

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES ACT OF 1933**  
**Release No. 8594 / July 26, 2005**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-11991**

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<b>In the Matter of</b>	:
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<b>ING Groep N.V.</b>	:
	:
<b>and ING Bank N.V.</b>	:
	:
<b>Respondents.</b>	:
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**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”), against ING Groep N.V. and ING Bank N.V. (collectively, “Respondents”).

**II.**

In anticipation of the institution of these proceedings, Respondents have 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 them and the subject matter of these proceedings which are admitted, Respondents consent to the entry of this Order Instituting Cease-and-Desist Order, Making Findings, and Imposing a Cease-and-Desist Order Pursuant to Section 8A of the Securities Act of 1933, as set forth below.

### III.

On the basis of this Order and Respondents' Offer, the Commission finds<sup>1</sup> that:

1. ING Groep N.V. ("ING") is a global diversified financial institution based in Amsterdam that is in the business of banking, insurance and asset management. ING's securities are registered under Section 13 of the Securities Exchange Act of 1934 (the "Exchange Act"). ING's securities are traded on the New York Stock Exchange and the principal market for its securities outside the United States is the Euronext Amsterdam Stock Exchange. ING Bank N.V. ("ING Bank") is a European bank, organized under the laws of the Netherlands, and is wholly-owned by ING. ING Financial Markets LLC ("ING-NY") is a broker-dealer registered under the Exchange Act and is wholly-owned by ING.

2. Between June 4, 2002 and January 29, 2004, ING Bank resold in the United States approximately \$202 million in certain ING securities and securities of ING affiliates (hereinafter, the "Resold Securities").<sup>2</sup> The Resold Securities were initially sold pursuant to registration statements or valid exemptions from registration, but there were no registration statements filed with the Commission or in effect for these resale transactions. Further, no exemptions from registration were available for these transactions. Section 5 of the Securities Act is a transaction-based provision that requires each offer and sale of securities to be registered or have a valid exemption from registration. Therefore, when ING Bank reacquired ING securities and the securities of ING affiliated entities in the secondary market, ING Bank was prohibited under Section 5 from reselling those securities to United States persons without first either registering the resale or having a valid exemption from registration.

3. ING-NY had policies in place to prevent transactions in ING securities (including marketmaking) in violation of Section 5 of the Securities Act. However, ING did not have similar policies in place outside of the United States, where ING acted through its subsidiary ING Bank as the principal marketmaker in ING securities. This practice is common in the Netherlands and in other European countries where the statutory scheme differs from the law in the United States. ING's European traders did not understand that under the statutory scheme in the United States transactions are registered, rather than the securities. On occasion, the European traders'

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<sup>1</sup> The findings herein are made pursuant to Respondents' Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

<sup>2</sup> The Resold Securities traded under "ISIN" numbers NL0000303600, US4568374007, US4568372027, US4568373017, NL0000119592, NL0000122562, NL0000119477, NL0000118784, NL0000113140, NL0000122968, NL0000303600, NL0000122869 and "CUSIP" number P5662GAJ4.

lack of clarity combined with the erroneous assumptions by ING-NY traders in the United States that the trades were proper and had been approved or that ING's European traders were placing an agency order for a European client. ING-NY's United States traders relied on those assumptions to execute the trades. As a result of the conduct described above, the Respondents violated Section 5 of the Securities Act.

4. ING adopted a Long Term Equity Ownership Plan (the "LEO Plan") in March 2004 for employees in its U.S. insurance and banking businesses. Approximately 900 employees in the United States participated in the LEO Plan. Under the LEO Plan, participants were eligible to receive "performance shares" and option awards that, upon vesting, give the employee the right to acquire ING's American Depositary Shares. Generally the "performance share" awards do not vest and the options do not become exercisable until the third anniversary of the date of grant. However, "performance share" awards partially vest and options become exercisable immediately when ING involuntarily terminates an employee (other than for cause).

5. The LEO Plan award agreements signed by some of the employees in March 2004 and 2005 contained covenants, which constituted consideration, and thus the offers and sales were required to be registered before being made to employees. Further, 88 employees have been terminated and became fully vested.

6. No registration statement relating to the LEO Plan was filed or in effect at the time that some ING employees had been offered and sold securities under the LEO Plan in the circumstances described above. No exemption applied to those offers and sales of securities. As a result of the conduct described above, the Respondents violated Section 5 of the Securities Act.

7. ING conducted internal investigations and voluntarily reported these violations of Section 5 to the Commission's Division of Corporation Finance. ING met with staff of the Commission's Division of Enforcement, voluntarily provided additional information, and fully cooperated in an investigation by the Division of Enforcement. In addition, ING has voluntarily instituted several remedial measures to prevent future violations. These remedial measures include: instituting and publicizing new or enhanced trading desk policies and procedures in its United States and European offices that prohibit the trading of ING and ING affiliate securities with United States customers, except with prior approval of legal and compliance personnel; enhancing a restricted list to ensure that ING and ING affiliate securities appear among the restricted securities; conducting daily reviews of trading in ING and ING affiliate securities; notifying all relevant employees of these prohibitions and procedures governing transactions in ING and ING affiliate securities; and conducting legal and compliance educational sessions regarding the application of the United States securities laws to transactions in ING and ING affiliate securities.

**IV.**

In view of the foregoing, the Commission deems it appropriate to impose the cease-and-desist order agreed to in the Respondents' Offer.

Accordingly, pursuant to Section 8A of the Securities Act, it is hereby ORDERED that:

Respondents ING Groep N.V. and ING Bank N.V. cease-and-desist from committing or causing any violations and any future violations of Section 5 of the Securities Act.

By the Commission.

Jonathan G. Katz  
Secretary