



# Department of Justice

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**U.S. ATTORNEY'S OFFICE ANNOUNCES \$2.5 MILLION SETTLEMENT WITH  
BANK OF AMERICA FOR TRADING AHEAD AND OBSTRUCTING THE CME'S  
INVESTIGATION**

CHARLOTTE, NC – Jill Westmoreland Rose, U.S. Attorney for the Western District of North Carolina announced today a settlement reached with Bank of America (the Bank) to resolve the United States' investigation of certain trading activity by the Bank's New York "Swaps Desk" involving trading ahead of, or "pre-hedging," block futures trades with its counterparties and then obstructing the CME Group Inc.'s (CME) investigation of the trading. As part of the settlement, the Bank, among other things, agreed to pay \$2.5 million, to report certain suspected misconduct to the United States, and to improve and enhance the Bank's compliance risk management program.

The Bank's settlement with the United States was reached in 2015 and is announced today in conjunction with the announcement made by the Commodity Futures Trading Commission (CFTC) of its settlement with Merrill, Lynch, Pierce, Fenner & Smith Incorporated (Merrill Lynch), following its investigation into Merrill Lynch's supervision and recordkeeping failures for conduct related to the Bank's trading activity (*See* CFTC Press Release <http://www.cftc.gov/PressRoom/PressReleases/pr7615-17>).

"The settlement underscores the expectation that everyone, from Wall Street to main street, act honestly and ethically in their financial transactions. The financial system depends on the integrity of everyone involved in it. The settlement reinforces our expectation that firms effectively monitor their employees and deal candidly with all regulators and law enforcement agencies," said U.S. Attorney Rose.

According to the Statement of Facts admitted to by the Bank as part of the settlement, at least three former traders on its New York Swaps Desk eavesdropped on calls between certain large financial institution counterparties and Bank salespersons about block futures trades without announcing their presence and then used information obtained by eavesdropping to enter into transactions to hedge the Bank's expected risk from those block futures trades. This practice was referred to as, among other things, "pre-hedging." The traders pre-hedged by executing trades in the same contract as the block futures trades and in other correlated products.

The Bank also admitted in the Statement of Facts that during the period from at least January 1, 2009 through at least December 31, 2010, the CME began investigating numerous block

futures trades entered into by the Swaps Desk. In response to the CME's inquiries, an internal spreadsheet identifying several potential instances of pre-hedging was generated by the business unit, but it was not shared with the Bank's Legal and Compliance professionals. Further, the traders did not disclose to the Bank that they had eavesdropped on calls and pre-hedged their expected risk before the block futures trades were executed. Rather, the traders promoted within the Bank the explanation that any appearance of pre-hedging resulted from inaccurate timestamps.

The Statement of Facts also acknowledged that during interviews with the CME, the traders provided misleading answers by, among other things, failing to disclose that they pre-hedged block trades and, instead, again suggesting that the appearance of pre-hedging resulted from inaccurate timestamps. Following these interviews, the Bank submitted a letter to the CME falsely stating that, among other things, the traders "did not have advance knowledge of a block trade such as to enable them to engage in any trading prior to the execution of the block."

After learning of the government's investigation, the Bank retracted its December 6, 2010 letter and informed the CME that the traders had traded ahead of block futures trades.

The investigation was led by the Federal Bureau of Investigation (FBI), Charlotte Division, and the Federal Housing Finance Agency, Office of Inspector General (FHFA-OIG), Northeast Region. In making today's announcement, U.S. Attorney Rose thanked the CFTC and the National Futures Association for their assistance.

Assistant U.S. Attorneys Daniel Ryan and Taylor Phillips, of the U.S. Attorney's Office in Charlotte, represented the United States in the matter.

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