

AGREEMENT

1. The United States Attorney's Office for the Western District of North Carolina (the "USAO-WDNC") has been investigating potential violations of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (the "Investigation"), predicated on possible violations of 18 U.S.C. §§ 1001 and 1005, by, among others, Bank of America, N.A. ("BANA"). This civil settlement agreement ("Agreement") between USAO-WDNC and BANA resolves the Investigation as to BANA and its affiliated and associated entities (collectively, "the Bank"). By signing this Agreement, the Bank is agreeing that it will comply with all conditions set forth below, in exchange for the USAO-WDNC's agreement not to file any civil actions against the Bank arising out of the covered conduct defined in paragraph 2 below. This Agreement is limited to the USAO-WDNC and cannot bind other federal, state, or local authorities or agencies.
2. For purposes of this Agreement, the term "covered conduct" shall mean conduct within the period from January 1, 2008 through December 31, 2012 and shall only include:

 - a. Any conduct related to BANA's response to the CME's investigation of block trading and hedging practices by the Global Rates, Currencies, and Commodities ("GRCC") New York trading desk; and
 - b. Any conduct relating to the GRCC New York trading desk's practice of trading ahead of certain block futures trades.
3. The Bank agrees that the facts set forth in the attached Statement of Facts are true and accurate. As part of this Agreement, the Bank: (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any part of the Statement of Facts or creating the impression that the Statement of Facts is without factual basis. Nothing in this paragraph adversely affects the Bank's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the USAO-WDNC is not a party.
4. Within fifteen business days of receiving written payment processing instructions from the Office, BANA shall pay a total amount of \$2,500,000 by electronic funds transfer to the Department of Justice (the "Settlement Amount"). It will be deposited in the General Fund of the United States Treasury.
5. The Bank represents that it has produced or is producing all requested materials. In the event that the USAO-WDNC files an action against any former employee of the Bank arising out of the covered conduct, the Bank shall: (a) continue to cooperate with the USAO-WDNC and any federal law enforcement agency designated by the USAO-WDNC in connection with such action; (b) use its best efforts to promptly secure the attendance of any current employee of the Bank at any trial or other court proceeding and at any interview requested by the USAO-WDNC; and (c) provide upon reasonable request all non-privileged relevant information, documents, records or other tangible evidence about which the USAO-WDNC inquires. The Bank's obligations in this paragraph shall continue throughout the pendency of any litigation against any

former employee of the Bank arising out of the covered conduct, notwithstanding the term of this Agreement in Paragraph 9.

6. For the term of this Agreement, the Regulatory Inquiries Group ("RIG") shall notify the USAO-WDNC if RIG obtains credible evidence that a Bank employee has violated United States law by obstructing or attempting to obstruct an investigation by the U.S. Department of Justice ("DOJ"), a federal regulatory agency or a board of trade, or by committing perjury. RIG shall also report to the USAO-WDNC any misconduct by an employee of Global Banking and Markets that RIG has determined to report to the DOJ, the Securities and Exchange Commission, or the Commodity Futures Trading Commission.

7. This Agreement and Statement of Facts reflect the Bank's desire to improve and enhance its compliance risk management program. The Bank will implement policies and procedures regarding the response to regulatory inquiries that will (a) require notification to RIG of all requests for interview or testimony; and (b) require notification to RIG of any such inquiry on the occurrence of the third (and any additional) written inquiry in the same inquiry/investigation. Such notification shall be in a manner and form sufficient to allow RIG to make an informed judgment about which component of the Bank should have primary responsibility for responding to the inquiry. Promptly after being so notified, RIG shall designate, in writing, the component of the Bank that shall have primary responsibility for responding to the inquiry. In addition, the Bank will amend its annual compliance certifications required of relevant employees to advise them of their legal obligation under federal law to make truthful disclosures to any board of trade or futures association, and the Bank will require relevant employees to certify to their compliance with all Bank compliance policies and procedures applicable to them.

8. If the Bank commits a material breach of this Agreement, the Bank agrees that the USAO-WDNC will be permitted to file any actions that it could have filed as of the date of this Agreement. This Agreement does not limit in any way the right or ability of the USAO-WDNC to investigate or prosecute conduct occurring after the date of the Covered Conduct or this Agreement.

9. The term of this Agreement shall be 18 months from the signing of this Agreement. The Bank agrees that it will toll any applicable statutes of limitation in connection with the covered conduct for a period of 18 months commencing upon the execution of this Agreement. In addition, this Agreement does not provide any protection against prosecution of any present or former officer, director, employee, shareholder, agent, consultant, contractor, or subcontractor of the Bank for any violations committed by them.

10. Within thirty (30) days after the end of each calendar quarter during the term of this agreement, the Bank shall provide a report to the USAO-WDNC of material enhancements to the Bank's Compliance program, as well as the actions taken to comply with the provisions of this Agreement.

11. The parties agree that this Agreement is made without trial or adjudication of any issue of law and is not a final order that contains any findings of violations of any law or regulation. In addition, the parties further agree that this Agreement is not intended to indicate that the Bank or

current or former employees shall be subject to any disqualifications contained in the federal securities laws, the rules and regulations thereunder, the rules and regulations of self-regulatory organizations or various states' securities laws, including any disqualifications from relying upon registration exemptions or safe harbor provisions. In addition, this Agreement is not intended to form the basis for any such disqualifications.

12. The parties agree that this Agreement and its contents are not secret and may be disclosed by the Bank or the USAO-WDNC to whomever it desires.

13. The Bank irrevocably waives any right that it otherwise might have to seek (and in any event agrees that it shall not seek) any form of indemnification, reimbursement or contribution from the FDIC in any capacity, including the FDIC in its Corporate Capacity or the FDIC in its Receiver Capacity for any payment that is a portion of the Settlement Amount.

14. All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of the Bank, and its present or former officers, directors, employees, shareholders, and agents in connection with:

- a. the matters covered by this Agreement;
- b. the Investigation;
- c. the Bank's investigation, defense, and corrective actions undertaken in response to the Investigation (including attorney's fees);
- d. the negotiation and performance of this Agreement; and
- e. the payment BANA makes to the United States Treasury pursuant to this Agreement, are unallowable costs for government contracting purposes

(hereinafter referred to as "Unallowable Costs"). Unallowable Costs will be separately determined and accounted for by the Bank, and the Bank shall not charge such Unallowable Costs directly or indirectly to any contract with the United States.

15. Except as may otherwise be agreed by the parties in connection with a particular transaction, BANA agrees that in the event that, during the Term of the Agreement, it undertakes any change in corporate form, including if it sells, merges, or transfers a substantial portion of its business operations as they exist as of the Effective Date, whether such sale is structured as a sale, asset sale, merger, transfer, or other change in corporate form, it shall include in any contract for sale, merger, transfer, or other change in corporate form a provision binding the purchaser, or any successor in interest thereto, to the obligations described in this Agreement.

16. The Bank, and any of its successors and assigns fully and finally releases USAO-WDNC, and its officers, agents, employees, and servants, from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that the Bank has asserted, could

have asserted, or may assert in the future against the USAO-WDNC, and its officers, agents, employees, and servants, related to the Investigation.

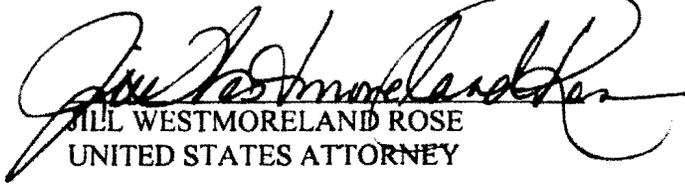
17. Miscellaneous.

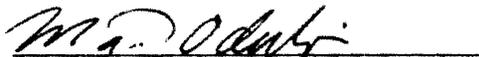
- a. This Agreement is intended to be for the benefit of the Parties only and does not create any third-party rights.
- b. This Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Western District of North Carolina.
- c. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.
- d. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.
- e. Nothing in this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for the purposes of the Internal Revenue laws, Title 26 of the United States Code. No United States tax deduction may be sought in connection with the Settlement Amount.
- f. For the purposes of construing the Agreement, this Agreement shall be deemed to have been drafted by all Parties and shall not, therefore, be construed against any Party for that reason in any dispute.
- h. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.
- i. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.
- j. This Agreement is binding on BANA's successors, transferees, heirs, and assigns.
- k. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

Dated: October 14, 2015

AGREED TO BY:

**ON BEHALF OF THE UNITED STATES ATTORNEY'S OFFICE
WESTERN DISTRICT OF NORTH CAROLINA:**


JILL WESTMORELAND ROSE
UNITED STATES ATTORNEY


MARK T. ODULIO
ASSISTANT UNITED STATES ATTORNEY


DANIEL S. RYAN
ASSISTANT UNITED STATES ATTORNEY


TAYLOR J. PHILLIPS
ASSISTANT UNITED STATES ATTORNEY

ON BEHALF OF BANK OF AMERICA, N.A.:


DAVID MONTAGUE
SENIOR VICE PRESIDENT AND ASSOCIATE GENERAL COUNSEL
BANK OF AMERICA, N.A.

STATEMENT OF FACTS

Bank of America Corporation (“BAC”) is a Delaware corporation, a bank holding company, and a financial holding company with headquarters in Charlotte, North Carolina. BAC operates its banking activities primarily under its Bank of America, N.A. (“BANA”) charter. BAC, BANA and their affiliated and associated entities are referred to collectively herein as “the Bank.”

In 2008 and 2009, the Global Rates, Currencies, and Commodities New York “swaps desk” executed a number of block futures trades with certain large financial institutions on a principal-to-principal basis. From time to time, Trader 1, Trader 2, and Trader 3, former members of the swaps desk (the “Traders”), listened to calls concerning these trades between representatives of these potential counterparties and BANA salespersons without announcing their presence (“listening in”). While listening in, the Traders would at times begin to hedge BANA’s expected risk before the trade was executed (“pre-hedge”).

The Traders engaged in listening in and pre-hedged for at least two reasons: to discover pricing and market depth, and to begin managing BANA’s risk from the expected block. The Traders pre-hedged by executing trades in the same contract as the block and in correlated products.

On November 16, 2009, BANA circulated to the Traders, among others, a “Quick Reference: EFP & Block Trade Guide – CME & CBOT” that stated: “Under no circumstance should a proprietary trader make any trade based on material information obtained during the Block Trade transaction process. This includes executed and non-executed block trades.” Recipients of the Quick Reference Guide were told that the document and other attachments were created to “facilitate futures trading that complies with regulatory requirements.”

During the period 2009 through 2012, the Traders attended periodic compliance training sessions and received training materials that, among other things, expressly prohibited them from taking “any action, either personally or on behalf of Bank of America, which violates any law, regulation or internal policy affecting Bank of America business.” The Traders also received a Compliance Policy Manual that stated that the “Commodity Exchange Act (CEA) establishes the framework for the regulation of markets and professionals that trade commodity futures and commodity options,” and that “virtually all futures contracts ... fall within its scope.” In addition, the Traders submitted annual certifications to the effect that they were in compliance with all applicable compliance policies and procedures for their line of business.

During the period from at least January 1, 2009 through at least December 31, 2010, BANA responded to inquiries from the CME Group Inc.’s (“CME”) Market Regulation Department relating to 22 block futures trades. In June 2010, a BANA employee compiled a spreadsheet that identified the Traders’ purchases and sales of the same instrument as those block trades in the 15-minute period prior to the reported time of those block trades. This spreadsheet was not shared with the Bank’s Legal and Compliance professionals, and the Bank’s Legal and Compliance professionals did not conclude that the Traders had traded ahead of these block trades. During this period, the Traders did not disclose that they had from time to time engaged in listening in and begun pre-hedging their expected risk before the block futures trades were

executed. Rather, the Traders promoted within the Bank the explanation that any appearance of pre-hedging resulted from time-recording discrepancies.

In November 2010, CME Market Regulation scheduled interviews with the Traders. During these interviews, the Traders generally provided misleading answers by, among other things, omitting to disclose that they pre-hedged block trades and, instead, suggesting that the appearance of pre-hedging resulted from time-recording discrepancies.

Following these interviews, and in reliance on representations of the Traders, on December 6, 2010, the Bank's outside counsel submitted a letter to CME Market Regulation on behalf of BANA. That letter stated, among other things, that the Traders "did not have advance knowledge of a block trade such as to enable them to engage in any trading prior to the execution of the block." Prior to submission of the final letter, a draft version of the letter was sent by email to all of the Traders. Trader 3 responded, "We have all read [the draft letter] and have made some notes. When you have a minute I can show you."

On May 9, 2013, after learning that the Traders had at times engaged in the pre-hedging of blocks and concluding that the Traders' interview statements to CME Market Regulation were misleading, the Bank retracted its December 6, 2010 letter and informed the CME that the Traders had traded ahead of blocks from time to time.