



ARIZONA CORPORATION COMMISSION

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Commission Approves Merrill Lynch Auction Rate Settlement, Arizona to Receive Over \$1.7 Million

PHOENIX, AZ— The Arizona Corporation Commission today approved a consent order that requires Merrill Lynch to pay a \$1,751,003 fine in connection with its auction-rate securities (ARS) sales in Arizona. The fine amount is the largest penalty assessed by the Commission in an ARS case and represents Arizona's pro-rata share of a \$125 million global settlement negotiated by a multistate task force of state regulators formed by the North American Securities Administrators Association (NASAA).

The agreement marks the fourth settlement of an ARS case in Arizona since the widespread market failure last year. In the past three months, the Commission sanctioned Wachovia Securities, LLC; Wachovia Capital Markets, LLC; Citigroup Global Markets; Banc of America Securities, LLC; and Banc of America Investment Services, Inc. Among the principal components of the Merrill Lynch settlement is the buyback of ARS from investors who purchased them from Merrill Lynch. In Arizona, the Merrill Lynch buyback involves over \$168.6 million worth of ARS from 499 investors.

The Commission found that Merrill Lynch marketed and sold its ARS as safe, liquid, short-term investments when they are actually long-term investments subject to a complex auction process that, upon failure, can lead to illiquidity. Although Merrill Lynch provided a disclosure document on the Internet, it did not require its financial advisers to affirmatively disclose to investors the important elements of the ARS program. Moreover, Merrill Lynch did not undertake any analysis of whether investors actually reviewed the information provided on the Internet. The Commission found that Merrill Lynch did not inform investors about the extent to which it was buying up its ARS to clear the auctions. Instead of warning its financial advisers and investors about the weakening ARS market, Merrill Lynch provided commission incentives to increase its sales of ARS and touted a triple-A rating even after certain ARS auctions had failed.

To each investor who sold ARS below par between February 13, 2008 and October 1, 2008, Merrill Lynch agreed to reimburse any investor who sold at a financial loss. Additionally, Merrill Lynch agreed to refund refinancing fees from specified municipal ARS issuers and will make a best effort to provide liquidity solutions for institutional investors and other customers. Any investor who purchased ARS from Merrill Lynch during the specified time frame, but has not received notice from them, can call Merrill Lynch's ARS assistance line at 1-888-706-1381 to request a repurchase.

In settling this matter, Merrill Lynch neither admitted nor denied the Commission findings, but agreed to the entry of the consent order. This consent order is the final step in Arizona's ARS case against Merrill Lynch, which was settled in principal in September 2008. Settlements or penalty payments arising from securities law violations are directed by law to the Arizona General Fund and do not remain with the Arizona Corporation Commission. The Commission's funding is appropriated through the normal state budget process.

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