<u>United States v. JPMorgan Chase Bank, N.A.</u>
Prepared Remarks for U.S. Attorney Preet Bharara
January 7, 2014

Good afternoon. My name is Preet Bharara, and I am the United States Attorney for the Southern District of New York.

Today, we announce criminal charges against JPMorgan Chase Bank, N.A., the largest bank in America. The charges are two felony counts for violating provisions of the Bank Secrecy Act, or the BSA.

The BSA is a law that requires financial institutions – as institutions – to establish and maintain effective anti-money laundering compliance programs and to know their customers. It is not a tip; it is not a suggestion. It is a legal requirement, enforceable through criminal sanction.

Today's charges have been filed because, in this regard, JPMorgan – as an institution – failed and failed miserably. In part because of that failure, for decades Bernie Madoff was able to launder billions of dollars in Ponzi proceeds essentially through a single set of accounts at JPMorgan. He was able to do that for a lot of reasons – and, to be sure, there were failures by lots of people in lots of places outside the bank.

But one reason, among others, that Madoff was able to get away with his crime for so long was that JPMorgan had an inadequate and ineffective anti-money laundering program.

As set forth in the Statement of Facts, for years the bank repeatedly ignored warning signs; allowed suspicious round-trip transactions through Madoff's account; finally grew concerned enough to file a report in the UK; and ultimately decided to reduce its own exposure to Madoff because of suspicions of fraud. But all the while, JPMorgan never filed a single suspicious activity report in the United States and never raised a concern to the bank's anti-money laundering department in the U.S. In other words, the bank connected the dots when it mattered to its own profit, but was not so diligent otherwise when it came to its legal obligations.

All of this is why today we have filed criminal BSA charges against JPMorgan; and it is why the bank is admitting responsibility for its conduct and agreeing to forfeit $1.7 billion to help make Bernie Madoff's victims closer to whole.

That penalty of $1.7 billion, by the way, is the largest ever forfeiture from a bank; the largest ever penalty imposed by the Department of Justice under the BSA; and the second largest forfeiture overall – behind only another forfeiture by this Office earlier in the Madoff investigation, relating to the Estate of Jeffry Picower.

And we intend for every penny of this $1.7 billion forfeiture to go to victims of Madoff's massive fraud. All told, this Office has now collected, and will distribute, more than $4 billion to those victims, on top of what the Trustee has collected.

We're also announcing today the resolution of these criminal charges through a deferred prosecution agreement.

This agreement requires the bank to: (1) admit and accept responsibility for its conduct through a detailed statement of facts; (2) continue reforms of its compliance and anti-money laundering practices, with regular reporting to this Office; (3) cooperate for a two year period and refrain from committing any crimes; and (4) as I already mentioned, pay $1.7 billion through a parallel civil forfeiture action – none of which is tax deductible.

Before I go further, let me introduce our partners in this investigation and prosecution.

I am joined by our partner in this and so many other cases, the FBI, led by George Venizelos, the Assistant Director-in-Charge of the New York Field Office. I want to thank George and his team – FBI Special Agents Paul Takla, Jared Thompson, Shannon Fish, Paul Roberts, and Patrick Duffy – for their incredibly hard work and assistance in this investigation.

I am also joined by the Office of the Comptroller of the Currency, represented here by Deputy Chief Counsel Dan Stipano, and the Treasury Department's Financial Crimes Enforcement Network, represented by Director Jennifer Shasky Calvery.

I also of course want to acknowledge and thank the career prosecutors from my office. They are Arlo Devlin-Brown and Matthew Schwartz, the AUSAs handling the prosecutions, and their chief, Anjan Sahni.

Let me now take a moment to talk about the particulars of today's case.

Since 1986, JPMorgan – and its predecessor institutions – was the primary bank through which Madoff ran his Ponzi scheme. He did so through a series of linked accounts that we refer to collectively as the "703 Account."

Early on and throughout the banking relationship, JPMorgan, because of its vantage point as Madoff's banker, had plenty of reasons to be uniquely suspicious about him. Warning sounds abounded.

First, as the Statement of Facts recites, in the mid-1990s, the bank learned that Madoff and a prominent client of JPMorgan's Private Bank were engaged in what looked like round-trip or check-kiting transactions – large sums of money were being transferred back and forth between accounts for no apparent legitimate business purpose. These transactions were sufficiently suspicious that another bank involved in these transactions filed a Suspicious Activity Report (or SAR) and closed Madoff's account at that bank. But JPMorgan, far from closing Madoff's account, let the transactions continue for close to a decade, never filing a single SAR or even notifying its own Anti-Money Laundering compliance group.

Second, the sheer volume, movement, and use of the funds in Madoff's account were suspicious as well. Between 1986 and 2008, an astounding $150 billion went in and out of that account. And notably none of it was used for the purchase and sale of securities even though that was Madoff's purported business. The responsible JPMorgan official thought that the account had probably only tens of million dollars. Know your customer? He was only off by three zeros, as the Madoff account had billions of dollars.

Third, as further detailed in the Statement of Facts, investment officers and asset managers at JPMorgan had serious questions about how Madoff could generate his consistent annual returns of between 20-30%, year after year. A JPMorgan banker later concluded that Madoff "might … have been smoothing out returns." In internal bank documents, one such officer questioned how Madoff was able to generate such consistent quarterly returns despite so much historic volatility in the market. And as early as 1998, a bank fund manager concluded that Madoff's returns were "possibly too good to be true," and that there were "too many red flags."

Despite all these warning signs, JPMorgan never closed – or even seriously questioned – Madoff's Ponzi-scheme enabling 703 Account.

On the other hand, when it came to its own money, JPMorgan knew how to connect the dots and take action to protect itself.

In 2006, a different part of the bank – a derivatives trading desk located in the London branch of JPMorgan's Investment Bank – decided to offer derivative products linked to Madoff's performance and, as part of a hedging strategy, actually invested its own money in Madoff feeder funds.

In 2007, there were continuing concerns that Madoff was a "wholesale" and "systematic fraud" and had a "well-known cloud over" his head and that his returns were "speculated to be part of a Ponzi scheme." The concerns heightened in 2008, and JPMorgan decided to dramatically reduce the exposure of its own London trading desk to Madoff's funds.

And that made perfect business sense. Why? Because an October 2008 internal JPMorgan memo described JPMorgan's inability to validate Madoff's trading activity or custody of assets, questioned Madoff's "odd choice" of a one-man accounting firm. That internal memorandum concluded: "there are various elements in the story that could make us nervous," including the lack of proof that Madoff's "assets actually existed."

Within two weeks of that memo, JPMorgan filed a report with UK regulators, noting that Madoff's returns were "probably" "too good to be true," and that "as a result" of these suspicions JPMorgan planned to withdraw much of its own money invested in the Madoff feeder funds. And that is exactly what JPMorgan did. Between October and December 2008, as part of a broader reevaluation of the bank's exposure to hedge fund risk, JPMorgan successfully pulled out more than $275 million of its money from the Madoff feeder funds before Madoff's fraud was exposed to the rest of the world on December 11, 2008 when he was arrested.

Today, the largest financial institution in the country stands charged with two criminal offenses. Institutions, not just individuals, have an obligation to follow the law and to police themselves. They must exercise due care not only with their own money but with other people's money also. In this case, JPMorgan connected the dots when it mattered to its own profit, but was not so diligent otherwise. Fortunately, with today's resolution, the bank has accepted responsibility and agreed to continue reforming its anti-money laundering practices. Most importantly, the victims of Bernie Madoff's epic fraud are $1.7 billion closer to being made whole.