

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
COMPTROLLER OF THE CURRENCY**

In the Matter of:

Bank of America, N.A.
Charlotte, North Carolina

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) AA-EC-14-99
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CONSENT ORDER FOR A CIVIL MONEY PENALTY

The Comptroller of the Currency of the United States of America (“Comptroller”), through his national bank examiners and other staff of the Office of the Comptroller of the Currency (“OCC”), has conducted a targeted examination of Bank of America, N.A., Charlotte, North Carolina (“Bank”). The Bank engages in foreign exchange business (including G10 and other currencies, sales and trading in spot, forwards, options, or other derivatives) and the OCC has identified certain deficiencies and unsafe or unsound practices related to the Bank’s wholesale foreign exchange business, in which business it acts as principal (“FX Trading”). The OCC has informed the Bank of the findings resulting from the examination.

The Bank, by and through its duly elected and acting Board of Directors, has executed a Stipulation and Consent to the Issuance of an Order for a Civil Money Penalty, dated November 11, 2014, that is accepted by the Comptroller (“Stipulation”). By this Stipulation, which is incorporated herein by reference, the Bank has consented to the issuance of this Consent Order for a Civil Money Penalty (“Order”) by the Comptroller. The Bank has committed to taking necessary and appropriate steps to remedy the deficiencies and unsafe or unsound practices identified by the OCC and has begun implementing procedures to remediate the practices addressed in this Order.

ARTICLE I

COMPTROLLER'S FINDINGS

The Comptroller finds, and the Bank neither admits nor denies, the following:

(1) The foreign exchange (“FX”) market is one of the largest and most liquid markets in the world. The FX market enables participants to buy, sell, exchange, and speculate on currencies. The spot FX market is decentralized and unregulated. The Bank for International Settlements estimates that the daily average volume turnover of the global FX market was over five trillion dollars in April 2013 with spot transactions making up over two trillion in turnover every day.

(2) The G10 spot FX market includes transactions between two parties to exchange currencies with settlement on a spot date (generally within two business days). G10 currencies include the U.S. dollar, euro, British pound, Japanese yen, Swedish krona, Norwegian krone, Australian dollar, New Zealand dollar, Swiss franc, and the Canadian dollar. The Bank for International Settlements estimates that daily average turnover in G10 currency pairs accounts for approximately seventy five percent (75%) of total FX turnover.

(3) WM/Reuters (“WM/R”) publishes a series of hourly intraday spot rates (“benchmarks” or “fixes”) for certain currency pairs, including a “closing” rate at end of the trading day in London at 4:00 p.m. London Time. For certain currency pairs, WM/R calculates the published rate using the trading activity on a particular electronic trading platform during a one minute window (“fixing window”) thirty seconds before and thirty seconds after the end of each hour.

(4) The European Central Bank (“ECB”) also establishes reference rates for various currency pairs generally at 2:15 p.m. Central European Time.

(5) Rates established at these fixes are used by global financial market participants to execute trades and by others such as corporations, asset managers, and pension funds to value their portfolios and transact at a published benchmark rate.

(6) The Bank was an active dealer in the G10 spot foreign exchange market during the period from 2008 through 2013 (“Relevant Period”).

(7) A Euromoney Institutional Investor survey estimated the Bank’s total FX market share to be approximately three percent (3%) or less during the Relevant Period.

(8) As a dealer in the spot FX market, the Bank provides liquidity in G10 currencies by acting as a principal market maker, trading with other dealers and customers on behalf of the Bank to seek to earn a profit on the bid-ask spread.

(9) While much of spot FX is transacted on electronic trading platforms, the Bank has “voice” traders who interact with the Bank’s FX sales personnel, or in some cases, the customer directly, to execute the customer’s order as a principal by transacting in the market or dealing from the Bank’s inventory.

(10) The Bank agrees to transact with customers through various types of orders, including in relevant part:

- (a) Market orders, to buy or sell at the best available market price;
- (b) Limit orders, including stop loss orders and take profit orders, in which the Bank agrees to buy or sell to the customer upon the currency pair reaching a specified rate; and

- (c) Fix orders, in which the Bank agrees that it will buy or sell to the customer at a specified forthcoming fix rate. The Bank may seek to manage risk associated with forthcoming fix orders by transacting prior to the fixing window in an amount sufficient to cover the Bank's net fix orders.

(11) The Bank's FX traders encountered potential conflicts of interest between trading to maximize the Bank's profit or the trader's profit, or both, and providing fair execution to the Bank's customers.

(12) Use of electronic messaging platforms was common among traders throughout the industry. During the Relevant Period, the Bank's spot FX traders participated in multibank chatrooms on instant messaging platforms.

(13) While participating in multibank chatrooms, some of the Bank's G10 spot FX traders discussed engaging in potential misconduct with traders from other banks or market participants, including:

- (a) Discussions of coordinating trading strategies among the Bank's traders and traders at others banks to manipulate the WM/R spot FX benchmark rates or ECB spot FX reference rates to the benefit of the trader or the Bank or both and to the potential detriment to some of the Bank's customers;
- (b) Discussions of trading, either alone or collusively, to trigger customers' limit orders, such as stop loss or take profit orders, or customers' barrier options for the trader or Bank's benefit and to the potential detriment of such customers;

- (c) Discussions of trading in advance of pending customers' orders for the trader or Bank's benefit and to the potential detriment of such customers;
- (d) Discussions which resulted in disclosure of confidential Bank information, including the disclosure of information regarding customer order flows and proprietary Bank information, such as FX rate spreads.

(14) These communications occurred during the Relevant Period and went undetected by the Bank for several years.

(15) The OCC engaged in a joint, targeted examination of the Bank and its foreign exchange business with the Federal Reserve Bank of Richmond. The OCC's examination findings established that the Bank had deficiencies in its internal controls and had engaged in unsafe or unsound banking practices with respect to the oversight and governance of the Bank's FX Trading such that the Bank failed to detect and prevent the conduct set forth in paragraph thirteen (13). The deficiencies and unsafe or unsound practices include the following:

- (a) The Bank's compliance risk assessment lacked sufficient granularity and failed to identify the risks related to sales, trading and supervisory employee ("Employee") market conduct in FX Trading;
- (b) The Bank's transaction monitoring and communications surveillance lacked an adequate analysis of risk-behavior related to Employee market conduct in FX Trading;
- (c) The Bank's compliance testing procedures were inadequate to measure adherence to the Bank's standards of Employee conduct and firm policies applicable to Employee market conduct in FX Trading;

- (d) The Bank’s risk assessment and coverage within FX Trading needed improvement to identify and mitigate compliance risks related to Employee market conduct;
- (e) The Bank’s customer information controls were inadequate regarding the WM/Reuters order book to prevent the misuse of customer information;
- (f) The Bank’s risk and profitability reporting was inadequate to identify potential Employee market misconduct in FX Trading; and
- (g) The Bank’s FX business supervision routines were inadequate because they created “gaps” in the Employee market conduct supervisory framework.

(16) The Bank’s internal controls surrounding benchmarks were previously criticized by the OCC in regards to the Bank’s documentation procedures related to submissions in the LIBOR (London interbank offered rate) benchmark rate setting process.

(17) The Bank has committed to, and has already begun, taking necessary and appropriate steps to remedy the deficiencies and unsafe or unsound practices identified by the OCC.

ARTICLE II

ORDER FOR A CIVIL MONEY PENALTY

Pursuant to the authority vested in him by the Federal Deposit Insurance Act, 12 U.S.C. § 1818(i), the Comptroller orders, and the Bank consents to the following:

(1) The Bank shall make payment of a civil money penalty in the total amount of two hundred fifty million dollars (\$250,000,000), which shall be received by the OCC within five (5) business days of the execution of this Order:

- (a) If a check is the selected method of payment, the check shall be made payable to the Treasurer of the United States and shall be delivered to: Comptroller of the Currency, P.O. Box 979012, St. Louis, Missouri 63197-9000.
- (b) If a wire transfer is the selected method of payment, it shall be sent in accordance with instructions provided by the Comptroller.
- (c) The docket number of this case (AA-EC-14-99) shall be entered on the payment document or wire confirmation and a photocopy of the payment document or confirmation of the wire transfer shall be sent immediately, by overnight delivery, to the Director of Enforcement and Compliance, Office of the Comptroller of the Currency, 400 7th Street, S.W., Washington, D.C. 20219.

(2) This Order shall be enforceable to the same extent and in the same manner as an effective and outstanding order that has been issued and has become final pursuant to 12 U.S.C. § 1818(h) and (i).

ARTICLE III

OTHER PROVISIONS

(1) This Order is intended to be, and shall be construed to be, a final order issued pursuant to 12 U.S.C. § 1818(i)(2), and expressly does not form, and may not be construed to form, a contract binding on the Comptroller or the United States.

(2) This Order constitutes a settlement of the civil money penalty proceedings against the Bank contemplated by the Comptroller, based on the unsafe or unsound practices described in the Comptroller's Findings set forth in Article I of this Order related to G10 spot FX Trading.

The OCC releases and discharges the Bank and its subsidiaries from all potential liability for a civil money penalty that has been or might have been asserted by the OCC based on the practices described in the Comptroller's Findings related to G10 spot FX Trading set forth in Article I of this Order, to the extent known to the Comptroller as of the effective date of the Order.

Provided, however, that (i) except as otherwise specified in this paragraph, nothing in the Stipulation or this Consent Order shall prevent the Comptroller from instituting other enforcement actions against the Bank and its subsidiaries or any of its institution-affiliated parties based on the findings set forth in this Order, or any other findings, and (ii) nothing in the Stipulation or this Order shall preclude or affect any right of the Comptroller to determine and ensure compliance with the terms and provisions of the Stipulation or this Order.

(3) The terms of this Order, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements, or prior arrangements between the parties, whether oral or written.

IT IS SO ORDERED, this 11th day of November 2014

/s/
Ron A. Pasch
Deputy Comptroller
Large Bank Supervision

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
COMPTROLLER OF THE CURRENCY**

In the Matter of:)	
)	
Bank of America, N.A.)	AA-EC-14-99
Charlotte, North Carolina)	
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**STIPULATION AND CONSENT TO THE ISSUANCE
OF AN ORDER FOR A CIVIL MONEY PENALTY**

WHEREAS, Bank of America, N.A., Charlotte, North Carolina (“Bank”) engages in foreign exchange business (including G10 and other currencies, sales and trading in spot, forwards, options, or other derivatives) and the Comptroller of the Currency of the United States of America (“Comptroller”) has identified certain deficiencies and unsafe or unsound practices related to the Bank’s wholesale foreign exchange business, in which business it acts as principal (“FX Trading”). The Comptroller, based upon information derived from the exercise of his regulatory and supervisory responsibilities, intends to initiate a civil money penalty proceeding against the Bank, pursuant to 12 U.S.C. § 1818(i), for these deficiencies and unsafe or unsound banking practices.

WHEREAS, in the interest of cooperation and to avoid additional costs associated with administrative and judicial proceedings with respect to the above matter, the Bank, through its duly elected and acting Board of Directors (collectively referred to as the “Board”), has agreed to execute this Stipulation and Consent to the Issuance of a Consent Order (“Stipulation”), that is accepted by the Comptroller, through his duly authorized representative;

NOW, THEREFORE, in consideration of the above premises, it is stipulated by the Bank that:

ARTICLE I

JURISDICTION

(1) The Bank is a national banking association chartered and examined by the Comptroller pursuant to the National Bank Act of 1864, as amended, 12 U.S.C. § 1 *et seq.*

(2) The Comptroller is “the appropriate Federal banking agency” regarding the Bank pursuant to 12 U.S.C. §§ 1813(q) and 1818(i).

(3) The Bank is an “insured depository institution” within the meaning of 12 U.S.C. § 1818(i).

ARTICLE II

CONSENT

(1) The Bank, without admitting or denying any wrongdoing, consents and agrees to issuance of the accompanying Consent Order by the Comptroller.

(2) The terms and provisions of the Consent Order apply to Bank of America, N.A., Charlotte, North Carolina and all its subsidiaries, even though those subsidiaries are not named as parties to the Consent Order.

(3) The Bank consents and agrees that the Consent Order shall be deemed an “order issued with the consent of the depository institution” pursuant to 12 U.S.C. § 1818(h)(2), will become effective upon its execution by the Comptroller through his authorized representative, and will be fully enforceable by the Comptroller pursuant to 12 U.S.C. § 1818(i).

(4) Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein

undertaken by the Bank under his supervisory powers, including 12 U.S.C. § 1818(i), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the Comptroller has any intention to enter into a contract.

(5) The Bank declares that no separate promise or inducement of any kind has been made by the Comptroller, or by his agents or employees, to cause or induce the Bank to consent to the issuance of the Consent Order and/or execute this Stipulation.

(6) The Bank expressly acknowledges that no officer or employee of the Comptroller has statutory or other authority to bind the United States, the United States Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the Comptroller's exercise of his supervisory responsibilities.

(7) The Consent Order constitutes a settlement of the civil money penalty proceeding against the Bank contemplated by the Comptroller, based on the unsafe or unsound practices described in the Comptroller's Findings set forth in Article I of the Consent Order related to G10 spot FX Trading. The OCC releases and discharges the Bank and its subsidiaries from all potential liability for a civil money penalty that has been or might have been asserted by the OCC based on the practices described in the Comptroller's Findings related to G10 spot FX Trading set forth in Article I of the Consent Order, to the extent known to the Comptroller as of the effective date of the Consent Order. Provided, however, that (i) except as otherwise specified in this paragraph, nothing in this Stipulation or the Consent Order shall prevent the Comptroller from instituting other enforcement actions against the Bank and its subsidiaries or any of its institution-affiliated parties based on the findings set forth in this Order, or any other findings, and (ii) nothing in this Stipulation or the Consent Order shall preclude or affect any right of the

Comptroller to determine and ensure compliance with the terms and provisions of this Stipulation or the Consent Order.

ARTICLE III

WAIVERS

(1) The Bank, by executing this Stipulation and consenting to the Consent Order, waives:

- (a) Any and all rights to the issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818(i);
- (b) Any and all procedural rights available in connection with the issuance of the Consent Order;
- (c) Any and all rights to a hearing and a final agency decision pursuant to 12 U.S.C. §§ 1818(i) and (h), and 12 C.F.R. Part 19;
- (d) Any and all rights to seek any type of administrative or judicial review of the Consent Order;
- (e) Any and all claims for fees, costs or expenses against the Comptroller, or any of his agents or employees, related in any way to this enforcement matter or the Consent Order, whether arising under common law or under the terms of any statute, including, but not limited to, the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412;
- (f) Any and all rights to assert this proceeding, this Stipulation, consent to the issuance of the Consent Order, and/or the issuance of the Consent Order, as the basis for a claim of double jeopardy in any pending or future

proceeding brought by the United States Department of Justice or any other governmental entity; and

- (g) Any and all rights to challenge or contest the validity of the Consent Order.

ARTICLE IV

CLOSING

(1) The provisions of this Stipulation and the Consent Order shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any other action affecting the Bank if, at any time, he deems it appropriate to do so to fulfill the responsibilities placed upon he by the several laws of the United States of America.

(2) Nothing in this Stipulation or the Consent Order shall preclude any proceedings brought by the Comptroller to enforce the terms of the Consent Order, and nothing in this Stipulation or the Consent Order constitutes, nor shall the Bank contend that it constitutes, a release, discharge, compromise, settlement, dismissal or resolution of any actions, or in any way affects any actions, that may be or have been brought by any other representative of the United States or an agency thereof, including, without limitation, the United States Department of Justice.

(3) The terms of this Stipulation, including this paragraph, and of the Consent Order are not subject to amendment or modification by any extraneous expression, prior agreements or prior arrangements between the parties, whether oral or written.

IN TESTIMONY WHEREOF, the undersigned, as the duly elected and acting Board of Directors of Bank of America, N.A., Charlotte, North Carolina, have hereunto set their hands on behalf of the Bank

/s/
Charles O. Holliday, Jr.

11/6/14
Date

/s/
Sharon L. Allen

11/6/14
Date

/s/
Susan S. Bies

11/6/14
Date

/s/
Jack O. Bovender, Jr.

11/6/14
Date

/s/
Frank P. Bramble, Sr.

11/7/14
Date

/s/
Pierre J.P. de Weck

11/7/14
Date

/s/
Arnold W. Donald

11/7/14
Date

/s/
Charles K. Gifford

11/6/14
Date

/s/
Linda P. Hudson

11/6/14
Date

/s/

Monica C. Lozano

11/7/14

Date

/s/

Thomas J. May

11/6/14

Date

/s/

Brian T. Moynihan

11/6/14

Date

/s/

Lionel L. Nowell, III

11/6/14

Date

/s/

Clayton Rose

11/6/14

Date

/s/

R. David Yost

11/6/14

Date

Accepted by:

THE COMPTROLLER OF THE CURRENCY

By: /s/

Ron A. Pasch
Deputy Comptroller
Large Bank Supervision

11/11/14

Date