F

(Mark One)

REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR 12(g) OF THE SECURITIES EXCHANGE ACT OF 1934

OR

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2010

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

OR

SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Date of event requiring this shell company report \_\_\_\_\_

Commission file numbers	Barclays PLC	1-09246
	Barclays Bank PLC	1-10257

**BARCLAYS PLC**  
**BARCLAYS BANK PLC**

(Exact Names of Registrants as Specified in their Charter[s])

ENGLAND

(Jurisdiction of Incorporation or Organization)

1 CHURCHILL PLACE, LONDON E14 5HP, ENGLAND

(Address of Principal Executive Offices)

**PATRICK GONSALVES, +44 (0)20 7116 2901, PATRICK.GONSALVES@BARCLAYS.COM**  
**1 CHURCHILL PLACE, LONDON E14 5HP, ENGLAND**

\*(Name, Telephone, E-mail and/or Facsimile number and Address of Company Contact Person)

Securities registered or to be registered pursuant to Section 12(b) of the Act:

**Barclays PLC**



## Notes to the financial statements

### For the year ended 31st December 2010 continued

#### 32 Investment in subsidiaries continued

Following the restructuring of Group operations in the US during the year, Barclays Group US Inc. is no longer a US Bank Holding Company.

Full information of all subsidiaries will be included in the Annual Return to be filed at UK Companies House.

#### Entities in which the Group holds less than half the voting rights

There are a number of entities in which the Group holds less than half the voting rights which are consolidated when the substance of the relationship between the Group and the entity indicates that the entity is controlled by the Group. Such entities are deemed to be controlled by the Group when relationships with such entities give rise to benefits that are in substance no different from those that would arise were the entity a subsidiary.

The consolidation of such entities may be appropriate in a number of situations, but primarily when:

- the operating and financial policies of the entity are closely defined from the outset (i.e. it operates on an 'autopilot' basis) with such policies being largely determined by the Group;
- the Group has rights to obtain the majority of the benefits of the entity and/or retains the majority of the residual or ownership risks related to the entity; or
- the activities of the entity are being conducted largely on behalf of the Group according to its specific business objectives. Such entities are created for a variety of purposes including securitisation, structuring, asset realisation, intermediation and management.

#### Subsidiaries with a different reporting date from that of the Parent of 31st December

Entities may have a different reporting date from that of the parent of 31st December. Dates may differ for a variety of reasons including local reporting regulations or tax laws. In accordance with our accounting policies, for the purpose of inclusion in the consolidated financial statements of Barclays PLC, entities with different reporting dates are made up until 31st December.

#### Entities where the Group's interest exceeds 50% which are excluded from consolidation

Although the Group's interest in the equity voting rights in certain entities exceeds 50%, or it may have the power to appoint a majority of their Boards of Directors, they are excluded from consolidation because the Group either does not direct the financial and operating policies of these entities, or on the grounds that another entity has a controlling interest in them. Consequently, these entities are not deemed to be controlled by Barclays.

The table below includes information in relation to such entities as required by the Companies Act 2006 Section 410(2)(b).

Country of registration or incorporation	Name	Percentage of ordinary share capital held	Equity Shareholders' funds \$m	Retained Profit for the year \$m
UK	Fitzroy Finance Limited	100	–	–
Cayman Islands	Palomino Limited	100	1	–

#### 33 Profit on disposal of subsidiaries, associates and joint ventures

During the year, the profit on disposal of subsidiaries, associates and joint ventures was £81m (2009: £188m), principally relating to the disposal of Barclays Africa custody business to Standard Chartered Bank for a consideration of £81m generating a gain on disposal before tax of £77m. During 2009, the Group disposed of 50% of Barclays Vida y Pensiones Compañía de Seguros and the 7% of Barclays Africa Botswana business for consideration of £276m generating a gain on disposal before tax of £184m.

#### 34 Discontinued operations

On 1st December 2009 the Group completed the sale of BGI to BlackRock, Inc. (BlackRock) recognising a profit on disposal before tax of £6,331m. The tax charge of £43m reflects the application of UK substantial shareholdings relief in accordance with UK tax law.

The consideration at completion was \$15.2bn (£9.5bn), including 37,567 million new BlackRock shares, giving an economic interest of 19.9% of the enlarged BlackRock group. Barclays Group holds 4.9% of the voting rights and under the terms of the transaction may not acquire additional voting rights and will vote in accordance with the recommendations of the BlackRock Board of Directors. John Varley and Bob Diamond were appointed to the BlackRock Board, which comprises 18 Directors. The Group is not deemed to exercise significant influence and the investment has been accounted for as an available for sale equity investment.



**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549**

**FORM 20-F**

(Mark One)

- REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR 12(g) OF THE SECURITIES EXCHANGE ACT OF 1934**

OR

- ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2011

OR

- TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

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**Barclays PLC**

## Notes to the financial statements

### For the year ended 31 December 2011 continued

#### Scope of consolidation

This section presents information on the Group's investments in subsidiaries, joint ventures and associates. Detail is also given on securitisation transactions the Group has entered into and arrangements that are held off-balance sheet.

#### 40 Investment in subsidiaries

##### Accounting for investment in subsidiaries

In the individual financial statements of Barclays PLC, investments in subsidiaries are stated at cost less impairment, if any. Cost includes directly attributable costs of the investment.

Principal subsidiaries for the Group are set out below. This list has been revised to include those subsidiaries that are significant in the context of the Group's business, results or financial position.

Country of registration or incorporation	Company name	Nature of business	Percentage of equity capital held (%)
England	Barclays Bank PLC	Banking, holding company	100
England	Barclays Bank Trust Company Limited	Banking, securities industries and trust services	100
England	Barclays Stockbrokers Limited	Stockbroking	100
England	Barclays Capital Securities Limited	Securities dealing	100
England	FIRSTPLUS Financial Group PLC	Secured loan provider	100*
Isle of Man	Barclays Private Clients International Limited	Banking	100*
Japan	Barclays Capital Japan Limited	Securities dealing	100
Kenya	Barclays Bank of Kenya Limited	Banking	68.5*
South Africa	Absa Group Limited	Banking	55.5*
Spain	Barclays Bank SA	Banking	100*
USA	Barclays Capital Inc.	Securities dealing	100
USA	Barclays Bank Delaware	US credit card issuer	100
USA	Barclays Group US Inc.	Holding company	100*

The country of registration or incorporation is also the principal area of operation of each of the above subsidiaries. Investments in subsidiaries held directly by Barclays Bank PLC are marked\*. Full information of all subsidiaries will be included in the Annual Return to be filed at UK Companies House.

Although the Group's interest in the equity voting rights in certain entities listed below may exceed 50%, or it may have the power to appoint a majority of their Boards of Directors, they are excluded from consolidation because the Group either does not direct the financial and operating policies of these entities, or another entity has a controlling interest in them. Consequently, these entities are not controlled by Barclays:

Country of registration or incorporation	Company name	Percentage of ordinary share capital held %	Equity shareholders' funds £m	Retained profit for the year £m
UK	Fitzroy Finance Limited	100	—	—
Cayman Islands	Palomino Limited	100	1	—

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## Notes to the financial statements

### For the year ended 31 December 2012 continued

#### Scope of consolidation

The notes included in this section focus on information on the Group's investments in subsidiaries, joint ventures and associates. Detail is also given on securitisation transactions the Group has entered into and arrangements that are held off-balance sheet.

#### 38 Investment in subsidiaries

##### Accounting for investment in subsidiaries

In the individual financial statements of Barclays PLC, investments in subsidiaries are stated at cost less impairment, if any. Cost also includes directly attributable costs of the investment.

Principal subsidiaries for the Group are set out below. This list includes those subsidiaries that are most significant in the context of the Group's business, results or financial position.

Country of registration or incorporation	Company name	Nature of business	Percentage of equity capital held (%)
England	Barclays Bank PLC	Banking, holding company	100
England	Barclays Bank Trust Company Limited	Banking, asset management and trust services	100
England	Barclays Capital Securities Limited	Securities dealing	100
Isle of Man	Barclays Private Clients International Limited	Banking	100*
Japan	Barclays Securities Japan Limited	Securities dealing	100
Kenya	Barclays Bank of Kenya Limited	Banking	68.5*
South Africa	Absa Bank Limited	Banking	55.6*
Spain	Barclays Bank S.A.U.	Banking	100*
USA	Barclays Capital Inc.	Securities dealing	100
USA	Barclays Bank Delaware	US credit card issuer	100

The country of registration or incorporation is also the principal area of operation of each of the above subsidiaries. Investments in subsidiaries held directly by Barclays Bank PLC are marked \*. Information on the Group's subsidiaries, as required by the Companies Act, will be included in the Annual Return to be filed at the UK Companies House.

Although the Group's interest in the equity voting rights in certain entities listed below may exceed 50%, or it may have the power to appoint a majority of their Boards of Directors, they are excluded from consolidation because the Group either does not direct the financial and operating policies of these entities, or another entity has a controlling interest in them. Consequently, these entities are not controlled by Barclays:

Country of registration or incorporation	Company name	Percentage of ordinary share capital held (%)	Equity shareholders' funds £m	Retained profit for the year £m
UK	Fitzroy Finance Limited	100	-	-
Cayman Islands	Palomino Limited	100	1	-

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#### Note 38: Principal Subsidiaries continued

##### Significant judgements and assumptions used to determine the scope of the consolidation

Determining whether the Group has control of an entity is generally straightforward based on ownership of the majority of the voting capital. However, in certain instances this determination will involve significant judgment, particularly in the case of structured entities where voting rights are often not the determining factor in decisions over the relevant activities. This judgment may involve assessing the purpose and design of the entity. It will also often be necessary to consider whether the Group, or another involved party with power over the relevant activities, is acting as a principal in its own right or as an agent on behalf of others.

There is also often considerable judgment involved in the ongoing assessment of control over structured entities. In this regard, where market conditions have deteriorated such that the other investors' exposures to the structure's variable returns have been substantively eliminated, the Group may conclude that the managers of the structured entity are acting as its agent and therefore will consolidate the structured entity.

An interest in equity voting rights exceeding 50% would typically indicate that the Group has control of an entity. However certain entities are excluded from consolidation because the Group does not have exposure to their variable returns. These entities are managed by external counterparties and consequently are not controlled by the Group. Where appropriate, interests relating to these entities are included in Note 39 Structured Entities.

Country of registration or incorporation	Company Name	Percentage of voting rights held (%)	Equity shareholder's funds (£m)	Retained profit for the year (£m)
UK	Fitzroy Finance Limited	100	—	—
Cayman Islands	Palomino Limited	100	1	—

##### Significant restrictions

As is typical for a Group of its size and international scope, there are restrictions on the ability of Barclays PLC to obtain distributions of capital, access the assets or repay the liabilities of members of its group due to the statutory, regulatory and contractual requirements of its subsidiaries and due to the protective rights of non-controlling interests. These are considered below.

##### Regulatory requirements

Subsidiary companies with assets and liabilities before intercompany eliminations of £1,797bn (2012: £1,963bn) and £1,727bn (2012: £1,900bn) respectively are subject to prudential regulation and regulatory capital requirements in the countries in which they are regulated. These require entities to maintain minimum capital, leverage and exposure ratios restricting the ability of these entities to make distributions of cash or other assets to the parent company, Barclays PLC.

In order to meet capital requirements, subsidiaries may hold certain equity accounted and debt accounted issued financial instruments and non-equity instruments such as Tier 1 and Tier 2 capital instruments and other forms of subordinated liabilities. See the non-controlling interests Note 34 and the subordinated liabilities Note 31 for particulars of these instruments. These instruments may be subject to cancellation clauses or preference share restrictions that would limit the ability of the entity to repatriate the capital on a timely basis.

##### Liquidity requirements

Regulated subsidiaries of the Group are required to maintain liquidity pools to meet PRA and local regulatory requirements. The main subsidiaries affected are Barclays Bank PLC, Absa Bank Limited and Barclays Capital Inc. which must maintain daily compliance with the regulatory minimum.

See pages 208 to 224 for further details of liquidity requirements, including those of our significant subsidiaries.

##### Statutory requirements

The Group's subsidiaries are subject to statutory requirements not to make distributions of capital and unrealised profits and generally to maintain solvency. These requirements restrict the ability of subsidiaries to make remittances of dividends to Barclays PLC, the ultimate parent, except in the event of a legal capital reduction or liquidation. In most cases the regulatory restrictions referred to above exceed the statutory restrictions.

As at 31 December 2013, the non-distributable reserves of Barclays Bank PLC, including share capital and other equity instruments were £23,571m (2012: £18,608m).

##### Contractual requirements

###### Asset encumbrance

The Group uses its financial assets to raise finance in the form of securitisations and through the liquidity schemes of central banks. Once encumbered, the assets are not available for transfer around the Group. The assets typically affected are disclosed in Note 42 Assets Pledged.

###### Assets held by consolidated structured entities

£690m of assets included in the Group's balance sheet relate to consolidated investment funds and are held to pay return and principal to the holders of units in the funds. The assets held in these funds cannot be transferred to other members of the Group.

##### Other restrictions



The Group is required to maintain balances with central banks and other regulatory authorities and these amounted to £4,722m as at 31 December 2013 (2012: £5,169m).

Barclays Africa Group Limited assets are subject to exchange control regulation determined by the South African Reserve Bank (SARB). Special dividends and loans in lieu of dividends cannot be transferred without SARB approval.