

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 56450 / September 18, 2007

ADMINISTRATIVE PROCEEDING
File No. 3-12804

In the Matter of

**SWISS RE FINANCIAL PRODUCTS
CORPORATION,**

Respondent.

**ORDER INSTITUTING CEASE-AND-DESIST
PROCEEDINGS, MAKING FINDINGS, AND
IMPOSING A CEASE-AND-DESIST ORDER
PURSUANT TO SECTION 21C OF THE
SECURITIES EXCHANGE ACT OF 1934**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Swiss Re Financial Products Corporation (“SRFP,” “the firm” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings, Making Findings, and Imposing a Cease-and-Desist Order Pursuant to Section 21C of the Securities Exchange Act of 1934 (“Order”), as set forth below.

III.

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

SUMMARY

1. Over a period of approximately eighteen months, from mid-2003 until early 2005, on thirteen occasions, SRFP violated Rule 105 of Regulation M. On each occasion, in connection with a follow-on offering, SRFP sold securities short within five business days before the pricing of the offering, and covered the short sale, in whole or in part, with shares purchased in the offering. SRFP profited on all but one of the thirteen transactions, realizing total profits of \$380,517 on the profitable transactions.

RESPONDENT

2. **SRFP** is a Delaware corporation. It is a wholly-owned subsidiary of Swiss Re America Holding Corporation, which is wholly owned by Swiss Reinsurance Company, a Swiss corporation. SRFP engages in, among other things, proprietary trading.

LEGAL FRAMEWORK

3. Rule 105 of Regulation M, "Short Selling in Connection with a Public Offering," prohibits covering a short sale with securities obtained in a public offering if the short sale occurred within the shorter of the period five business days before pricing and ending with pricing, or the period beginning with the initial filing of the registration statement or notification on Form 1-A and ending with pricing. In pertinent part, Rule 105 provides:

In connection with an offering of securities for cash pursuant to a registration statement . . . filed under the Securities Act, it shall be unlawful for any person to cover a short sale with offered securities purchased from an underwriter or broker or dealer participating in the offering, if such short sale occurred during the . . . period beginning five business days before the pricing of the offered securities and ending with such pricing.

17 C.F.R. § 242.105. "The goal of Rule 105 is to promote offering prices that are based upon open market prices determined by supply and demand rather than artificial forces." Final Rule: Short Sales, Exchange Act Release No. 50103, 2004 WL 1697019, at *19 (July 28, 2004).

SRFP'S TRADES

4. From June 2003 until February 2005, in connection with thirteen public offerings, SRFP engaged in short sales and covering transactions prohibited by Rule 105 in securities of eleven issuers: Nextel Partners, Inc.; Montpelier Re Holdings Ltd.; Chicago Mercantile Exchange Holdings, Inc.; Monster Worldwide, Inc.; Estee Lauder Companies, Inc.; WellChoice,

Inc.; AU Optronics Corp.; Bucyrus International, Inc.; Wesco International, Inc.; Owens-Illinois, Inc. (two transactions); and Taiwan Semiconductor Manufacturing Co. Ltd. (two transactions). SRFP incurred a loss on one of the transactions and realized profits totaling \$380,517 on the other twelve.

5. The transactions were effected by several traders located in New York and London. Those traders were part of a group of traders that is no longer associated with SRFP or its affiliates.

6. Most of the transactions followed the same general pattern. SRFP sold securities short either the day of, or the day before, the follow-on offering. In each instance, the short sale occurred before the offering was priced. The firm covered all or part of the short position with shares it was allocated in the offering. On two occasions, the number of shares the firm received in the offering was exactly the same as the number of shares it had sold short. On four occasions, SRFP's offering allocation was insufficient to cover the entire short position, and the firm purchased additional shares on the open market to cover the remainder of its short position on the day of the offering or the following day. In the remaining instances, SRFP received more shares in the offering than it needed to cover the short position, and generally sold the excess shares the day of the offering or the following day.

7. The firm's transactions in shares of Nextel Partners are illustrative. On November 13, 2003, SRFP sold short 150,000 shares of Nextel Partners at \$11.329 per share, obtaining proceeds of \$1,699,350. Later that day, Nextel Partners priced an offering of its securities at \$10.80. SRFP received an allocation of 400,000 shares in the offering, for which it paid a total of \$4,320,000. Of those 400,000 shares, the firm used 150,000 (at a cost of \$1,620,000) to cover the short sale, resulting in a profit of \$79,350 on the transaction. The next day, November 14, 2003, SRFP sold the remaining 250,000 shares it had purchased in the offering, eliminating its position in Nextel Partners.

8. During the relevant period, SRFP did not have procedures in place designed to prevent or detect Rule 105 violations and provided no training to the traders concerning Rule 105.

VIOLATIONS

9. As a result of the conduct described above, Respondent violated Rule 105 of Regulation M, which makes it "unlawful for any person to cover a short sale with offered securities purchased from an underwriter or broker or dealer participant in the offering, if such short sale occurred during the . . . period beginning five business days before the pricing of the offered securities and ending with the pricing."

SRFP'S REMEDIAL EFFORTS

10. In determining to accept the Offer,¹ the Commission considered remedial acts promptly undertaken by SRFP and cooperation afforded the Commission staff.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent SRFP's Offer.

Accordingly, it is hereby ORDERED that:

A. Respondent SRFP cease and desist from committing or causing any violations and any future violations of Rule 105 of Regulation M.

B. IT IS FURTHERED ORDERED that SRFP shall, within thirty (30) days of the entry of this Order, pay disgorgement in the amount of \$380,517, and prejudgment interest in the amount of \$77,088 to the United States Treasury. Such payment shall be: (A) made by United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and (D) submitted under cover letter that identifies SRFP as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Andrew M. Calamari, Associate Regional Director, Division of Enforcement, Securities and Exchange Commission, New York Regional Office, 3 World Financial Center, New York, NY 10281.

By the Commission.

Nancy M. Morris
Secretary

¹ The Commission has also accepted SRFP's offer to consent to a final judgment ordering it to pay a civil penalty of \$95,000 in a parallel action by the Commission in United States District Court.