



the issuance of this Consent Order for the Assessment of a Civil Money Penalty (“CMP Order”) by the Comptroller.

On December 11, 2012, the Bank entered into a Deferred Prosecution Agreement (“DPA”) with the United States Department of Justice (“DOJ”). In the DPA, the Bank admitted it had violated 31 U.S.C. § 5318(h)(1), which makes it a crime to willfully fail to establish and maintain an effective AML program, and 31 U.S.C. § 5318(i)(1), which makes it a crime to willfully fail to establish due diligence for foreign correspondent accounts. The Bank further consented to DOJ’s findings in connection with these violations.

## ARTICLE I

### COMPTROLLER’S FINDINGS

The Comptroller finds the following:

The Comptroller incorporates the following findings in Article I of the Consent Order:

(1) The OCC’s examination findings identified deficiencies in the Bank’s BSA/AML compliance program. These deficiencies resulted in a BSA/AML compliance program violation under 12 U.S.C. § 1818(s) and its implementing regulation, 12 C.F.R. § 21.21 (BSA Compliance Program). In addition, the Bank violated 12 C.F.R. § 21.11 (Suspicious Activity Report Filings); and 31 U.S.C. § 5318(i) and its implementing regulation, 31 C.F.R. § 1010.610 (Correspondent Banking) (formerly 31 C.F.R. § 103.176).

The Bank failed to adopt and implement a compliance program that adequately covers the required BSA/AML program elements, including, in particular, internal controls for customer due diligence, procedures for monitoring suspicious activity, and independent testing. The Bank's compliance program and its implementation were ineffective, and accompanied by

aggravating factors, such as highly suspicious activity creating a significant potential for unreported money laundering or terrorist financing.

Some of the critical deficiencies in the elements of the Bank's BSA/AML compliance program included the following:

(A) The Bank excluded from automated BSA/AML monitoring wire transfers initiated by customers domiciled in countries risk rated as "standard" or "medium," representing two-thirds of total dollar volume for PCM. While the Bank employed other methods for monitoring wire transactions for customers located in countries risk rated standard or medium, these alternatives provided limited coverage, were not effective, and did not mitigate the BSA/AML risks posed;

(B) During mid-2006 through mid-2009, the Bank did not perform BSA/AML monitoring for banknote (or "bulk cash") transactions with Group Entities (defined as the Bank's foreign affiliates in which the Bank's parent, HSBC Holdings plc, London, England ("HSBC Group"), holds a majority interest);

(C) The Bank did not collect or maintain customer due diligence ("CDD") or enhanced due diligence ("EDD") information for Group Entities. The Bank transacted extensive wire transfers and purchases of United States bulk cash with Group Entities. The lack of due diligence information inhibited the Bank's assessment of customer risk and the identification of suspicious activity in Group Entity accounts;

(D) The Bank failed to disposition its alerts appropriately or to comply fully with its obligation to report suspicious activity on time. As part of the 2009-10 examination, the OCC cited the Bank for its backlog of unprocessed alerts. The

Bank's subsequent review of the backlogged alerts led it to file a substantial number of late Suspicious Activity Reports (“SARs”) with law enforcement authorities; and

(E) The Bank did not appropriately designate customers as “high-risk” for purposes of BSA/AML monitoring, even where a customer’s association with politically-exposed persons (“PEPs”) could have harmed the Bank’s reputation.

(2) The above violations and failures were the result of a number of factors, including, among others, (i) inadequate staffing and procedures in the alert investigations unit that resulted in a significant backlog of alerts; (ii) the closure of alerts based on ineffective review; (iii) inadequate monitoring of Group Entities’ correspondent accounts for purpose and anticipated activity, anti-money laundering record, or consistency between actual and anticipated account activity; (iv) unwarranted reliance on Group Entities’ following HSBC Group BSA/AML policies; (v) inadequate monitoring of funds transfers; (vi) inadequate procedures to ensure the timely reporting of suspicious activity; (vii) failure to adequately monitor Group Entities’ banknote activity, (viii) inadequate monitoring of correspondent funds transfer activity; and (ix) inadequate collection and analysis of CDD information, including inadequate monitoring of PEPs.

The Comptroller further finds, for purposes of this CMP Order:

(3) The Bank has not fully complied with Article IX (Wire Monitoring) of the Consent Order. In relevant part, the Consent Order required the Bank to fully install, test, and activate a new wire monitoring system within 180 days. The Bank installed and activated a new wire monitoring system for its PCM unit without adequately testing the system. The Consent Order further required the Bank to conduct validation (gap) testing of the new system after installation. The Bank did not complete this testing within a reasonable period after installing

the new system at its PCM unit. These instances of noncompliance exposed the Bank to a material risk of failing to report suspicious activity, including suspicious international wire transfers, to law enforcement.

(4) Pursuant to Article XI (Account/Transaction Activity Review (“Look-Back”)) of the Consent Order, the Bank retained a consultant to conduct a look-back to review certain account and transaction activity specified by the OCC. The look-back, and the prior review during 2010 of the Bank’s backlog of unprocessed alerts, together resulted in the Bank’s late-filing 890 SARs addressing suspicious activity in the amount of \$6.34 billion.

(5) The foregoing violations of law and noncompliance with the Consent Order meet the requirements for a “Tier II” civil money penalty, pursuant to 12 U.S.C. § 1818(i)(2)(B). The violations of law formed a pattern of misconduct. The BSA/AML compliance program violation began by January 1, 2007, and continued through 2010. The remaining violations of law lasted for three years or longer.

(6) During 2007-10, the Bank benefited from the foregoing violations of law by conserving funds that it should have expended in order to maintain a robust BSA/AML compliance program, as required by law. In this case, it is necessary to assess a civil money penalty in excess of the benefit amount to promote compliance with statutory and regulatory requirements and deter future misconduct.

Pursuant to the authority vested in him by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby ORDERS that:

## ARTICLE II

### ORDER FOR A CIVIL MONEY PENALTY

- (1) The Bank shall pay a civil money penalty of five hundred million dollars (\$500,000,000.00) to the United States Treasury upon execution of this CMP Order.
  - (a) The Bank shall pay the penalty by wire transfer to the United States Treasury, as instructed by the OCC.
  - (b) Upon payment of the penalty, the Bank shall send photocopies of the confirmation of the wire transfer by e-mail and overnight delivery to the Director of Enforcement and Compliance, Office of the Comptroller of the Currency, 400 Seventh Street SW, Washington, DC 20219.
- (2) This CMP 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), (i) (as amended).

## ARTICLE III

### CLOSING

- (1) If, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him by the several laws of the United States to undertake any action affecting the Bank, nothing in this CMP Order shall in any way inhibit, estop, bar, or otherwise prevent the Comptroller from so doing.
- (2) This CMP Order is and shall become effective upon its execution by the Comptroller, through his authorized representative whose hand appears below. The CMP Order shall remain effective and enforceable against the Bank and its successors in interest, except to

the extent that, and until such time as, any provisions of this CMP Order shall have been amended, suspended, waived, or terminated in writing by the Comptroller.

(3) This CMP 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 the Comptroller or the United States.

(4) The terms of this CMP 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 December, 2012.

/s/

---

Sally G. Belshaw  
Deputy Comptroller for Large Bank Supervision  
Office of the Comptroller of the Currency



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

<b>In the Matter of:</b>	)	
	)	
	)	AA-EC-12-112
HSBC Bank USA, N.A.	)	
McLean, Virginia	)	
	)	
	)	

**STIPULATION AND CONSENT TO THE  
ISSUANCE OF A CONSENT ORDER FOR  
THE ASSESSMENT OF A CIVIL MONEY PENALTY**

The Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate a civil money penalty proceeding against HSBC Bank USA, N.A., McLean, Virginia (“Bank”) pursuant to 12 U.S.C. § 1818(i)(2), for violations of 12 U.S.C. § 1818(s); the Bank Secrecy Act, 31 U.S.C. §§ 5311 *et seq.*, including 31 U.S.C. § 5318(i); and Bank Secrecy Act regulations 12 C.F.R. §§ 21.11 and 21.21, and 31 C.F.R. § 1010.610 (formerly 31 C.F.R. § 103.176), and for noncompliance with Article IX (Wire Monitoring) of the Consent Cease and Desist Order issued on October 6, 2010 (“Consent Order”).

The Bank, in the interest of compliance and cooperation, enters into this Stipulation and Consent to the Issuance of a Consent Order for the Assessment of a Civil Money Penalty (“Stipulation”) and consents to the issuance of a Consent Order for the Assessment of a Civil Money Penalty, dated December 11, 2012 (“CMP Order”);

In consideration of the above premises, the Comptroller, through his authorized representative, and the Bank, through its duly elected and acting Board of Directors, stipulate and agree to the following:

## 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

### AGREEMENT

(1) The Bank consents and agrees to issuance of the CMP Order by the Comptroller.

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

(3) 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.

(4) 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 CMP Order and/or execute the CMP Order.

(5) 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.

(6) The Office of the Comptroller of the Currency ("OCC") releases and discharges the Bank from all potential claims and charges that have been or might have been asserted by the OCC based on the Comptroller's Findings set forth in Article I of the CMP Order, to the extent known to the OCC as of the effective date of the CMP Order. However, the violations described in Article I of the CMP Order may be utilized by the OCC in future enforcement actions (a) against the Bank, to establish a pattern of violations or the continuation of a pattern of violations, or (b) against the Bank's institution-affiliated parties. This release shall not preclude or affect any right of the OCC to determine and ensure compliance with the terms and provisions of this Stipulation or the CMP Order.

(7) The terms and provisions of this Stipulation and the CMP Order shall be binding upon, and inure to the benefit of, the parties hereto and their successors in interest. Nothing in this Stipulation or the CMP Order, express or implied, shall give to any person or entity, other than the parties hereto, and their successors hereunder, any benefit or any legal or equitable right, remedy or claim under this Stipulation or the CMP Order.

### ARTICLE III

#### WAIVERS

- (1) The Bank, by consenting to this Stipulation, waives:
  - (a) the issuance of an Assessment of a Civil Money Penalty pursuant to 12 U.S.C. § 1818(i)(2) (as amended);
  - (b) any and all procedural rights available in connection with the issuance of the CMP Order;
  - (c) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(h), (i)(2) (as amended), and 12 C.F.R. Part 19;
  - (d) all rights to seek any type of administrative or judicial review of the CMP 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 CMP 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; and
  - (f) any and all rights to challenge or contest the validity of the CMP Order.

### ARTICLE IV

#### CLOSING

- (1) The provisions of this Stipulation shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any other action affecting the Bank if, at any time, it deems

it appropriate to do so to fulfill the responsibilities placed upon him by the several laws of the United States of America.

(2) Nothing in this Stipulation shall preclude any proceedings brought by the Comptroller to enforce the terms of the CMP Order, and nothing in this Stipulation constitutes, nor shall the Bank contend that it constitutes, a waiver of any right, power, or authority of any other representative of the United States or an agency thereof, including, without limitation, the United States Department of Justice, to bring other actions deemed appropriate.

(3) The terms of this Stipulation and the CMP 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, authorized by the Comptroller as his representative, has hereunto set her hand on behalf of the Comptroller.

/s/

December 11, 2012

---

Sally G. Belshaw  
Deputy Comptroller for Large Bank Supervision  
Office of the Comptroller of the Currency

---

Date

IN TESTIMONY WHEREOF, the undersigned, as the duly elected and acting Board of Directors of the Bank, have hereunto set their hands on behalf of the Bank.

/s/  
Jeffrey A. Bader

\_\_\_\_\_  
Date

/s/  
William R. P. Dalton

\_\_\_\_\_  
Date

/s/  
Anthea Disney

\_\_\_\_\_  
Date

/s/  
Irene M. Dorner

\_\_\_\_\_  
Date

/s/  
Robert K. Herdman

\_\_\_\_\_  
Date

/s/  
Louis Hernandez, Jr.

\_\_\_\_\_  
Date

/s/  
Richard A. Jalkut

12/4/2011  
Date

/s/  
Nancy G. Mistretta

\_\_\_\_\_  
Date