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### Despite Doubts, JPMorgan Kept Ties to Madoff

### Trustee Accuses Bank

### Unsealed Papers Show an Internal Debate Over Accounts

By DIANA B. HENRIQUES

Senior executives at JPMorgan Chase expressed serious doubts about the legitimacy of Bernard L. Madoff's investment business more than 18 months before his Ponzi scheme collapsed but continued to do business with him, according to internal bank documents made public in a lawsuit on Thursday.

On June 15, 2007, an evidently high-level risk management officer for Chase's investment bank sent a lunchtime e-mail to colleagues to report that another bank executive "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."

Even before that, a top private banking executive had been consistently steering clients away from investments linked to Mr. Madoff because his "Oz-like signals" were "too difficult to ignore." And the first Chase risk analyst to look at a Madoff feeder fund, in February 2006, reported to his superiors that its returns did not make sense because it did far better than the securities that were supposedly in its portfolio.

Despite those suspicions and many more, the bank allowed Mr. Madoff to move billions of dollars of investors' cash in and out of his Chase bank accounts right until the day of his arrest in December 2008 — although by then, the bank had withdrawn all but \$35 million of the \$276 million it had invested in Madoff-linked hedge funds, according to the litigation.

The lawsuit against the bank was filed under seal on Dec. 2 by Irving H. Picard, the bankruptcy trustee gathering assets for Mr. Madoff's victims. At that time, David J. Sheehan, the trustee's lawyer, bluntly asserted that Mr. Madoff "would not have been able to commit this massive Ponzi scheme without this bank." But with the case under seal, there was no way to gauge the documentation on which

the trustee based his \$6.4 billion in claims against the bank — until now.

In a statement, JPMorgan Chase strongly disputed Mr. Picard's accusations and said it would "vigorously" challenge the claims in court.

The bank and Mr. Picard mutually agreed to unseal the complaint, which is one of dozens of big-ticket claims he has filed to recover assets for the victims of the Ponzi scheme. Other defendants include a half-dozen global banks, including HSBC in London and UBS in Switzerland, and the Wilpon family, the owners of the New York Mets.

To date, Mr. Picard has collected about \$10 billion through settlements and asset sales; he estimates the total cash losses in the fraud at \$20 billion.

In a statement released Thursday, the bank said the trustee's complaint was "based on distortions of both the relevant facts and the governing law." It denied that it had known about or played any role in Mr. Madoff's fraud and dismissed the claim that it turned a blind eye to his activities to retain income from his business.

"Madoff's firm was not an important or significant customer in the context of JPMorgan's commercial banking business," the statement said. "The revenues earned from Madoff's bank account were modest and entirely consistent with conventional market rates and fees."

As for Mr. Picard's claim that the bank should have frozen Mr. Madoff's bank account or reported his suspicious activity to regulators, the bank said, "At all times, JPMorgan complied fully with all laws and regulations governing bank accounts, including the regulations invoked by the trustee."

Although lawyers redacted the names and specific positions of bank executives involved in the incidents described in the lawsuit, other information in the complaint makes it clear that many of them held prominent positions.

Deborah H. Renner, one of the trustee's lawyers with Baker & Hostetler, reinforced that impression in a statement released Thursday. Ms. Renner said, "Incredibly, the bank's top executives were warned in blunt terms about speculation that Madoff was running a Ponzi scheme, yet the bank appears to have been concerned only with protecting its own investments."

One discussion of the bank's "due diligence" on Mr. Madoff was aired on June 15, 2007, at a meeting of the bank's hedge fund underwriting committee. According to the complaint, that committee was composed of "senior business heads and bankers, including individuals such as the chief risk officer and the heads of equities, syndicated leveraged finance, sales and hedge funds."

News accounts identified the chief risk officer for Chase's investment bank in June 2007 as John J. Hogan, who is currently a member of the bank's executive committee.

The newly public material offers the clearest picture yet of the long and complex relationship between Mr. Madoff and Chase, the global institution that served as his primary bank since 1986.

What emerges is a sketch of an internal tug of war. One group of senior Chase bankers was pursuing profitable credit and derivatives deals with Mr. Madoff and his big feeder-fund investors, the hedge funds that invested their clients' money exclusively with him. Another group was arguing against doing any more big-ticket "trust me" deals with a man whose business was too opaque and whose investment returns were too implausible.

For much of 2007, the tide was with the Chase bankers designing and selling complex derivatives linked to various Madoff feeder funds. By June of that year, they already had sold at least \$130 million worth of the notes to investors, and they sought approval for deals that would have

pushed that total to \$1.32 billion, the lawsuit asserted.

The committee agreed to increase the bank's exposure to Mr. Madoff only to \$250 million, but by 2008, the bank's risk management executives were gaining, backed up by suspicions raised by the "due diligence" teams visiting the large hedge funds that invested with Mr. Madoff.

After Mr. Madoff's arrest, the complaint said, a bank employee referred to the agenda for a committee meeting that considered the Madoff deals in June 2007 and wrote, "Perhaps best this never sees the light of day again!"

On the sidelines in this shoving match between the derivatives sales force and the risk management unit, according to the lawsuit, were the retail bankers who were responsible for monitoring the daily activity in Mr. Madoff's bank accounts — activity that bore no resemblance to the

normal patterns of a brokerage or investment management firm, according to Mr. Picard.

Even after it had begun to act on its suspicions about Mr. Madoff, Chase did not freeze his bank accounts or alert his regulators — or its own — to the unusual patterns in those accounts, the trustee contended.

The bank "had only to glance at the bizarre activity" in the Madoff accounts "to realize that Madoff was not operating a legitimate business," the trustee asserted in the suit. The money coming in was not from the sale of securities, and the money going out was not for the purchase of securities — at a time when Mr. Madoff was supposedly making billions of dollars in trades as part of his investment strategy, the complaint asserted.

Mr. Picard's lawsuit says that the door to Chase was opened for Mr. Madoff by

one of his longtime investors, a wealthy Chase customer who was not identified in the complaint.

According to the trustee, the flow of money just between the Madoff accounts and this customer's accounts should have set off warning bells at the bank.

On a single day in 2002, Mr. Madoff initiated 318 separate payments of exactly \$986,301 to the customer's account for no apparent reason, the trustee reported. In December 2001, Mr. Madoff's account received a \$90 million check from the customer's account "on a daily basis," according to the lawsuit.

Mr. Picard's complaint does not speculate about the purpose of the transactions.

The transfers should have caused the bank's money-laundering software to start flashing, Mr. Picard's complaint asserted.