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FOR IMMEDIATE RELEASE
NOVEMBER 2, 1995

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**PRESS RELEASE**

MARY JO WHITE, the United States Attorney for the Southern District of New York, and JAMES K. KALLSTOM, Assistant Director in Charge of the FBI's New York Office, announced today that a 24-count indictment has been filed in Manhattan federal court against THE DAIWA BANK, LTD. ("DAIWA"). DAIWA is charged with conspiracy, mail and wire fraud, obstructing an examination of a financial institution, falsification of bank records, and misprision of felonies by failing to disclose federal crimes.

The charges arise out of the unauthorized sale of securities from DAIWA's custody account, including the sale of more than $377 million in customer securities, by Toshihide Iguchi, a former Executive Vice President at the New York Branch, which were used to cover trading losses incurred by Iguchi; Iguchi's attempts to cover-up those losses and unauthorized sales, which by 1995 had grown to more than $1.1 billion; and DAIWA'S attempts to continue the cover-up after learning of Iguchi's illegal conduct; and

DAIWA's alleged repeated attempts, dating back to at least 1988, to obstruct the Board of Governors of the Federal Reserve System and the New York State Banking Department.

According to the Indictment, DAIWA learned in mid-July 1995 that Iguchi had lost more than $1.1 billion through unauthorized trading in United States government securities, and the sale of securities belonging to DAIWA's customers to conceal those losses. Rather than disclose IGUCHI's crimes to law enforcement authorities, as DAIWA was required by law to do, DAIWA allegedly attempted to conceal the losses and missing securities by, among other things: making extensive false entries in its books and records to hide the losses and preclude law enforcement action in the United States; removing the records of these crimes from DAIWA's New York offices and secreting them in the apartment of the manager of DAIWA's New York Branch; sending false account information to its customers; filing a false report with the Federal Reserve Board; and otherwise attempting to prevent law enforcement officials from discovering these crimes.

The charges against DAIWA in the Indictment that relate to the cover-up after DAIWA learned of Iguchi's activities include: a charge that DAIWA, acting through senior DAIWA officials, both in Japan and New York, conspired to defraud the Federal Reserve Board, to make false statements to the Federal Reserve Board, and to falsify DAIWA's books and records to prevent discovery of the $1.1 billion trading loss; misprision of felonies based on DAIWA's failure to report and affirmative concealment of federal crimes; and several counts of falsifying bank books and records.

The Indictment also charges DAIWA in four counts of mail and wire fraud with defrauding DAIWA'S customers in connection with the unauthorized sale of $377 million in customer securities by Iguchi; and multiple counts of falsifying books and records arising out of Iguchi's efforts at covering-up his trading losses.

DAIWA is also accused in the Indictment with conspiring to defraud the Federal Reserve Board between 1988 and 1995 by providing false information about the location and supervision of its traders. The indictment alleges that DAIWA temporarily relocated traders from one location to another and disguised a trading room as a storage room prior to a bank examination in order to deceive banking authorities. DAIWA is also charged with one count of obstructing an examination of a financial institution in connection with that conduct.

Ms. WHITE stated that, "DAIWA was indicted today, not only because its former officer, Toshihide Iguchi, committed serious crimes, but because, as charged in the Indictment, DAIWA and a number of its highest senior officials themselves committed crimes as they attempted to cover-up other crimes. The message to the financial community from today's indictment should be clear and unambiguous: law enforcement will not tolerate financial institutions who unlawfully attempt to mislead regulatory authorities and coverup criminal misconduct by their employees. The law requires, and law enforcement expects, that all companies will abide by the law, all regulatory requirements, and the highest standards of corporate citizenship."

If convicted on the criminal charges filed today, DAIWA

faces maximum fines under the federal Sentencing Guidelines exceeding $1 billion.

The Federal Reserve Board, the New York State Banking Department, and the Federal Deposit Insurance Corporation will be announcing today that they have taken remedial action against DAIWA and the Daiwa Bank Trust Company, a United States subsidiary of DAIWA, requiring the termination of the bank's operations in the United States by February 2, 1996.

DAIWA is a Japanese bank headquartered in Osaka, Japan. DAIWA is one of Japan's largest commercial banks and maintains branches around the world, including offices in New York and 10 other states in the United States. The DAIWA BANK TRUST COMPANY is a United States subsidiary of DAIWA, headquartered in Manhattan. DAIWA's office in New York is located at 666 Fifth Avenue.

Also this afternoon, a criminal complaint was filed charging MASAHIRO TSUDA, a former General Manager of DAIWA's New York Branch, with one count of conspiracy to deceive the Federal Reserve Board by concealing the $1.1 billion loss, making false statements to the Federal Reserve Board and making false entries in the books and records of DAIWA; and one count of misprision of a felony. TSUDA will be presented later on the complaint before United States Magistrate NINA GERSHON.

Ms. WHITE praised the efforts of the Federal Bureau of Investigation for their extraordinary efforts in conducting the investigation of this matter. She also said that the investigation of DAIWA, The Daiwa Bank Trust Company, and individuals who are or were employed by DAIWA is continuing.



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Assistant United States Attorneys REID M. FIGEL, Chief of the Securities and Commodities Task Force, ANDREA LIKWORNIK, and MICHAEL SIMONS are handling the prosecution.

The charges contained in the Indictment are merely accusations and the defendant is presumed innocent unless and until proven guilty.

95-155

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

- v. - : INDICTMENT

THE DAIWA BANK, LTD., : 95 Cr. ( )

Defendant. :

- - - - - - - - - - - - - - - - - -x

COUNT ONE

(The 1995 Conspiracy to Defraud the Federal Reserve Board)

Introduction

The Grand Jury charges:

1. At all times relevant to this Indictment, the defendant THE DAIWA BANK, LTD. ("DAIWA") was a bank organized under the laws of Japan. DAIWA was headquartered in Osaka, Japan and was engaged in the business of banking through offices located throughout the world. DAIWA was duly licensed by the State of New York to operate a branch office in New York, New York (the "New York Branch"). DAIWA also owned a subsidiary, The Daiwa Bank Trust Company ("Daiwa Trust"), which was engaged in the business of banking in New York, New York.

2. Among the defendant DAIWA's banking activities at the New York Branch was the operation of a Securities Custody Department, through which the New York Branch held billions of dollars of securities in safekeeping for its customers and for DAIWA.



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3. For the purpose of maintaining custody of United States Treasury obligations and effecting the transfer of these securities in accordance with the instructions of its custody customers or of the defendant DAIWA's employees, the New York Branch maintained at Bankers Trust Co. ("Bankers Trust") a sub-custody account numbered 053110 (the "Bankers Trust account"). The New York Branch cleared trades in United States Treasury obligations according to instructions transmitted by the owners of those securities, and collected interest income paid on those securities on their behalf. The New York Branch charged a fee for these services, and provided the owners of all United States Treasury obligations held in custody in Bankers Trust account with a daily transaction report of all activities related to their securities.

4. At all times relevant to this Indictment, Toshihide Iguchi was an employee and officer of the defendant DAIWA, and was assigned to the New York Branch. From approximately 1991 through 1994, Toshihide Iguchi was a Senior Vice President, and from approximately 1994 through September 1995, an Executive Vice President, of the New York Branch. Iguchi was responsible for supervising the Securities Custody Department at the New York Branch as described below from approximately 1977 to 1995. Beginning in at least in 1984, the defendant DAIWA also authorized Iguchi to trade United States Treasury obligations on behalf of the New York Branch.



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5. From approximately 1992 to the present, the Board of Governors of the Federal Reserve System (the "Federal Reserve Board") was responsible for, among other things, maintaining the safety and soundness of branch offices of foreign banks located in the United States.

6. At all times relevant to this Indictment, the New York State Banking Department was responsible for supervising banking institutions licensed by the State of New York, including branches of foreign banks. Among its other responsibilities, the New York State Banking Department conducted examinations of the accounts, records, and financial condition of branch offices of foreign banks.

Supervisory Responsibilities Of The Federal Reserve Board

7. Beginning in approximately 1992, to ensure that branch offices of foreign banks, including the New York Branch, conducted their operations in the United States in a safe and sound manner, the Federal Reserve Board was authorized to examine the financial condition of branch offices of foreign banks, including the defendant DAIWA. The Federal Reserve Board also required DAIWA and the New York Branch to file periodic reports of its banking activities and financial condition.

8. Pursuant to Title 12, Code of Federal Regulations, Sections 208.20 and 211.24, the Federal Reserve Board also required the New York Branch to submit a "Criminal Referral Form" to federal law enforcement authorities "in every situation where



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. . . the bank suspects one of its directors, officers, employees, agents, or other institution-affiliated parties of having committed or aided in the commission of a crime." Where the suspected violation requires "immediate attention," the New York Branch was required to notify federal law enforcement authorities of the suspected violation "immediately" by telephone, and to file a written report on the matter within 30 days.

The Confession Letter

9. On or before July 21, 1995, the defendant DAIWA received a letter, written in Japanese and addressed on the envelope to DAIWA's President, "Mr. Fujita," at its headquarters in Osaka, Japan. That letter, which was written by Toshihide Iguchi, contained what he characterized as his "honest confession" (the "Confession Letter"). The Confession Letter stated, among other things, that Iguchi was an employee of the New York Branch and had "caused approximately a $1.1 billion loss from trading United States Treasury bonds at the New York Branch." The Confession Letter further stated that this trading loss "has been compensated for by selling investment securities of [the New York Branch] or selling treasury bonds that we hold for our clients as their custodian."

10. The Confession Letter identified specific United States Treasury obligations that were then missing from the Bankers Trust account, and identified the owners of those



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securities. The Confession Letter also revealed, in substance, that approximately $377 million of the United States Treasury obligations belonging to the defendant DAIWA's customers had been sold without authorization.

11. In the Confession Letter, Toshihide Iguchi suggested that the defendant DAIWA should "keep the secret until the bank and possibly the Japanese authorities can take appropriate measures." The Confession Letter further warned that "[i]f this matter is known to the U.S. authorities . . . it is clear that from a legal standpoint this will make the continuation of the U.S. operation difficult."

12. The Confession Letter also suggested ways in which the defendant DAIWA could minimize the likelihood that these losses would be discovered by United States authorities. Specifically, Toshihide Iguchi suggested that DAIWA should replace the United States Treasury obligations that had been sold without authorization from the Bankers Trust account, and that DAIWA should thereafter transfer his $1.1 billion trading losses to DAIWA's head office. The purpose of these suggestions was to ensure that the $1.1 billion loss did not appear on the books and records of the New York Branch, and would therefore not be discovered by United States law enforcement authorities. The Confession Letter stated:

> I may not be in a position to say this, since I am the one who caused this incident; but in light of the current relationship between Japan and the U.S. and the customs of how the business is handled in the U.S. financial market, I would say, if this matter were to be treated as an incident that happened in the U.S., it



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would go beyond the reach of Japanese authority and that Japanese financial institutions would be put into an extremely disadvantaged position.

13. The Confession Letter also identified ways in which the $1.1 billion loss might be detected if the defendant DAIWA did not replace the securities missing from the Bankers Trust account or make the necessary interest payments on those securities:

> If the missing securities were not bought back and a client wanted to sell these securities, due to the insufficient balance the transaction would not be settled properly. If I were not around to deal with this, an investigation would start immediately. Also, unless you repurchase the missing securities with substitutes prior to the interest payment of these securities, the same thing would happen, since the holder would not receive the interest payment.

The Confession Letter also discussed other unlawful conduct at DAIWA, including the concealment of a "big accident" involving a trading loss at Daiwa Trust, the filing of false documents with the Federal Reserve Board, and other acts that were intended to deceive the Federal Reserve Board.

14. On or before July 24, 1995, the defendant DAIWA received a second copy of the Confession Letter. Included with the Confession Letter was another letter written by Toshihide Iguchi, written in Japanese and also addressed to DAIWA's President, Mr. Fujita (the "Second Iguchi Letter"). The Second Iguchi Letter stated:

> I can clearly say on the basis of the experience I gained from the Fed inspection the year before last, that there is zero possibility that this case would be found out in the United States if we bought back [the United States Treasury obligations] which is short.



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## The Meetings At the Park Lane Hotel

15. On July 24, 1995, the defendant DAIWA's Deputy President, one of its Managing Directors (the "Managing Director"), and the General Manager of its International Treasury Division telephoned Toshihide Iguchi from Japan to discuss the contents of the Confession Letter and the Second Iguchi Letter. In that conversation, the Deputy President stated, in substance, that it was important "to get the New York Branch" out of this matter, and that DAIWA needed Iguchi's help in this regard. The Deputy President also asked Toshihide Iguchi for suggestions on ways that DAIWA could continue to conceal the loss.

16. On July 25, 1995, Iguchi sent a letter (the "Third Iguchi Letter"), written in Japanese, to the Deputy President in which he outlined his suggestions for ways in which the defendant DAIWA could continue to conceal the $1.1 billion loss. The Third Iguchi Letter stated that "[t]he books of the New York Branch should not be meddled with to avoid this matter falling under the U.S. jurisdiction." Thereafter, the Managing Director telephoned Toshihide Iguchi to arrange to meet with him in New York, New York to discuss this matter further.

17. On or about July 28, 1995, the Managing Director, the General Manager of the New York Branch (the "General Manager"), and the President of Daiwa Trust met with Toshihide Iguchi at the Park Lane Hotel in New York, New York.

18. At that meeting, the Managing Director stated, in substance, that the defendant DAIWA intended to announce the loss



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"in some form" in late November 1995, after DAIWA announced its financial results for the six-month period ending September 30, 1995. The Managing Director cautioned that pending this contemplated disclosure in November 1995, it was imperative that the $1.1 billion loss remain a secret. The Managing Director stated, in substance, that after DAIWA announced this loss in late November 1995, "no one would be hurt." He thereafter asked Toshihide Iguchi, in substance, whether he would be willing to be transferred to an affiliate of DAIWA in Japan.

19. One of the services the defendant DAIWA provided to its customers was to receive interest payments on United States Treasury obligations held in custody in the Bankers Trust account, and to transfer those payments to a demand deposit account at DAIWA for the benefit of the customer.

20. At this meeting, Toshihide Iguchi explained that most of the customer securities that he had sold from the Bankers Trust account were interest-bearing United States Treasury obligations that entitled the owner to receive fixed periodic interest payments. Toshihide Iguchi explained that if the defendant DAIWA intended to continue to conceal the unauthorized sale of customer securities, it would be necessary to sell additional securities from the Bankers Trust account and to use the proceeds of those sales to pay the interest on the missing United States Treasury obligations as that interest became due.

21. The Managing Director indicated, in substance, that Toshihide Iguchi should continue to sell securities as he



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had done in the past to make the required interest payments. The Managing Director also indicated that Toshihide Iguchi should continue to take any additional steps that were necessary to continue to conceal this $1.1 billion loss. The Managing Director thereafter asked Toshihide Iguchi to prepare a letter describing the circumstances surrounding the $1.1 billion loss.

22. On or about July 29, 1995, the Managing Director, the General Manager, and the President of Daiwa Trust met again with Toshihide Iguchi at the Park Lane Hotel in New York, New York. At that meeting, Toshihide Iguchi distributed a letter written in Japanese that he had prepared (the "Fourth Iguchi Letter") in which he explained in greater detail how he had engaged in unauthorized trading, sustained substantial trading losses, and made unauthorized sales of customer- and DAIWA-owned securities to cover those losses. The Fourth Iguchi Letter also described how Toshihide Iguchi concealed those trading losses, in part, by making false entries in the books and records of the New York Branch, and by selling United States Treasury obligations owned by customers of the defendant DAIWA without authorization.

23. As set forth below, the defendant DAIWA received monthly statements for the Bankers Trust account from Bankers Trust (the "authentic Bankers Trust statements"). Those statements accurately reflected the total securities balances, by CUSIP, in the Bankers Trust account. From approximately 1983 to September 1995, to conceal his unauthorized sales of United States Treasury obligations from the Bankers Trust account,



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Toshihide Iguchi prepared false monthly account statements for that account (the "fictitious Bankers Trust statements"). The fictitious Bankers Trust statements showed what the balance in the Bankers Trust account would have been but for the unauthorized sales from the account.

24. In the Fourth Iguchi Letter, Toshihide Iguchi described the difficulties that arose from his unauthorized sales of customer securities. That letter stated:

> If a client sold their issue that had been sold off [by me], it was necessary to substitute that with another issue before the settlement date came. It was, therefore, necessary to keep an eye on the movements of our clients. Giving instructions to settle [United States Treasury obligations] usually came in the morning of the settlement date and I often ended up trading on cash settlement basis. The biggest problem was when a client sold his security while I was away on vacation. Up to 1990 most of the [United States Treasury obligations] that were short belonged to general securities firms.

25. In that letter, Toshihide Iguchi further explained how he concealed these unauthorized sales of customer securities by preparing false account statements for the Bankers Trust account. He wrote:

> The records that show the shortage of securities most clearly are the Bankers Trust's depository account balance. . . But around 1988 the Examination Dept. gave instructions that required the matching of redepository balances during the branch's internal examinations as well. Knowing that, I decided to recreate the balance statements. However, since the internal examinations did not necessarily happen at the end of the month and since there were an enormous amount of redepository balance statements, there was not much matching done during these examinations. At the beginning I was typing the balance statements all by myself, but since it was so time-consuming around 1991 I started to use a word processor and corrected only the parts that were affected by changes.



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To demonstrate this point, Toshihide Iguchi brought to the meeting copies of the authentic Bankers Trust statement for June 1995, as well as a fictitious Bankers Trust statement for June 1995 that he had prepared.

26. The group compared these two statements, which revealed that a total of approximately $1.1 billion in United States Treasury obligations was included on the fictitious Bankers Trust statement, but was missing from the authentic Bankers Trust statement. That comparison also demonstrated that of the $1.1 billion in United States Treasury obligations that were missing from the Bankers Trust account, approximately $599 million were short-term United States Treasury obligations that were owned by the New York Branch. Approximately $134 million were United States Treasury obligations owned by the defendant DAIWA. The balance, approximately $377 million, were United States Treasury obligations that DAIWA purportedly held in custody for its customers.

27. After confirming that the specific $1.1 billion in United States Treasury obligations missing from the Bankers Trust account matched the $1.1 billion in United States Treasury obligations listed in the Confession Letter as having been sold without authorization, the Managing Director then asked Toshihide Iguchi to destroy the computer disk on which he had prepared the Confession Letter.

28. On or about August 4, 1995, the General Manager directed Toshihide Iguchi to prepare another version of the



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Confession Letter, which was to be undated. The General Manager directed Iguchi, in preparing this letter, to discuss only his unauthorized trading and the losses that resulted from that trading. The General Manager told Iguchi not to discuss any of the other matters addressed in the Confession Letter. Iguchi thereafter prepared a letter, written in Japanese, in accordance with the General Manager's instructions (the "Fifth Iguchi Letter").

Filing The False Call Report

29. On or about July 31, 1995, the New York Branch submitted to the Federal Reserve Board a quarterly "Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks" for the period ending June 30, 1995, as required by the rules and regulations of the Federal Reserve Board. This report, known as a "Call Report," falsely stated that the assets of the New York Branch included $615,987,000 of "trading assets," a number that included approximately $600 million of short-term United States Treasury obligations that Toshihide Iguchi had sold to cover trading losses. Those securities therefore were no longer in the Bankers Trust account, and thus were no longer assets of the New York Branch.

The Concealment Of The $1.1 Billion Loss

30. Rather than record the $1.1 billion loss on the books and records of the New York Branch, as required by law,



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from on or about August 4, 1995 to at least on or about September 7, 1995, the defendant DAIWA engaged in a series of deceptive and unlawful financial and accounting transactions that were designed to conceal that loss. The purpose of these unlawful transactions was to prevent the discovery of these losses by United States authorities. In order to accomplish this deception, among other things, it was necessary for DAIWA to (i) replace the $377 million in customer securities that were missing from the Bankers Trust account; (ii) to conceal the fact that the New York Branch no longer owned the approximately $600 million in United States Treasury obligations that were reflected in its books and records; and (iii) to ensure that the $1.1 billion loss was not properly recorded on the books and records of the New York Branch.

31. In or about the first half of August 1995, the defendant DAIWA initially considered using an entity in the Cayman Islands to accomplish this deception. In approximately 1987, DAIWA had successfully concealed a multi-million dollar trading loss at Daiwa Trust through a Cayman Islands entity. Although DAIWA considered using a Cayman Islands entity to conceal the $1.1 billion loss, that plan was ultimately rejected by DAIWA's senior management as not feasible.

32. The defendant DAIWA thereafter considered another plan, which was ultimately rejected, to conceal this loss. That plan involved having DAIWA's International Treasury Division transfer funds to a third party, which would then use those funds



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to repurchase the missing United States Treasury obligations and deliver those securities into the Bankers Trust account.

33. The defendant DAIWA thereafter settled on a plan to conceal the unauthorized sale of customer securities in the approximate amount of $377 million by engaging in transactions between the New York Branch and DAIWA's offices in Japan. In or about late August 1995, DAIWA caused its International Treasury Division in Tokyo to repurchase United States Treasury obligations in the specific CUSIPs, and in the approximate amounts, that had been taken without authorization from DAIWA's customers. From on or about August 17, 1995 to on or about August 21, 1995, DAIWA purchased United States Treasury obligations in the amount of all customer securities that were then missing from the Bankers Trust account and delivered those securities to the Bankers Trust account. DAIWA recorded the receipt of these securities on the books and records of the New York Branch as being held in the name of DAIWA's International Treasury Division. As a result of this transaction, DAIWA ensured that the Bankers Trust account held the minimum number of securities necessary to comply with any customer instruction related to those securities, and thereby concealed the prior unauthorized sale of customer securities.

34. The defendant DAIWA thereafter engaged in a fictitious "sale" of the missing $600 million in short-term United States Treasury obligations that had been owned by the New York Branch. In substance, in or about late August 1995, DAIWA



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directed the New York Branch to effect a fictitious transfer to DAIWA's Tokyo office of all of the short-term United States Treasury obligations that had been previously sold by Iguchi. On or about August 31, 1995, DAIWA caused the New York Branch to enter into its books and records a fictitious transfer of approximately $600 million of these securities from the Bankers Trust account to an account under the control of DAIWA in Japan. The New York Branch thereafter recorded the receipt of approximately $600 million in cash from that office. Simultaneously, the New York Branch made a loan in that same amount to DAIWA in Japan in order further to conceal the sham nature of the transaction and to provide an explanation for the absence of the exchange of cash. As a result of these fictitious transactions, the New York Branch's books and records now included a loan of approximately $600 million to DAIWA's office in Japan as an asset, instead of the purported ownership of $600 million in non-existent United States Treasury obligations.

35. On or about September 7, 1995, to conceal the purpose of this fictitious transfer of $600 million in United States Treasury obligations, a General Manager of the defendant DAIWA's International Treasury Division sent a letter by telefacsimile to the General Manager of the New York Branch. That letter falsely stated that DAIWA had purchased the $600 million in United States Treasury obligations from the New York Branch for "liquidity" purposes. In fact, this transfer had no effect on liquidity, because the United States Treasury



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obligations that DAIWA purportedly received did not exist, and after the fictitious transfer, the cash position of the New York Branch was unchanged.

## Additional Acts Of Concealment

36. On or about July 31, 1995, with the knowledge and approval of the defendant DAIWA's senior officers, Toshihide Iguchi sold additional United States Treasury obligations from the Bankers Trust account. Toshihide Iguchi thereafter applied the proceeds of those sales to make interest payments to the owners of United States Treasury obligations that had been sold without authorization. DAIWA thereafter falsified the books and records of the New York Branch to make it appear as if these payments were received and paid as interest from the United States Treasury.

37. On or about August 15, 1995, with the knowledge and approval of the defendant DAIWA's senior officers, Toshihide Iguchi again sold additional United States Treasury obligations from the Bankers Trust account. Toshihide Iguchi thereafter applied the proceeds of those sales to make interest payments on other United States Treasury obligations that he had sold without authorization from that account. DAIWA thereafter falsified the books and records of the New York Branch to make it appear as if these payments were received and paid as interest from the United States Treasury.



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38. In or about mid-August, Toshihide Iguchi, with the knowledge of senior management of the defendant DAIWA and the New York Branch, prepared a fictitious Bankers Trust statement for the month of July 1995. Toshihide Iguchi gave this fictitious statement to an employee of the New York Branch who was responsible for reconciling the securities held in the Bankers Trust account with the New York Branch's books and records.

39. On or about August 31, 1995, with the knowledge and approval of the defendant DAIWA's senior officers, Toshihide Iguchi sold additional United States Treasury obligations from the Bankers Trust account. Toshihide Iguchi thereafter applied the proceeds of those sales to make interest payments on other United States Treasury obligations that he had sold without authorization.

40. On or about September 13, 1995, Toshihide Iguchi, with the knowledge of senior management of the defendant DAIWA and the New York Branch, prepared a fictitious Bankers Trust statement for the month of August 1995. Another managerial employee of the New York Branch then gave this fictitious statement to an employee of the New York Branch who was responsible for reconciling the securities held in the Bankers Trust account with the New York Branch's books and records.

**The Secret Reconstruction Of The Trading Losses**

41. On or about August 19, 1995, the General Manager directed Toshihide Iguchi to bring all records of his



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unauthorized trading and sales of United States Treasury obligations from the Bankers Trust account to the residence of the General Manager. The General Manager thereafter directed Toshihide Iguchi and a small group of other managerial employees of the defendant DAIWA to reconstruct the trading losses, by month, in the apartment. The purpose of conducting this activity at the residence was to prevent DAIWA's employees from learning about the $1.1 million loss.

The Postponement Of The Internal Audit Examination

42. In or about late August 1995, at the direction of the defendant DAIWA, the General Manager requested that internal auditors assigned to the New York Branch postpone a scheduled audit of the Securities Custody Department. This postponement was necessary because the New York Branch had not completed the transfer of the $1.1 billion loss to DAIWA in Japan, and an audit might have revealed the $1.1 billion in securities missing from the Bankers Trust account. To ensure that the internal audit department would not be able to begin this audit, the General Manager directed Iguchi to state, falsely, that he would be on vacation for two weeks beginning September 11, 1995. The scheduled audit was thereafter postponed. In fact, Toshihide Iguchi was not on vacation, but was assigned to the General Manager's apartment for the purpose of reconstructing the trades.



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## The Failure To File A Criminal Referral

43. In mid-August 1995, two of the managerial employees who had been informed of Iguchi's conduct advised the General Manager that it was necessary to file a Criminal Referral Form to disclose the $1.1. billion loss. The General Manager informed these two employees, in substance, that the defendant DAIWA would not file a Criminal Referral Form concerning this matter at this time.

44. On or about September 15 and 18, 1995, representatives of the defendant DAIWA advised the Federal Reserve Board that Toshihide Iguchi had caused the New York Branch to suffer a loss of more than $1.1 billion as a result of unauthorized trading extending over an 11-year period.

## The Conspiracy

45. From in or about July 17, 1995 through in or about September 1995, in the Southern District of New York and elsewhere, the defendant DAIWA, Toshihide Iguchi, and others known and unknown to the Grand Jury unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with others:

a. To defraud the United States; that is, to impair, obstruct, and defeat the lawful functions of the Federal Reserve Board, an agency of the United States, of and concerning its right to conduct examinations of branches of foreign banks,



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to obtain from them accurate and truthful periodic reports and other information in conformity with the laws of the United States and the rules and regulations of the Federal Reserve Board, and to be free from fraud and false statements;

b. To make false statements to federal agencies; that is, to make and cause to be made materially false, fictitious, and fraudulent statements and representations in matters within the jurisdiction of agencies and departments of the United States, including the Federal Reserve Board, in violation of Title 18, United States Code, Section 1001;

c. To falsify the books and records of a branch of a foreign bank; that is, to make and cause to be made false entries in the books, reports, and statements of the New York Branch with the intent to deceive the Federal Reserve Board and agents and examiners appointed to examine the affairs of the New York Branch, in violation of Title 18, United States Code, Section 1005; and

d. To conceal and cover up the conspiracy and its objects.

**Manner And Means Of The Conspiracy**

46. Among the manner and means by which the defendant DAIWA and its co-conspirators would and did carry out the conspiracy and effect its unlawful objects were the following:



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47. The defendant DAIWA failed properly to record the $1.1 billion trading loss on the books and records of the New York Branch;

48. The defendant DAIWA made false entries in the books and records of the New York Branch concerning the sales of United States Treasury obligations from the Bankers Trust account to make interest payments on customer securities that DAIWA had sold without authorization;

49. The defendant DAIWA prepared and distributed customer custody account statements that falsely represented that the customers' United States Treasury obligations were maintained safely in custody in the Bankers Trust account, when in fact they were not;

50. The defendant DAIWA submitted a false quarterly "Reports of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks" to the Federal Reserve Board, in violation of law;

51. The defendant DAIWA failed to submit a Criminal Referral Form, as required by law, concerning a $1.1 billion loss at the New York Branch; and

52. The defendant DAIWA unlawfully concealed a $1.1 billion loss from the Federal Reserve Board from approximately July 23, 1995 until approximately September 18, 1995.



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## Overt Acts

53. In furtherance of the conspiracy and to effect the objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

54. On or about July 28, 1995, senior executives of the defendant DAIWA and the New York Branch met at the Park Lane Hotel in New York, New York.

55. On or about July 31, 1995, the New York Branch submitted to the Federal Reserve Board a quarterly "Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks" for the period ending June 31, 1995.

56. In or about mid-August 1995, Toshihide Iguchi prepared a fictitious Bankers Trust statement for the month of July 1995.

57. In or about mid-September 1995, Toshihide Iguchi prepared a fictitious Bankers Trust statement for the month of August 1995.

(Title 18, United States Code, Section 371).

## COUNT TWO

## (Misprision of Felony)

The Grand Jury further charges:

58. Paragraphs 1 through 44 are hereby repeated and realleged as if set forth fully herein.

59. From on or about July 21, 1995 up to and including on or about September 15, 1995, in the Southern District of New



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York and elsewhere, the defendant DAIWA having knowledge of the actual commission of felonies cognizable by a court of the United States, to wit misapplication of bank and customer assets in violation of Title 18, United States Code, Section 656, making false entries in the books and records of a branch of a foreign bank in violation of Title 18, United States Code, Section 1005, and conspiracy in violation of Title 18, United States Code, Section 371, unlawfully, willfully, and knowingly, did conceal and did not as soon as possible make known said felonies to some judge or other person in civil or military authority under the United States.

(Title 18, United States Code, Sections 4 and 2).

COUNTS THREE THROUGH SEVEN

(False Entries in Bank Books and Records)

The Grand Jury further charges:

60. Paragraphs 1 through 44 are hereby repeated and realleged as if set forth fully herein.

61. From in or about 1983 to in or about September 1995, the defendant DAIWA unlawfully, willfully, and knowingly made and caused to be made the following false entries in the books, reports, and statements of the New York Branch with the intent to deceive its customers and to deceive the Federal Reserve Board and its agents and examiners appointed to examine the affairs of the New York Branch:



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| COUNT | APPROXIMATE DATE | FALSE RECORD OR ENTRY |
|---|---|---|
| THREE | August 1, 1995 | Monthly DAIWA custody account statement for Daiwa Pension Trust accounts. |
| FOUR | August 1, 1995 | Monthly DAIWA custody account statement for Daiwa Trust accounts. |
| FIVE | August 15, 1995 | Fictitious Bankers Trust statement for July 1995. |
| SIX | August 31, 1995 | Transfer order for $600 million in short-term United States Treasury obligations from the New York Branch to DAIWA in Japan. |
| SEVEN | September 7, 1995 | Letter falsely stating that the transfer of $600 million in United States Treasury obligations was for "liquidity" purposes. |

(Title 18, United States Code, Sections 1005 and 2).

## COUNTS EIGHT THROUGH TWENTY-TWO

### The Pre-July 1995 Concealment Of Trading Losses And Theft Of Customer Securities

### Introduction

The Grand Jury further charges:

62. Paragraphs 1 through 44 are hereby repeated and realleged as if set forth fully herein.

63. Beginning in early 1984, the defendant DAIWA suffered substantial losses from trading in United States



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Treasury obligations at its New York Branch. Those losses steadily mounted, and by 1995, exceeded hundreds of millions of dollars.

64. In most instances, these trading losses were not recorded on the books and records of the New York Branch. However, from time to time, certain aspects of these trades were recorded on the books and records of the New York Branch, and thereafter included in the consolidated financial statements of the defendant DAIWA, in order to give the appearance that DAIWA's trading in United States Treasury obligations was profitable. To this end, DAIWA engaged in complex trading strategies with one or more counterparties, using United States Treasury obligations and futures contracts for those securities, that enabled it selectively to record on its books and records only the profitable aspects of those trades.

65. To cover the losses that resulted from this trading, the defendant DAIWA unlawfully converted to its own use and sold, without authorization, United States Treasury obligations held in custody in the Bankers Trust account on behalf of customers of the New York Branch. Until November 1990, all of the United States Treasury obligations sold to cover these losses belonged to customers of DAIWA. After that date, after DAIWA had purchased United States Treasury obligations for its own account, DAIWA sold its customers' securities, as well as its own securities, for this purpose. Thereafter, DAIWA falsified



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its books and records with respect to these unauthorized transactions.

66. The defendant DAIWA did not record the unauthorized sales of customer securities from the Bankers Trust account on the books and records of the New York Branch. Nor did DAIWA record these unauthorized sales of customer securities on documents, such as the daily transaction reports and account statements, that DAIWA routinely transmitted to custody customers. As a result, the books and records of the New York Branch reflected only the customer custody balances that would have existed had DAIWA not made the unauthorized sales of the customers' United States Treasury obligations.

67. In order further to conceal these unauthorized sales of customer United States Treasury obligations from the Bankers Trust account, the defendant DAIWA prepared and sent by mail and by wire fictitious account statements to the owners of the securities held in Bankers Trust account. These false customer account statements reflected the balances of United States Treasury obligations that would have existed if the defendant DAIWA had not unlawfully sold United States Treasury obligations owned by its customers from the Bankers Trust account.

68. From time to time, a customer of the defendant DAIWA would instruct DAIWA to transfer United States Treasury obligations that it believed the defendant DAIWA had maintained in safekeeping in the Bankers Trust account, not knowing that



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DAIWA had sold those securities without authorization. In order to comply with the customers' instructions, DAIWA thereafter sold additional United States Treasury obligations from the Bankers Trust account, owned either by its customers or by DAIWA, and used the proceeds of those sales to repurchase the customer securities that had been sold without authorization. DAIWA thereafter transferred those repurchased United States Treasury obligations in accordance with the instructions of DAIWA's customers. All of these transactions were falsely recorded on the books and records of the New York Branch. As set forth above, July 199[illegible], when DAIWA received the Confession Letter, a total of $1.1 billion in losses had been concealed through these false entries. Of that $1.1 billion, approximately $733 million belonged to the New York Branch or to DAIWA and approximately $377 million belonged to DAIWA's customers.

COUNTS EIGHT THROUGH EIGHTEEN

(False Entries in Bank Books and Records)

69. From in or about 1983 to in or about September 1995, in the Southern District of New York and elsewhere, the defendant DAIWA, unlawfully, willfully, and knowingly made and caused to be made the following false entries in the books, reports, and statements of the New York Branch with the intent to deceive its customers and to deceive the Federal Reserve Board and its agents and examiners appointed to examine the affairs of the New York Branch:



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| COUNT | APPROXIMATE DATE | FALSE RECORD OR ENTRY |
|---|---|---|
| EIGHT | December 1986 | Fictitious Bankers Trust Statement for November 1986. |
| NINE | December 1988 | Fictitious Bankers Trust Statement for November 1988. |
| TEN | January 1990 | Fictitious Bankers Trust Statement for December 1989. |
| ELEVEN | July 1990 | Fictitious Bankers Trust Statement for June 1990. |
| TWELVE | January 1992 | Fictitious Bankers Trust Statement for December 1991. |
| THIRTEEN | January 1993 | Fictitious Bankers Trust Statement for December 1992. |
| FOURTEEN | July 1993 | Fictitious Bankers Trust Statement for June 1993. |
| FIFTEEN | January 1994 | Fictitious Bankers Trust Statement for December 1993. |
| SIXTEEN | July 1994 | Fictitious Bankers Trust Statement for June 1994. |
| SEVENTEEN | January 1995 | Fictitious Bankers Trust Statement for December 1994. |
| EIGHTEEN | July 1995 | Fictitious Bankers Trust Statement for June 1995. |

(Title 18, United States Code, Sections 1005 and 2).



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COUNTS NINETEEN AND TWENTY

(Wire Fraud)

The Grand Jury further charges:

70. On or about the dates set forth below, in the Southern District of New York and elsewhere, the defendant DAIWA, Toshihide Iguchi, and others known and unknown to the Grand Jury, unlawfully, willfully, and knowingly, having devised and intended to devise a scheme and artifice to defraud DAIWA's customers and to obtain their money property, to wit, more than $377 million of United States Treasury obligations entrusted to the custody and care of the New York Branch, by means of false and fraudulent pretenses, representations, and promises, and for the purposes of executing such scheme and artifice did transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, the following writings, signs, signals, and sounds:

| COUNT | APPROXIMATE DATE | WIRE COMMUNICATION |
|---|---|---|
| NINETEEN | July 1, 1995 | Custody Account Statement faxed to Daiwa Pension Trust Department. |
| TWENTY | July 1, 1995 | Custody Account Statement faxed to Daiwa Trust Department. |

(Title 18, United States Code, Section 1343 and 2).



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COUNTS TWENTY-ONE AND TWENTY-TWO

(Mail Fraud)

The Grand Jury further charges:

71. Paragraphs 1 through 44 are hereby repeated and realleged as if set forth fully herein.

72. On or about the dates set forth below, in the Southern District of New York and elsewhere, the defendant DAIWA, Toshihide Iguchi, and others known and unknown to the Grand Jury, unlawfully, willfully, and knowingly having devised and intending to devise a scheme and artifice to defraud DAIWA's customers and to obtain their money and property, to wit, more than $377 million of United States Treasury obligations entrusted to the custody and care of the New York Branch, by false and fraudulent pretenses, representations, and promises, and for the purpose of executing such scheme and artifice and attempting to do so did place and cause to be placed in post offices and authorized depositories for mail matter, and did cause to be delivered by mail according to the directions thereon, the following mail matter to be sent and delivered by the Postal Service, and took and received therefrom such matters and things:



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| COUNT | APPROXIMATE DATE | MAILING |
|---|---|---|
| TWENTY-ONE | July 1, 1995 | Custody Account Statement mailed to Daiwa Pension Trust Department. |
| TWENTY-TWO | July 1, 1995 | Custody Account Statement mailed to Daiwa Trust Department. |

(Title 18, United States Code, Section 1341 and 2).

COUNT TWENTY-THREE

(The 1993 Conspiracy to Deceive the Federal Reserve Board)

The Grand Jury further charges:

73. Paragraphs 1 through 44 are hereby repeated and realleged as if set forth fully herein.

74. Prior to 1986, the defendant DAIWA had conducted its banking operations at the New York Branch from a single office located at 140 Broadway in New York, New York (the "downtown office"). In 1986, DAIWA sought and received permission from the Japanese Ministry of Finance (the "MOF") to relocate the New York Branch to 75 Rockefeller Plaza (the "midtown office"), where Daiwa Trust was located. At that time, DAIWA also advised the New York Banking Department that it "plan[ned] to retain a small portion of its current space at 140 Broadway in order to continue to have a securities handling facility in the Wall Street area."

75. In or about 1986, the MOF permitted the New York Branch to continue to operate its Securities Custody Department



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at 140 Broadway. It was the defendant DAIWA's understanding that after 1986 the MOF did not authorize the New York Branch to trade at the downtown office. Nevertheless, from approximately 1986 until early November 1993, with minor exceptions, DAIWA continued to trade United States Treasury obligations at the downtown location.

76. In order to conceal that United States Treasury obligations were being traded at the downtown location, it was the practice of the defendant DAIWA from at least 1989 up to and including October 1993 temporarily to relocate certain traders to the midtown office and, when necessary, to disguise the trading room at the downtown office as a storage room during the pendency of examinations by the Federal Reserve Board and the New York State Banking Department.

77. In early November 1993, just days before the commencement of a scheduled examination by the Federal Reserve Board, the defendant DAIWA reversed this practice and directed that the traders be relocated permanently to the midtown office. On or about November 12, 1993, DAIWA disclosed to an examiner of the Federal Reserve Board that its traders had been temporarily relocated to the midtown office during prior examinations and that the purpose of this deceptive conduct was to prevent the MOF from learning that DAIWA was engaged in securities trading at the downtown office.

78. On or about November 19, 1993, at the direction of a Federal Reserve Board examiner, the defendant DAIWA confirmed



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these disclosures in a letter to the Federal Reserve Board. That letter stated that on prior occasions DAIWA had relocated its traders to the midtown office because DAIWA did not want the trading operations at the downtown office to come to the attention of the MOF. That letter also represented that the traders now had been permanently moved to the midtown office.

79. In that letter the defendant DAIWA also suggested, falsely, that supervision for these traders had been reassigned from Toshihide Iguchi to another trader, and that Toshihide Iguchi would no longer be involved in supervising those traders. Specifically, the letter stated that "[a]s of November 18, 1993, those traders will no longer report to the head of the securities custody department . . ."

80. The Federal Reserve Board and the New York State Banking Department thereafter released a report setting forth their findings from the 1993 examination. That report was highly critical of the defendant DAIWA. In particular, the report noted that the examiners had detected "[c]ertain violations of law and regulation," stating:

> We are particularly concerned about misrepresentations made to examiners by prior management regarding the conduct of trading activities from the downtown location of the Branch and engaging in activities beyond the authority granted under Section 200 of the New York Banking Law.

81. In fact, as the defendant DAIWA well knew, and contrary to the representations made to the Federal Reserve Board, from November 1993 to September 1995, Toshihide Iguchi continued to supervise the traders of United States Treasury



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obligations at the New York Branch on a daily basis. In addition, from time to time, Toshihide Iguchi executed trades in United States Treasury obligations from the downtown office. DAIWA took substantial steps to ensure that written documentation of these activities did not reflect Toshihide Iguchi's continued involvement.

The Conspiracy

82. From in or about 1988 through in or about September 1995, in the Southern District of New York and elsewhere, the defendant DAIWA, Toshihide Iguchi, and others known and unknown to the Grand Jury unlawfully, willfully and knowingly did combine, conspire, confederate, and agree together and with others:

a. To defraud the United States; that is, to impair, obstruct, and defeat the lawful functions of the Federal Reserve Board, an agency of the United States, of and concerning its right to conduct examinations of branches of foreign banks, to obtain from them accurate and truthful periodic reports and other information in conformity with the laws of the United States and the rules and regulations of the Federal Reserve Board, and to be free from fraud and false statements;

b. To make false statements to federal agencies; that is, to make and cause to be made materially false, fictitious, and fraudulent statements and representations in matters within the jurisdiction of agencies and departments of



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the United States, including the Federal Reserve Board, in violation of Title 18, United States Code, Section 1001; and

c. To falsify the books and records of a branch of a foreign bank; that is, to make and cause to be made false entries in the books, reports, and statements of the New York Branch with the intent to deceive the Federal Reserve Board and agents and examiners appointed to examine the affairs of the New York Branch, in violation of Title 18, United States Code, Section 1005.

**Manner And Means Of The Conspiracy**

83. Among the manner and means by which the defendant DAIWA, Toshihide Iguchi, and their co-conspirators would and did carry out the conspiracy and effect its unlawful objects were the following:

84. The defendant DAIWA relocated its traders from the downtown office to the midtown office during the pendency of an examination by the Federal Reserve Board;

85. In or about November 1993, the defendant DAIWA, Toshihide Iguchi, and their co-conspirators made incomplete and misleading disclosures to the Federal Reserve Board and its examiners concerning trading activities and the ongoing supervision of traders at the New York Branch;

86. The defendant DAIWA, Toshihide Iguchi, and their co-conspirators actively concealed from the Federal Reserve Board and the New York Banking Department that Toshihide Iguchi continued to supervise trading activities in United States



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Treasury obligations at the New York Branch by, among other things, deliberately seeking to ensure that Toshihide Iguchi's name did not appear on documentation related to that trading; and

87. The defendant DAIWA, Toshihide Iguchi, and their co-conspirators failed to disclose to the Federal Reserve Board that Toshihide Iguchi continued to supervise trading activities in United States Treasury obligations at the New York Branch.

**Overt Acts**

88. In furtherance of the conspiracy and to effect the objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

89. In or about November 1992, the defendant DAIWA and its co-conspirators temporarily transferred certain traders working at the downtown office to the midtown office during the pendency of an examination by the Federal Reserve Board;

90. In or about November 1993, the defendant DAIWA and its co-conspirators made incomplete and materially misleading statements to an examiner of the Federal Reserve Board concerning the separation of the operations of the trading and custody departments at the New York Branch.

91. On or about November 19, 1993, the defendant DAIWA and its co-conspirators gave a letter to an examiner of the Federal Reserve Board.

(Title 18, United States Code, Section 371).



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## COUNT TWENTY-FOUR

(Obstructing An Examination of a Financial Institution)

The Grand Jury further charges:

92. Paragraphs 73 through 81 are hereby repeated and realleged as if set forth fully herein.

93. In or about November 1992, the defendant DAIWA, unlawfully, willfully, and knowingly, did corruptly obstruct and attempt to obstruct an examination of a financial institution, to wit, the New York Branch, a branch of DAIWA, a foreign bank, by the Federal Reserve Board, an agency of the United States with jurisdiction to conduct an examination of the New York Branch, to wit, the defendant DAIWA deceived Federal Reserve Board examiners by relocating its traders to the midtown office during that examination.

(Title 18, United States Code, Section 1517).

FOREPERSON

MARY JO WHITE
United States Attorney



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Approved: _____
MICHAEL A. SIMONS
ANDREA M. LIKWORNIK
Assistant United States Attorneys

Before: HONORABLE NINA GERSHON
United States Magistrate Judge
Southern District of New York

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| | | |
|---|---|---|
| UNITED STATES OF AMERICA | : | COMPLAINT |
| -v- | : | Violation of 18 U.S.C. §§ 371, 4 and 2 |
| MASAHIRO TSUDA, | : | |
| Defendant. | : | COUNTY OF OFFENSE: New York |

- - - - - - - - - - - - - - - - - - - -x

SOUTHERN DISTRICT OF NEW YORK, ss.:

EDWARD M. STROZ, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI") and charges as follows:

COUNT ONE

1. From on or about July 13, 1995 through in or about September 1995, in the Southern District of New York and elsewhere, the defendant MASAHIRO TSUDA, along with Toshihide Iguchi, Daiwa Bank, Ltd. ("Daiwa"), and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree:

a. To defraud the United States; that is, to impair, obstruct, and defeat the lawful functions of the Board of Governors of the Federal Reserve System (the "Federal Reserve Board"), an agency of the United States, of and concerning its right to conduct examinations of branches and agencies of foreign banks, to obtain from them accurate and truthful periodic reports and other information in conformity with the laws of the United States and the rules and regulations of the Federal Reserve Board, and to be free from fraud and false statements;

b. To make false statements to federal agencies; that is, to make and cause to be made materially false, fictitious, and fraudulent statements and representations in matters within the jurisdiction of agencies and departments of



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the United States, including the Federal Reserve Board, in violation of Title 18, United States Code, Section 1001; and

c. To falsify the books and records of a branch of a foreign bank; that is, to make and cause to be made false entries in the books, reports, and statements of the New York Branch of Daiwa, a branch of a foreign bank, with the intent to deceive the Federal Reserve Board and agents and examiners appointed to examine the affairs of the New York Branch, in violation of Title 18, United States Code, Section 1005.

MANNER AND MEANS OF THE CONSPIRACY

2. Among the manner and means by which the defendant MASAHIRO TSUDA and his co-conspirators would and did carry out the conspiracy and effect its unlawful objects included concealing from the Federal Reserve Board, from approximately July 13, 1995 until approximately September 18, 1995, a $1.1 billion trading loss incurred by Toshihide Iguchi by, among other things, filing false documents with the Federal Reserve Board, failing to submit a Criminal Referral Form as required by law, and falsifying the books and records of the New York Branch.

OVERT ACTS

3. In furtherance of the conspiracy and to effect the objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about July 28, 1995, the defendant MASAHIRO TSUDA met with Toshihide Iguchi and other senior executives of Daiwa at the Park Lane Hotel in New York, New York.

b. On or about July 31, 1995, the New York Branch of Daiwa submitted to the Federal Reserve Board a quarterly "Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks" for the period ending June 30, 1995.

c. In or about mid-August 1995, Toshihide Iguchi prepared a fictitious account statement for a sub-custody account maintained at Bankers Trust Company for the month of July 1995.

d. In or about mid-August 1995, the defendant MASAHIRO TSUDA declined to have the New York Branch file a Criminal Referral Form reporting violations of law committed by Toshihide Iguchi that resulted in a $1.1 billion loss to Daiwa, as required by law.

e. In or about late August of 1995, the defendant MASAHIRO TSUDA asked other managerial employees of Daiwa to postpone an internal audit of the custody department of the New



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York Branch, so that the $1.1 billion loss would not be discovered.

(Title 18, United States Code, Section 371).

COUNT TWO

4. From on or about July 28, 1995 up to and including on or about September 15, 1995, in the Southern District of New York and elsewhere, the defendant MASAHIRO TSUDA, having knowledge of the actual commission of felonies cognizable by a court of the United States, to wit misapplication of bank and customer assets in violation of Title 18, United States Code, Section 656, making false entries in the books and records of a branch of a foreign bank in violation of Title 18, United States Code, Section 1005, and conspiracy in violation of Title 18, United States Code, Section 371, unlawfully, willfully, and knowingly, did conceal and did not as soon as possible make known said felonies to some judge or other person in civil or military authority under the United States.

(Title 18, United States Code, Sections 4 and 2).

5. The bases for my knowledge and for the foregoing charges are, in part, as follows:

a. I am a Special Agent with the FBI. I have been employed in that capacity for the last 11 years. For the past 6 years, I have been assigned to a squad at the FBI's New York Field Office which is responsible for the investigation of white collar crime. I am the case agent responsible for the investigation of this matter. In that capacity, I have interviewed witnesses, reviewed documents, attended court proceedings and spoken with other agents involved in this investigation. Because this affidavit is submitted for a limited purpose, I have not included each and every fact learned during the investigation. Where actions, statements, or conversations are related, they are related in substance and in part, unless otherwise indicated.

b. Daiwa is a bank organized under the laws of Japan. Daiwa is headquartered in Osaka, Japan and is engaged in the business of banking through offices located throughout the world. Daiwa is duly licensed by the State of New York to operate a branch office in New York, New York (the "New York Branch").

c. The defendant MASAHIRO TSUDA is an officer of Daiwa. In or about early July 1995, TSUDA became the General Manager of the New York Branch.



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d. I have reviewed an English translation of a letter dated July 13, 1995, written in Japanese by Toshihide Iguchi (the "July 13 Letter"), then an Executive Vice President of the New York Branch and head of its Securities Custody Department. Iguchi's letter was addressed on the envelope to "Mr. Fujita," the President of Daiwa, at Daiwa headquarters in Osaka, Japan. In that letter, which Iguchi characterized as his "honest confession," Iguchi disclosed, among other things, that he had "caused approximately a $1.1 billion loss from trading United States Treasury bonds at the New York Branch." Iguchi further stated, in substance, that he had "compensated for" this loss by selling investment securities of the New York Branch as well as treasury bonds held for Daiwa's clients in custody. Iguchi further stated, in substance, that he concealed his unauthorized sales from the custody account, which was located at Bankers Trust, by falsifying Bankers Trust account statements so that the statements would not indicate that the securities had been sold.

e. Iguchi further stated in the July 13 Letter that he believed Daiwa should "keep the secret until the bank and possibly the Japanese authorities can take appropriate measures."

f. Title 12, Code of Federal Regulations, Sections 208.20 and 211.24, requires the New York Branch to submit a "Criminal Referral Form" to federal law enforcement authorities "in every situation where . . . the bank suspects one of its directors, officers, employees, agents, or other institution-affiliated parties of having committed or aided in the commission of a crime." Where the suspected violation requires "immediate attention," the New York Branch was required to notify federal law enforcement authorities of the suspected violation "immediately" by telephone, and to file a written report of the matter within 30 days.

g. On October 19, 1995, Iguchi pled guilty to misapplying bank funds, falsifying Daiwa's books and records, conspiring to engage in the same, money laundering, and conspiring to defraud the United States in part by scheming with Daiwa's senior management to conceal the $1.1 billion loss from the Federal Reserve Board.

h. In the course of investigating this matter, I have learned that Iguchi sent the July 13 Letter on July 17, and sent a follow up letter on July 21. On July 24, 1995, senior officers of Daiwa in Japan called Iguchi and acknowledged that they had obtained both letters from the President of Daiwa. I have also learned that on or about July 28, 1995, the defendant MASAHIRO TSUDA and other senior managers of Daiwa, met with Iguchi at the Park Lane Hotel in New York, New York to discuss the contents of his letters. During that meeting, among other things, IGUCHI showed TSUDA and the others copies of authentic



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Bankers Trust statements and fictitious Bankers Trust statements that he had created. Iguchi explained that a comparison of these statements demonstrated that the New York Branch had sustained losses of approximately $1.1 billion, and that securities in that amount were missing from the Bankers Trust account.

i. I have also learned that senior managers of Daiwa said that Daiwa would announce the $1.1 billion loss "in some form" in November, after Daiwa announced its profits and losses for the six months ending September 30, 1995. The defendant MASAHIRO TSUDA, Iguchi, and the others at the meeting agreed that in order to continue to conceal the loss, Iguchi would continue to sell securities to cover interest payments on securities that he had already sold, and would continue to falsify the Bankers Trust statements and other bank records.

j. On or about July 31, 1995, August 15, 1995, and August 31, 1995, pursuant to the plan discussed and authorized in paragraph i, above, Iguchi sold additional United States Treasury obligations from the Bankers Trust account, and thereafter applied the proceeds of those sales to make interest payments on other securities that he had sold without authorization from that account. Pursuant to that same plan and direction, in or about mid-August, Iguchi prepared a fictitious Bankers Trust account statement for the month of July 1995. On or about September 13, 1995, Iguchi prepared a fictitious Bankers Trust account statement for the month of August 1995. Iguchi gave these fictitious statements to other employees of the New York Branch, who was responsible for reconciling the Bankers Trust account statement with the New York Branch's books and records.

k. On or about July 31, 1995, the New York Branch submitted to the Federal Reserve Board a quarterly "Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks" for the period ending June 30, 1995. This report falsely stated that the assets of the New York Branch included $615,987,000 of "trading assets," a number that included approximately $600 million of short-term United States Treasury obligations that Iguchi had sold and therefore were missing from the Bankers Trust account.

l. Through interviewing managerial employees of Daiwa, I have learned that the defendant MASAHIRO TSUDA travelled to Japan on business between on or about August 13 and on or about August 16, 1995. On or about August 17, 1995 TSUDA called two managerial employees into a meeting in New York City, during which he informed them of Iguchi's activities and the loss, which TSUDA said must remain confidential amongst a small group of people. TSUDA further told these employees that Daiwa would not report the loss to authorities in the United States until the end of September.



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m. I have been further informed by one of those employees that, on or about August 17, 1995, or within a few days thereafter, that managerial employee specifically informed the defendant MASAHIRO TSUDA that the New York Branch was required to file a Criminal Referral Form with respect to Iguchi's loss. TSUDA stated, in substance, that the Branch would not do so at this time. When the employee expressed concern about having personal liability if the form was not filed, TSUDA told him, in substance, that he, TSUDA, would take responsibility for the failure to make the referral.

n. I have been further informed by these managerial employees that, in or about late August, the defendant MASAHIRO TSUDA asked these managerial employees to postpone a scheduled audit of the custody department of the New York branch, because he was concerned that such an internal audit would reveal the $1.1 billion dollar loss. Both employees declined to postpone the audit, which they told TSUDA was beyond their control in any event. TSUDA suggested that if Iguchi, whom Daiwa had allowed to remain as the head of the Custody Department, went on vacation, no audit could take place.

o. In or about late August, the defendant MASAHIRO TSUDA told Iguchi that Iguchi should tell other employees that he was going on vacation on September 11.

p. On or about September 15 and 18, 1995, representatives of Daiwa advised the Federal Reserve Board that the Toshihide Iguchi had caused the New York Branch to suffer a loss of more than $1.1 billion as a result of his unauthorized trading extending over an 11-year period. Those representatives expressed Daiwa's concern that immediate public disclosure of a loss of this magnitude could threaten the financial viability of the bank.

Wherefore, deponent requests that a warrant be issued for the arrest of the defendant MASAHIRO TSUDA, and that he be detained or bailed, as the case may be.

Edward M. Stroz

EDWARD M. STROZ
Special Agent
Federal Bureau of Investigation

Sworn to before me this
of November 1995

UNITED STATES MAGISTRATE JUDGE



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