**Case:**

# UBS: A Pattern of Ethics Scandals

**UBS WAS FORMED** in 1997 when Swiss Bank Corp. merged with Union Bank of Switzerland. After acquiring Paine Webber, a 120-year-old U.S. wealth management firm, in 2000, and aggressively hiring for its investment banking business, UBS soon became one of the top financial services companies in the world and the biggest bank in Switzerland. Between 2008 and 2015, however, its reputation was severely tarnished by a series of ethics scandals. These scandals cost the bank billions of dollars in fines and lost profits, not to mention a severely diminished reputation. Even more important, they seem not to be isolated instances, but rather to suggest a troubling pattern.

## Ethics Scandal No. 1: U.S. Tax Evasion

Swiss banks have long enjoyed a competitive advantage conferred by Swiss banking privacy laws that make it a criminal offense to share clients’ information with any third parties. The exceptions are cases of criminal acts such as accounts being linked to terrorists or tax fraud. Merely not declaring assets to tax authorities (tax evasion), however, is not considered tax fraud. After the acquisition of Paine Webber, UBS entered into a qualified intermediary (QI) agreement with the Internal Revenue Service (IRS), the federal tax agency of the U.S. government. Like other foreign financial institutions under a QI agreement, UBS agreed to report and withhold taxes on accounts receiving U.S.-sourced income. This reporting is done on an aggregate basis to protect the identity of the non-U.S. account holders.

In mid-2008, it came to light that since 2000, UBS had actively participated in helping its U.S. clients evade taxes. To avoid QI reporting requirements, UBS’ Switzerland-based bankers had assisted the U.S. clients to structure their accounts by divesting U.S. securities and setting up sham entities offshore to acquire non-U.S. account holder status. Aided by Swiss bank privacy laws, UBS successfully helped its U.S. clients conceal billions of dollars from the IRS. In addition, UBS aggressively marketed its “tax-saving” schemes by sending its Swiss bankers to the United States to develop clientele, even though those bankers never acquired proper licenses from the U.S. Securities and Exchange Commission (SEC) to do so.

The U.S. prosecutors pressed charges on UBS for conspiring to defraud the United States by impeding the IRS. In a separate suit, the U.S. government requested that UBS to reveal the names of 52,000 U.S. clients who were believed to be tax evaders. In February 2009, UBS paid $780 million in fines to settle the charges. Although it initially resisted the pressure to turn over clients’ information, citing Swiss bank privacy laws, UBS eventually agreed to disclose some 5,000 account details, including individual names, after intense negotiations involving officials from both countries. Clients left UBS in droves: Operating profit from the bank’s wealth management division declined by 60 percent, page 525or $4.4 billion, in 2008 alone; it declined by another 17 percent, or $504 million, in 2009.

The UBS case has far-reaching implications for the bank’s wealth management business and the Swiss banking industry as a whole, especially its cherished bank secrecy. To close loopholes in the QI program and crack down on tax evasion in countries with strict bank secrecy traditions, President Obama signed into law the Foreign Account Tax Compliance Act (FATCA) in 2010. The law requires all foreign financial institutions to report offshore accounts and activities of their U.S. clients with assets over $50,000, and to impose a 30 percent withholding tax on U.S. investments or to exit the U.S. business. Switzerland has agreed to implement the FATCA. The annual compliance cost for each Swiss bank is estimated to be $100 million.

## Ethics Scandal No. 2: Rogue Trader

On September 15, 2011, UBS announced that a rogue trader named Kweku Adoboli at its London branch had racked up an unauthorized trading loss of $2.3 billion over three years. Nine days later, UBS CEO Oswald Grübel resigned “to assume responsibility for the recent unauthorized trading incident.”[1](https://jigsaw.vitalsource.com/books/9781260141931/epub/OEBPS/minicase22.xhtml#cs22_fn1) After more than a year of joint investigation by the U.K. and Swiss regulators, the case was concluded with findings that systems and controls at UBS were “seriously defective.”[2](https://jigsaw.vitalsource.com/books/9781260141931/epub/OEBPS/minicase22.xhtml#cs22_fn2) As a result, Adoboli, a relatively junior trader, had been able to take highly risky positions with vast amounts of money. More alarmingly, all three of Adoboli’s desk colleagues admitted that they knew of his unauthorized trades. Moreover, Adoboli’s two bosses had shown a relaxed attitude toward his breaching of daily trading limits.

UBS was fined $47.6 million in late 2012. Adoboli was sentenced to seven years in prison, of which he served about half before being released in 2015. By summer 2017, he was still fighting his deportation order from Britain, where he had arrived at age 12 from his native Ghana to attend boarding school.

## Ethics Scandal No. 3: LIBOR Manipulation

LIBOR, or the London Interbank Offered Rate, is the interest rate at which international banks based in London lend to each other. LIBOR is set daily: A panel of banks submits rates to the British Bankers’ Association based on their perceived unsecured borrowing cost; the rate is then calculated using a “trimmed” average, which excludes the highest and lowest 25 percent of the submissions. LIBOR is the most frequently used benchmark reference rate worldwide, setting prices on financial instruments worth about $800 trillion, including mortgage rates, term loans, and many others.

UBS, as one of the panel banks, was fined $1.5 billion in December 2012 by U.S., UK, and Swiss regulators for manipulating LIBOR submissions from 2005 to 2010. Besides accepting the fine, UBS pleaded guilty to U.S. prosecutors for committing wire fraud. During the stated period, UBS acted on its own or colluded with other panel banks to adjust LIBOR submissions to benefit UBS’s own trading positions. In addition, during the second half of 2008, UBS instructed its LIBOR submitters to keep submissions low to make the bank look stronger. At least 40 people, including several senior managers at UBS, were involved in the manipulation. One major conviction was handed down.

In particular, 35-year-old Tom Hayes, a former UBS (and Citibank) trader, was sentenced to 14 years in prison for rigging the LIBOR. The jail sentence was much longer than what was expected. The judge presiding over the case stated that the court wanted to send a powerful message to banks around the world that financial crime will be severely punished and will no longer be settled with just a fine (paid by the bank). Hayes argues that he is the scapegoat for senior management failings: “I refute that my actions constituted any wrong doing. . . I wish to reiterate that my actions were consistent with those of others at senior levels. . . senior management was aware of my actions and at no point was I told that my actions could or would constitute any wrongdoing.”[3](https://jigsaw.vitalsource.com/books/9781260141931/epub/OEBPS/minicase22.xhtml#cs22_fn3)

In contrast, prosecutors maintained that Hayes was the mastermind behind a corrupt ring of traders and brokers globally, motivated by a desire to make his performance look stronger. Just a few years earlier, Hayes had been considered one of the most talented traders in the banking industry, whom Goldman Sachs tried to poach from UBS with the promise of a $3 million signing bonus.

Following an appeal, in 2015, Hayes’ sentence was reduced to 11 years. In his letters from prison, Tom Hayes states that he is being held basically in solitary confinement away from other inmates. Authorities indicate that this is done for his protection.

## Ethics Scandal No. 4: UBS “Did It Again”

In 2015, in the wake of the LIBOR rigging scandal, the U.S. Department of Justice voided the $1.5 billion settlement from 2012 with UBS, adding another $200 million in fines. Perhaps more damaging, UBS pleaded guilty to allegations that its UBS traders (including Hayes) manipulated LIBOR. UBS had avoided prosecution in 2012 by agreeing to cooperate with authorities and promising not to engage in rate rigging and other illegal activities in the future. The Department of Justice now alleges that UBS violated the terms of the agreement and “did it again.” This time, prosecutors say that UBS manipulated foreign-exchange rates. In particular, UBS and other banks are accused of having colluded in moving foreign-exchange rates for their own benefit and to the detriment of their clients. The Justice Department views UBS as a “repeat offender,” especially in light of a 2011 settlement related to antitrust violations in the municipal-bond investments market.

## DISCUSSION QUESTIONS

1. This MiniCase details several ethics scandals that occurred at UBS in recent years. What does that tell you about UBS?
2. Given repeated ethics failures at UBS, who is to blame? The CEO? The board of directors? The supervising managers? The individuals directly involved? Who should be held accountable? Is it sufficient just to fine the bank?
3. Given the information provided in this MiniCase, do you think that the 11-year jail sentence for Tom Hayes was too harsh? Did he serve as a scapegoat? Note: The average jail sentence served for a person convicted of murder is 17 years in England and Wales.
4. What can UBS do to avoid ethics failures in the future and to repair its damaged reputation?

### Endnote

[**1.**](https://jigsaw.vitalsource.com/books/9781260141931/epub/OEBPS/minicase22.xhtml#rcs22_fn1)  Bill Hewlett, HP co-founder, as quoted in Collins, J.C., and Porras, J.I., Built to Last: Successful Habits of Visionary Companies, New York: HarperCollins, 1994, 1.

[**2.**](https://jigsaw.vitalsource.com/books/9781260141931/epub/OEBPS/minicase22.xhtml#rcs22_fn2)  “Suspicions and spies in Silicon Valley,” Newsweek, September 17, 2006.

[**3.**](https://jigsaw.vitalsource.com/books/9781260141931/epub/OEBPS/minicase22.xhtml#rcs22_fn3)  “How Hewlett-Packard lost its way,” CNN Money, May 8, 2012.

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**Here**

Please use this strategy when you analyze a case:

1. Identify and write the main issues found discussed in the case (who, what, how, where and when (the critical facts in a case).
2. List all indicators (including stated "problems") that something is not as expected or as desired.
3. Briefly analyze the issue with theories found in your textbook or other academic materials. Decide which ideas, models, and theories seem useful. Apply these conceptual tools to the situation. As new information is revealed, cycle back to sub-steps a and b.
4. Identify the areas that need improvement (use theories from your textbook)
   * Specify and prioritize the criteria used to choose action alternatives.
   * Discover or invent feasible action alternatives.
   * Examine the probable consequences of action alternatives.
   * Select a course of action.
   * Design and implementation plan/schedule.
   * Create a plan for assessing the action to be implemented.
5. Conclusion (every paper should end with a strong conclusion or summary)

***Additional resources:***

Aspan, M. 2013. How to Fix a Banks’ Reputation? First, Admit There’s a Problem: <http://www.americanbanker.com/people/how-to-fix-banks-reputattion-problem-first-admit-there-is-a-problem-1058383-1.html>

Kirdahy, M. 2008. How to rebuild your corporate reputation, Forbes: 15 February, see: <http://www.forbes.com/2008/02/14/corporate-executive-strategy-lead-manage-cx_mk_0215reputation.html>

Stewart, J. 2011.  At UBS, It’s the Culture That’s Rogue, New York Times: 23 September, see: <http://www.nytimes.com/2011/09/24/business/global/at-ubs-its-the-culture-thats-rogue.html?pagewanted=all&_r=0>

Thomasson, E., Bosley, C. 2011. UBS CEO quits, accepts blame for $2.3-billion trading scandal, Reuters, see: <http://business.financialpost.com/2011/09/24/ubs-ceo-quits-accepts-blame-for-2-3-billion-trading-scandal/>

**Writing Requirements**

* 3–5 pages in length  (excluding the cover page, abstract, and reference list)
* APA format,to complete the assignment.
* Please use the Case Study Guide as a reference point for writing your case study.