

violations and deficiencies relating to: (a) the Currency and Foreign Transactions Reporting Act, 31 U.S.C. §§ 5311 *et seq.*, and the accompanying regulations issued by the U.S. Department of the Treasury, 31 C.F.R. Part 103 *et seq.*, collectively referred to as the Bank Secrecy Act (the “BSA”), and Sections 208.62 and 208.63 of Regulation H of the Board of Governors, 12 C.F.R. §§ 208.62 and 208.63; (b) 3 N.Y.C.R.R. § 300.1, relating to reports required to be made to the Department; and (c) Sections 16 and 5(c) of the Glass-Steagall Act, 12 U.S.C. §§ 24 (Seventh) and 335, Section 208.34 of Regulation H of the Board of Governors, 12 C.F.R. § 208.34, and New York Banking Law § 104.1, relating to the operations and activities of the Strategic Trading Group of the Bank (“Strategic Trading”);

WHEREAS, US Trust has acknowledged deficiencies and the need for immediate corrective action and has begun to take steps necessary to implement a comprehensive remediation program;

WHEREAS, pursuant to Section 8(i) of the Federal Deposit Insurance Act, as amended (the “FDI Act”), 12 U.S.C. § 1818(i), the Board of Governors is assessing a civil money penalty of \$5,000,000 against US Trust for apparent violations of Regulation H relating to the Bank’s obligation to establish and maintain procedures reasonably designed to assure and monitor compliance with the BSA; and, pursuant to New York Banking Law § 44, the Department is collecting a monetary payment of \$5,000,000 on behalf of the people of the State of New York for apparent violations of Section 104.1 of the New York Banking Law relating to the Bank’s obligation to maintain accurate books and records and 3 N.Y.C.R.R. § 300.1 relating to reports required to be made to the Department;

WHEREAS, on July 11, 2001, the boards of directors of U.S. Trust Corporation and the Bank, at duly constituted meetings, adopted resolutions:

A. Authorizing and directing Mr. Jeffrey S. Maurer, Chief Executive Officer of U.S. Trust Corporation and the Bank, to enter into this Order on behalf of US Trust, and consenting to compliance by U.S. Trust Corporation and the Bank and each of their institution-affiliated parties, as defined in Sections 3(u) and 8(b)(3) of the FDI Act, 12 U.S.C. § 1813(u) and § 1818(b)(3), with each and every provision of this Order;

B. Waiving the issuance of a notice of charges and a notice of assessment of a civil money penalty on any and all matters set forth in this Order;

C. Waiving hearings for the purpose of taking evidence on any and all matters set forth in this Order;

D. Waiving any and all rights to contest the issuance of a cease and desist order or an order of assessment of a civil money penalty by the Board of Governors pursuant to 12 U.S.C. § 1818 and by the Department pursuant to Sections 39 and 44 of the New York Banking Law;

E. Waiving any and all rights to judicial review of this Order; and

F. Waiving any and all rights to challenge or contest the validity, effectiveness, terms or enforceability of the provisions of this Order.

NOW, THEREFORE, before the taking of any testimony or the making of any findings of fact or conclusions of law, and without this Order constituting an admission of wrongdoing or an adoption, approval or admission of any allegation made or implied by the Board of Governors or the Department in connection with this

proceeding, and solely for the purpose of settlement of this proceeding without a protracted or extended hearing, and pursuant to the aforesaid resolutions:

IT IS HEREBY ORDERED, that, where applicable, U.S. Trust Corporation and the Bank, and each of their institution-affiliated parties, shall cease and desist from committing any further violations of the nature described herein, and shall take the following affirmative actions to correct the deficiencies described above:

I. BANK SECRECY ACT AND REGULATION H OF THE BOARD OF GOVERNORS

A. Compliance With All Laws and Regulations

1. U.S. Trust Corporation and the Bank and each of their institution-affiliated parties shall not, directly or indirectly, violate the BSA or Sections 208.62 and 208.63 of Regulation H of the Board of Governors.

B. Independent Review and Report

2. US Trust shall continue to cooperate with KPMG LLP pursuant to the terms of the engagement letter, dated April 13, 2001, which has been reviewed and approved by the Reserve Bank and the Department. KPMG shall continue its full scope review of US Trust's internal controls and procedures relating to BSA compliance, customer due diligence, wire transfers, and the identification and reporting of suspicious activity, including structuring. US Trust shall also continue to cooperate with KPMG in its preparation of a final report containing the consultant's findings and, where appropriate, recommendations for improvement. US Trust shall not amend or rescind the terms of the approved engagement letter without prior written approval of the Reserve Bank and the Department.

3. US Trust shall direct KPMG to make all work papers, work product, drafts and interim reports available as requested by the Reserve Bank or the Department and to make the final report available to the Reserve Bank and the Department at the same time that it is made available to US Trust.

4. Within 30 days of the issuance of the final report by KPMG, US Trust shall submit to the Reserve Bank and the Department an acceptable written plan describing the actions it proposes to take in response to any recommendations in KPMG's final report, as well as those that have already been implemented by US Trust pursuant to the provisions of this Order. The plan shall include target completion dates.

C. Enhanced BSA Compliance Program

5. Within 45 days of this Order, regardless of whether KPMG has completed its review, US Trust shall submit to the Reserve Bank and the Department an acceptable written Enhanced BSA Compliance Program consistent with Sections 208.62 and 208.63 of Regulation H. The Enhanced BSA Compliance Program shall, among other things, upgrade and improve the Bank's system of internal controls to ensure compliance with the BSA. At a minimum, the Enhanced BSA Compliance Program shall:

a. Implement a system that aggregates daily cash transactions to ensure compliance with the recordkeeping and reporting requirements for currency transactions over \$10,000, pursuant to 31 C.F.R. § 103.22. This system should, at a minimum, be capable of aggregating multiple cash transactions for any one business day, or other appropriate business period, from all branches by account number, by name(s) of the account holder(s) and by transactor(s).

b. Update and enhance policies and procedures relating to the verification of identification of account holders and transactors to ensure compliance with the identification requirements related to recordkeeping and reporting of currency transactions over \$10,000, pursuant to 31 C.F.R. § 103.28.

c. Update and enhance policies and procedures relating to the maintenance and retention of funds transfer records required by 31 C.F.R. Part 103 and 12 C.F.R. Part 219, Subpart B.

d. Develop and implement a procedure relating to suspicious or unusual activity to ensure that:

i) Potential suspicious or unusual activities, including currency and wire transactions, are properly identified and reported;

ii) All such reports are properly logged, documented, reviewed and, if necessary, investigated;

iii) A Suspicious Activity Report ("SAR") is filed for all violations, suspected violations and other reportable activities set forth in Section 208.62 of Regulation H; and

iv) Appropriate reports are filed with the Department pursuant to 3 N.Y.C.R.R. Part 300.1.

e. Enhance and provide comprehensive and effective BSA compliance training to all appropriate personnel.

i) The training shall be conducted by competent and qualified personnel, knowledgeable in all aspects of the laws, regulations and internal policies and procedures relating to the BSA.

ii) All appropriate personnel shall receive training at least once a year and all newly hired personnel shall receive training shortly after being hired. All training materials, including US Trust's Compliance Manual and Operations Manual, shall be updated on a regular basis to ensure that all appropriate personnel have the most current and up to date information.

6. Within 30 days of this Order, U.S. Trust Corporation shall appoint a qualified senior officer, who is independent of the private banking division of the Bank and acceptable to the Reserve Bank and the Department, for the sole purpose of coordinating, supervising and monitoring all BSA compliance and related matters. The senior officer must possess the appropriate experience, training and authority to oversee compliance.

7. Within 45 days of this Order, US Trust shall submit to the Reserve Bank and the Department acceptable written policies and procedures relating to the verification and screening of wire transfers to ensure compliance with the U.S. Department of Treasury's Office of Foreign Assets Control ("OFAC"), 31 C.F.R. Part 500 *et seq.*, as well as any rules and guidelines issued or administered by OFAC.

II. ENHANCED CUSTOMER DUE DILIGENCE PROGRAM

8. Within 45 days of this Order, regardless of whether KPMG has completed its review, US Trust shall submit to the Reserve Bank and the Department an acceptable written Enhanced Customer Due Diligence Program. The Program shall be designed to ensure effective management and mitigation of reputational and legal risks and compliance with the BSA and the applicable BSA and SAR reporting provisions of Regulation H, and the reporting provisions of 3 N.Y.C.R.R. Part 300.

9. At a minimum, the Enhanced Customer Due Diligence Program shall:

a. Provide for a risk focused assessment of the customer base of the

Bank to:

i) Identify the categories of customers whose transactions do not require monitoring because of the routine and usual nature of their banking activities;

and

ii) Determine the appropriate level of enhanced due diligence necessary for those categories of customers that US Trust has reason to believe pose a heightened risk of potentially illicit activities at or through U.S. Trust.

b. For those customers whose transactions require enhanced due diligence, institute procedures to:

i) Determine the appropriate documentation necessary to confirm the identity and business activities of the customer;

ii) Understand the normal and expected transactions of the customer; and

iii) Report suspicious activities in compliance with existing SAR reporting requirements set forth in Regulation H and 3 N.Y.C.R.R. Part 300.

III. CONVENIENCE ACCOUNTS

10. Within 60 days of this Order, US Trust shall have an outside accounting firm acceptable to the Reserve Bank and the Department perform a full and complete review of the use of Convenience Accounts by the Bank, excluding Strategic Trading's Convenience, Error and Stock Borrowing Accounts (collectively, "UST Convenience Accounts"). At a minimum, the review shall:

a. Identify all existing UST Convenience Accounts and assess the necessity and propriety of each and, where appropriate, recommend that the Bank close unnecessary or ineffectively controlled accounts and make appropriate adjustments.

b. Analyze transactions booked or conducted through the UST Convenience Accounts from January 1, 1998 through the present to determine whether each transaction can properly be linked to the customer on whose behalf it was conducted.

c. Identify and investigate suspicious or unusual activity, if any, conducted through UST Convenience Accounts.

11. To the extent that the Bank continues the use of UST Convenience Accounts, within 90 days of this Order, US Trust shall submit to the Reserve Bank and the Department an acceptable written program designed to ensure that they are effectively controlled, monitored for suspicious activity, and accurately reflected in the Bank's books and records, including any pertinent customers' account records. The program shall, at a minimum:

a. Prescribe the circumstances under which UST Convenience Accounts may be established.

b. Prescribe the circumstances under which transactions may be booked in or conducted through a UST Convenience Account.

c. Enhance recordkeeping requirements.

d. Require the appointment of a senior Bank officer, acceptable to the Reserve Bank and the Department, who shall be responsible for approving and monitoring the opening and subsequent use of all UST Convenience Accounts.

IV. INDEPENDENT TESTING

12. US Trust shall provide for independent testing of the Enhanced BSA Compliance Program, the Enhanced Customer Due Diligence Program and the written program relating to UST Convenience Accounts required by this Order. The independent testing shall be conducted: a) three months after the approval of the programs and their adoption by US Trust pursuant to the provisions of this Order (the "Initial Testing"), and b) 15 months after the Initial Testing.

V. STRATEGIC TRADING DIVISION**A. Independent Review and Report**

13. US Trust shall continue to cooperate with PricewaterhouseCoopers LLP ("PwC") pursuant to the terms of the engagement letter dated May 18, 2001. PwC shall continue its full scope review of Strategic Trading's business practices, policies, procedures, and controls with respect to: a) compliance with all applicable laws and regulations concerning securities trading and reporting requirements, consulting with counsel where appropriate; b) stock borrowing transactions and accounts; and c) convenience accounts and error accounts.

14. In addition to the functions to be performed pursuant to the engagement letter, US Trust shall have PwC:

a. Review each Convenience Account used by Strategic Trading, including any Error or Stock Borrowing Accounts (collectively, "ST Convenience Accounts"), to determine the necessity and propriety of each such account and, if appropriate, recommend that the Bank close any unnecessary or ineffectively controlled accounts.

b. Review all transactions conducted through each ST Convenience Account since Strategic Trading was acquired by the Bank (including both open and closed transactions during this time period) to determine whether any of the transactions were inappropriately recorded in the ST Convenience Accounts, whether any such inappropriately recorded transactions require the Bank to amend any reports previously filed with government agencies, and whether Strategic Trading acted as a principal or took any proprietary risk in conducting the transactions. Appropriate adjustments to accounts, including any pertinent customer accounts, shall be made to correct any inappropriate or inappropriately booked transactions and, if necessary, Bank financial statements shall be restated.

c. Identify all securities the Bank owns as principal. For those securities for which the Bank has no legal authority to own as principal, the Bank shall take steps to divest forthwith.

d. Review the current compliance infrastructure to determine whether it is sufficient to monitor and ensure that Strategic Trading's practices are in compliance with all applicable laws and regulations, consulting with counsel where appropriate.

15. US Trust shall request that PwC prepare a final report containing its findings and, where appropriate, recommendations for improvement. US Trust shall not amend or rescind the terms of the May 18, 2001 engagement letter without prior written approval of the Reserve Bank and the Department.

16. US Trust shall direct PwC to make all work papers, work product, drafts and interim reports available as requested by the Reserve Bank or the Department,

and to make the final report available to the Reserve Bank and the Department at the same time that it is made available to US Trust.

17. Within 30 days of the issuance of the final report by PwC, US Trust shall submit to the Reserve Bank and the Department an acceptable written plan describing the actions it proposes to take in response to any recommendations in PwC's final report, as well as those that have already been implemented pursuant to the provisions of this Order. The plan shall include target completion dates.

B. Enhanced Operations and Compliance Program

18. Within 45 days of this Order, regardless of whether PwC has completed its review, US Trust shall submit to the Reserve Bank and the Department an acceptable written Enhanced Operations and Compliance Program for Strategic Trading designed to ensure that the operations of Strategic Trading comply with all applicable federal and state laws and regulations and to ensure accurate and complete reporting to regulators and other government entities, including, among others, the U.S. Securities and Exchange Commission ("SEC"). The Program shall, at a minimum:

a. Update and enhance internal controls and implement a suitable infrastructure to ensure compliance with the safety and soundness guidelines established in 12 C.F.R. Part 208, Appendix D-1, including, but not limited to:

- i) Segregation of front office and back office functions;
- ii) Timely preparation and maintenance of complete and accurate documentation for all transactions in both Strategic Trading's internal books and records and in customer account records; and
- iii) Management oversight.

b. Update and enhance policies and procedures relating to the maintenance of Strategic Trading's books and records to ensure compliance with the requirements of 12 C.F.R. § 208.34 and Section 104.1 of New York Banking Law.

c. Ensure that there is transparency in Strategic Trading's books and records as well as in the customers' account records by, among other things:

i) Maintaining comprehensive customer account statements reflecting all account holdings and transactional activity including, but not limited to, canceled, reversed or amended transactions;

ii) Maintaining detailed, timely and comprehensive internal books and records; and

iii) Properly identifying and segregating transactions affecting income and expense recognition.

d. Enhance recording mechanisms to ensure that all conversations relating to customer transactions are properly recorded.

19. US Trust shall not alter, destroy or discard any documents, tapes, e-mails or other data accumulation or storage devices that relate to the transactions, accounts, statements, records, reports, policies or procedures referenced in this Order. This prohibition includes the destruction of any such information that would otherwise occur in the ordinary course of business.

C. U. S. Securities and Exchange Commission

20. Subject to applicable laws, US Trust shall provide the final report by PwC to the SEC or any other governmental or regulatory agency in connection with any inquiry made in relation to the trading activities of Strategic Trading.

VI. MANAGEMENT REVIEW

21. US Trust shall continue to conduct an independent review of the effectiveness and qualifications of Bank management and other personnel responsible for BSA compliance and Strategic Trading. The review shall continue to focus on an assessment of the organizational structure of US Trust and Strategic Trading, including, but not limited to, reporting lines, segregation of job responsibilities and office functions, duties performed by each officer and employee and the ability of that person to perform competently his or her assigned duties.

VII. APPROVALS AND PROGRESS REPORTS

22. The programs, plans and procedures required in this Order shall be submitted to the Reserve Bank and the Department for review and approval. Acceptable programs, plans, and procedures shall be submitted within the time periods set forth in this Order. US Trust shall adopt the approved programs, plans, and procedures within 10 days of approval and then shall fully comply with them. During the term of this Order, the approved programs, plans, and procedures shall not be amended or rescinded without the prior written approval of the Reserve Bank and the Department.

23. Within 15 days after the end of each month following the date of this Order, the US Trust shall submit a written progress report to the Reserve Bank and the Department detailing the actions taken to comply with each provision of this Order and the results of those actions. Management's responses to the audit reports on BSA prepared by internal and external auditors shall be included with the progress report. The Reserve Bank and the Department may, in writing, discontinue the requirement for progress reports or modify the reporting schedule.

VIII. ASSESSMENT OF A CIVIL MONEY PENALTY AND MONETARY PAYMENT

24. U.S. Trust Corporation and the Bank are hereby assessed and shall jointly pay to the Board of Governors a civil money penalty in the sum of \$5,000,000 pursuant to Section 8(i) of the FDI Act, 12 U.S.C. § 1818(i), for the failure to establish and maintain procedures reasonably designed to assure and monitor compliance with the BSA as required by Section 208.63 of Regulation H of the Board of Governors.

25. U.S. Trust Corporation and the Bank shall jointly make a monetary payment in the sum of \$5,000,000 to the Department pursuant to New York Banking Law § 44 for (a) the failure to establish and maintain books and records reasonably designed to assure and monitor compliance with reporting requirements set forth in 3 N.Y.C.R.R. § 300.1, and (b) the failure to maintain accurate and complete books and records in connection with the operations and activities of Strategic Trading as required by Section 104.1 of New York Banking Law.

26. The penalty and monetary payment assessed by this Order shall be remitted in full at the time of the execution of this Order to the Board of Governors and the Department as follows:

a. U.S. Trust Corporation and the Bank shall jointly remit \$5,000,000 to the Board of Governors by wire transfer of immediately available funds to the Federal Reserve Bank of New York, ABA No. 021001208, to the attention of Thomas C. Baxter, Jr., General Counsel and Executive Vice President. The Federal Reserve Bank of New York, on behalf of the Board of Governors, shall distribute this sum to the U.S. Department of the Treasury, pursuant to Section 8(i) of the FDI Act.

b. U.S. Trust Corporation and the Bank shall jointly remit \$5,000,000 to the Department by wire transfer of immediately available funds to the Department's account at Chase Manhattan Bank,

IX. NOTICES

27. All communications regarding this Order shall be sent to:

- (a) Ms. Nancy Bercovici
Senior Vice President
Federal Reserve Bank of New York
33 Liberty Street
New York, NY 10045
- (b) Mr. P. Vincent Conlon
Deputy Superintendent of Banks
New York State Banking Department
2 Rector Street
New York, NY 10006
- (c) Mr. Jeffrey Maurer
Chief Executive Officer
U.S. Trust Corporation
114 West 47th Street
New York, NY 10036

X. MISCELLANEOUS

28. The provisions of this Order shall be binding, where applicable, on U.S. Trust Corporation and the Bank, and each of their institution-affiliated parties, as defined in Sections 3(u) and 8(b)(3) of the FDI Act, 12 U.S.C. §§ 1813(u) and 1818(b)(3), in their capacities as such, and their successors and assigns.

29. Each provision of this Order shall remain effective and enforceable until stayed, modified, terminated or suspended in writing by the Board of Governors and the Department.

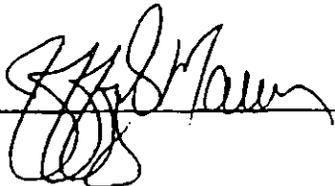
30. Notwithstanding any provision of this Order, the Board of Governors and the Department may, at their sole discretion, grant written extensions of time to US Trust to comply with any provision of this Order. The Board of Governors delegates to the Reserve Bank its authority to grant, in the Reserve Bank's sole discretion, written extensions of time to comply with the provisions of this Order.

31. The provisions of this Order shall not bar, estop or otherwise prevent the Board of Governors, the Reserve Bank, the Department or any federal or state agency from taking any further or other action affecting U.S. Trust Corporation or the Bank, or any of their current or former institution-affiliated parties, as defined in Sections 3(u) and 8(b)(3) of the FDI Act, 12 U.S.C. §§ 1813(u) and 1818(b)(3).

By order of the Board of Governors of the Federal Reserve System and the Superintendent of Banks of the State of New York, effective this 12th day of July 2001.

U.S. TRUST CORPORATION
New York, NY

UNITED STATES TRUST COMPANY OF
NEW YORK
New York, NY

By: 

By: 

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM

NEW YORK STATE BANKING
DEPARTMENT

By: 

By: 