

# Exhibit C

## STATEMENT OF FACTS

The following Statement of Facts is incorporated by reference as part of the Deferred Prosecution Agreement (the “Agreement”) between the United States Attorney’s Office for the Southern District of New York (“USAO”) and JPMorgan Chase Bank, N.A., a subsidiary of JPMorgan Chase & Co. As used herein, and unless otherwise specified, “JPMC” refers collectively to JPMorgan Chase & Co., its subsidiaries, and their predecessors in interest. The parties agree and stipulate that the following information is true and accurate:

### Bank Structure

1. JPMorgan Chase & Co., a financial holding company incorporated under Delaware law in 1968, is a leading global financial services firm and the largest banking institution in the United States. JPMorgan Chase & Co.’s principal bank subsidiary is JPMorgan Chase Bank, N.A., which provides banking services throughout the United States and is regulated chiefly by the United States Department of Treasury, Office of the Comptroller of the Currency (the “OCC”).
2. JPMC operates four lines of business: the Corporate and Investment Bank, Asset Management, Commercial Banking, and Consumer & Community Banking. The Corporate and Investment Bank offers global investment banking services through various subsidiaries and affiliates of JPMC, including JPMorgan Chase Bank, N.A., JPMorgan Securities LLC (the United States broker-dealer for JPMC, registered with the Securities & Exchange Commission), and JPMorgan Securities plc (in the United Kingdom).

### The Bank Secrecy Act’s Requirements

3. The Currency and Foreign Transactions Reporting Act of 1970 (commonly known as the Bank Secrecy Act, or “BSA”), Title 31, United States Code, Section 5311, *et seq.*, requires financial institutions – including JPMorgan Chase & Co., JPMorgan Chase Bank, N.A., and other JPMC affiliates – to take certain steps to protect against the financial institution being used by criminals to commit crimes and launder money.
4. 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) internal policies, procedures, and controls designed to guard against money laundering; (b) an individual or individuals to coordinate and monitor day-to-day compliance with BSA 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).
5. 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

C.F.R. § 1020.320(a)(2). A separate BSA regulation provides that a bank must file a Suspicious Activity Report (“SAR”) where the bank “detects 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). 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).

6. At all relevant times, JPMC designated an executive located in New York, New York (the “JPMC BSA Officer”) as the head of JPMC’s AML program and the individual ultimately responsible for ensuring JPMC’s ongoing compliance with its BSA obligations, including the filing of SARs when required. JPMC’s AML program included individuals based in the United States and other countries responsible for filing suspicious activity reports in the relevant jurisdictions.

#### An Overview Of JPMC’s Banking Relationship With Madoff

7. Bernard L. Madoff (“Madoff”) ran the largest known Ponzi scheme in history through Bernard L. Madoff Investment Securities LLC and its predecessors and affiliates (collectively, “Madoff Securities”). At the time of its collapse in December 2008, Madoff Securities maintained more than 4,000 investment advisory client accounts, which purported to have a combined balance of approximately \$65 billion under management. In fact, Madoff Securities had only approximately \$300 million in assets at the time, including approximately \$234 million in cash and cash equivalents held by Madoff Securities in JPMC bank accounts.
8. Madoff Securities maintained a continuous banking relationship with JPMC and its predecessor institutions, including Manufacturer’s Hanover Trust, Chemical Bank and The Chase Manhattan Bank, between at least approximately 1986 and Madoff’s arrest in December 2008.
9. Madoff Securities held a series of linked direct deposit and custodial accounts at JPMC organized under the umbrella of a centralized “concentration account,” number 140-081703 (collectively, the “703 Account”). The 703 Account was the bank account that received and remitted, through a linked disbursement account, the overwhelming majority of funds that Madoff’s victims “invested” with Madoff Securities. In addition, Madoff Securities maintained linked accounts at JPMC through which Madoff held the funds obtained through his Ponzi scheme in, among other things, government securities and commercial paper.
10. Between approximately 1986 and Madoff’s arrest in December 2008, the 703 Account received deposits and transfers of approximately \$150 billion, almost exclusively from Madoff Securities investors. The 703 Account was not a securities settlement account

and the funds deposited by Madoff's victims into the 703 Account were not used for the purchase and sale of stocks, corporate bonds, or options, as Madoff had promised his customers he would invest their money. Nor were the funds deposited into the 703 Account transferred to other broker-dealers for the purchase and sale of securities.

11. The balance in the 703 Account generally increased over time, peaking at approximately \$5.6 billion in August 2008. Between August 2008 and Madoff's arrest on December 11, 2008, billions were transferred from the 703 Account to customers of Madoff Securities, leaving a balance of only approximately \$234 million.
12. As described herein, at various times between the late 1990s and 2008, employees of various divisions of JPMC and its predecessor entities raised questions about Madoff Securities, including questions about the validity of Madoff Securities's investment returns. At no time during this period did JPMC personnel communicate their concerns about Madoff Securities to AML personnel in the United States responsible for JPMC's banking relationship with Madoff Securities. Nor did JPMC file any SAR in the United States relating to Madoff Securities until after Madoff's arrest.

#### JPMC's Tools For Identifying Money Laundering Among Broker/Dealer Clients

13. The Madoff Securities banking relationship with JPMC was handled by the JPMC Investment Bank's Broker-Dealer Banking Group (the "B/D Group"), which provided access to an array of banking services to approximately 200-250 broker-dealer clients. Each broker-dealer client had an assigned client executive (also known as a "relationship manager" or simply "banker") who was the primary point of contact for that client.
14. Each relationship manager in the B/D Group was required, pursuant to JPMC policy, to periodically certify that he had "(i) determin[ed], . . . on an ongoing basis, whether an existing . . . relationship complies with relevant legal and regulatory-based policies and meets the firm[']s corporate client standards, and (ii) [taken] appropriate action to identify, communicate and resolve any issue that may arise in the course of such determinations." Client sponsorship also expressly "require[d] [the banker], as a Senior Officer of JPMorgan, to recertify on a periodic basis . . . that the necessary due diligence has been performed [and] that the client and its subsidiaries continue to meet the JPMC corporate client standards in relation to any potential reputation risk."
15. Following a restructuring of the B/D Group in or about 2007, the JPMC employees providing various services to B/D Group clients, such as credit or loan officers, were moved out of the B/D Group and instead reassigned to other parts of the Bank. As a result, client financial statements, regulatory filings, credit reviews, and other documents that had in the past been reviewed by the relationship manager were no longer regularly reviewed within the B/D Group, although employees in JPMC's Credit department still reviewed such documents.
16. JPMC also relied on a computerized system to comply with its AML obligations. Specifically, with respect to demand deposit accounts (*i.e.*, accounts holding client funds that can be withdrawn at any time, such as the 703 Account), JPMC employed different

software tools commonly used by large financial institutions to monitor account activity. Among other things, these software tools sought to determine how an account's activity compared to "peer" accounts and whether the account in question was behaving uncharacteristically for the peer group in terms of the value of the account and the volume of transactions.

17. In the event that the computerized AML systems generated an "alert" for potentially irregular activity, JPMC policy provided that an AML investigations team within JPMC's compliance department would investigate the alert and take appropriate action, which could include contacting business people at the bank, if any action was required. The AML alert process operated independently of the client sponsorship process, and AML officers monitoring the alerts did not have immediate access to computerized information providing the identity of the relationship manager in the event that the AML officer deemed it appropriate to contact the relationship manager to determine whether the alerted activity was consistent with the relationship manager's knowledge of the banking relationship.
18. In addition, the AML investigations teams monitoring the alerts were expected to have access to the appropriate records about the client, including so-called "know-your-customer" material (often referred to as "KYC material") that JPMC maintained in connection with its BSA obligations and pursuant to bank policy. The computerized AML system provided a means for AML investigators to review centrally maintained electronic copies of KYC materials. However, JPMC's efforts to electronically store KYC materials were behind schedule and, accordingly, as set forth herein, on some occasions AML investigations teams responding to alerts were unable to access the computerized KYC material on the client as part of their investigation.

#### The Use of JPMC's AML Tools in Connection With The Madoff Securities Accounts

19. With respect to JPMC's requirement that a client relationship manager certify that the client relationship complied with all "legal and regulatory-based policies," a JPMC banker ("Madoff Banker 1") signed the periodic certifications beginning in or about the mid-1990s through his retirement in early 2008, when the client relationship was assigned to a second individual ("Madoff Banker 2"). In March 2009 – three months after Madoff's arrest – Madoff Banker 2 received a form letter from JPMC's Compliance function asking him to certify the client relationship again.
20. During his tenure at JPMC, Madoff Banker 1 periodically visited Madoff's offices and obtained financial documents from Madoff Securities in connection with periodic loans JPMC made to the firm. Despite those visits and financial documents, and despite the fact that Madoff Banker 1 was aware of Madoff's standing in the industry, Madoff Banker 1 had a limited and inaccurate understanding of both Madoff's business, as well as the purpose and balance of the demand deposit accounts maintained by Madoff Securities at JPMC. Madoff Banker 1 believed that the 703 Account was primarily a Madoff Securities broker-dealer operating account, used to pay for rent and other routine expenses. Madoff Banker 1 also believed that the average balance in Madoff Securities' demand deposit account was "probably [in the] tens of millions." He did not understand

that the 703 Account was, in fact, the account used by Madoff's investment advisory business, and achieved balances of well more than \$1 billion beginning in approximately 2005, and up to approximately \$5.6 billion by 2008. Madoff Banker 1 stated that he re-certified his sponsorship of the Madoff relationship each year because no adverse information about Madoff Securities was brought to his attention.

21. With respect to the computerized AML system, on two occasions the system generated "alerts" with respect to potentially suspicious activity in Madoff Securities. In January 2007, the 703 Account "alerted" because of unusual third party wire activity. On the day of the alert, January 3, 2007, the 703 Account received \$757.2 million in customer wires and transfers, 27 times the average daily value of incoming wires and transfers over the prior 90 days of activity, virtually all of which came from Madoff "feeder funds" that offered to invest funds from their own customers in Madoff Securities. In July 2008, the system alerted due to activity associated with Treasury bond redemptions. In both cases, the AML investigators closed the alerts with a notation that the transactions did not appear to be unusual for the account in comparison to the account's prior activity. In both cases, prior to closing the alerts, the investigators attempted to review the KYC file for Madoff Securities but, upon receiving error messages to the effect that no file was available, did not conduct further investigation into the business of Madoff Securities beyond a review of the company's website.

#### Transactions In the Madoff Securities Account Identified By JPMC Private Bank Predecessors

22. Beginning in the mid-1990s, employees in the Private Bank for Chemical Bank, a predecessor of JPMC, identified a series of transactions between the account of a Private Bank client (the "Private Bank Client") and accounts held by Madoff Securities, including the 703 Account.<sup>1</sup> As one of the bank's largest individual clients, with a portfolio valued (as of the mid-1990s) at approximately \$2.3 billion, the Private Bank Client was highly valued by JPMC and its predecessors and was provided with his own office within JPMC's offices. In addition, the Bank's Global Trust & Fiduciary Services business line served (along with Bernard L. Madoff) as co-executor and co-trustee of the Private Bank Client's will, and stood to earn approximately \$15 million in fee income upon his death.
23. The transactions between Madoff and the Private Bank Client consisted of "round-trip" transactions which would typically begin with Madoff writing checks from an account at another bank ("Madoff Bank 2") to one of the Private Bank Client's accounts at JPMC and its predecessors. Later the same day, Madoff would transfer money from his 703 Account to his account at Madoff Bank 2 to cover the earlier check from Madoff Bank 2

---

<sup>1</sup> In July 1996, Chemical Bank acquired The Chase Manhattan Bank, N.A. by merger and began offering banking services, including private banking, under the name The Chase Manhattan Bank. In November 2001, The Chase Manhattan Bank acquired Morgan Guaranty Trust Company of New York by merger and began offering banking services, including private banking, under the name JPMorgan Chase Bank. The Private Bank Client maintained an account at the JPMC Private Bank through his death in September 2005.

to the Private Bank Client at JPMC. And, in the final leg of the transaction, as known to JPMC, the Private Bank Client would transfer funds from his JPMC account to the 703 Account in an amount sufficient to cover the original check he had received from Madoff at Madoff Bank 2. These round-trip transactions occurred on a virtually daily basis for a period of years, and were each in the amount of tens of millions of dollars. Because of the delay between when the transactions were credited and when they were cleared (referred to as the “float”), the effect of these transactions was to make Madoff’s balances at JPMC appear larger than they otherwise were, resulting in inflated interest payments to Madoff by JPMC.

24. In or around November 1994, an employee of the JPMC Private Bank drafted a memo stating that “the daily cost associated with” the overdrafts from the transactions is “outrageous,” and documenting calls on November 29, 1994, in which the employee informed both Madoff and the Private Bank client that JPMC was aware of the activity and the fact that it allowed Madoff to earn interest on uncleared funds. According to the memo, the Private Bank Client responded that “if Bernie is using the float, it is fine with me, he makes a lot of money for my account.”
25. In or about 1996, personnel from Madoff Bank 2 investigated the round-trip transactions between Madoff and the Private Bank Client. As a result of that investigation, which included meeting with representatives of Madoff Securities, Madoff Bank 2 concluded that there was no legitimate business purpose for these transactions, which appeared to be a “check kiting” scheme, and terminated its banking relationship with Madoff Securities. According to personnel from Madoff Bank 2, JPMC was notified of Madoff Bank 2’s closure of Madoff’s bank account. In addition, although unknown to JPMC at the time, Madoff Bank 2 filed a SAR in or about 1996 identifying both Madoff Securities and the Private Bank Client as being involved in suspicious transactions at Madoff Bank 2 and JPMC “for which there was no apparent business purpose.”
26. JPMC Private Bank did not file a suspicious activity report relating to the transaction activity between the Private Bank Client and Madoff Securities, or terminate its banking relationship with Madoff, or direct the parties to cease such transactions. JPMC allowed the Private Bank Client transactions to continue, although JPMC did require the Private Bank Client to reimburse JPMC for the interest payments that these transactions had cost the bank.
27. After Madoff Bank 2 closed the Madoff Securities account in or about 1996, the Private Bank Client and Madoff Securities continued to engage in round-trip transactions, the sizes of which increased, entirely through JPMC accounts. In December 2001, the Private Bank Client engaged in approximately \$6.8 billion worth of transactions with Madoff Securities — all between the Private Bank Client’s accounts at JPMC and the Madoff Securities 703 Account — in a series of usually \$90 million transactions. These transactions continued through 2003.
28. JPMC Private Bankers did not report the round-trip transactions between the Private Bank Client and Madoff Securities to JPMC AML personnel. After Madoff’s arrest in

2008, JPMC AML personnel reviewed the activity and filed a SAR concerning the above transactions.

Questions About Madoff Securities's Investment Returns From JPMC's Private Bank

29. In or about 1993, the Private Bank Client requested that a senior investment officer (the "Senior Investment Officer") of the Private Bank of Chemical Bank, a predecessor of JPMC, meet with Madoff, so that he (the Private Bank Client) could better understand how Madoff regularly generated consistent returns. Along with a quantitative analyst (the "Analyst"), the Senior Investment Officer met with Madoff. A memorandum from around the time of the visit reports that the Senior Investment Officer was "very comfortable" with Madoff, "his operation" and "the conservative, risk-averse investment approach" for the Private Bank Client, and that the Analyst said "it is quite possible for top-notch investment advisors to make 20-30% annual returns through such short-term programs." However, the Senior Investment Officer later explained that he and the Analyst could not understand how Madoff was able to generate such consistent quarterly returns for the Private Bank Client despite historic volatility in the market, and therefore concluded that Madoff "might also have been smoothing out the returns" by sharing trading spreads and profits from the Madoff Securities market-making business with the Private Bank Client.
30. In or about 1998, the Private Bank conducted a review of Madoff Securities because it had been extending credit to the Private Bank Client to invest in Madoff Securities. The review reflected that, according to Madoff Securities account statements, the Private Bank Client's reported investments, the substantial majority of which were invested through Madoff Securities, had increased from \$183 million at the end of 1986 to \$1.7 billion in early 1998 – an increase of 830 percent in 12 years. The Private Bank also learned that Madoff reported consistently positive returns for the Private Bank Client at all times, including through the October 1987 stock market crash and subsequent market corrections.
31. In late 2007, JPMC Private Bank personnel also conducted due diligence on Madoff Securities because there was sufficient interest in Madoff among the Private Bank's clients such that JPMC considered putting Madoff Securities on its own "trading platform" – that is, to put some of the money that the Private Bank invested on behalf of its clients into Madoff Securities. However, the JPMC Private Bank was told that Madoff would be unwilling to meet with JPMC in connection with its due diligence efforts. The JPMC Private Bank ended the due diligence process and did not place Madoff Securities on its trading platform. After Madoff's arrest, the Chief Investment Officer of the Private Bank wrote to Private Bank customers that "we did not do business with the Madoff funds, having never been able to reverse engineer how they made the money – the numbers didn't add up . . ." JPMC Private Bank personnel did not provide this information to JPMC AML personnel.



Questions About Madoff Securities's Investment Returns By A JPMC  
Investment Fund

32. Chase Alternative Asset Management ("CAAM") – the JPMC fund of funds open to institutional investors, and which was part of the Asset Management line of business – also considered placing Madoff Securities on its platform in the late 1990s and again in or about 2007. In connection with reviewing Madoff's reported returns in the late 1990s, one CAAM fund manager commented on approximately December 10, 1998 that Madoff Securities returns were "possibly too good to be true," and that there were "too many red flags" to proceed with further due diligence." In 2007, JPMC's fund of funds again considered a Madoff investment, and also discontinued the due diligence early on because the first stages of the process provided "little additional insight as to the source of the [Madoff Securities] returns" and because JPMC learned that Madoff would not meet with JPMC personnel to answer their questions. In neither the late 1990s nor 2007 did JPMC fund managers provide this information to JPMC AML personnel.

JPMC's Issuance Of Madoff Derivative Products

33. Beginning in approximately the Spring of 2006, JPMC invested approximately \$343 million of the Bank's own money in Madoff "feeder funds" – funds that sent investor money to Madoff Securities – as a hedge for structured products issued by JPMC's investment bank. Those derivative products were issued by JPMC in London in 2006 and 2007 through JPMC's Equity Exotics Desk, a group that specialized in creating complex derivatives based on the performance of certain investment funds. The purpose of the products was to provide investors with "synthetic exposure" to hedge funds or other equities without the investor making a direct investment in the fund itself.
34. The Madoff-derivative products offered by JPMC, which were issued in response to demand for Madoff Securities-related investments, generally worked as follows: JPMC issued notes (which it sold through various distributors) and promised to pay note-holders a return that corresponded to the return of a particular Madoff feeder fund. In order to hedge the risk created by those notes, JPMC then invested the Bank's own capital in the feeder fund directly. JPMC's investment of its own money in the Madoff feeder funds as a hedge position would therefore in large part offset the risks associated with JPMC's obligation under the notes. In this business model, JPMC's Investment Bank profited from transaction fees associated with issuing the notes, and endeavored to minimize risk resulting from these issuances. Due to the features of the JPMC-issued notes, however, it was impossible for JPMC to eliminate all risks from its exposure to Madoff feeder funds. For example, with respect to certain notes issued by JPMC that would pay the noteholder three times the Madoff feeder fund's investment returns, JPMC would suffer no losses if the Madoff feeder fund decreased in value by less than 33%, but could suffer substantial losses if the Madoff feeder fund's value fell to zero.
35. JPMC required approval from the Investment Bank's Risk function in connection with its own investments in hedge funds, including the Madoff feeder funds. Under pre-existing guidelines in place in 2007, approval for investments in so-called single name hedge funds (like Madoff Securities) was set at \$100 million in risk exposure to JPMC

(meaning, the total amount JPMC could be expected to lose if JPMC's investment lost virtually all its value). Risk exposure above \$100 million required approval from senior risk executives, with the level of approval depending on the size of the proposed investment. In assessing potential transactions that required individual approval from the JPMC risk function, risk officers assessed both "market risk" (*i.e.*, the risk associated with the investment performance of the underlying fund, assuming the fund followed its advertised strategy) and "credit risk" (*i.e.*, whether the fund could be trusted with the Bank's money). In the context of hedge fund investments, one credit risk factor in all proposed transactions was the risk that the fund manager was committing fraud. The scope of fraud risk ranged from a manager who deviated from a promised investment strategy to a manager who was reporting entirely fictitious returns.

36. From the outset, JPMC's risk personnel recognized that there was little market risk provided that Madoff was investing client funds in the split-strike conversion strategy that Madoff claimed he was. Accordingly, JPMC risk personnel promptly identified credit risk, and in particular the risk of fraud, as the central potential risk to JPMC. For example, in a February 1, 2006 e-mail, a risk executive evaluating the Madoff derivatives proposal commented, "[I]t seems to me the real systemic risk is that [Madoff] ends up being the next Refco and all their assets are frozen. . . ."

JPMC's Head Of Risk Denies A Request To Increase The Bank's Risk Exposure to Madoff Securities By More Than \$1 Billion And Caps JPMC's Exposure At \$250 Million

37. There was significant investor demand for the JPMC notes tied to the performance of the Madoff feeder funds. By June 2007, JPMC's position in Madoff feeder funds had created approximately \$105 million in risk exposure to Madoff Securities.
38. In approximately June 2007, traders on the Equity Exotics Desk decided to ask for a combined risk limit exception for JPMC's exposure to Madoff Securities through the various feeder funds in order to meet increasing demand for the structured products. Ultimately, senior investment bankers – including the Head of Equities for the Europe, Middle East and Africa region ("EMEA") – decided to seek approval to underwrite approximately \$1 billion in Madoff-linked derivatives. Given the particular nature of the derivatives (some of which included features such as capital protection and offered the purchasers a degree of leverage), the \$1 billion issuance would have resulted in a total of more than \$1.32 billion of the Bank's proprietary capital to be invested directly into Madoff feeder funds as a hedge, resulting in total exposure for JPMC of approximately \$1.14 billion if the value of the feeder funds fell to zero. It was estimated at the time that the proposed \$1 billion issuance, if approved, would bring the Equity Exotics Desk approximately \$55-70 million in revenue.
39. Because of the size of the proposed risk exception, the Investment Bank's Chief Risk Officer (the "CRO") required the proposal to be presented to the Investment Bank's Hedge Fund Underwriting Committee (the "Committee"). The Committee, chaired by the CRO, was comprised of executives from various of JPMC's lines of business who were affected by transactions involving hedge funds. The decision whether to permit the requested risk exception rested ultimately with the CRO.

40. The Committee met to consider the Investment Bank's \$1.14 billion Madoff Securities proposal on June 15, 2007, at 11:00 AM, at JPMC's midtown-Manhattan offices. Investment Bank employees from the London Equity Exotics Desk participated by phone, and senior Equities executives – including the Investment Bank's Global Head of Equities – participated in person, as did other JPMC Executives from JPMC's Investment Bank. Executives from the B/D Group also participated by phone to address any questions relating to JPMC's banking or credit relationships with Madoff Securities.
41. In advance of the meeting, credit executives circulated written materials analyzing the proposed Madoff transaction. Among other things, those written materials described Madoff Securities as being a fund "in the order of \$15-20bn" – making it one of the largest hedge funds then in existence.
42. With respect to risk analysis, the written materials stated that there was little market risk associated with Madoff's investment strategy, and concluded that "the main risk this trade poses is systemic fraud risk at the BLM [*i.e.*, Bernard L. Madoff] level." Elsewhere, the materials reiterated that "[c]learly, our largest risk is that of wholesale fraud at BLM that would strip the firm of any real assets (balance sheet or customer)." The written materials reported that the prospect of a systemic fraud was "extremely unlikely." The written materials also reported that systemic fraud risk was further mitigated because even "under a fraud/insolvency event at BLM level JPM would be a senior creditor (together with other account holders of customer assets also protected by SIPC [the Securities Investor Protection Corporation] and should have priority in recovery above other creditors of BLM. It would therefore require a fraud/insolvency event of extreme proportions to erode the implied subordination in the JPM transactions (e.g. estimated \$15bln of assets run by BLM. . . )."
43. The presentation also made clear that although JPMC was able to conduct due diligence on some of the Madoff feeder funds, Madoff was unwilling to allow JPMC to conduct direct due diligence on Madoff Securities. The presentation material did report that JPMC personnel had spoken to Madoff by telephone on March 30, 2007. During this call, Madoff provided what JPMC employees considered to be forthcoming answers to questions posed about Madoff's purported investment strategy, but indicated that he did not approve of the Madoff-linked derivative products and would not allow JPMC to conduct due diligence on his fund directly.
44. The June 15, 2007 Committee meeting ended without the CRO's approval for any further exposure by JPMC to Madoff Securities. While the reported consensus of the Committee was that "the fraud risk at Madoff is remote," the CRO concluded that no approval would be granted unless JPMC could do "direct due diligence on Madoff Securities." The CRO stated in an e-mail that "we don't do \$1 bio [billion] trust me deals."
45. Shortly after the Committee meeting ended, the CRO had lunch with another JPMC Executive (the "JPMC Executive"). During the lunch, the CRO sent an e-mail to, among others, the Investment Bank's Global Head of Equities, the Head of Equities for EMEA, and the head of the Equity Exotics Desk stating: "I am sitting at lunch with [the JPMC Executive] who just told me that there is a well-known cloud over the head of Madoff

and that his returns are speculated to be part of a ponzi scheme – he said if we google the guy we can see the articles for ourselves – Pls do that and let us know what you find.” In follow-up correspondence with the CRO, the JPMC Executive provided more specifics about the article and offered to find the article if the CRO had any difficulty locating it, explaining that he knew “nothing” on the subject other than what he read in what was “definitely an unflattering article.”

46. In response to the CRO’s e-mail about the Madoff Ponzi scheme rumors, the Global Head of Equities wrote that JPMC should “seriously look into it” as JPMC lent Madoff Securities money through the B/D Banking Group. The Global Head of Equities also commented that it was “hard to believe this would be going on over the years” because Madoff Securities was “regulated by SEC, NYSE, NASD etc.” To this the CRO responded that “Refco was regulated by the same crowd [that regulates Madoff Securities] and there was noise about them for years before it was discovered to be rotten to the core,” adding that “we owe it to ourselves to investigate further.” And in another e-mail several days later, the CRO wrote to one of the co-Chief Executive Officers of the Investment Bank that the JPMC Executive “told me Madoff has a very shady reputation in the market.”
47. Neither the CRO nor anyone else at JPMC located the article to which the JPMC Executive had referred, although a junior JPMC employee conducted an unsuccessful search. The article referenced by the JPMC Executive was a 2001 Barron’s feature entitled “Don’t Ask, Don’t Tell: Bernie Madoff is so secretive, he even asks his investors to keep mum.” The Barron’s article, among other things, raised some of the same issues identified by JPMC’s risk analysts. For example, it noted Madoff Securities had “produced compound average annual returns of 15% for more than a decade,” and that “some of the larger, billion-dollar Madoff-run funds have never had a down year.” The article then reported that “some on the Street have begun speculating that Madoff’s market-making operation subsidizes and smooths his hedge-fund returns” and described how such smoothing could be accomplished through an unlawful practice known as front-running.
48. On or about June 27, 2007, the head of the Investment Bank’s structured products group e-mailed the CRO a “quick reminder” that JPMC had “client trades requiring \$150 mm of delta to buy in funds investing in Madoff on Friday of this week” and that there would be “further significant flows at next month end.” The CRO then requested and received additional information from the B/D Group about Madoff Securities, including information from its credit reviews. On the same day, the CRO also spoke by telephone to Madoff, who answered questions asked by the CRO. At the same time, the CRO understood that Madoff would not authorize any further direct due diligence on Madoff Securities.
49. Later the same day, June 27, 2007, the CRO wrote “we will approve up to \$250 mio for these trades,” then clarified that he was approving \$250 million of total risk exposure, to include both JPMC’s existing approximately \$105 million in exposure as well as exposure generated through new transactions by the Investment Bank. Based on the decision to set risk exposure at \$250 million, the Equity Exotics Desk ended its

discussions related to other potential Madoff derivative transactions then under negotiation in order to stay within the risk limits.

June 2007 – September 2008: The Equity Exotics Desk Monitors  
JPMC's Exposure to Madoff Securities

50. In approximately August 2007, an Equity Exotics employee (“Equity Exotics Banker 1”) conducted an analysis in order to determine the relationship between returns reported by a Madoff feeder fund and the investments in S&P 500 stocks and Treasury bills that Madoff claimed comprised his investment strategy. Equity Exotics Banker 1 was unable to determine based on available information how the Madoff feeder fund could have produced these returns had Madoff followed this strategy, writing that the market performance during the period analyzed was “far away” from the returns that Madoff “allegedly made.” After obtaining further information and conducting further analysis, Equity Exotics Banker 1 e-mailed a colleague that he did “take comfort from the fact” that two separate Madoff feeder funds were reporting close to the same returns for the period.
51. Also in the Fall of 2007, JPMC hired a “Head of Due Diligence” for the Equity Exotics Desk. On his first day on the job, the head of the Equity Exotics Desk directed the Head of Due Diligence to review the Madoff feeder fund positions and offer any insight into how Madoff was able to generate his purported returns. The Head of Due Diligence was unable to explain the returns and learned that the Equity Exotics Desk was no longer interested in issuing products linked to the returns of Madoff Securities.
52. On June 23, 2008, after reviewing e-mails about the failure of one of the feeder funds to provide information to JPMC, including about how the money sent to Madoff was invested, and the departure of various feeder fund employees, a senior Equity Exotics banker e-mailed the head of the Equity Exotics Desk: “How much do we have in Madoff at the moment? To be honest, the more I think about it, the more concerned I am.”
53. In or around September 2008, as described below, JPMC began to consider redeeming its positions in the Madoff feeder funds.

October 2008: JPMC Concludes In A Report To U.K. Regulators That Madoff's Returns Are  
Probably Too Good To Be True

54. In mid-September 2008, following the collapse of Lehman Brothers and growing concerns about counter-party risk, JPMC's Head of Global Equities directed investment bank personnel to substantially reduce JPMC's exposure to hedge funds, which had increased following JPMC's March 2008 acquisition of Bear Stearns. This directive was reiterated by the Investment Bank Risk Committee on October 3, 2008. Acting at the direction of the Head of Global Equities, the Equity Exotics Desk began analyzing which hedge funds to reduce exposure to, including by directing the Desk's due diligence analyst (the “Equity Exotics Analyst”) to scrutinize investments in various hedge funds, including the Madoff feeder funds. The Equity Exotics Analyst conducted this due diligence by, among other things, analyzing the reported strategy and returns of Madoff

Securities, speaking to personnel at Madoff feeder funds and financial institutions administering Madoff feeder funds, and unsuccessfully seeking from the feeder funds and administrators documentary proof of the assets of Madoff Securities.

55. On October 16, 2008, the Equity Exotics Analyst wrote a lengthy e-mail to the head of the Equity Exotics Desk and others summarizing his conclusions (the “October 16 Memo”). The October 16 Memo described the inability of JPMC or the feeder funds to validate Madoff’s trading activity or custody of assets. The October 16 Memo noted that the feeder funds were audited by major accounting firms, which had issued unqualified opinions for 2007, but questioned Madoff’s “odd choice” of a small, unknown accounting firm. The October 16, 2008 Memo reported that personnel from one of the feeder funds “said they were reassured by the claim that FINRA and the SEC performed occasional audits of Madoff,” but that they “appear not to have seen any evidence of the reviews or findings.” The October 16 Memo also questioned the reliability of information provided by the feeder funds and the willingness of the feeder funds to obtain verifying information from Madoff. For example, the memo reported that personnel at one feeder fund “seem[ed] very defensive and almost scared of Madoff. They seem unwilling to ask him any difficult questions and seem to be considering his ‘interests’ before those of the investors. It’s almost a cult he seems to have fostered.” The Equity Exotics Analyst further wrote that there was both a “lack of transparency” into Madoff Securities and “a resistance on the part of Madoff to provide meaningful disclosure.”
56. The October 16 Memo ended with the observation that: “[t]here are various elements in the story that could make us nervous,” including the fund managers’ “apparent fear of Madoff, where no one dares to ask any serious questions as long as the performance is good.” The October 16 Memo concluded: “I could go on but we seem to be relying on Madoff’s integrity (or the [feeder funds’] belief in Madoff’s integrity) and the quality of the due diligence work (initial and ongoing) done by the custodians . . . to ensure that the assets actually exist and are properly custodied. If some[thing] were to happen with the funds, our recourse would be to the custodians and whether they had been negligent or grossly negligent.”
57. The Head of Due Diligence responded by complimenting the Equity Exotics Analyst on the October 16 Memo, making reference to other long-running fraud schemes, and suggesting in a joking manner that they should visit the Madoff Securities accountant’s office in New City, New York to make sure it was not a “car wash.”
58. The October 16 Memo was forwarded to JPMC’s in-house and external counsel, as well as to JPMC’s London-based Head of AML for the EMEA region, who also served as JPMC’s designated BSA Officer for the region (the “EMEA BSA Officer”). Following review of the October 16 Memo and consultation with legal counsel, on or about October 29, 2008, the EMEA BSA Officer filed with the U.K. Serious Organised Crime Agency (“SOCA”) a report, also called a suspicious activity report or SAR, pursuant to the terms of the United Kingdom’s Proceeds of Fraud Act (the “U.K. Report”). The U.K. Report was filed by the EMEA BSA Officer on behalf of JPMorgan Chase Bank, N.A. – the OCC-regulated entity – and identified Madoff Securities as its “main subject – suspect.” Under “reason for suspicion,” the EMEA BSA Officer wrote, in pertinent part:

JPMCB's [*i.e.*, JPMorgan Chase Bank, N.A.'s] concerns around Madoff Securities are based (1) on the investment performance achieved by its funds which is so consistently and significantly ahead of its peers year-on-year, even in the prevailing market conditions, as to appear too good to be true – meaning that it probably is; and (2) the lack of transparency around Madoff Securities trading techniques, the implementation of its investment strategy, and the identity of its OTC [over the counter] options counterparties; and (3) its unwillingness to provide helpful information. As a result, JPMCB has sent out redemption notices in respect of one fund, and is preparing similar notices for two more funds.

59. The U.K. Report continued that “JPMCB is also concerned about the conflict of interests which the three combined roles of BLM could represent” – *i.e.*, acting “as sub-advisor, sub-custodian and broker/dealer to the funds in question” – a factor also cited in the October 16 Memo regarding JPMC’s inability to verify that the assets of Madoff Securities “actually exist.” The U.K. Report further noted that other investment advisors had attempted to replicate Madoff’s stated strategy “but nowhere near as successfully as BLM,” and that the feeder fund managers “appear to know very little about how BLM strategy and systems work, and seem unconcerned in view of its consistent profitability.” Under the heading “[o]f further concern,” the U.K. Report also described the “small and unknown” auditors used by Madoff Securities.
60. The U.K. Report then quantified JPMC’s Madoff-related hedge fund redemptions as being undertaken “as a result” of these suspicions: €150 million (out of a total of €200 million) from one fund, and \$150 million (out of a total of \$150 million) from another.
61. In addition to reporting JPMC’s suspicion that Madoff Securities was claiming returns “too good to be true,” the U.K. Report also identified a distributor of the Madoff-linked derivatives as a “secondary subject” of the report. The basis for JPMC’s suspicions about the distributor was a call between a JPMC Investment Bank salesperson and an employee of the distributor in which JPMC informed the distributor that JPMC intended to invoke a provision of the note agreement enabling JPMC to delink the notes from the performance of a Madoff feeder fund. During the call, the distributor’s employee expressed displeasure about JPMC’s proposed action and referenced having “Colombian friends who cause havoc . . . when they get angry. . . .”
62. On November 19, 2008, the EMEA BSA Officer filed a second report with SOCA in the United Kingdom, on behalf of JPMorgan Chase Bank, N.A. This report alerted British regulators to a proposal by JPMC to buy back certain of the Madoff-linked notes from investors linked to the distributor who had referenced “Colombian friends” and stated that “[c]learly we do not wish to make the legal offer if there is any risk that we could not meet our obligations if SOCA refused consent at a later date, on the basis that JPM could be considered party to laundering the proceeds of crime.”

63. Prior to filing either of the U.K. reports, a U.K. markets compliance officer (the “U.K. Markets Compliance Officer”) and a JPMC lawyer based in the United Kingdom spoke to the Global Head of Equities about the Madoff redemptions and need to potentially file a report. The Global Head of Equities stated that Madoff was not an important client relationship to him. The Global Head of Equities also indicated that he supported taking any necessary steps with regard to “disclosure to US/UK regulators,” and that he assumed JPMC’s general counsel would be involved in the “ultimate decision.” No disclosure was made to United States regulators and no report was made to JPMC’s general counsel.

#### JPMC’s Redemptions From Madoff Feeder Funds

64. On October 16, 2008 – the day of the October 16 Memo – an Equity Exotics employee requested by e-mail a “list of all external trades and the exact counterparty trade” for each of the Madoff-related feeder funds, noting that “[t]he list needs to be exhaustive as we may be terminating all of these trades and we cannot afford missing any.” The Equity Exotics Desk, which had already placed redemption orders for approximately \$78 million from the Madoff feeder funds between October 1 and October 15, thereafter sought to redeem almost all of its remaining money in the Madoff feeder funds.
65. In addition to redeeming its positions in the Madoff feeder funds, JPMC sought, with the assistance of legal counsel, to cancel or otherwise unwind certain of the structured products issued related to the performance of the Madoff feeder funds. In an attempt to unwind these transactions, JPMC told the distributors of the Madoff notes that it was invoking a provision of the derivatives contract that enabled it to de-link the notes from the performance of the Madoff feeder funds if JPMC could not obtain satisfactory information about its investment. For example, in a letter dated October 27, 2008, JPMC warned that it would declare a “Lock-In Event” under the terms of the contract unless the recipient – a distributor that the Equity Exotics Analyst had spoken to as part of his due diligence underlying the October 16 Memo – could provide the identity of all of Madoff Securities’ options counterparties by 5:00 PM the following day.
66. In the Fall of 2008, the amount of JPMC’s position in Madoff feeder funds fell from approximately \$369 million at the beginning of October 2008 (which was down slightly from its high-water mark of \$379 million, in July 2008) to approximately \$81 million at the time of Madoff’s arrest, on December 11, 2008 – a reduction of approximately \$288 million, or approximately 80% of JPMC’s proprietary capital invested as a hedge in Madoff feeder funds. During the same period, JPMC spent approximately \$19 million buying back Madoff-linked notes and approximately \$55 million to unwind a swap transaction with a Madoff feeder fund that eliminated JPMC’s contractual obligation with respect to those structured products. When Madoff was arrested, JPMC booked a loss of approximately \$40 million, substantially less than the approximately \$250 million it would have lost but for these transactions.
67. At the same time, the Equity Exotics Desk also held through the time of Madoff’s arrest a gap note providing JPMC with \$5 million in protection if the value of a Madoff feeder fund collapsed completely. In a November 28, 2008 e-mail, an Equity Exotics banker



declined a third party's request to buy this protective gap note from JPMC, and described the gap note as being "as of today . . . very valuable" to JPMC.

68. Although JPMC sharply reduced its hedge position in Madoff feeder funds, it was exposed to substantial risk in the event that Madoff Securities continued to perform successfully because it had not been able to unwind or otherwise cancel an equivalent value of JPMC-issued notes linked to the performance of the Madoff feeder funds.
69. No one at the Investment Bank involved in JPMC's redemptions from the Madoff feeder funds informed anyone in the B/D Group of their concerns about the validity of Madoff's returns or even the fact of the redemptions. The key Investment Bank personnel involved in the Madoff feeder fund redemptions knew that the B/D Group had a banking relationship with Madoff Securities.

#### JPMC's Failure to File a SAR in the United States

70. Although JPMC stated in the U.K. Report that a New York-based, SEC-regulated broker-dealer's reported returns were "probably too good to be true," JPMC failed to file a SAR in the United States.
71. The U.K.-based EMEA BSA Officer who filed the U.K. Report did not ask anyone in the United States AML compliance function to investigate the suspicions about Madoff Securities described in the U.K. Report. The EMEA BSA Officer placed a phone call to the JPMC BSA Officer (as defined in paragraph 6, above) but, upon failing to reach him, did not follow up with any other individual in the United States AML compliance function. The EMEA BSA Officer also contacted the Head of Global Compliance for JPMC about the threat to the JPMC employee referenced in paragraph 62 stemming from planned Madoff feeder fund redemptions and steps taken to address it, but did not raise any issue about the potential need to file a SAR in the United States. JPMC did not at the time have any formal protocol for the sharing of information about suspicious activity between geographic regions.
72. So that he would be prepared to answer questions in the event that the Global Head of Equities were to learn about the U.K. Report, the U.K. Markets Compliance Officer alerted a high-ranking compliance officer for JPMC's Investment Bank in the United States (the "Senior IB Compliance Officer") about the trading desk's suspicions concerning Madoff Securities, and, ultimately, the Senior IB Compliance Officer learned that a report in the U.K. had been filed (although he did not receive a copy). The U.K. Markets Compliance Officer did not ask the Senior IB Compliance Officer to undertake any AML review, and no such review was undertaken by United States AML personnel.
73. The U.K. Markets Compliance Officer also provided the Senior IB Compliance Officer with a copy of the October 16 Memo, as well as copies of the written materials that accompanied the original Madoff derivative proposal from June 2007. Both the October 16 Memo and the June 2007 written material identified, in numerous places, the decades-long banking relationship between Madoff Securities and JPMC, and the relationship in particular between Madoff Securities and JPMC's B/D Group. For example, the June

2007 written materials specifically noted that “BLM is a relationship of JPMorgan’s broker-dealer team in New York,” *i.e.*, the B/D Group.

74. The Senior IB Compliance Officer did not alert U.S. AML Compliance personnel about the concerns expressed in the October 16 Memo. Nor did the Senior IB Compliance Officer take any steps to examine JPMC’s banking relationship with Madoff or the activity within the Madoff Securities accounts at JPMC. The Senior IB Compliance Officer did informally discuss the information he had received about Madoff Securities with several colleagues during an impromptu conversation in a hallway. After that conversation, one of the participants in that conversation – on his own initiative – conducted internet-based research and located two articles that contained negative information about Madoff Securities: the 2001 Barron’s article, discussed above, that the JPMC Executive had referred to in June 2007, and an article in a hedge fund industry publication called MAR/Hedge from 2001 entitled “Madoff Tops Charts; Skeptics Ask How.”
75. The MAR/Hedge article identified Madoff Securities as having “\$6-\$7 billion in assets under management,” which “would put it in the number one or two spot” in the list of the world’s biggest hedge funds. The article noted Madoff’s “positive returns for the last 11-plus years,” with “little volatility,” and reported that other fund managers had attempted to replicate Madoff’s strategy with less success, and far more volatility. The MAR/Hedge article echoed the report in the Barron’s article that Madoff could be “subsidizing” client returns from his market-making business, by front-running order flow.
76. The Senior IB Compliance Officer forwarded one of the two articles to markets compliance personnel in the U.K., and that article was ultimately forwarded to senior lawyers at JPMC in London. The Senior IB Compliance Officer has stated in connection with this investigation that, when he reviewed these articles in October 2008, he had viewed as significant that the concerns about the consistency of Madoff’s returns and lack of transparency had been discussed in articles since 2001, because it suggested to him that regulators likely would have already examined the concerns about Madoff Securities.
77. On or about November 10, 2008, an AML compliance officer based in London who had assisted in drafting the U.K. Report wrote an e-mail that contained information about JPMC’s redemptions from the Madoff feeder funds, and asked, “What other relationships, if any, does JPM have with either [a particular distributor] or Madoff Investment Securities?” A markets compliance officer responded, copying the U.S.-based Senior IB Compliance Officer and noting that JPMC had “lodged a report with the relevant U.K. authority” and that the Global Head of Compliance was “aware” of the report. The email also stated that, while U.K. personnel would examine JPMC’s relationship with Madoff in that jurisdiction, “given Madoff is a U.S. broker dealer we may undertake significant business in the U.S. I’ve copied [the Senior IB Compliance Officer] to keep him apprised.” No JPMC personnel took any action following this e-mail to investigate JPMC’s banking relationship with Madoff Securities.

78. At no time between October 16, 2008 and Madoff's arrest did JPMC file a SAR in the United States based on the suspicions articulated in the U.K. Report. Nor did anyone at JPMC during this time (a) examine the 703 Account; (b) inform the Madoff Securities relationship manager; (c) update the Madoff Securities KYC file; or (d) refer suspicions to any U.S.-based AML personnel.

Billions Of Dollars Were Transferred From The 703 Account After JPMC Redeemed Its Madoff Feeder Fund Investments And Filed The U.K. Report

79. JPMC continued providing banking services to Madoff Securities through the B/D Group until Madoff's arrest. In particular, after filing the U.K. Report, JPMC continued to process banking transactions for Madoff Securities in the account used for the Ponzi scheme, *i.e.*, the 703 Account, which was then being rapidly depleted through withdrawals as the scheme neared collapse.
80. Whereas the balance in the 703 Account reached approximately \$5.6 billion in August 2008, by October 16, 2008 – the date of the October 16 Memo – the account balance had fallen to \$3.7 billion. Thirteen days later, when the U.K. Report was filed, the balance had fallen another \$700 million, to approximately \$3 billion. And in the five business days after the U.K. Report was filed, approximately \$2.450 billion more was withdrawn from the 703 Account, leaving a balance of approximately \$550 million, some ninety percent less than it had been in August of the same year.
81. Most of the funds withdrawn during this period went to the same two feeder fund groups in which JPMC had invested – and then redeemed – JPMC's own funds. Between October 1 and October 28, 2008, JPMC placed redemption orders for approximately \$276 million from two particular feeder funds. On November 4, 2008, approximately \$1.3 billion was paid from the 703 Account to those two feeder fund groups in four transactions. Later in November 2008, JPMC placed redemptions orders for an additional approximately \$23.1 million from one of the funds; Madoff was arrested before those funds were ever received, however.
82. On December 11, 2008, agents of the Federal Bureau of Investigation arrested Madoff. At the time of his arrest, there was approximately \$234 million remaining in the 703 Account. Between October 16, 2008 and Madoff's arrest, approximately \$3.5 billion of the \$3.7 billion in the Madoff Securities accounts at JPMC had been withdrawn to pay customer redemptions.
83. On the day of Madoff's arrest, the Head of Due Diligence e-mailed the Equity Exotics Analyst who had drafted the October 16 Memo: "Can't say I'm surprised, can you?" The Equity Exotics Analyst replied: "No." On the same day, the EMEA BSA Officer who caused the U.K. Report to be filed stating that Madoff's returns appeared "too good to be true" e-mailed JPMC's BSA Officer and head of JPMC's AML department that Madoff Securities, "was the hedge fund that we reported 6 weeks ago and which I never had a one to one with you on. It came to pass." Additionally, on the same day, the JPMC head of structured products e-mailed the Global Head of Equities about the amount JPMC had been able to redeem from Madoff feeder funds before Madoff's arrest, commenting "we

got this one right at least – I said it looked too good to be true on that call with you in Sep[tember].” Finally, on the same day, the CRO e-mailed senior JPMC executives and wrote that with respect to Madoff, “we actually look like we have some clue of what we’re doing,” reporting that the investment bank had “got out of all but \$36 mio [million]” of “\$200 mio (down from the \$1 bio that [an investment bank executive] pushed hard for last year).” The CRO wrote further that the Chief Investment Officer of JPMC’s private bank had “told us a lot of our Private Bank customers have invested with Madoff but luckily we didn’t place any there.”

84. On March 12, 2009, Madoff pleaded guilty to securities fraud, wire fraud, money laundering, and related offenses, and was subsequently sentenced to 150 years’ imprisonment. These offenses, and others, were committed through transactions using Madoff’s 703 Account at JPMC.
85. After Madoff’s arrest, JPMC AML personnel examined the 703 Account transactions and filed a series of SARs relating to suspicious transactions in that account. JPMC did not file any SAR in the United States relating to Madoff prior to his arrest.