

JPMadoff: The Unholy Alliance between American's Biggest Bank and America's Biggest Crook

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Foreword

This is a book about JPMorgan Chase. It is, therefore, a book about greed, corruption, arrogance and power. And it is also a book about Bernie Madoff. Few people realize the link between America's biggest bank and America's biggest crook. Our government, which knows about it and should be the most outraged, doesn't care. Although it announced criminal charges against the bank for two felony violations of the Bank Secrecy Act, it simultaneously entered into a deferred prosecution agreement with the bank, suspending an indictment for two years provided that the bank complies with the law in the future.¹ As if JPMorgan Chase, with its armies of high-priced lawyers, didn't know how to comply with the 1970 Bank Secrecy Act in 44 years. It needs another two years to figure out how to comply with the law!

Our government did not require that a single JPMorgan Chase employee face criminal charges . . . or even lose his job. In deferring the indictment against the bank, the United States government may have feared that JPMorgan Chase is too big to fail. But surely JPMorgan Chase, with 240,000 employees, can survive without the handful of officers who sheltered Madoff from the law for 20 years and, as the bank has acknowledged, violated the law.² Are these officers too rich to jail? How did we become a country where powerful employers can purchase immunity from criminal prosecution for their employees?

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Since the government won't protect you, the purpose of this book is to give you the information you need to protect yourselves: when bankers act like gangsters, you should treat them like gangsters, even if the government won't. And the last thing you should do is trust them with your money.

Madoff could not have stolen \$64.8 billion of other people's money without the complicity of a major financial institution. Madoff was able to get by with a three-person accounting firm working out of a store front in a shopping center in Rockland County, New York. But make no mistake about it. Madoff needed the imprimatur and facilities of a major bank. And JPMorgan Chase stepped up to the plate. Why would the bank do this? Shall we follow the money? Do you have any idea how much money JPMorgan Chase was able to make off the Madoff account? Did you know that Madoff maintained huge balances in his JPMorgan Chase account, reaching \$4 billion or more from 2006 on. And do you think the folks at JPMorgan Chase know how to make money off other people's money? You bet they do.³

The facts — which we lay out in this book — compel the conclusion that senior officers of JPMorgan Chase knew that Madoff was misappropriating customer funds and knew who all the victims were. There were 12 people who worked for Madoff who knew about Madoff's embezzlement of money belonging to innocent investors. Outside of Madoff's offices, nobody knew — for 20 years. Nobody, that is, except the people at JPMorgan Chase who were responsible to monitor the activities in Madoff's account. They saw that, from 1986 to December 2008, Madoff deposited into his JPMorgan Chase account approximately \$150 billion of funds⁴ — from upstate New York union pension funds, from charities, from corporate pension plans, from individual I.R.A. accounts. Bank officers knew that Madoff was an SEC-regulated broker who was

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retained by his customers to purchase securities for them. Yet, they saw no transactions in Madoff's account indicating that he was purchasing securities for his customers. Instead, billions of dollars went to Madoff's co-conspirators, or were wired overseas.

For a 20-year period, people at JPMorgan Chase saw that Madoff was acting illegally. At times, they called him in and questioned him. According to allegations in a recent civil suit, they never got a satisfactory explanation for the questionable transactions in Madoff's account.⁵ According to Madoff, on one occasion a senior officer of JPMorgan Chase actually advised him how to structure the illegal transactions.⁶ And, when Madoff was arrested, the head of due diligence at the bank e-mailed a colleague, "Can't say I'm surprised, are you?"⁷

But JPMorgan Chase never shut Madoff down. In fact, it held onto the account to the bitter end. In October 2008, after the bank's London branch reported to the British government that Madoff's returns "appear[ed] too good to be true," JPMorgan Chase still kept his account open for business in New York and never filed a similar report with United States authorities.⁸ It was only after Madoff confessed that his account was closed.

The government recently settled its criminal claims against JPMorgan Chase. That settlement is an insult to the American people. If an 18-year-old kid holds up a 7/11 store and walks out with \$3000, he goes to jail. But if JPMorgan Chase allows Madoff to steal \$64.8 billion of innocent people's money, nobody goes to jail. Instead, the bank simply coughs up a small portion of its ill-gotten profits and all the officers at JPMorgan Chase who helped Madoff are allowed to keep their jobs and to keep the obscene bonuses they earned for 20 years.⁹

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Since the government has abdicated its obligation to protect citizens against financial criminals, it is up to every American to let JPMorgan Chase (and other financial institutions) know that financial crimes will not be tolerated. No financial institution should be permitted to purchase immunity from prosecution for its officers. And yet, that's what JPMorgan Chase did.

Clearly, JPMorgan Chase is not the only financial institution that has abused the public trust and shattered public confidence in the entire banking system. But it is the biggest bank in the United States and probably the biggest offender, having paid approximately \$29 billion in fines, penalties and settlements over the last four years alone to resolve claims that it acted dishonestly or illegally.¹⁰ Thus, while JPMorgan Chase is only one chapter in a larger story of the lack of moral fiber in our financial institutions, it is the most glaring example and the story of its unholy alliance with Madoff is a shocking example of the extent to which some people who work for financial institutions will allow their banks to be used for criminal purposes so long as the bank can profit from the activities.

This book will be published in chapters on our website; we do not know how many chapters it will take because the story keeps unfolding. It is almost six years since Madoff confessed and yet, Madoff has never testified under oath; no one from JPMorgan Chase has testified under oath. With each chapter, we will publish on our website all of the supporting authorities so that you don't have to take our word for anything. The big question is not whether the facts we write are true. The big question is whether Americans are going to continue to tolerate criminal conduct in its financial institutions. We know the government will; the question is whether the American people will.

CHAPTER I

**The Deferred Prosecution of JP Morgan Chase:
The White-Wash of the Century**

Introduction

In January 2014, the United States government entered into a deferred prosecution agreement with JPMorgan Chase pursuant to which the bank paid over \$1.7 billion to settle criminal charges that, with respect to its maintenance of Madoff's 703 Account — the account through which Madoff stole \$64.8 billion from thousands of innocent people — the bank failed “to maintain an effective anti-money laundering program, in violation of the Bank Secrecy Act.¹¹ In the deferred prosecution agreement, the bank acknowledged that it had engaged in the conduct described in the stipulated Statement of Facts and in the Criminal Information prepared by the government.¹² Thus, the bank admitted that it had committed two felonies for willful violation of the Bank Secrecy Act. The Criminal Information stated, and JPMorgan Chase admitted, that it had made no meaningful effort to investigate the Madoff banking relationship¹³ and that numerous bank employees had actual knowledge of suspicious activities by Madoff.¹⁴ Nonetheless, the deferred prosecution agreement said nothing about the bank's employees' having turned a blind eye to Madoff's crimes. Rather, if the government is to be believed, JPMorgan Chase, America's largest bank, with 240,000 employees, had not figured out how to comply with a 1970 statute 38 years after its enactment. By the time you finish reading this book, you will see that the government, itself, was actively misleading the American public by entering into the deferred prosecution agreement.

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The Bank Secrecy Act is a pretty important statute because it is essential for banks to assist the government in detecting and preventing financial crimes like drug dealing, money laundering, embezzlement, and organized crime. For you or me, a violation of the Bank Secrecy Act is a crime punishable by imprisonment of up to ten years.¹⁵ But not for people who work for JPMorgan Chase. Nobody from JPMorgan Chase went to prison. Nobody from JPMorgan Chase was criminally charged. Nobody from JPMorgan Chase was required to resign from the Bank.¹⁶ Instead, the bank simply turned over \$1.7 billion of its shareholders' money and, *voila*, the problem went away.¹⁷

The Bank Secrecy Act

But let's focus on the Bank Secrecy Act so that you can see what the government's charges against JPMorgan Chase were. By 1970, the United States government recognized that it needed the assistance of financial institutions to detect financial crimes. In that year, Congress enacted legislation requiring banks to monitor their customers' accounts and report suspicious activity to the government.¹⁸ This Act requires financial institutions to maintain appropriate records and file reports involving currency transactions and the financial institution's customer relationships. The industry has come to use the terms "CTR's" to refer to Currency Transaction Reports and "SAR's" to refer to Suspicious Activity Reports, which are the primary means used by banks to satisfy the requirements of the Bank Secrecy Act.

The government and JPMorgan Chase agreed on what the bank was required to do to comply with the statute. That is plain on the face of the statute.¹⁹ The bank knew that it had to file a SAR whenever it detected suspicious activity.²⁰ It knew it had to maintain accurate records in case the government conducted a criminal investigation.²¹

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The bank knew that the government relied on the bank in its effort to combat financial crimes.²²

In other words, if you run a bank, it's your responsibility to monitor the transactions of your customers to make sure that your bank is not being used to commit a crime. It's not really that complicated. And JPMorgan Chase conceded that the law required it to comply with these requirements because these legal requirements have been imposed on all banks since 1970. And since 1970, banks have been required to set up detailed training programs to assure that bank personnel are properly trained to detect crime.²³

This is a pretty important statute because money laundering can be used to disguise a wide range of crimes which include drug trafficking, financial fraud, computer crimes, alien smuggling, illegal arms sales, foreign official corruption, illegal gambling and terrorist financing.²⁴ It is estimated that the volume of money laundering is between 3 and 5 % of global domestic product (GDP) which is equivalent to \$2.17 to \$3.61 trillion annually.²⁵ This is precisely why the government imposes upon financial institutions the obligation to monitor customer transactions and report suspicious activity to the government. And, in the wake of September 11, 2001, Congress enacted additional legislation to assure that banks took all necessary steps to comply with the Bank Secrecy Act.²⁶ Thus, the law requires that every bank officer "know your customer"²⁷ so that a banker will know when a customer's financial transactions are not consistent with the customer's business.

Since the enactment of the Bank Secrecy Act, banks have been required to have training programs for their personnel so that they can fulfill their obligations to detect illegal activity.²⁸ As one of the world's largest financial institutions, JPMorgan Chase

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had training programs and systems galore with respect to the obligations of bank personnel under the Act.²⁹ Yet, as will be demonstrated in future chapters of this book, JPMorgan Chase allowed Madoff to operate in violation of numerous federal laws for close to two decades without the bank ever complying with the Bank Secrecy Act. In later chapters of this book, we will lay out evidence that JPMorgan Chase personnel knew, or must have known, what Madoff was doing and knew, or must have known, he was violating the law. You can decide for yourself whether JPMorgan Chase's failure to comply with the law was a deliberate decision made by officers of the Bank who were more interested in enhancing the bank's profits than in complying with the law. And, as you will see in a later chapter of this book, JPMorgan Chase profited enormously from sheltering Madoff's criminal enterprise.

Yet, the government gave JPMorgan Chase a pass – for a price of \$1.7 billion. The criminal charges that the government made were a total whitewash. Instead of charging the bank and the specific officers involved with deliberate violation of a whole raft of federal laws and regulations, the government charged only that JPMorgan Chase “lacked effective policies, procedures, or controls designed to reasonably ensure that information . . . obtained in the course of JPMorgan Chase's other lines of business, was communicated to anti-money laundering compliance personnel based in the United States.” In other words, JPMorgan Chase simply dropped the ball on complying with a federal statute that was enacted in 1970!³⁰

The Criminal Information treated JPMorgan Chase's deliberate violations of law to be a simple failure to educate its personnel as to the requirements to monitor customer accounts for illegal activities.³¹ And in the process, tens of thousands of innocent people lost \$64.8 billion of their life savings. . .

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Now let's suppose that you didn't pay your taxes for five years and the government came after you. Do you think you could get the government to let you off the hook without a criminal sentence and stipulate that you just didn't have procedures in place to assure that you complied with the law by filing your tax returns every year? I don't think so. And, of course, what JPMorgan Chase did was not simply fail to pay taxes; in essence, it allowed Madoff to use the bank's worldwide facilities to embezzle \$64.8 billion from innocent people.

So, how is it possible that Preet Bharara, the United States Attorney for the Southern District of New York, agreed with JPMorgan Chase that America's biggest bank, with 240,000 employees, simply forgot to put in place the procedures that the law has required since 1970? Mr. Bharara is an educated man. He went to high school, college, and law school. And, on February 25, 2010, he issued a press release on the occasion of the arrest of Daniel Bonventre, a Madoff employee, in which he assured the public:

Today's arrest reflects the government's ongoing commitment to ensure that those who are criminally responsible for this massive Ponzi scheme will be held accountable. Together with our law enforcement partners at the FBI and IRS, we will continue to investigate this colossal deception.³²

Yet, the man who pledged that "those who are criminally responsible for this massive Ponzi scheme will be held accountable," totally let JPMorgan Chase's officers off the hook. At the time the government's settlement with JPMorgan Chase was announced, Mr. Bharara issued a press release stating that JPMorgan Chase had simply been negligent:

JP Morgan must pay for its negligence in allowing Bernie Madoff to launder his ill gotten gains through the bank for

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decades... JPMorgan Chase connected the dots when it mattered to its own profit but wasn't so diligent... when it came to its obligations to report illegal activity.³³

Whom is he kidding? Mr. Bharara had access to all of Madoff's records – in the possession of Madoff Trustee, Irving H. Picard. Mr. Bharara had access to Madoff, who has given out detailed information, from prison, about the complicity of JPMorgan Chase officers. Mr. Bharara had access to the bank's Code of Conduct,³⁴ binding on all of its employees, which has a specific provision setting forth the bank's compliance with the Bank Secrecy Act and other laws.³⁵

So, if JPMorgan Chase had put in place procedures to comply with the Bank Secrecy Act, and if Mr. Bharara was committed to prosecuting anyone who was criminally responsible for the massive Madoff Ponzi scheme, how is it possible that Mr. Bharara let the bank that facilitated Madoff's theft of \$64.8 billion off the hook by pretending JPMorgan Chase's only crime was not putting in place the procedures to detect Madoff's crime? The bank was simply negligent? Give me a break.

The question is why would an official of the United States government agree to something that clearly is untrue? We will answer this question in a future chapter.

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¹ <http://www.fbi.gov/newyork/press-releases/2014/manhattan-u.s.-attorney-and-fbi-assistant-director-in-charge-announce-filing-of-criminal-charges-against-and-deferred-prosecution-agreement-with-jpmorgan-chase-bank-n.a.-in-connection-with-bernard-l.-madoffs-multi-billion-dollar-ponzi-scheme>

² Stipulated Statement of Facts dated January 6, 2014 (hereafter “Statement of Facts”) attached as Exhibit C to the January 6, 2014 letter from the Department of Justice to counsel for JPMorgan Chase (“USA Letter Agreement”), available at [http://www.justice.gov/usao/nys/pressreleases/January14/JPMCDPAPR/JPMC%20DPA%20Packet%20\(Fully%20Executed%20ow%20Exhibits\)%20-%20downloaded%20from%20online.pdf](http://www.justice.gov/usao/nys/pressreleases/January14/JPMCDPAPR/JPMC%20DPA%20Packet%20(Fully%20Executed%20ow%20Exhibits)%20-%20downloaded%20from%20online.pdf)

³ Although he white-washed the conduct of JPMorgan Chase’s officers, U.S. Attorney Preet Bharara, in announcing the deferred prosecution agreement, said: “JPMorgan connected the dots when it mattered to its own profit but was not so diligent otherwise.”

⁴ Statement of Facts, *supra*, n. 2, ¶10.

⁵ *Central Laborers’ Pension Fund v. Dimon*, 14 CV 1041 (SDNY 2014 ¶¶ 6-12).

⁶ Author’s interview with Madoff.

⁷ Stipulated Statement of Facts, *supra* n. 2, ¶ 83.

⁸ *Id.* ¶¶ 58, 63.

⁹ JPMorgan Chase was charged with two criminal offenses but, of course, corporations don’t commit crimes, individuals do. <http://www.fbi.gov/newyork/press-releases/2014/manhattan-u.s.-attorney-and-fbi-assistant-director-in-charge-announce-filing-of-criminal-charges-against-and-deferred-prosecution-agreement-with-jpmorgan-chase-bank-n.a.-in-connection-with-bernard-l.-madoffs-multi-billion-dollar-ponzi-scheme>

¹⁰ INSERT LINK TO ROULETTE WHEEL

¹¹ 31 U.S.C. §§ 5318(h) and 5322(a), and Title 12, Code of Federal Regulations, § 21.11; January 6, 2014 letter from the Department of Justice to counsel for JPMorgan Chase (“USA Letter Agreement”) at 1 ¶ 1, available at [http://www.justice.gov/usao/nys/pressreleases/January14/JPMCDPASupportingDocs/JPMC%20DPA%20Packet%20\(Fully%20Executed%20ow%20Exhibits\).pdf](http://www.justice.gov/usao/nys/pressreleases/January14/JPMCDPASupportingDocs/JPMC%20DPA%20Packet%20(Fully%20Executed%20ow%20Exhibits).pdf). In addition, JPMorgan Chase paid \$350 million as a civil money penalty to the Office of the Comptroller of the Currency (the “OCC”); \$461 million as a civil money penalty to FinCen; \$325 million to settle claims asserted by Irving H. Picard, trustee for Bernard L. Madoff Investment Securities LLC (“BLMIS”); and \$218 million to settle claims asserted in a class action consisting of certain BLMIS customers. JPMorgan Chase & Co., *Form 10-K* (Feb. 2014), available at <http://files.shareholder.com/downloads/ONE/3241866018xoxS19617-14-289/19617/filing.pdf#Page=298>

¹² Statement of Facts, *supra*, n. 2, ¶ 12.

¹³ Statement of Facts, *supra*, n. 2, ¶ 11.

¹⁴ Statement of Facts, *supra* n. 2, ¶ 22 *et seq.*

[http://www.justice.gov/usao/nys/pressreleases/January14/JPMCDPASupportingDocs/JPMC%20DPA%20Packet%20\(Fully%20Executed%20ow%20Exhibits\).pdf](http://www.justice.gov/usao/nys/pressreleases/January14/JPMCDPASupportingDocs/JPMC%20DPA%20Packet%20(Fully%20Executed%20ow%20Exhibits).pdf)

¹⁵ **31 U.S.C. § 5322. Criminal penalties**

(a) A person willfully violating this subchapter or a regulation prescribed or order issued under this subchapter (except section 5315 or 5324 of this title or a regulation prescribed under section 5315 or 5324), or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91--508, shall be fined not more than \$250,000, or imprisoned for not more than five years, or both.

(b) A person willfully violating this subchapter or a regulation prescribed or order issued under this subchapter (except section 5315 or 5324 of this title or a regulation prescribed under section 5315 or 5324), or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91--508, while violating another law of the United States or as part of a pattern of any illegal activity involving more than \$100,000 in a 12-month period, shall be fined not more than \$500,000, imprisoned for not more than 10 years, or both.

(c) For a violation of [section 5318](#)(2) of this title or a regulation prescribed under section 5318(a)(2), a separate violation occurs for each day the violation continues and at each office, branch, or place of business at which a violation occurs or continues.

(d) A financial institution or agency that violates any provision of subsection (i) or (j) of section 5318, or any special measures imposed under section 5318A, or any regulation prescribed under subsection (i) or (j) of section 5318 or section 5318A, shall be fined in an amount equal to not less than 2 times the amount of the transaction, but not more than \$1,000,000. [Codified to 31 U.S.C. 5322]

¹⁶ In contrast to its kid-glove treatment of JPMorgan Chase, the United States required, as part of its settlement with BNP Paribas, that 31 employees leave the bank. Devlin Barrett, Christopher M. Matthews & Andrew R. Johnson, *BNP Paribas Draws Record Fine for 'Tour de Fraud'*, *The Wall Street Journal*, (June 30, 2014), <http://online.wsj.com/articles/bnp-agrees-to-pay-over-8-8-billion-to-settle-sanctions-probe-1404160117>

¹⁷ Of this amount, \$1.7 billion was paid to the United States as a penalty which was not tax deductible; \$350 million was a civil money penalty paid to the Office of the Comptroller of the Currency (the "OCC"); \$461 million was a civil money penalty paid to FinCen. In addition, JPMorgan Chase paid \$325 million to settle claims asserted by Irving H. Picard, trustee for Bernard L. Madoff Investment Securities LLC ("BLMIS") and \$218 million to settle claims asserted in a class action consisting of certain BLMIS customers. JPMorgan Chase & Co., *Form 10-K* (Feb. 2014), available at <http://files.shareholder.com/downloads/ONE/3241866018xoxS19617-14-289/19617/filing.pdf#Page=298>

¹⁸ The Financial Recordkeeping and Reporting of Currency and Foreign Transactions Act of 1970, 31 U.S.C. 5311 *et seq.*, commonly referred to as the Bank Secrecy Act or "BSA."

¹⁹ *Id.* ¶ 4. The Bank Secrecy Act requires financial institutions "to take steps to protect against the financial institution being used by criminals to commit crimes and launder money." The government and JPMorgan Chase agreed that the BSA requires financial institutions "to establish and maintain effective anti-money laundering ("AML") compliance programs that, at a minimum and among other things, provide for (a)

integral policies, procedures, and controls designed to guard against money laundering; (b) an individual or individuals to coordinate and monitor day-to-day compliance with the Bank Secrecy Act and AML requirements; (c) an ongoing employee training program; and (d) an independent audit function to test compliance programs. 31 U.S.C. § 5318(h).”

²⁰ The bank was required to file a SAR if it detected “any known or suspected Federal criminal violation, or pattern of criminal violations . . . aggregating \$5,000 or more in funds or other assets . . . where the bank believes that . . . it was used to facilitate a criminal transaction, and the bank has a substantial basis for identifying a possible suspect or group of suspects.” 12 C.F.R. § 21.11(c)(2). If the transactions total more than \$25,000, then a bank must file a report “even if it cannot identify a suspect. 12 C.F.R. § 21.11(c)(3). *Id.* ¶5.

²¹ The recordkeeping regulations issued pursuant to the BSA require that a financial institution’s records be sufficient to enable transactions and activity in customer accounts to be reconstructed if necessary. Thus, a paper and audit trail is assured in case the government needs it for a criminal investigation. *Id.* The BSA consists of two parts: Title I authorized the Secretary of the Department of the Treasury (Treasury) to issue regulations, which require FDIC-insured financial institutions to maintain certain records. Title II directed the Treasury to prescribe regulations governing the reporting of certain transactions by and through financial institutions in excess of \$10,000 into, out of, and within the U.S. The Treasury’s implementing regulations under the BSA, issued within the provisions of 31 CFR Part 103, are included in the FDIC’s Rules and Regulations and on the FDIC website.

²² The government and JPMorgan Chase agreed that the “BSA and regulations thereunder also require financial institutions to report “suspicious transaction[s] relevant to a possible violation of law or regulation.” 31 U.S.C. § 5318(g)(1). BSA regulations provide that a transaction is reportable if it is “conducted or attempted by, at, or through the bank” and where “the bank knows, suspects, or has reason to suspect that. . . [t]he transaction involves funds derived from illegal activities” or that the “transaction has no business or apparent lawful purpose.” 31 U.S.C. § 1020.320(a)(2). Financial institutions satisfy their obligation to report such a transaction by filing a SAR with the Financial Crimes Enforcement Network (“FinCEN”), a part of the United States Department of Treasury. 31 C.F.R. § 1020.320(a)(1) Statement of Facts, fn. 11 *supra*, ¶ 5. FinCEN is a part of the Department of the Treasury and its “mission is to safeguard the financial system from illicit use and combat money laundering and promote national security through collection, analysis, and dissemination of financial intelligence and strategic use of financial authorities”. FinCEN, *Home*, (June 25, 2014 9:28AM), <http://www.fincen.gov/>

²³ *FinCEN’s Mandate From Congress*, Bank Secrecy Act, available at http://www.fincen.gov/statutes_regs/bsa/

²⁴ Jerome P. Bjelopera & Kristin M. Finklea, *Organized Crime: An Evolving Challenge for U.S. Law Enforcement*, Congressional Research Service (July 6, 2012), available at <http://fas.org/sgp/crs/misc/R41547.pdf>, at 12.

²⁵ *Id.*

²⁶ The USA Patriot Act of 2001 (the “Patriot Act”), enacted in the immediate aftermath of the terrorist attack of September 11, 2001, reinforced the obligation of financial

institutions to implement robust internal systems to detect and report money laundering and other suspicious activities. The regulations promulgated pursuant to the Patriot Act require financial institutions to institute an AML program that includes four elements: (i) designating an individual or individuals responsible for managing BSA compliance; (ii) a system of policies, procedures, and internal controls to ensure ongoing compliance; (iii) training for appropriate personnel; and (iv) independent testing of compliance. 12 C.F.R. § 208.63. FinCEN & Internal Revenue Service, 44 (2008), *Bank Secrecy Act/ Anti-Money Laundering Examination Manual for Money Services Businesses*, available at

http://www.fincen.gov/news_room/rp/files/MSB_Exam_Manual.pdf#Page=50

²⁷ This is a duty imposed pursuant to 12 C.F.R. § 208.62. The KYC obligation is based on the fact that, in order for financial institutions to detect criminal activity, it is essential for them to understand the business of each of their customers so that they can detect activity inconsistent with the purported business. Institutions viewing account activity need a baseline against which to distinguish account activity that may be normal for a particular industry from account activity that might suggest an illegal enterprise. The KYC duty pre-dated the Patriot Act and was incorporated into the Federal Reserve Bank's BSA Examination Manual of 1995 and Supervisory Letter on Private Banking Activities, SR 97-19 (SUP).

²⁸ See, e.g., Federal Deposit Insurance Corporation, *Bank Secrecy Act and Anti-Money Laundering*, History of Anti Money Laundering Legislation,

http://www.fdic.gov/regulations/examinations/bsa/bsa_3.html

²⁹ See e.g., Stipulated Facts ¶¶ 6, 14, 16.

³⁰ *United States of America v. JPMorgan Chase, N.A., Criminal Information*, attached as Exhibit B to the USA Letter Agreement, ¶ 12, 13, available at

[http://www.justice.gov/usao/nys/pressreleases/January14/JPMCDPASupportingDocs/JPMC%20DPA%20Packet%20\(Fully%20Executed%20w%20Exhibits\).pdf](http://www.justice.gov/usao/nys/pressreleases/January14/JPMCDPASupportingDocs/JPMC%20DPA%20Packet%20(Fully%20Executed%20w%20Exhibits).pdf)

³¹ The Information states: In or about 2008, in the Southern District of New York and elsewhere, [JPMorgan Chase] did willfully fail to establish an adequate anti-money laundering program, including at a minimum, (a) the development of internal policies, procedures, and controls designed to guard against money laundering; (b) the designation of a compliance officer to coordinate and monitor day-to-day compliance with the Bank Secrecy Act and anti-money laundering requirements; (c) the establishment of an ongoing employee training program; and (d) the implementation of independent testing for compliance conducted by bank personnel or an outside party, to wit [JPMorgan Chase] failed to enact adequate policies, procedures, and controls to ensure that information about the Bank's clients obtained through activities in and concerning JPMorgan Chase's other lines of business was shared with compliance and anti-money laundering personnel, and to ensure that information about the Bank's clients obtained outside the United States was shared with United States compliance and anti-money laundering personnel. *Id.* ¶ 13.

³² U.S. Attorney's Office – Southern District of New York, *Manhattan U.S. Attorney Charges Daniel Bonventre, Former Director of Operations for Bernard L. Madoff, Investment Securities, LLC, with Conspiracy, Securities Fraud, and Tax Crimes*, FBI New York Field Office, <http://www.fbi.gov/newyork/press-releases/2010/nyfoo022510.htm>

³³ In a January 7, 2014 article, Linette Lopez for Business Insider quoted U.S. Attorney Preet Bharara; available at <http://www.businessinsider.com/jpm-knew-madoff-was-a-fraud-said-nothing-2014-1#ixzz35TtZpUxQ>

³⁴ JPMorgan Chase & Co, *Code of Conduct*, May 2010, available at http://www.jpmorganchase.com/corporate/About-JPMC/document/CodeofConduct_2010Edition.pdf#Page=18 states as follows:

5.7. Money laundering and the USA PATRIOT Act

JPMorgan Chase has established policies, procedures and internal controls designed to assure compliance with international laws and regulations regarding money laundering and terrorist financing, including relevant provisions of the Bank Secrecy Act and the USA PATRIOT Act in the United States and similar legislation in other countries. You should be familiar with, and comply with, these policies, procedures and controls. You should also understand your obligations to:

- (a) know your customers and your customers' use of the firm's products and services.
- (b) get proper training if you are identified as being in a job that poses a risk of money laundering or terrorist financing.
- (c) be alert to and report unusual or suspicious activity to the designated persons within your line of business or region, including your Compliance Officer or Risk Manager responsible for anti-money laundering compliance.

³⁵ The purpose of the USA PATRIOT Act is to deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and assist with other purposes. Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001, Pub. L. No. 107-56, available at <http://www.gpo.gov/fdsys/pkg/PLAW-107publ56/pdf/PLAW-107publ56.pdf>

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