

JPMorgan pays \$920 million settlement over illegal trades

By Nick Beams
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Following hard on the heels of revelations that major global banks have been involved in a network of criminal money laundering, JPMorgan Chase has been fined \$920 million for manipulating markets on two of its trading desks.

The charges involved the practice of spoofing—quickly placing and then withdrawing buy and sell orders to give other traders and their algorithms the false impression that there is a surge of activity.

The spoofing activity covered trades in gold, silver and other metals futures markets as well as markets for Treasury bonds and cash. It covered thousands of trades and involved numerous traders and staff at JPMorgan in New York, London and Singapore.

The Commodity Futures Trading Commission (CFTC), which conducted the investigation, said traders knowingly placed orders on trading platforms they did not intend to fulfil in the hope this would trick others and enable the JPMorgan traders to obtain a better price.

According to the prosecutors, the traders openly bragged about their successes. One trader wrote in 2012: “A little razzle-dazzle to juke the algos.”

Announcing the decision in a statement, Heath Tarbert, chairman of the CFTC, said: “Attempts to manipulate our markets won’t be tolerated. Spoofing is illegal—pure and simple. This record-setting enforcement action demonstrates the CFTC’s commitment to being tough on those who intentionally break our rules, no matter who they are.”

But who they are clearly matters and the strong words are not matched by the action that has been taken. While \$920 million penalty was the largest so far imposed, it was, as in so many other cases, a settlement that suspends prosecution of the bank and its

executives.

As part of the deal, JPMorgan will avoid a criminal indictment by entering into a three-year deferred prosecution agreement. A statement from the bank said it did not expect any disruption of service to its clients as a result of the settlement payout. In other words, despite having engaged in criminal conduct, it’s business as usual.

It is not the first time JPMorgan has been charged with market manipulation. In 2015, the bank pleaded guilty to charges that, together with several other global banks, it conspired to rig the price of US dollars and the euro, and agreed to pay a \$550 million fine. But this was obviously considered simply a cost of doing business. No doubt the latest larger fine will be similarly regarded.

The agreement not to proceed with a prosecution came despite the fact that JPMorgan attempted to impede the investigation. The Justice Department said the bank had failed to “fully and voluntarily” disclose its conducts and noted its previous guilty plea to currency manipulation.

The CFTC said JPMorgan co-operation in the early stages of the investigation was “not satisfactory” and the agency had been misled. Such non-cooperation could only have been the result of decisions taken at the highest levels of the bank, indicating the spoofing was not the action of so-called rogue traders, and nor was it some kind of aberration.

A statement by William Sweeney, assistant director in charge of the FBI’s New York field office indicated this to be the case.

“For nearly a decade, a significant number of JPMorgan traders and sales personnel openly disregarded US laws that serve to protect against illegal activity in the marketplace,” he said.

But no one in the upper echelons of the bank is being prosecuted and the penalty will be paid out of the bank's revenue.

Instead, a deal has been reached where those involved are made scapegoats for a practice that was clearly known about and which the bank sought to cover up when an investigation was launched.

The chief executive of JPMorgan's corporate and investment bank, Daniel Pinto, said: "The conduct of the individuals referenced in today's resolution is unacceptable and they are no longer with the firm."

Pinto then pointed to the nature of the deal reached with the Department of Justice (DOJ).

"We appreciate that the considerable resources we've dedicated to internal controls was recognized by the DOJ, including enhancement to compliance policies, surveillance systems and training programs."

In other words, in return for a pro forma commitment to do better in the future, the DOJ was prepared to accept the fiction that JP Morgan's illegal activities, extending for more than a decade, had somehow escaped the attention of the highest levels of the bank and were unknown to those in charge of its operations and dropped the prosecution.

The fact that the practice of spoofing was sanctioned from above emerged in the case brought against former JPMorgan trader Christian Trunz in August.

Trunz, who worked at the bank's London, Singapore and New York offices, pleaded guilty to charges of placing orders for gold and other metals futures that he did not intend to execute.

The Justice Department said: "Trunz learned to spoof from more senior traders, and spoofed with the knowledge and consent of his superiors."

In the final analysis, the criminal activity in this and other cases—two former Deutsche Bank traders were recently convicted of multiple counts of spoofing gold and silver markets between 2008 and 2013—flows from the nature of the financial system itself in which vast profits are to be made from speculation and manipulation. There is a seamless passage from so-called "legitimate" trading to criminal activity.

In 2019 during an investigation into another spoofing case, the then Assistant Attorney General Brian Benczkowski was reported by the *Financial Times* as saying his department would "follow the facts wherever they lead. ...Whether it's across desks or

upwards into the financial system."

But as the JPMorgan settlement once again reveals that is clearly not the case because penetration into the financial system would reveal the rot and criminality that lies at its heart.

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