

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES ACT OF 1933**  
**Release No. 9981 / November 30, 2015**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-16973**

**In the Matter of**

**STANDARD BANK PLC**

**Respondent.**

**ORDER INSTITUTING CEASE-AND-  
DESIST PROCEEDINGS PURSUANT  
TO SECTION 8A OF THE SECURITIES  
ACT OF 1933, MAKING FINDINGS,  
AND IMPOSING REMEDIAL  
SANCTIONS AND A CEASE-AND-  
DESIST ORDER**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) against Standard Bank Plc (“Respondent”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, and except as to facts set forth in the Statement of Facts filed in a matter captioned *Serious Fraud Office v. Standard Bank Plc*, No. U20150854, Southwark Crown Court, United Kingdom, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

### III.

On the basis of this Order and Respondent's Offer, the Commission finds<sup>1</sup> that:

#### **Summary**

This case involves Standard Bank Plc's ("Standard") failure to disclose payments made by Standard's affiliate, Stanbic Bank Tanzania, Limited ("Stanbic"), in connection with \$600 million of sovereign debt securities issued by the Government of Tanzania ("GoT") in 2013. Standard (an international investment bank located in London) was aware that its affiliate, Stanbic, paid \$6 million of the proceeds of the offering to an entity called Enterprise Growth Markets Advisors Limited ("EGMA"). Standard failed to disclose the existence of EGMA and the fees it was to receive. At all relevant times, EGMA's chairman and one of its three shareholders and directors was a representative of the GoT. Several red flags indicated the risk that the portion of the offering proceeds paid to EGMA by Stanbic was intended to induce the GoT to grant the mandate for the transaction to Standard and Stanbic. Standard acted as joint Lead Manager in the offering of Tanzanian sovereign debt securities without disclosing that EGMA was involved in the transaction and would receive a substantial fee in connection with the transaction.

#### **Respondent**

**Standard Bank Plc (Standard)** at all relevant times was the London-based international investment bank subsidiary of the Standard Bank Group Limited of South Africa. Standard is regulated by the Financial Conduct Authority and the Prudential Regulatory Authority in the United Kingdom. In February 2015, the Industrial and Commercial Bank of China ("ICBC") acquired a 60% stake in Standard. In March 2015, Standard announced that it had changed its name to ICBC Standard Bank Plc. ICBC did not own shares in Standard at the time of the relevant events and ICBC had no involvement in the events.

#### **Other Relevant Individuals and Entities**

1. **Stanbic Bank Tanzania Limited (Stanbic)**, a member of the Standard Bank Group of South Africa, provides various banking products and services in Tanzania. It is headquartered in Dar es Salaam, Tanzania.
2. **Enterprise Growth Market Advisors Limited (EGMA)** is a private company incorporated in Tanzania in August 2011 to support "companies in raising capital through the capital markets." It entered into a collaboration agreement (the "Collaboration Agreement") with Stanbic in connection with this transaction pursuant to which it received a fee of 1 percent of the proceeds raised in the issue, which amounted to \$6 million.

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<sup>1</sup> The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

3. **Standard's Global Head of Debt Capital Markets** was based in London, and led the Standard debt capital markets team for the Tanzanian sovereign debt transaction. He resigned from Standard in December 2014 after having worked there since 2005.

4. **Stanbic's Managing Director** was CEO and a member of Stanbic's Board. He was dismissed by Stanbic in August 2013 for failing to cooperate in Standard Bank Group's investigation of EGMA's role in the transaction.

5. **Stanbic's Acting Head of Corporate and Investment Banking** served as the main contact point for Stanbic and Standard with government officials in Tanzania. Stanbic's Acting Head of Corporate and Investment Banking reported directly to Stanbic's Managing Director. She resigned from Stanbic in June 2013.

6. **The Commissioner of the Tanzania Revenue Authority** was a founding member, director and shareholder of EGMA. At all relevant times he was also a member of a Government agency that was an advisor to the GoT concerning the sovereign's financing needs.

### **Background**

7. From 2011 into early 2013, in an effort to help the GoT raise funds needed for infrastructure projects through the international bond market, in circumstances where the GoT had been unsuccessful in obtaining a credit rating, making a EuroBond offering unfeasible, Standard and Stanbic attempted to obtain a mandate from the GoT through its Minister of Finance (MoF) to raise funds through a private placement of sovereign debt. The proposals that Standard and Stanbic originally presented to the MoF anticipated that Standard and Stanbic would receive a combined fee of 1.4% of the gross proceeds for arranging the transaction (which would be split evenly between them). Standard and Stanbic proposed a transaction that would be marketed as a private placement in the U.S. pursuant to Securities and Exchange Commission Regulation S.

8. In an e-mail dated February 25, 2012, Stanbic's Acting Head of Corporate and Investment Banking informed certain persons at Standard and Stanbic, including Standard's Global Head of Debt Capital Markets and Stanbic's Managing Director, that the proposal had been accepted by the MoF. In bold print, Stanbic's Acting Head of Corporate and Investment Banking informed that "we pocket 1.4% arrangement fees." However, in May 2012, before the mandate was signed, the MoF was replaced by a new MoF.

9. From May 2012 through the end of 2012, Standard and Stanbic attempted to ensure the GoT's continued interest in their proposal for funding, primarily through the efforts of Stanbic's Acting Head of Corporate and Investment Banking and Stanbic's Managing Director to meet with government officials in Tanzania. Standard's Global Head of Debt Capital Markets was kept apprised of the progress and Standard, together with external counsel, was to be responsible for drafting the transaction documentation. In June 2012, Stanbic's Acting Head of Corporate and Investment Banking forwarded to the office of the MoF a copy of the proposal for funding, continuing to show Standard and Stanbic as Joint Lead Managers, receiving a fee of 1.4% of the gross proceeds of the transaction. In July 2012, Stanbic hired the son of the new MoF.

10. On August 29, 2012, Stanbic's Acting Head of Corporate and Investment Banking e-mailed Standard's Global Head of Debt Capital Markets that she and Stanbic's Managing Director had just come from a "very good meeting with the Minister of Finance and his key technical team" and that they were now in agreement with the proposal and would look at the Mandate Letter. Stanbic's Acting Head of Corporate and Investment Banking also informed Standard's Global Head of Debt Capital Markets that Standard's Global Head of Debt Capital Markets' meeting with the MoF was confirmed for September 18. On September 4, Stanbic's Acting Head of Corporate and Investment Banking sent Stanbic's Managing Director and the MoF's son a Proposal Letter and draft of the Mandate Letter, and asked the MoF's son to dispatch the documents to the MoF's office, the Ministry of Finance, which he did the next day. This version of the Proposal Letter shows an "ALL in Fee of 2.4%" and the draft Mandate Letter, which was enclosed with the Proposal Letter, defines the "Lead Manager" as Stanbic and Standard, "in collaboration with its Local Partner."

11. Stanbic was to pay the local partner, who Standard later learned was EGMA, a fee of 1% of the offering, from the total offering fee which had increased from 1.4% to 2.4% of the offering. In an e-mail dated September 20, 2012, from Standard's Global Head of Debt Capital Markets to Stanbic's Managing Director and Stanbic's Acting Head of Corporate and Investment Banking, Standard's Global Head of Debt Capital Markets states that "we are working on the Side Letter between us and our Partners, pointing out the fee split and the respective duties under the mandate." Attached to the e-mail is a copy of the most recent Mandate Letter sent to the MoF, which is edited to define the "Lead Manager" as only Stanbic and Standard, without mention of any Local Partner. When a Standard deal team member responded to Stanbic's Acting Head of Corporate and Investment Banking that the local partner would still need to be a signatory to the Mandate Letter, Stanbic's Acting Head of Corporate and Investment Banking responded, also copying Stanbic's Managing Director and Standard's Global Head of Debt Capital Markets that, "No. Intention is to bring them in through a side agreement between us and the partner. In other transactions they have done, [another bank] etc this is how it was done. Government would like to deal with the one party who then brings in and manages/coordinates the other partners...."

### **Standard's Failure to Disclose**

12. Standard was negligent in not taking any steps to understand what role EGMA would be playing in the transaction in return for its \$6 million fee and there are no records of contemporaneous communications among Standard and Stanbic personnel concerning the ownership of EGMA, its relationship to the GoT, or why it was being made part of the transaction. On September 20, 2012, Standard's Global Head of Debt Capital Markets, Stanbic's Managing Director and Stanbic's Head of Corporate and Investment Banking held a telephone conference to discuss the logistics of splitting the fee with EGMA. Standard could not pay EGMA without going through a "Know Your Customer" (KYC) process to verify customer identity, among other things. Accordingly, Standard's Global Head of Debt Capital Markets, Stanbic's Managing Director and Stanbic's Acting Head of Corporate and Investment Banking agreed that Stanbic alone would perform KYC procedures with respect to EGMA. In that call, Standard's Global Head of Debt Capital Markets stated that he assumed that "there would [be] no problem whatsoever in KYC-ing these guys" and "I suppose you have done business with them and know these guys." The participants on the call also agreed that the entire fee of 2.4%

would be paid to Stanbic, which would then pay EGMA its 1% and remit back to Standard its portion of the remaining 1.4% fee. As a result, Standard was not a signatory to the fee agreement with EGMA. In a conference call on September 26, 2012, the same participants agreed that since EGMA would not be performing any duties as Lead Manager, it need not be mentioned in the mandate letter with the GoT at all.

13. At Stanbic's request, Standard took an active role in drafting the Collaboration Agreement between Stanbic and EGMA. Between September 2012 and February 2013, Stanbic and Standard revised several versions of the Collaboration Agreement. The Collaboration Agreement stated EGMA's responsibilities in connection with the transaction. There is no evidence that EGMA performed those responsibilities.

14. The GoT, through the MoF executed a Mandate Letter with Standard and Stanbic dated November 15, 2012 appointing Standard and Stanbic jointly as Lead Manager in connection with the debt financing for the GoT. The Mandate Letter included a "total facilitation" fee of 2.4%, but did not mention any local partner or third party. The Lead Manager's fee letter attached to the Mandate Letter indicates that the 2.4% fee would be paid to Standard and Stanbic as lead manager "in collaboration with its partner." Although, the Fee Letter referred to a "local partner," EGMA was not identified as that local partner.

15. On February 25, 2013, Standard's Global Head of Debt Capital Markets participated in a call with potential investors in the Tanzanian Sovereign Bond. Representatives of the GoT who were on the call included the MoF, as well as the Commissioner of the Tanzania Revenue Authority, who was an EGMA shareholder. In the call, Standard's Global Head of Debt Capital Markets provided a brief summary of the terms of the notes, and told the audience that the transaction would not be listed nor rated and that to subscribe would require agreement to an investor representation letter which had been provided to the potential investors. The investor representation letter required the investors to acknowledge and agree that Standard made no representations or warranties about the private placement and that "neither Standard nor any of its Associates is responsible or liable for any misstatements in or omission from [information relating to the Issuer, the Loan Notes, and the Transaction, Transaction Documents and Public Domain Information as those terms are defined in the investor representation letter]." The investor representation letter failed to include material facts about the transactions namely any mention of EGMA, its shareholders' ties to the GoT, its lack of a substantive role in the transaction, and that it was to receive a \$6 million fee.

16. Standard did not disclose the involvement of EGMA and the fee EGMA was to receive. Standard assisted in drafting the Fee Letter whereby the GoT agreed to pay Standard, Stanbic and a "partner" a combined fee of 2.4%, with no specific mention of EGMA's name.

17. On February 27, 2013, the GoT issued its floating-rate amortizing, unrated, unlisted, sovereign bonds through a Regulation S private placement. As set forth in the transaction documents, the gross proceeds of \$600 million were transferred by the facility agent to the GoT's account in New York, on March 8, the GoT then transferred the total 2.4% fee of \$14.4 million to Stanbic in Tanzania. Stanbic deposited EGMA's 1% fee, or \$6 million, into an account EGMA had previously opened at Stanbic. After EGMA made payments of the legal

costs related to the transaction, approximately \$5.2 million of its \$6 million was withdrawn in cash between March 18 and 27, 2013. Standard did not become aware of those cash withdrawals until after they were made, and does not have knowledge as to the ultimate disposition of those withdrawn funds.

18. By offering the Tanzanian sovereign bonds, Standard had a duty to disclose to investors material facts that it knew or should have known concerning the transaction.

19. As a result of the conduct in failing to disclose the material facts described above, Respondent committed violations of Sections 17(a)(2) of the Securities Act.

### **Standard's Cooperation**

20. In determining to accept the Offer, the Commission considered the cooperation afforded the Commission staff by Standard and its former corporate parent, Standard Bank Group. After receiving communications from employees concerned about the cash withdrawals from EGMA's account at Stanbic in Tanzania, Standard and Standard Bank Group promptly and voluntarily reported the matter to the U.K. Serious Fraud Office and undertook a comprehensive internal investigation. Standard and Standard Bank Group also provided significant cooperation with the Commission's investigation.

## **IV.**

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, pursuant to Section 8A of the Securities Act it is hereby ORDERED that:

- A. Respondent cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) of the Securities Act.
- B. Respondent shall pay disgorgement of \$8.4 million, and has agreed to do so in a matter captioned *Serious Fraud Office v. Standard Bank Plc*, No., U20150854, Southwark Crown Court, United Kingdom (the "U.K. Matter"). Respondent's disgorgement obligation shall be deemed satisfied upon such payment. If Respondent makes payment of less than \$8.4 million in disgorgement in connection with the U.K. Matter, Respondent acknowledges that its disgorgement obligation will be credited up to the amount of the payment made by Respondent in the U.K. Matter, with the remaining balance due and payable to the Securities and Exchange Commission within 14 days of payment pursuant to the resolution of the U.K. Matter, or, if there is no payment of disgorgement pursuant in the resolution of the U.K.

Matter, within 14 days of a final order not ordering payment of disgorgement in the U.K. Matter.

- C. Respondent shall, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of \$4.2 million to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717. A penalty amount that includes an additional \$4.2 million is appropriate for the conduct at issue here, however in consideration of the money penalty paid by Respondent in the U.K. Matter, no additional penalty is being ordered at this time.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Standard Bank Plc as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Gerald Hodgkins, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order

granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

By: \_\_\_\_\_  
Brent J. Fields  
Secretary