

**NEW YORK STATE DEPARTMENT  
OF FINANCIAL SERVICES**

IN THE MATTER OF

STANDARD CHARTERED BANK and  
STANDARD CHARTERED BANK, NEW YORK BRANCH

**CONSENT ORDER UNDER  
NEW YORK BANKING LAW §§ 39 and 44**

The New York State Department of Financial Services (the “Department”), Standard Chartered Bank, and Standard Chartered Bank, New York Branch (together, “Standard Chartered” or the “Bank”) are willing to resolve the matters described herein without further proceedings.

**WHEREAS**, Standard Chartered is a global financial institution headquartered in London, England, and is part of the Standard Chartered group that employs approximately 86,000 people worldwide, with total assets of more than \$663 billion;

**WHEREAS**, Standard Chartered (or a predecessor entity) has been licensed by the Department to operate a foreign bank branch since 1976 (the “New York Branch”). As of December 31, 2018, the New York Branch has assets in excess of \$40 billion;

**WHEREAS**, the Department has been investigating Standard Chartered’s foreign exchange (“FX”) business;

**WHEREAS**, the Department and Standard Chartered are willing to resolve the matters described herein without further proceedings. The Department hereby finds as follows:

## **THE DEPARTMENT'S FINDINGS AFTER INVESTIGATION**

### **Introduction**

1. As part of its broad investigation of the foreign exchange markets, the Department has been investigating Standard Chartered's foreign exchange trading business (the "Investigation"), including obtaining tens of thousands of pages of documents from the Bank, and additional relevant information from third-party sources.

2. The Department's Investigation determined that Standard Chartered engaged in unsafe, unsound, and improper conduct in violation of New York laws and regulations. The misconduct arose from the Bank's failure to implement effective controls over its foreign exchange business.

3. Standard Chartered traders used a variety of improper tactics to benefit the Bank – and themselves – by maximizing profits or minimizing losses at the expense of the Bank's customers or customers of other banks that were impacted by the misconduct. This improper conduct was accomplished using chatrooms, e-mail communications, phone calls, and in person meetings. Misconduct included:

- a. coordinating trading and spreads with colleagues at Standard Chartered and other international banks to disadvantage customers;
- b. seeking to manipulate submission-based and trading-based benchmarks;
- c. sharing confidential customer information (including customer stop-loss orders) with competitors;
- d. trading intended to move prices in certain emerging market currencies, to the Bank's benefit and the customers' detriment; and
- e. engaging in non-competitive agreements among traders on prices and spreads offered on a variety of FX-related products.

4. The Department's Investigation demonstrated that Standard Chartered traders based at the New York Branch and in other major trading hubs engaged in these actions repeatedly during the period from approximately 2007 through 2013.

#### **The FX Market and Standard Chartered's FX Business**

5. **The FX Market:** The foreign exchange market is one of the largest and most liquid markets in the world. The market is centered on "spot" transactions, *i.e.*, the exchange of national currencies between two counterparties typically settled within two business days. A spot dealer often quotes its customer both a "bid" (the price at which it will buy a currency) and an "ask" (the price at which it will sell). The difference between a bid and ask is known as the "spread."

6. The quoted spread plays an important role in a customer's decision whether to place an order with a particular dealer. Dealers seek a wider spread, *i.e.*, to buy low and sell high, while customers pursue a narrower spread. The narrower the spread offered, the more competitive the price, and if a spread is too wide a customer may select another bank offering tighter spreads. By quoting narrower spreads than competitors, dealers can win customer business and gain market share.

7. The global FX market is active 24 hours per day. To facilitate information flow and certain types of trading, industry organizations regularly publish snapshots of market prices taken at set times each trading day, known as "fixes" or benchmarks. Some fixes are calculated by sampling actual completed trades during a designated short time period; others, especially those for less liquid currency pairs, are calculated using indicative quotes solicited by the benchmark publisher from market participants.

8. Some customers wish to place buy or sell orders “at the fix price,” meaning the customer and dealer agree to transact at the future fix rate. Upon accepting a fix order, the dealer is committed to trading with the customer at whatever fix price is eventually published. By taking these orders to transact at a rate that will only be determined later, banks take on risk by exposing themselves to exchange rate movements.<sup>1</sup>

9. **Standard Chartered’s FX Business:** Standard Chartered conducts FX trading operations in a number of locations around the world including New York, London and Singapore. During the period of approximately 2007 through 2013, Standard Chartered’s average share of the global FX market was approximately one percent.<sup>2</sup>

10. For the period 2008 through 2013, the Bank booked, settled, and cleared between approximately 340,000 and 929,000 trades through the New York Branch for its global FX business annually. Further, for the period 2008 through 2013, the number of New York-based clients that generated FX revenue for the Bank (in excess of a de minimis amount) averaged approximately 300 each year. For the period 2008 through 2013, New York-based business generated between approximately 5.7 percent and 7.49 percent of the Bank’s global FX revenues.

11. During the relevant time period, Standard Chartered offered both “voice” trading – currency trading conducted by salespeople and desk traders using telephone or electronic communications – as well as “electronic” trading, where customers accessed Standard

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<sup>1</sup> One type of fix is calculated each day based on a sampling of real trading activity completed during a predetermined and usually short window of time. For spot trading, the most widely used benchmarks are the WM/Reuters fix (“WM/R” fix, occurring every business day at 4:00 p.m. London time) and the European Central Bank fix (“ECB” fix, occurring every business day at 1:15 p.m. London time). FX traders may buy or sell currency close to the “fix window” in order to manage their exposure to this risk and obtain a currency position large enough to complete the client’s order.

<sup>2</sup> Euromoney FX Surveys: 2007 – 2013.



Chartered's trading services directly via sophisticated computer applications. The Department's investigation reviewed both voice and electronic trading at the Bank, and the misconduct identified herein relates only to the Bank's voice FX trading business.

**Standard Chartered's Unsafe, Unsound, and Improper Conduct**

12. Between approximately 2007 and 2013, Standard Chartered engaged in unsafe, unsound and improper conduct through the conduct of a number of its employees engaged in its FX business. The inappropriate conduct was designed to improve the Bank's profits, and their own compensation, at the expense of the Bank's customers, competitors, and the market as a whole.

13. The Bank's conduct was not limited to a single group of traders, a single office, or a single product; a number of Standard Chartered traders and salespersons engaged in improper conduct involving an assortment of currencies and products, ranging from straightforward spot trading to certain forwards contracts.

**"Old Gits" Chat Room: Efforts to Improperly Coordinate Trading**

14. For the period of approximately September 2007 and April 2014, Standard Chartered traders based in New York joined traders at other international dealers in a chat room called "Old Gits." Participants in Old Gits specialized in trading emerging markets currencies, which tend to be less liquid than those for the most popular currencies, known as "G10" currencies. Due to diminished liquidity and trading volumes, some emerging markets currency prices may be more susceptible to manipulation by coordinated trading.

15. The Old Gits chat room was formed among these traders (among other reasons) to coordinate trading, share confidential information and otherwise attempt improperly to affect FX

prices. Long-time participants in Old Gits included at least three traders employed by Standard Chartered.

16. Descriptions by members early on in the work of Old Gits included comments by a New York-based Standard Chartered trader, Trader 1, who referred to the group as “*mafia*”; another member called the Old Gits group “*a cartel*,” “*like OPEC but poorer*.” And a trader at another global bank, Trader 2, explained to another, newer member that the group essentially was “*a den of thieves*.”

17. To ensure its success, existing members of Old Gits carefully controlled who would be admitted to membership. This caution was reflected, for example, in an April 2008 discussion where Trader 3, a trader at another global institution,<sup>3</sup> discussed the merits of adding a certain prospective new member by noting that he “is a good guy but can you trust [a large European bank]? . . . And does it make this [chat room] too big?” Another Standard Chartered trader, Trader 4, weighed in that he was “not fond of [the large European bank].” In the end, the group declined to add this new trader but one Old Gits participant offered to start a one-on-one chat with the rejected trader, presumably to source information from him.

18. Traders in Old Gits used the chat room to coordinate trading activities and attempt to improperly affect FX daily benchmark prices. For example, in a November 2007 chat, Trader 2 informed the group that he had booked a customer’s U.S. dollar/Thai baht (abbreviated “USD/THB”) trade that would be priced at the upcoming WMR fix, scheduled to be published at 11:00 a.m. local time. Trader 5, a trader at another global bank, responded, “*we can make that hi, we all just update screens at 32.00.*” In other words, the group would be able to affect the

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<sup>3</sup> Trader 3 pled guilty to a one-count information in the U.S. District Court for the Southern District of New York, charging conspiracy to restrain trade in violation of the Sherman Act (15 U.S.C. § 1) for conduct carried out during the same time that the Old Gits chat room was active. See *U.S. v. Katz*, 17-CR-003 (S.D.N.Y. Jan. 4, 2017).

WMR fixing price if they all showed trading interest at an artificially high price at the time the benchmark publisher sampled the market. After Trader 1 agreed to help, writing “I can update screen here,” Trader 5 sought to enlist the entire group’s coordination as well, suggesting that each post an artificially inflated price for a putative \$2 million dollar/baht trade, writing: “*2 usd each, mission for old gits . . . highest poss[ible] fix for 2 usd thb.*”

19. When another member of the group expressed skepticism that the scheme would work, Trader 1 persisted, writing, “*ill jack the screen anyway, can’t hurt, around 11 for you [Trader 2].*” As the appointed time approached, Trader 1 posted progress reports to the group, explaining, “ill start with the updates in . . . a min or 2 . . . OK, here we go [Trader 2] . . . OK [Trader 2] *hope this helps the print.*”

20. Similarly, in March 2008, a trader at another global bank, Trader 6,<sup>4</sup> requested help from Standard Chartered traders in attempting to improperly influence an upcoming benchmark. Trader 6 wrote, “when i tell you to pay the offer [in the relevant currency], take it for 1, [I’ve] got to jam a fixing at 3 ok? im going to go 20 bid after.” Both Trader 1 and Trader 4 responded “ok,” and a few minutes later, as the fixing time approached, Trader 6 directed the improper effort to influence the benchmark price, stating “almost time . . . pay it.” Trader 4 easily followed, writing “ok.”

21. Old Gits participants also discussed other types of coordinated trading. One method employed was the strategic placing or pulling of orders in the marketplace by one trader in an attempt to push the price in a direction desired by another trader. In July 2010, for example, Trader 1 agreed to postpone trading in Singapore dollars at the request of another Old

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Gits participant, Trader 2. Trader 2, in turn, was attempting to force up the prevailing price of the targeted currency so that he could profit more from a sale to his own customer.

22. Trader 1 asked Trader 2 “[is] that you [trading at the price of] 32?” Trader 2 explained, “yeah I have to buy 50, am going to have to put a price on this in a minute, not going to be pretty. Just let me push it up a bit for the fill then we let it come back.” Trader 1 agreed to wait, responding “ya im not going to chase, all you hammer [Trader 2]. [When it] comes back off ill take in.”

23. Similarly, in May 2010, Trader 1 schemed with Trader 3 to attempt to influence currency prices by using fake bids and wash trades<sup>5</sup> to attempt to increase the prevailing price on one trading exchange, the Reuters exchange, while simultaneously selling the same currency on a second exchange, the “LAVA” exchange, where the prevailing prices for the currency pair might adjust upward in response to the manipulated prices on the Reuters exchange.

24. The plan was captured during a recorded phone call made to discuss the scheme. Trader 3 told Trader 1, “if you put a fake bid in, I can hit it.” When Trader 1 asked whether that simply meant they would just be trading with each other, Trader 3 replied:

No! If you put a [bid of] 83 in [in Reuters], I’m going to hit them LAVA. . . . If someone puts an 83 in [in Reuters] then [the prevailing price at LAVA] will probably go to 83 and I might be able to sell them there. . . . You do it in Reuters and I’ll hit LAVA.

25. After Trader 1 posted a bid on Reuters as requested, he pointed out that his trade request was likely to be accepted by the marketplace. Trader 3 responded, “No, you’ll pull it quickly,” to which Trader 1 responded, “Alright, OK I am going to pull it.” Trader 3 then

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<sup>5</sup> “Wash trades” are transactions where two parties knowingly trade with each other solely to create the appearance of genuine trading activity and without a genuine economic purpose. Financial Conduct Authority Handbook, MAR 1.6 Market Abuse (available at <https://www.handbook.fca.org.uk/handbook/MAR/1/6.html?date=2016-03-07>).

commented, “Ah see you pulled it. When you pull it, it disappears. Now if you leave it, I hit it, then you pull quickly, you can do it.”

26. Participants also used Old Gits to share information to attempt to coordinate spreads quoted to customers. This anti-competitive conduct potentially advantaged the traders and their respective banks but clearly could disadvantage customers. In a September 2011 chat, for example, another New York-based Standard Chartered trader, Trader 7 solicited specific information from chat room participants at other dealers about the specific spreads being quoted to customers for trades involving Indian rupees (abbreviated in the industry as “INR”): “*Guys, if someone asked u inr in 50 how wide you make?*” When Trader 2 responded “prob 10,” Trader 7 replied, “*agreed, thks u, 5 wud be insanity.*” Trader 7 then asked another trader, “[Trader 5], what ur call?”, to which Trader 5 replied that he would show a similar spread, in the range of 7-10 pips.

27. And in January 2008, a few months after Old Gits became organized, Trader 3 suggested that the South African rand (abbreviated “ZAR”) was susceptible to manipulation by the group: “*I think we need an old gits meeting to discuss good ole zar manipulation. We should be able to bully people now far more than any other [currency].*” Trader 1 agreed, writing “*meeting of the family one night.*”

28. Trader 3 replied: “*done, gits = zar domination.*”

29. In furtherance of this effort, in April 2008 the group discussed a scheme to quote wider-than-usual spreads in South African rand during off hours – the time period when South African banks were closed and market activity in this currency slowed. When Trader 6 described a specific 50-pip spread he had quoted for a \$10 million U.S. dollar/South African rand trade, Trader 3 chided him, writing, “*you are making too tight now dude joburg*

*[Johannesburg] is gone. That is a 75-100 price now, you are giving yourself a harder time than you have to.*” Trader 1 backed up Trader 3, stating “you’re killing us, hahaha.” Trader 3 continued, “*guys, lets make a pack once joburg goes 10 bucks is 75-100.*” Trader 7 agreed: “sounds good here.”

30. Old Gits participants sought to cover their tracks and avoid discovery of their improper behavior that might be uncovered by surveillance from the Bank’s compliance function or by regulators. Among other things, when sharing information about real-time trading activity by specific customers, participants sometimes used code names rather than actually identifying the customer. For example:

- One customer firm that regularly traded with Old Gits members was referred to by the group as “007” because the firm’s name included a term associated with the James Bond movie franchise.
- During a February 2010 phone call on a recorded line, Trader 4 asked Trader 6 about a specific customer who previously traded with Trader 6. Trader 4 said he needed to “delicately phrase” his query, and asked whether the customer who had done the trade was “*like a big igloo?*” When Trader 6 confirmed it was, Trader 4 thanked him and shared other trading between Standard Chartered and the “big igloo” customer, to which Trader 6 replied, “*so uh we know his methodology now.*”
- In another example from June 2009, Trader 1 alerted his counterparts that “*dirty computer [is] looking in 8 usd/thb.*” Trader 6 thanked him.

31. Old Gits’ members openly acknowledged the market-moving power the chat room’s participants wielded. When, in June 2010, a friend of Trader 4 asked about the possibility of being admitted to certain chat rooms, Trader 4 referred, among other things, to Old Gits:

It’s [HSBC], [Citibank], [Standard Bank], us, [Bank of America] . . . . And there is no way you are getting in the room . . . . *But those are the people, I mean 60% of the fucking flow that comes through the EM [emerging] market comes through one of those 6 [sic] desks realistically, and . . . they are probably in chats with the other 40%. . . .* Like I said, there have been more people that have asked to get into this room and have been voted down than I have ever seen in my entire life . . . .

32. When a trader at another large bank gained admission to the chat room in May 2011, but on a two-month probationary basis, the new entrant expressed great satisfaction that he was “*now in the ‘inner ring’.*”

**“Butter the Comedian” Chat Room:  
Spread Collusion Involving Brazilian Real/U.S. Dollar NDFs**

33. In November 2009, a New York-based Standard Chartered trader, Trader 8, led the organization of a scheme where major dealers in certain non-deliverable forwards (“NDFs”) tied to the Brazilian real/U.S. dollar currency pair agreed to quote inflated spreads to any outside party seeking to do business with this small group of dealers.<sup>6</sup> The dealers involved communicated in a chat room known as “Butter the Comedian.”

34. Under market regulations then in effect, only a small number of offshore banks, including Standard Chartered, were authorized to trade certain products in Brazilian financial markets. Outside parties who wished to trade in these products engaged brokers who, in turn, solicited quotes from authorized dealers interested in the other side of the transaction.

35. Trader 8, along with a colleague at the New York office of another global bank, Trader 9,<sup>7</sup> devised a scheme to collude with dealers at other authorized Brazilian dealer banks with respect to the size of spreads offered to customers interested in trading NDFs.

36. Traders 8 and 9 led a discussion among the group of how wide the spread should be, and oversaw the final vote among participants. The spread upon which they ultimately agreed – plus or minus 5 pips or (the “Collusive Spread”) – was larger than what they would

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<sup>6</sup> NDFs are currency derivative contracts used to gain exposure to those currencies that are not freely convertible.

<sup>7</sup> Trader 8 here is also identified as “Trader 9” in the Department’s June 20, 2018 Consent Order, *In re Deutsche Bank AG and Deutsche Bank AG, New York Branch*.

have quoted brokers had they been required to actually compete against each other for the brokers' business.

37. The Collusive Spread was designed to ensure participating dealers secured a consistent profit on NDF business. To enforce the agreement, the traders involved also agreed to boycott any broker that tried to thwart the plan. Trader 8 stated clearly that "anyone who doesn't have 2689 [the license required to trade in the NDFs] is not a player. *[T]hey have no other option. . . . [W]e're trying to gain an unfair advantage over competitors, provided by a market distortion.*"

38. In a recorded call with another participant in the scheme, Trader 8 proposed having an in-person meeting in New York City among cartel members in an effort to bind them together in their coordinated effort:

*[S]hall we doing the following? Let's call everyone to New York here, a meeting with everyone here who does on/off [NDFs] . . . you, [Trader 9], [and another trader] . . . we sit everyone down in a little room . . . . Then you set it up, but then everyone has to be looking at everyone else's face.*

In another recorded call that same day, Trader 8 told a different participant in the scheme, "*we have the right to unite and say: damn it. And try to improve our profitability. Don't we? Of course we do.* So that's what I'm trying to do."

39. Another trader from a large bank explicitly referred in the chat room to the collusive plan as a "*traders' cartel*," while another trader at a different large bank echoed this sentiment, calling it the "*brokers' terror*."

40. When some members of the plot expressed reservations about the scheme, Traders 8 and 9 sought to steel the group's resolve, noting that, while a higher spread may lead to less business in the short term, the scheme over time would result in larger profits on small orders, lower fees paid to brokers, and lower counterparty risk.



41. Ultimately, however, the scheme began to unravel after only several weeks; another participant from a different bank signaled lament over its ineffectiveness, saying, “*it’s rough in a prostitute’s market.*”

#### **Improper Sales Conduct Involving Deliberate Underfills**

42. The Department’s Investigation determined that certain sales staff at Standard Chartered engaged from time to time in what is known as a “deliberate underfill.” This occurs when a trader successfully completes a customer’s market order, but either because the customer left the order “with discretion” (meaning that the customer asked the trade to be completed within a price range rather than at a certain price) or because the customer does not require an immediate report about the trade, the salesperson holds back some of the order while monitoring further price movements.

43. If subsequent price movements favor the customer’s trading position, the salesperson “splits” the order such that the Bank reports to the customer that the order was only partially filled, and the Bank keeps part of the (now profitable) trade for its own account, without the customer’s knowledge. The Bank can then fill the remaining portion of the customer’s trade, sometimes at a price less favorable to the customer.

44. An example from November 2010 involved a Singapore-based salesperson, Salesperson 1 – who had recently joined Standard Chartered from another large bank – and Salesperson 2, a London-based FX salesperson. Salesperson 1 reported to Salesperson 2 that she had just completed an 18 million Australian dollar/Japanese yen trade for a certain customer, and asked: “*how does it work in this bank? Do I have to pass client everything [?].*” Salesperson 2 responded, “*no,*” and Salesperson 1 continued, “so I can tell them 10 [million] done?” Salesperson 2 replied, “do 8 [million] or something I would. . . . See where you end up filling

the whole thing, but make sure [the traders working “her” part of the order] know what you are doing.” Salesperson 1 then reported she had asked the trading desk to pass only 10 million of the trade to the client, while working the remainder for herself, and that she ultimately netted a profit for herself and the Bank at the customer’s expense. Salesperson 2 replied, “*Nice . . . 8 grand for nothing.*”

45. In another example from November 2009, a New York-based salesperson, Salesperson 3 communicated internally by chat with a London-based sales colleague, Salesperson 2, about a particular trade for an Asian bank customer. After discussing market conditions, trading activity, and the particular customer’s preferences about being notified about trades, Salesperson 3 asked, “if I book something here for [the Asian bank customer], should I back it out with you?” Salesperson 2 responded, “Probably. *Can we hang on a bit, I might underfill him a touch, see what happens, you ok with that?*” Salesperson 3 agreed, holding off on crediting the client with the trade while Salesperson 2 searched for an opportunity to achieve a profitable underfill at the customer’s expense.

#### **Improper Sharing of Confidential Customer Information**

46. As early as 2008, guidance from certain U.S. regulators identified the need for FX dealers to protect client confidentiality and avoid situations involving trading on nonpublic information.<sup>8</sup>

47. Additionally, the Bank had in place its own policies concerning confidential customer information. In the Bank’s 2008 Group Code of Conduct, the section entitled “Respect customer confidentiality” states: “*Confidentiality of customer data is fundamental to our*

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<sup>8</sup> See, e.g., Federal Reserve Bank of New York, *Guidelines for Foreign Exchange Trading Activities* (Foreign Exchange Committee, May 2008).

*relationship with our customers*” and customer data “must be used only for the purposes for which it was given.” Similarly, the Bank’s 2008 Dealer’s Code of Conduct states that “*deliberately misusing the assets or confidential information of a customer of the Group*” is a breach of the Bank’s principles and considered by the Bank to be misconduct. This code further states that, “[s]taff must not disclose or discuss information related to clients or specific deals that have been transacted or are in the process of being proposed or arranged, except on a strict need to know basis.”

48. This proscription against sharing confidential customer information could not be more clear. Yet this guidance was ignored by traders and salespersons in Standard Chartered’s New York Branch and elsewhere involving a variety of customer orders

49. **Stop Loss Orders:** In one example a New York-based Standard Chartered trader, Trader 10, used a chat room to share stop loss orders with traders at other banks, and to benefit from similar information shared by the other traders. In a January 2011 chat that also included a trader at another global bank, Trader 11, certain participants indicated they would be selling the EUR/USD currency pair on behalf of their customers at that day’s 1:15 p.m. fix.<sup>9</sup> Trading data obtained from Standard Chartered shows that Trader 10 shorted the EUR/USD currency pair before the 1:15 p.m. fix in likely response to this information, and then repurchased roughly the same quantity of currency immediately after the fix. The Bank profited as a result of this transaction.

50. Other New York-based traders used chatrooms to share information in a manner inconsistent with market integrity. One trader, Trader 12, who previously worked at several other large financial institutions, participated in chats with traders at four other global financial

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<sup>9</sup> This referred to as the ECB fix.

institutions. In these chats, Trader 12 and other participants readily shared client stop-loss orders with each other. In connection with the DFS Investigation, when questioned about this improper conduct Trader 12 admitted that he did share client stop-loss orders.

51. Additionally, Supervisor 1, who oversaw the G10 trading desk at Standard Chartered's New York Branch and supervised Trader 12, regularly participated in chatrooms where widespread and improper information-sharing occurred, but without every taking any appropriate action.

52. Moreover, on at least two occasions Supervisor 1 himself played a role in the chat room's inappropriate conduct. For example, in an August 2011 chat with a trader from another large bank, Trader 13, Trader 13 volunteered information regarding his own bank's customer stop loss and other orders in Euro trading. Rather than discouraging Trader 13 from inappropriately sharing specific customer information, Supervisor 1 thanked Trader 13 for this information on repeated occasions.

53. Likewise, in a November 2011 chat, Supervisor 1 affirmatively solicited customer order information from traders at other banks, asking, "*you guys have anything on?*" In response, a trader at another large European bank, Trader 14,<sup>10</sup> responded concerning one of his own customers, saying "*we seen one guy looking to buy eur all mmg . . . feels like hes holding it up.*" Supervisor 1 responded, "*thanks mate.*" Trader 14 again followed up concerning stop-loss orders in Euro for certain customers: "*I got lots of stops above 10 in euro now . . . was hoping to sell into them,*" to which Supervisor 1 replied, "yea i don't think it gets back above 1.3850."

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<sup>10</sup> Trader 14 here is also identified as "Trader 1" in the Department's November 13, 2017 Consent Order, *In re Credit Suisse AG and Credit Suisse AG, New York Branch*.

54. **Codenames:** Certain other Standard Chartered traders would from time to time use codenames for customers in an attempt to cloak the improper sharing of customer information from discovery by surveillance that might have been conducted by a bank's compliance function, or from inspections by regulators.

55. For example, in an October 2012 chat, a salesperson at Standard Chartered's London office, Salesperson 4, disclosed to an apparent trader at another institution, Trader 15, that a specific Standard Chartered customer had been selling Indian rupees at a particular volume. Trader 15 inquired whether the selling party was the entity referred to as "italian stallion," to which Salesperson 4 replied, "that would be the one." And in a June 2011 chat, Salesperson 2 also shared trading activity that had been conducted by the customer that was codenamed "schoolboy," telling a trader at another bank "*I think the schoolboy has bot it all way up[.]*"<sup>11</sup>

56. **Certain Other Improper Conduct:** Supervisor 2, based in London, was the Bank's global head of G10 spot trading. Among other things, Supervisor 2 was responsible for supervising Supervisor 1 and his G10 team in New York.

57. Despite his senior role at the Bank, Supervisor 2 engaged in a long-term effort to improperly coordinate trading with an independent asset manager, as well as share confidential customer and other Bank information with that manager. Over a period of several years, Supervisor 2 regularly participated in a chatroom that included the asset manager, with whom he apparently had a longstanding relationship predating his employment at Standard Chartered. In these chats Supervisor 2 shared non-public profit-and-loss information, market strategies, and specific trading positions held by the Bank.

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<sup>11</sup> Other codenames used by Standard Chartered employees included "*fido*" and "*fireman*."

58. For example, in a chat from October 2011, Supervisor 2 tipped off the asset manager and others about Standard Chartered's then-trading position, saying the Bank had a *"very large rhs eur at 4pm,"* thus providing participants an opportunity to adjust their trading activities accordingly.<sup>12</sup>

59. Other exchanges between Supervisor 2 and the asset manager demonstrate their efforts to improperly coordinate trading. For example, in an August 2011 chat, Supervisor 2 asked chatroom participants, "who is buying [Australian dollar]?" The asset manager responded "sent u text[.]" to which Supervisor 2 replied, "ok cool."<sup>13</sup> Later that day, the asset manager, discussing market uncertainty, said "just got to get some wins under the belt. . . *I sense u are running into som . . . def when u feel strongly[.] let me know[.] We go with u ok[.]*" Supervisor 2 replied, "*i always do,*" and the asset manager responded, "[w]ell u are seeing it well[.] so I am going with you." Several hours later, Supervisor 2 improperly shared customer order information with the asset manager, stating "*I have a couple of stops at 20[.]*"<sup>14</sup>

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<sup>12</sup> The information shared by Supervisor 2 about the Bank's position at the fix was useful to others outside the Bank because it would allow the asset manager and others in the chat to either increase or decrease their trading into the fix, so as not to be subject to the price shift caused by Standard Chartered's large order during the fix window.

<sup>13</sup> This also appeared to be a clear violation of Section 5.9 of Standard Chartered's Dealer Code of Conduct then in effect, as well: "The use of mobile devices such as mobile phones (except for specifically approved situations under the after hours/off-premises trading guidelines) to transact with clients and broker counterparties (including soliciting and executing transactions) is strictly prohibited as it can undermine the controlled environment in dealing rooms with fixed line telecommunications, tape recorded handsets and audit trails for all transactions. Incoming calls initiated from clients/brokers to mobile phones should be diverted, and dealers should call back clients/brokers using tape recorded [handsets] at the earliest available opportunity. This is market best practice to ensure that the history of any discussions and agreements relating to transactions with client/brokers are recorded internally to resolve/mitigate any potential disputes. The use of mobile phones in the dealing room even for personal purposes is strongly discouraged. However, for countries where the use of mobile phones in the dealing room is completely restricted by local regulation, such stricter local standard must be complied with.

<sup>14</sup> Additionally, as revealed during the Department's Investigation, certain Standard Chartered traders based in offices outside of the United States used other chat rooms to communicate with colleagues at Standard Chartered, and at other large banks, to facilitate additional, improper efforts to both influence benchmark submissions and coordinate trading around a benchmark fix. This evidence further demonstrates the inadequate controls in place throughout the Bank during the relevant period.

### **Significant Control Failures in Standard Chartered's FX Business**

60. The Department requires regulated institutions to adequately supervise their various lines of business. Insufficient supervision poses serious risks to the safety and soundness of an institution, and compliance failures can facilitate violations of policies and procedures, harm to customers and other market participants, and possible violations of federal and state criminal and civil laws and regulations, including the New York Banking and Financial Services Laws.

61. Given there is no single regulator of the FX market, it is all the more essential that financial institutions take an active role in supervising this business line. Even so, as early as 2008, guidance from regulators existed that identified the need for dealers to protect client confidentiality and avoid situations involving trading on nonpublic information. *See, e.g.,* Federal Reserve Bank of New York, *Guidelines for Foreign Exchange Trading Activities* (Foreign Exchange Committee, May 2008). Likewise, as noted above, Standard Chartered had its own policies and procedures at least by 2008 that proscribed the misuse of confidential customer information.

62. During the relevant time period, Standard Chartered's management failed to effectively supervise the FX business and ensure compliance with applicable rules, regulations, and laws. Although the Bank sought to grow its FX business in the years following the 2008 financial crisis and had begun to develop certain FX-focused controls, it was slow to identify specific risks and develop tailored policies and processes to govern the business and ensure adequate compliance. The Bank had few policies and procedures or training programs that specifically addressed the FX business or provided sufficient guidance about the line between proper and improper behavior.

63. Additionally, there was inadequate surveillance and supervision of trading and sales activity across the Bank's global FX business during the relevant period. During that time the Bank's Compliance group lacked sufficient expertise in foreign exchange to effectively oversee the business.

#### **Cooperation and Remediation**

64. Standard Chartered conducted a comprehensive and thorough review of the conduct of its FX business. The Bank provided the Department with updates in a timely manner and was fully cooperative with the Department's Investigation, including by producing voluminous documentary and trading records, responding to the Department's requests and inquiries, and providing information about certain areas on its own initiative.

65. In addition, in response to the Department's Investigation, industry reviews conducted by other regulators, and findings from its own internal review, the Bank enacted significant measures to remediate shortcomings in its global FX business and improve compliance with New York laws and regulations. The Bank also has taken an active role in developing industrywide conduct rules that will assist all dealing firms to maintain a fair and efficient FX marketplace. The Department has given significant weight to the laudable conduct of Standard Chartered described in Paragraphs 64-65, among other factors, in agreeing to the terms and remedies of this Consent Order, including the amount of the civil monetary penalty imposed and the type and scope of remediation required.

66. **NOW THEREFORE**, to resolve this matter without further proceedings pursuant to the Superintendent's authority under Sections 39 and 44 of the Banking Law, the Department and Standard Chartered hereby stipulate and agree to the terms and conditions below:



## **VIOLATIONS OF LAW AND REGULATIONS**

67. Standard Chartered has conducted business in an unsafe and unsound matter, in violation of Banking Law § 44.

68. Standard Chartered failed to maintain and make available true and accurate books, accounts, and records reflecting all transactions and actions, in violation of New York Banking Law § 200-c.

69. Prior to the commencement of its internal investigation concerning possible misconduct in its FX business, Standard Chartered failed to submit a report to the Superintendent immediately upon discovering fraud, dishonesty, making of false entries or omission of true entries, or other misconduct, whether or not a criminal offense, in violation of 3 N.Y.C.R.R. § 300.1.

## **SETTLEMENT PROVISIONS**

### **Monetary Penalty**

70. Standard Chartered shall pay a civil monetary penalty pursuant to Banking Law § 44 in the amount of \$40,000,000. Standard Chartered shall pay the entire amount to the Department within ten days of executing this Consent Order. Standard Chartered agrees that it will not claim, assert, or apply for a tax deduction or tax credit with regard to any U.S. federal, state, or local tax, directly or indirectly, for any portion of the civil monetary penalty paid pursuant to this Consent Order.

### **Employee Discipline**

71. Standard Chartered took disciplinary action to terminate employees for conduct identified in the Department's Investigation, namely: Supervisor 2. Additionally, certain individuals involved in the misconduct described above resigned from Standard Chartered or were otherwise terminated due to unrelated reasons prior to the time any disciplinary action

might have been taken against them, namely: Traders 1, 4, 7, 8, 10, 12; Supervisor 1; Salespersons 1, 2 and 3.

72. Standard Chartered shall not in the future, directly or indirectly, rehire or retain any of the individuals referenced in Paragraph 71 above, as either an officer, employee, agent, consultant, or contractor of Standard Chartered or any affiliate of Standard Chartered, or in any other capacity.

### **Remediation**

73. Within 90 days of this Order, the Standard Chartered shall:

- a. submit an enhanced written internal controls and compliance program acceptable to the Department to comply with applicable New York State and federal laws and regulations with respect to the Bank's FX trading business as it affects or pertains to the Bank or New York customers;
- b. submit a written plan acceptable to the Department to improve the Bank's compliance risk management program with regard to compliance by the Bank with applicable New York and federal laws and regulations with respect to its FX Business as it affects or pertains to the Bank or New York customers; and
- c. submit an enhanced written internal audit program acceptable to the Department with respect to the Bank's compliance with applicable New York and federal laws and regulations, as well as the Bank's internal policies and procedures, in its FX trading business as it affects or pertains to the Bank or New York customers.

74. The Bank shall submit the written plans and programs that are acceptable to the Department as set forth in Paragraph 73 of this Order. Each plan or program shall contain a timeline for full implementation of the plan or program with specific deadlines for the completion of each component of the plan or program. The Department acknowledges that the Bank has already instituted certain reforms addressing improper conduct in its FX trading business, which the Bank shall detail in its written plans and programs submitted to the Department. Within 10 days of approval by the Department, the Bank shall adopt the approved

plans and programs. Upon adoption, the Bank shall promptly implement the approved plans and programs and thereafter fully comply with them. The approved plans and programs shall not be amended or rescinded without the prior written approval of the Department.

75. At the point of twelve and twenty-four months after execution of this Consent Order, the Bank shall provide a written progress report to the Department concerning at least the following:

- a. The Bank's compliance with applicable New York State and federal laws and regulations as regards its FX business as it affects or pertains to the Bank or New York customers;
- b. The Bank's compliance with recognized FX industry best practices as it affects or pertains to the Bank or New York customers;
- c. The Bank's creation of enhanced policies and procedures governing the FX business, and its compliance with those policies and procedures as it affects or pertains to the Bank or New York customers; and
- d. The Bank's maintenance of an honest, ethical, and fair FX business as it affects or pertains to the New York Branch or New York customers.

**Full and Complete Cooperation of Standard Chartered**

76. Standard Chartered commits and agrees that it will fully cooperate with the Department regarding all terms of this Consent Order.

**Breach of Consent Order**

77. In the event that the Department believes Standard Chartered to be in material breach of the Consent Order, or any provision hereof, the Department will provide written notice to Standard Chartered and Standard Chartered shall, within ten business days of receiving such notice, or on a later date if so determined in the Department's sole discretion, appear before the Department to demonstrate that no material breach has occurred or, to the extent pertinent, that the breach has been cured.

78. The parties understand and agree that Standard Chartered's failure to make the required showing within the designated time period shall be presumptive evidence of the Bank's breach. Upon a finding that Standard Chartered has breached the Consent Order, Standard Chartered agrees that the Department shall have all remedies available to it under New York Banking and Financial Services Law and may use any evidence available to the Department in any ensuing hearings, notices, or orders. Standard Chartered submits to the jurisdiction of the Department for any such future proceedings.

#### **Waiver of Rights**

79. The parties understand and agree that no provision of this Consent Order is subject to review in any court, tribunal or agency outside the Department.

#### **Parties Bound by the Consent Order**

80. This Consent Order is binding on the Department and Standard Chartered, as well as any successors and assigns. This Consent Order does not bind any federal or other state agency or any law enforcement authority.

81. No further action will be taken by the Department against Standard Chartered for the specific conduct set forth in this Consent Order, provided that the Bank fully complies with the terms of this Consent Order.

82. Notwithstanding any other provision in the Consent Order, the Department may undertake action against Standard Chartered for transactions or conduct that Standard Chartered did not disclose to the Department in the written materials Standard Chartered submitted to the Department in connection with this matter.

#### **Notices**

83. All notices or communications regarding this Consent Order shall be sent to:

**For the Department:**

James Caputo  
Senior Assistant Deputy Superintendent for Enforcement  
New York State Department of Financial Services  
One State Street  
New York, NY 10004

Connor Mealey  
Attorney and Excelsior Fellow  
New York State Department of Financial Services  
One State Street  
New York, NY 10004

Victoria Choi  
Attorney and Excelsior Fellow  
New York State Department of Financial Services  
One State Street  
New York, NY 10004

**For Standard Chartered:**

Scott Corrigan  
General Counsel, Europe & Americas  
Standard Chartered Bank  
1095 Avenue of the Americas  
New York, NY 10036

**Miscellaneous**

84. Each provision of this Consent Order shall remain effective and enforceable against Standard Chartered, its successors and assigns until stayed, modified, suspended, or terminated by the Department.

85. No promise, assurance, representation, or understanding other than those contained in this Consent Order has been made to induce any party to agree to the provisions of the Consent Order.

*[remainder of this page intentionally left blank]*

IN WITNESS WHEREOF, the parties have caused this Consent Order to be signed this 29<sup>th</sup> day of January, 2019.

**STANDARD CHARTERED  
BANK**

By:   
\_\_\_\_\_  
**BILL WINTERS**  
Group Chief Executive

**STANDARD CHARTERED  
BANK, NEW YORK BRANCH**

By:   
\_\_\_\_\_  
**TORRY BERNTSEN**  
CEO, Americas

**NEW YORK STATE DEPARTMENT OF  
FINANCIAL SERVICES**

By:   
\_\_\_\_\_  
**MARIA T. VULLO**  
Superintendent of Financial Services

By:   
\_\_\_\_\_  
**MATTHEW L. LEVINE**  
Executive Deputy Superintendent for  
Enforcement