

WASHINGTON, D.C.

In the Matter of

CALIFORNIA PACIFIC BANK  
SAN FRANCISCO, CALIFORNIA

(INSURED STATE NONMEMBER BANK)

NOTICE OF ASSESSMENT OF  
CIVIL MONEY PENALTY,  
FINDINGS OF FACT AND  
CONCLUSIONS OF LAW, ORDER  
TO PAY, AND NOTICE OF  
HEARING

FDIC-19-0079k

**NOTICE OF ASSESSMENT  
OF CIVIL MONEY PENALTY**

The Federal Deposit Insurance Corporation (“FDIC”) has determined that California Pacific Bank, San Francisco, California (“Bank” or “Respondent”) has violated the Order to Cease and Desist issued to the Bank on February 17, 2016, by the FDIC’s Board of Directors under 12 U.S.C. § 1818(b) (FDIC-13-094b) (“Order”).

The FDIC therefore issues this Notice of Assessment of Civil Money Penalty, Findings of Fact and Conclusions of Law, Order to Pay, and Notice of Hearing (“Notice of Assessment”) against Respondent, under the provisions of section 8(i) of the Federal Deposit Insurance Act (“Act”), 12 U.S.C. § 1818(i), and Part 308 of the FDIC’s Rules and Regulations, 12 C.F.R. Part 308, for violating the Order. In support thereof, the FDIC finds and concludes as follows:

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

## **I. Jurisdiction and Order to Cease and Desist**

1. Respondent is a corporation existing and doing business under the laws of the State of California, having its principal place of business in San Francisco, California.
2. Respondent is and was, at all times pertinent to this proceeding, an insured "State

nonmember bank” as that term is defined in section 3(e)(2) of this Act, 12 U.S.C. § 1813(e)(2), and, as such, is and was subject to the Act, 12 U.S.C. §§ 1811-1831aa.

3. Respondent is and was, at all times pertinent to this proceeding, subject to:

(a) The Bank Secrecy Act (“BSA”), 31 U.S.C. § 5311 et seq., as implemented by 31 C.F.R. Part 1010;

(b) 12 C.F.R. Part 326; and

(c) 12 C.F.R. Part 353.

4. Respondent is and was, at all times pertinent to this proceeding, an “insured depository institution” as that term is defined in section 3(c)(2) of the Act, 12 U.S.C. § 1813(c)(2).

5. The FDIC is and was, at all times pertinent to this proceeding, the “appropriate Federal banking agency” to maintain this enforcement action under section 3(q)(2)(A) of the Act, 12 U.S.C. § 1813(q)(2)(A).

6. The FDIC has and had, at all times pertinent to this proceeding, jurisdiction over Respondent and the subject matter of this proceeding under 12 U.S.C. § 1818(i).

7. The FDIC’s Board of Directors issued the Order against the Bank on February 17, 2016. The Order became effective immediately upon issuance.

8. The Order required the Bank to cease and desist from operating in violation of 12 C.F.R. §§ 326.8 and 353.3, and to affirmatively comply with eight numbered provisions related to compliance with the BSA and its implementing regulations and the establishment of an effective BSA and Anti-Money Laundering (“BSA/AML”) Compliance Program.

9. The FDIC conducted a visitation of the Bank beginning on February 26, 2018

("2018 Visitation"), and determined, among other things, that the Bank was operating in violation of Provisions 1, 2, 3, 4 and 6 of the Order.

10. The FDIC conducted an examination of the Bank beginning on July 30, 2018 ("2018 Examination"), and determined, among other things, that the Bank continued to be operating in violation of Provisions 1, 2, 3, 4 and 6 of the Order.

**II. The Bank's BSA/AML Compliance Program Is Not Commensurate with Its High Money Laundering and Terrorist Financing Risk Profile**

**A. The Bank's Risk Profile for Money Laundering and Terrorist Financing Is High**

11. As of June 30, 2018, the Bank had total assets of approximately \$71.3 million.

12. As of June 30, 2018, the Bank had approximately 123 customer accounts rated "high risk," for purposes of the BSA, which accounts comprised 65 of the approximately 80 customer relationships at the Bank.

13. Provision 3(a) of the Order required the Bank to provide a "risk focused assessment of the customer base of the Bank, including employees and directors at the Bank, to determine the appropriate level of enhanced due diligence necessary for those categories of customers, employees and directors that the Bank has reason to believe pose a heightened risk of illicit activities at or through the Bank."

14. The Bank's high-risk customers included customers engaged in international scrap-metal sales, export/import companies, freight forwarders and travel agencies.

15. The Bank processed a large amount of cash activity each year relative to its asset size.

16. The Bank sent and received a high volume of domestic wires each year relative to

its asset size.

17. The Bank sent and received a high volume of international wires each year relative to its asset size, many of which were to or from countries that were classified as “jurisdictions of primary concern” for money laundering, such as Colombia and China, by the United States Department of State’s annual International Narcotics Control Strategy Report (“INCSR”).

18. The combination of the Bank’s high-risk customer base, its high volume of cash and wire activity relative to its asset size, and its high volume of international wire activity conducted with “jurisdictions of primary concern” for money laundering gave the Bank a high money-laundering and terrorist-financing risk profile.

**B. The Bank’s BSA/AML Compliance Program**

**(i) Suspicious Activity Monitoring and Reporting**

19. The Bank used both a proprietary automated system and a manual process to identify potential suspicious or unusual activity in customer accounts. The automated system, ASAMS-P, was run quarterly and generated an alert when a customer’s account activity varied too much from prior activity or expected activity as measured by transaction type and volume. When an alert was generated, the Bank investigated the activity to determine whether to include it on its log to track Suspicious Activity Reports (“SARs”) and potential SARs (“PSARs”)—the SAR/PSAR Log—and ultimately file a SAR.

20. To augment the automated system, the Bank manually reviewed supplemental reports, such as daily, weekly, and monthly wire logs and Automated Clearing House (“ACH”) reports, to identify suspicious or unusual activity that were not flagged by the ASAMS-P system.

When a manual alert was identified, the Bank investigated the activity to determine whether to include it on the PSAR/SAR Log and, ultimately, file a SAR.

21. When the Bank investigated an automated or manual alert and decided to close the alert without entering the activity on the PSAR/SAR Log or filing a SAR, the Bank supported its decision with written analysis and documentation.

22. When the Bank decided to file a SAR after investigating an alert, the Bank prepared, among other things, a SAR narrative that described the activity and explained why it was suspicious.

(ii) Enhanced Due Diligence for High-Risk Accounts

23. The Bank used a proprietary automated system, ASAMS, to determine which customer accounts were high-risk, for BSA purposes.

24. The Bank conducted Enhanced Due Diligence reviews (“EDD”) on high-risk customer accounts on an annual basis.

25. EDD was an internal control for understanding the customer, purpose of the account, and expected activity in the account, as well as detecting potential suspicious activity.

26. EDD was used in conjunction with suspicious activity monitoring and reporting.

(iii) Enhanced Due Diligence for Foreign Correspondent Accounts

27. The Bank conducted EDD on its foreign correspondent accounts on an annual basis.

28. This EDD assessed the money-laundering risk presented by each correspondent bank, based on a consideration of all relevant factors, including the AML record of the bank, if known or reasonably available.

(iv) BSA Officer

29. At all times pertinent to this proceeding, Donna Mak was the Bank's BSA Administrator, and served the role of BSA Officer, as required by the BSA.

30. The BSA Officer was responsible for administering all aspects of the BSA program, including internal controls, such as suspicious activity monitoring and reporting, and EDD on high-risk customer accounts and foreign correspondent accounts.

**C. Internal Control Deficiencies**

31. The 2018 Visitation and 2018 Examination found significant deficiencies in the Bank's internal controls, as described in paragraphs 32 through 46 below.

(i) Suspicious Activity Monitoring and Reporting

Investigations of ASAMS-P Alerts

32. The 2018 Visitation determined that the Bank's investigations of alerts generated by the ASAMS-P system were deficient as follows:

- (a) The explanations of the activity often did not address the transactions giving rise to the alerts or failed to provide any meaningful justification for the transactions;
- (b) The Bank often closed alerts without sufficient basis and failed to enter suspicious or unusual transactions on the PSAR/SAR Log for further investigation; and
- (c) The Bank closed alerts where a SAR should have been filed.

33. The 2018 Examination also determined that the Bank failed to adequately investigate, analyze and document new alerts generated by the Bank's ASAMS-P system, including the following examples:

(a) The Bank failed to assess the purpose of the transaction causing the alert and did not reconcile the actual account activity with the expected account activity or purpose of the account;

(b) The Bank did not address why the account's transaction volume had doubled, which is what caused the alert;

(c) The Bank concluded the activity was not suspicious even when there was an absence of business transactions that would be expected to be conducted through the account; and

(d) The Bank did not analyze or explain in any way the increased activity in the account, which is what generated the alert.

Manual Review of Supplemental Reports

34. The 2018 Examination determined that the Bank's manual review of supplemental reports, including daily, weekly, and monthly wire logs and ACH reports, did not adequately identify suspicious or unusual transactions, or money-laundering red flags.

35. The Bank failed to identify suspicious or unusual activity through its manual monitoring process, including the following:

(a) Numerous wires sent to or received by customers in round dollar amounts or other suspicious amounts, many of which were to or from "jurisdictions of concern" for money laundering or to or from companies with which the customer had no prior relationship; and

(b) Wires sent from a customer's account in China to an agent account in the United States and then back to China to another account of the customer on the same day for no

apparent business reason.

36. When the Bank identified suspicious or unusual activity, or money-laundering red flags, the Bank often closed the manual alert without providing adequate written analysis and documentation to support its decision.

#### SAR Filings

37. The 2018 Visitation determined that the Bank failed to file a SAR where required in four cases, two of which were in connection with the Transaction Review required by Provision 6 of the Order.

38. The 2018 Examination determined that the Bank failed to file a SAR where required in three instances.

#### SAR Narratives

39. The 2018 Examination determined that, when the Bank filed a SAR, the SAR narrative often failed to adequately describe the activity and explain why it was suspicious.

40. As a result, FDIC examiners requested the Bank to amend two SAR narratives during the 2018 examination.

#### *(ii) Enhanced Due Diligence for High-Risk Customer Accounts*

41. The 2018 Visitation determined that the Bank's EDD for high-risk customer accounts was deficient, with two out of seven EDDs reviewed by FDIC examiners deemed insufficient.

42. In one case, the EDD did not provide a clear or reasonable explanation of why the customer was assisting another customer of the Bank in transferring funds to China.

43. In the other case, the EDD did not adequately document why the volume of



activity in the account had increased significantly from the prior period and did not address the reasonableness of large recurring wires from the same foreign payees.

44. The 2018 Examination determined that the Bank's EDD remained deficient. FDIC examiners reviewed EDDs for 17 of the 65 high-risk relationships at the Bank and found weaknesses in 12, 9 of which were considered significant. The weaknesses included, among other things:

- (a) failing to determine what is normal or expected activity for customer accounts;
- (b) failing to discuss the purpose of customer accounts, transactions with affiliated companies, outside banking relationships, and letters of credit at the Bank;
- (c) failing to identify or analyze related accounts or companies at the Bank;
- (d) failing to identify activities that are high risk for money laundering, such as international scrap-metal sales, and "jurisdictions of primary concern" for money laundering, such as Colombia and China;
- (e) failing to identify or explain large increases in customer account activity from the prior year;
- (f) failing to identify or explain high volumes of wire activity in customer accounts, some of which was in large round dollar amounts, or other suspicious amounts, to or from "jurisdictions of primary concern" for money laundering;
- (g) failing to explain large discrepancies in a customer's expected fees versus actual fees;
- (h) failing to investigate or explain an unusually high profit margin in the

purchase and sale of a piece of equipment using international trade finance;

(i) failing to investigate or explain large payments to companies whose business appears unrelated to the customer's, some of which payments occurred in "jurisdictions of concern" for money laundering;

(j) failing to obtain documentation necessary to verify that international scrap-metal shipments had actually been sent to and received by the purchasing entities;

(k) failing to investigate or explain suspicious or unusual transactions in the accounts of insiders of the Bank;

(l) failing to obtain appropriate documentation, including purchase invoices and shipping documents, for international sales of wine conducted by insiders of the Bank;

(m) failing to discuss or analyze large trade-finance letters of credit issued in favor of a customer by another bank; and

(n) failing to fully describe the Bank's relationship with that customer.

(iii) Enhanced Due Diligence for Foreign Correspondent Accounts

45. The 2018 Visitation determined that the EDDs for two of the five foreign correspondent accounts at the Bank were deficient because, among other reasons, they failed to include negative news about the foreign banks' compliance with anti-money laundering law in the United States.

46. The 2018 Examination determined that the EDDs for two of the five foreign correspondent accounts were deficient because, among other reasons, they failed to analyze or discuss suspicious or unusual transactions that had occurred in the accounts.

**D. Failure to Complete Transaction Review**

47. Provision 6 of the Order required the Bank, within 150 days from February 17, 2016, to develop and implement a plan to review all high-risk accounts and high-risk transactions ("Transaction Review"), including but not limited to the Bank's large currency-transaction reports, cash purchases of monetary instruments, wire-transfer activity, and foreign-exchange services for the six-month period immediately preceding the effective date of the Order, and prepare and file any additional Currency Transaction Reports ("CTRs") and SARs necessary based on the review.

48. The Bank used the automated ASAMS-P system to identify high-risk accounts and high-risk transactions during the six-month period specified by the Order (i.e., the third and fourth quarters of 2015) that warranted further investigation. The ASAMS-P system generated approximately 100 alerts for the six-month period, which the Bank then investigated.

49. The 2018 Visitation determined that 24 of the approximately 100 alert investigations conducted by the Bank failed to sufficiently analyze and document the nature and purpose of the transactions.

50. The 2018 Visitation determined that a SAR was warranted in 2 of the 24 alert investigations and additional investigation, analysis, and documentation was warranted in the other 22 investigations.

51. The 2018 Examination determined that 6 of the remaining 22 alerts in the Transaction Review still had not been satisfactorily resolved.

**E. BSA Officer Deficiencies**

52. The 2018 Visitation and 2018 Examination determined that the Bank's BSA

Officer did not possess the requisite experience, skills, knowledge and ability to perform the BSA function at the Bank, as discussed in paragraphs 53 through 58 below.

53. The BSA Officer failed to adequately investigate, analyze and document suspicious or unusual transactions that were flagged by the Bank's ASAMS-P system, as detailed in paragraphs 32, 33, and 49 through 51.

54. The BSA Officer failed to adequately identify, investigate, analyze, and document suspicious or unusual transactions when manually reviewing supplemental BSA reports, as detailed in paragraphs 34 through 36.

55. The BSA Officer failed to file timely SARs, as detailed in paragraphs 37 and 38.

56. The SARs filed by the BSA Officer failed to sufficiently describe the activities in question or explain why they were suspicious, as detailed in paragraphs 39 and 40.

57. The BSA Officer failed to conduct adequate enhanced due diligence of high-risk accounts and foreign correspondent accounts, as detailed in paragraphs 41 through 46.

58. The BSA Officer failed to adequately complete the Transaction Review required by Provision 6 of the Order, as detailed in paragraphs 47 through 51.

### **III. The Bank Has Failed to Comply with the Order**

59. The Bank's failure to adequately investigate, analyze and document alerts generated by the Bank's ASAMS-P system, as detailed in paragraphs 32, 33, and 49 through 51, violated Provisions 1, 2(a), and 4(b) of the Order.

60. The Bank's failure to adequately identify, investigate, analyze, and document suspicious or unusual transactions in the manual review of supplemental BSA reports as detailed in paragraphs 34 through 36, violated Provisions 1, 2(a), and 4(b) of the Order.

61. The Bank's failure to conduct adequate EDD of high-risk customers and foreign correspondent accounts, as detailed in paragraphs 41 through 46, violated Provisions 1, 2(a), and 3(b) of the Order.

62. The Bank's failure to file timely SARs, as detailed in paragraphs 37 and 38, violated Provision 2(d)(i) of the Order.

63. The Bank's filing of SARs with narratives that failed to adequately describe the activity and explain why it was suspicious, as detailed in paragraphs 39 and 40, violated Provisions 1, 2(d)(i), and 4(b) of the Order.

64. The Bank's failure to retain a qualified BSA Officer, as detailed in paragraphs 52 through 58, violated Provision 2(d) of the Order.

65. The Bank's failure to adequately complete the Transaction Review, as detailed in paragraphs 47 through 51, violated Provision 6 of the Order.

#### **ORDER TO PAY**

By reason of the violations of the Order set forth in the Notice of Assessment, the FDIC has concluded that a civil money penalty should be assessed against Respondent under section 8(i)(2) of the Act, 12 U.S.C. § 1818(i)(2). After taking into account the appropriateness of the penalty with respect to the size of financial resources and the good faith of Respondent, the gravity of the violations, the history of previous violations, and such other matters as justice may require, it is:

ORDERED, that by reason of the violations set forth in paragraphs 1 through 65 above, a penalty of \$225,000 be, and hereby is, assessed against the Bank under section 8(i)(2) of the Act, 12 U.S.C. § 1818(i)(2).

FURTHER ORDERED, that the effective date of this Order to Pay be, and hereby is, stayed with respect to Respondent until 20 days after the date of receipt of the Notice of Assessment by Respondent, during which time Respondent may file an answer and request a hearing under section 8(i)(2)(H) of the Act, 12 U.S.C. § 1818(i)(2)(H), and section 308.19 of the FDIC's Rules of Practice and Procedure, 12 C.F.R. § 308.19. An original and one copy of the answer, any such request for a hearing, and all other documents in this proceeding must be filed in writing with the Office of Financial Institution Adjudication, 3501 N. Fairfax Drive, Suite VS-D8116, Arlington, VA 22226-3500, under section 308.10 of the FDIC's Rules of Practice and Procedure, 12 C.F.R. § 308.10. Respondent is encouraged to file any answer and request electronically with the Office of Financial Institution Adjudication at [ofia@fdic.gov](mailto:ofia@fdic.gov). Also, copies of all papers filed in this proceeding shall be served upon the Executive Secretary Section, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429; Andrea Winkler, Acting Assistant General Counsel, Enforcement Section, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429; and Joseph J. Sano, Regional Counsel, Federal Deposit Insurance Corporation, 25 Jessie Street, San Francisco, California 94105.

**If Respondent fails to file a request for a hearing within 20 days from the date of receipt of this Notice of Assessment, the penalty assessed against Respondent, under this Order to Pay, will be *final and unappealable*—under section 8(i)(2)(E)(ii) of the Act, 12 U.S.C. § 1818(i)(2)(E)(ii), and section 308.19 of the FDIC's Rules of Practice and Procedure, 12 C.F.R. § 308.19—and shall be paid within 60 days after the date of receipt of this Notice of Assessment.**

### **NOTICE OF HEARING**

IT IS FURTHER ORDERED that, if Respondent requests a hearing with respect to the charges alleged in the Notice of Assessment, the hearing shall commence 60 days from the date of receipt of this Notice of Assessment at a time, date, and location to be determined by an Administrative Law Judge, in consultation with Respondent and the FDIC.

The hearing will be public and shall be conducted in accordance with the provisions of the Act, 12 U.S.C. §§ 1811-1831aa, the Administrative Procedure Act, 5 U.S.C. §§ 551-559, and the FDIC's Rules of Practice and Procedure, 12 C.F.R. Part 308. The hearing will be held before an Administrative Law Judge to be assigned by the Office of Financial Institution Adjudication under 5 U.S.C. § 3105.

**In the event Respondent requests a hearing, Respondent shall also file an answer to the charges in this Notice of Assessment within 20 days after the date of receipt of the Notice of Hearing in accordance with section 308.19 of the FDIC's Rules of Practice and Procedure, 12 C.F.R. § 308.19.**

Under delegated authority.

Dated this 17 day of October, 2019.

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/s/  
Patricia A. Colohan  
Associate Director  
Division of Risk Management Supervision