CFTC Files and Settles Charges Against JPMorgan Chase Bank, N.A., for Violating Prohibition on Manipulative Conduct In Connection with “London Whale” Swaps Trades

JPMorgan Admits to Reckless Conduct in First Case Charging Violation of Dodd Frank’s Prohibition Against Manipulative Conduct and is Ordered to Pay a $100 Million Civil Monetary Penalty

Washington, DC – The U.S. Commodity Futures Trading Commission (CFTC) today issued an Order against JPMorgan Chase Bank, N.A. (JPMorgan or Bank), bringing and settling charges for employing a manipulative device in connection with the Bank’s trading of certain credit default swaps (CDS), in violation of the new Dodd-Frank prohibition against manipulative conduct. As set forth in the CFTC’s Order, by selling a staggering volume of these swaps in a concentrated period, the Bank, acting through its traders, recklessly disregarded the fundamental precept on which market participants rely, that prices are established based on legitimate forces of supply and demand. As a result, after a thorough 17-month investigation, the Commission has found the Bank liable for violating Section 6(c)(1) of the Commodity Exchange Act (the “Act”), 7 U.S.C. §9 (2012), as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank”), and Commission Regulation 180.1, 17 C.F.R. §180.1 (2012).

JPMorgan, which admits the specified factual findings in the Order including that its traders acted recklessly, is directed, among other things, to pay a $100 million civil monetary penalty.

“In Dodd-Frank, Congress provided a powerful new tool enabling the CFTC for the first time to prohibit reckless manipulative conduct,” said David Meister, the CFTC’s Director of Enforcement. “As this case demonstrates, the Commission is now better armed than ever to protect the market from traders, like those here, who try to ‘defend’ their position by dumping a gargantuan, record-setting, volume of swaps virtually all at once, recklessly ignoring the obvious dangers to legitimate pricing forces.”

Highlights of the CFTC Order

The CDS market comprises globally traded credit derivatives used to speculate on and hedge against credit defaults. Trillions of dollars (notional) of CDS instruments and baskets of CDS called credit default indices, some known as CDX, are used to transfer risk of defaults by companies in the United States and around the world. As such, the CDS market is an important aspect of the global economy.

From approximately 2007 through 2011, JPMorgan’s Chief Investment Office (“CIO”), operating through a trading desk in the Bank’s London branch, traded and held various credit default indices, including CDX, in a Synthetic Credit Portfolio (“SCP”). Each day the SCP traders marked their positions to market, assigning a value to the positions using market prices and other factors. That value was used to calculate the CIO’s profits and losses. At the end of each month an “independent” group at JPMorgan tested the validity of the traders’ month-end marks.

As of the end of 2011, the portfolio held $51 billion net notional of these credit instruments, the outsized amount spurring press reports referring to one CIO trader as the “London Whale.” Although previously quite profitable, the portfolio had taken a serious turn for the worse at least by late January 2012, with year-to-date mark-to-market losses of $100...
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The CFTC also acknowledges JPMorgan’s cooperation with the Division of Enforcement’s investigation.

CFTC Division of Enforcement staff responsible for this action are Saadeh Al-Jurf, Allison Baker Shealy, Traci Rodriguez, Daniel Ullman, Joan Manley, and Paul G. Hayeck.

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