

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of:)
)
)

JPMorgan Chase & Co.,)
JPMorgan Chase Bank, N.A.,)
and J.P. Morgan Securities LLC,)
)

Respondents.)
)

CFTC Docket No. 20 - 69

RECEIVED CFTC



Office of Proceedings
Proceedings Clerk

9:02 am, Sep 29, 2020

**ORDER INSTITUTING PROCEEDINGS PURSUANT TO
SECTION 6(c) AND (d) OF THE COMMODITY EXCHANGE ACT,
MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS**

I. INTRODUCTION

The Commodity Futures Trading Commission (“Commission”) has reason to believe that, from at least 2008 through 2016 (“Relevant Period”), JPMorgan Chase Bank, N.A. (“JPMCB”), J.P. Morgan Securities LLC (“JPMS”), and JPMorgan Chase & Co. (“JPMC & Co.”) (collectively, “JPM” or “Respondents”) violated Section 9(a)(2) of the Commodity Exchange Act (the “Act” or “CEA”), 7 U.S.C. § 13(a)(2) (2018); for conduct occurring on or after July 16, 2011, violated Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C) (2018); and for conduct occurring on or after August 15, 2011, violated Section 6(c)(1) and 6(c)(3) of the Act, 7 U.S.C. § 9(1), (3) (2018), and Regulations 180.1(a)(1) and (3) and 180.2 of the Commission Regulations (“Regulations”), 17 C.F.R. §§ 180.1(a)(1), (3), 180.2 (2019); and further has reason to believe that JPMS violated Regulation 166.3, 17 C.F.R. § 166.3 (2019). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether Respondents engaged in the violations set forth herein, and to determine whether any order shall be issued imposing remedial sanctions.

In anticipation of the institution of an administrative proceeding, Respondents have submitted an Offer of Settlement (“Offer”), which the Commission has determined to accept. Without admitting or denying any of the findings or conclusions herein, except to the extent that Respondents admit those findings in any related action against Respondents by, or any agreement with, the United States Department of Justice (“DOJ”) or any other governmental agency or office, Respondents consent to the entry and acknowledge service of this Order

Instituting Proceedings Pursuant to Section 6(c) and 6(d) of the Commodity Exchange Act, Making Findings, and Imposing Remedial Sanctions (“Order”).¹

II. FINDINGS

The Commission finds the following:

A. Summary

During the Relevant Period, numerous traders on the precious metals and U.S. Treasuries trading desks at JPM engaged in a manipulative and deceptive scheme by engaging in the practice of “spoofing” (bidding or offering with the intent to cancel the bid or offer before execution) while placing orders for futures contracts on a registered entity, resulting in significant benefit to themselves and harm to other market participants.

JPM traders engaged in a pattern of spoofing in the precious metals futures market and in the U.S. Treasury futures market. Specifically, in furtherance of the scheme, JPM traders placed hundreds of thousands of orders to buy or sell futures contracts with the intent to cancel them before execution, intentionally sending false signals of supply or demand designed to deceive market participants into executing against other orders they wanted filled. JPM traders engaged in this conduct, in many instances, with the intent to manipulate market prices and ultimately did in many instances cause artificial prices. By virtue of this conduct, JPM engaged in manipulation and attempted manipulation in violation of Section 9(a)(2) of the Act, 7 U.S.C. § 13(a)(2) (2018); for conduct occurring on or after July 16, 2011, engaged in spoofing in violation of Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C) (2018); and for conduct occurring on or after August 15, 2011, engaged in manipulation and attempted manipulation in violation of Section 6(c)(1) and 6(c)(3) of the Act, 7 U.S.C. § 9(1), (3) (2018), and Regulations 180.1(a)(1) and (3) and 180.2, 17 C.F.R. §§ 180.1(a)(1), (3), 180.2 (2019). Further, in conjunction with the above-referenced misconduct, JPMS failed to diligently supervise in violation of Commission Regulation 166.3, 17 C.F.R. § 166.3 (2019).

In accepting the Offer, the Commission notes that JPM’s cooperation with the Division of Enforcement (“Division”) during the early stages of its investigation was not satisfactory. The Commission, however, does recognize that JPM’s cooperation with the Division in the later stages of the investigation, which cooperation is described in more detail below, was substantial. Accordingly, the Commission has taken into account the level of cooperation provided by JPM in all stages of the investigation in determining the civil monetary penalty JPM is ordered to pay.

¹ Respondents consent to the use of the findings of fact and conclusions of law in this Order in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party or claimant, and agree that they shall be taken as true and correct and given preclusive effect therein, without further proof. Respondents do not consent, however, to the use of this Order, or the findings or conclusions herein, as the sole basis for any other proceeding brought by the Commission or to which the Commission is a party or claimant, other than: a proceeding in bankruptcy or receivership; or a proceeding to enforce the terms of this Order. Respondents do not consent to the use of the Offer or this Order, or the findings or conclusions in this Order, by any other party in any other proceeding.

B. Respondents

JPMorgan Chase Bank, N.A. is a national banking association with its main office in New York City. JPMCB is provisionally registered with the Commission as a swap dealer and provides consumer finance, investment banking, commercial banking, and other services. During the Relevant Period, JPM's precious metals traders, working in offices in New York, Singapore, and London, and operating as part of a single global unit (the "Precious Metals Desk"), traded on behalf of JPMCB.

J.P. Morgan Securities LLC is a Delaware limited liability company with its principal place of business in New York City. JPMS is registered with the Commission as a futures commission merchant ("FCM") and is provisionally registered with the Commission as a swap dealer. JPMS is also registered with the Securities and Exchange Commission as a broker-dealer. During the Relevant Period, JPM's U.S. Treasuries trading desk (the "Treasuries Desk") traded on behalf of JPMS, and JPM's Precious Metals Desk and Treasuries Desk cleared their futures trades through JPMS.

JPMorgan Chase & Co. is a global financial services holding company headquartered in New York City, and is the parent company of JPMCB and JPMS.

C. Facts

1. Manipulation, Attempted Manipulation, and Spoofing

During the Relevant Period, the Precious Metals Desk and Treasuries Desk traders, on behalf of JPM, placed bids and offers for certain gold, silver, platinum, palladium, Treasury note, and Treasury bond futures contracts traded on Commodity Exchange, Inc. ("COMEX"), the New York Mercantile Exchange ("NYMEX"), and the Chicago Board of Trade ("CBOT"), which are futures exchanges and Designated Contract Markets owned and operated by CME Group Inc. ("CME").

The JPM Precious Metals Desk and Treasuries Desk's spoofing conduct followed a general pattern. A trader would place a relatively small order for precious metals futures (sometimes an iceberg order) that he desired to execute ("Genuine Order"). Before or after entering a Genuine Order, the trader would, on the opposite side of the market, place a non-iceberg, relatively large resting order that he intended to cancel before execution ("Spoof Order"), or alternatively would rapidly place a series of non-iceberg resting orders that he intended to cancel before execution ("Layered Spoof Orders"). The trader's Spoof Order or some or all of his Layered Spoof Orders would be active on the market at the same time as the Genuine Order. The trader's Spoof Order or total Layered Spoof Orders would be for a greater number of lots than the visible quantity of his Genuine Order on the opposite side of the market. Finally, traders would typically cancel their Spoof Orders shortly after placing them, and would typically cancel the highest bids or lowest offers placed in a given series of Layered Spoof Orders shortly after placing them. A Precious Metals Desk or Treasuries Desk trader's goal in spoofing through this pattern of trading was, in many instances, to manipulate market prices so that all or part of his Genuine Order would be filled at an artificial price. In placing Spoof Orders and Layered Spoof Orders, Precious Metals Desk and Treasuries Desk traders falsely

represented to market participants that they actually wanted to buy or sell the number of lots in their orders when, in reality, they did not want to do so.

Precious Metals Desk and Treasuries Desk traders entered their Spoof Orders and Layered Spoof Orders to create a false impression of buying or selling interest, with the intent, in many instances, to manipulate market prices and trick market participants into trading based on their spoofing. The traders knew that their Spoof Orders and Layered Spoof Orders would appear in the order book and that other traders often considered information about order book balance when making their trading decisions. Thus, the traders intended that their Spoof Orders and Layered Spoof Orders would mislead other market participants.

This scheme benefitted JPM financially in the amount of \$172,034,790 while also inflicting harm on the markets and other market participants, resulting in \$311,737,008 in market losses.

2. Examples of JPM's Spoofing and Manipulation in Precious Metals Trading

During the Relevant Period, the JPM Precious Metals Desk engaged in a wide-ranging and profitable scheme of spoofing and manipulation, carried out by numerous traders, including the head of the desk, with the knowledge and participation of the desk's sales personnel.

For instance, on May 27, 2008, within two minutes after a JPM precious metals trader ("Trader 1") successfully used Layered Spoof Orders to buy as a means to get his sell-side Genuine Order filled, a senior Precious Metals Desk trader in the New York office ("Trader 2") reported back to the head of the Precious Metals Desk ("Trader 3"), telling Trader 3 by electronic chat that Trader 1 "just bid it up to . . . sell."

In another instance, on February 24, 2009, approximately three minutes after Trader 1 successfully used Layered Spoof Orders to buy as a means to get his sell-side Genuine Orders partially filled, another JPM precious metals trader ("Trader 4") reported, by electronic chat, the results of Trader 1's spoofing to a Precious Metals Desk salesperson in the London office ("Salesman 1"), eliciting appreciation from Salesman 1:

Trader 4: so you know its [sic] [Trader 1] bidding up on the futures trying to get some off

Salesman 1: sweet mate

Trader 4: incase [sic] you were watching some large bids come into market

Salesman 1: appreesh

Salesman 1: that worked!

At times, the Precious Metals Desk's spoofing was intended to facilitate the execution of customer orders by hedge fund clients of a Precious Metals Desk salesman in the New York office ("Salesman 2"). For example, on December 12, 2011, at 11:59:36.669, Trader 1 placed a

Genuine Order to sell 5 lots of the Silver Futures contract with March 2012 expiry at a price of \$31.085 per troy ounce. Approximately 2.5 seconds later, at 11:59:39:168 a.m., Trader 1 began entering a series of five Layered Spoof Orders on the buy side of the market totaling 50 lots, ranging in price from \$31.075 to \$31.080. Beginning at 11:59:39.690 a.m., after Trader 1 had placed his fourth Layered Spoof Order, his five-lot Genuine Order to sell was fully filled. At 11:59:40.332 a.m., less than half a second after Trader 1 placed his fifth Layered Spoof Order to buy, he began canceling those Layered Spoof Orders. Trader 1 repeatedly engaged in spoofing Silver Futures on this date, and the successful executions of his Genuine Orders were used to facilitate executing an order, placed by a hedge fund client of Salesman 2, to sell 1.6 million ounces of silver.

On December 10, 2013, at 1:59:22.386 a.m., a JPM precious metals trader (“Trader 5”) placed a Genuine Order to sell 20 lots of the Silver Futures contract with March 2014 expiry at a price of \$19.970. The Genuine Order was an iceberg order with five lots visible to the market at a time. A few seconds later, at 1:59:26.901 a.m., Trader 5 entered a Spoof Order for 100 lots on the buy side of the market, at a price of \$19.960. Beginning one millisecond later, Trader 5’s 20-lot Genuine Order to sell was fully filled. Less than one second later, at 1:59:27.729 a.m., Trader 5 canceled his buy-side Spoof Order.

On March 3, 2014, at 8:02:17.997 a.m., Trader 3 placed a Genuine Order to sell five lots of the Gold Futures contract with April 2014 expiry at a price of \$1,348.20 per troy ounce. Approximately one second later, at 8:02:19.360 a.m., Trader 3 began entering a series of six Layered Spoof Orders on the buy side of the market totaling 30 lots, ranging in price from \$1,347.90 to \$1,348.10. Less than one millisecond after Trader 3 had placed his sixth Layered Spoof Order to buy, at 8:02:21.529 a.m., his five-lot Genuine Order to sell was fully filled. Less than three-quarters of a second later, at 8:02:22.257 a.m., Trader 3 began canceling his buy-side Layered Spoof Orders.

On March 5, 2014, at 8:18:39.699 a.m., a JPM precious metals trader (“Trader 6”) placed a Genuine Order to sell two lots of the Silver Futures contract with May 2014 expiry at a price of \$21.275 per troy ounce. Less than one second later, Trader 6 began entering a series of Layered Spoof Orders on the buy side of the market, ranging in price from \$21.255 to \$21.270. At 8:18:41.595, milliseconds after Trader 6 had placed his tenth Layered Spoof Order to buy, his two-lot Genuine Order to sell was fully filled. Shortly thereafter, Trader 6 cancelled all of the Layered Spoof Orders.

On June 22, 2016, at 2:14:33.935 a.m., Trader 4 placed a Genuine Order to sell twenty lots of the Platinum Futures contract with July 2016 expiry at a price of \$981.80 per troy ounce. The Genuine Order was an iceberg order with one lot visible to the market at a time. Less than two seconds later, Trader 4 began entering a series of eight Layered Spoof Orders on the buy side of the market totaling 40 lots, ranging in price from \$981.20 to \$981.60 per troy ounce. Beginning at 2:14:36.520, about one millisecond after Trader 4 entered his fifth buy-side Layered Spoof Order, four lots of Trader 4’s twenty-lot Genuine Order were filled. Beginning at 2:14:37.407, less than half a second after Trader 4 entered his eighth Layered Spoof Order to buy, Trader 4 began canceling those Layered Spoof Orders.

On occasion, traders on the Precious Metals Desk also placed orders for precious metals futures contracts with the intent to manipulate commodity prices to benefit JPM's positions in "barrier" options, whose value depended on whether an underlying asset reached or exceeded a predetermined price during the lifetime of the option. Specifically, they traded in a manner that was calculated to push prices away from the price point at which JPM would lose money on a barrier option or toward the price point at which JPM would profit from triggering an option.

3. Examples of JPM's Spoofing and Manipulation in U.S. Treasuries Trading

During the Relevant Period, the JPM Treasuries Desk also engaged in a wide-ranging and profitable scheme of spoofing and manipulation, carried out by certain traders on the Treasuries Desk, including the desk head as well as other traders who worked out of JPM's New York office. They engaged in this scheme by spoofing conduct in the CBOT market for Treasury futures as well as on numerous other platforms where the desk traded Treasury securities in the cash markets.

On July 20, 2009, at 7:47:13.597 a.m., a JPM Treasuries trader ("Trader 7") placed a Genuine Order to sell 100 lots of the T-Bond Futures contract with September 2009 expiry at a price of 116.171875 (points per \$1,000). A few seconds later, at 7:47:17.096 a.m., Trader 7 began entering a series of six Layered Spoof Orders on the buy side of the market totaling 1,800 lots, ranging in price from 116.078125 to 116.15625. Beginning at 7:47:21.036 a.m., milliseconds after Trader 7 placed his sixth Layered Spoof Order to buy, his 100-lot Genuine Order was fully filled. At 7:47:22.038, less than one second after his Genuine Order was fully filled, Trader 7 began canceling his buy-side Layered Spoof Orders.

On February 4, 2010, at 1:27:27.279 p.m., a JPM Treasuries trader ("Trader 8"), who later became the desk head, placed a Genuine Order to buy 10 lots of the 10-Year T-Note Futures contract with March 2010 expiry at a price of 118.265625. About two and a half minutes later, at 1:30:00.539 p.m., Trader 8 entered a Spoof Order for 1,000 lots on the sell side of the market, at a price of 118.28125. Milliseconds later, at 1:30:00.677 p.m., Trader 8's 10-lot Genuine Order to buy was fully filled. Less than a second later, at 1:30:01.467 p.m., Trader 8 canceled his sell-side Spoof Order.

On September 27, 2011, at 2:03:54.204 p.m., a JPM Treasuries trader ("Trader 9") placed a Genuine Order to buy 50 lots of the 10-Year T-Note Futures contract with December 2011 expiry at a price of 129.578125. About three seconds later, at 2:03:57.635 p.m., Trader 9 entered a Spoof Order for 3,000 lots on the sell side of the market, at a price of 129.59375. Milliseconds later, beginning at 2:03:57.671 p.m., Trader 9's 50-lot Genuine Order to buy was fully filled. Less than one-third of a second later, at 2:03:57.953 p.m. Trader 9 canceled his sell-side Spoof Order.

On June 30, 2015, at 8:45:46.627 a.m., the JPM Treasuries trader who served as desk head for the majority of the Relevant Period ("Trader 10"), placed a Genuine Order to buy 200 lots of the Ultra T-Bond Futures contract with September 2015 expiry at a price of 153.71875. The Genuine Order was an iceberg order with one lot visible to the market. A few seconds later, at 8:46:01.891 a.m., Trader 10 entered a Spoof Order for 100 lots on the sell side of the market, at a price of 153.75. Beginning approximately one second later, at 8:46:02.979 a.m., 51 lots of

Trader 10's 200-lot Genuine Order to buy were filled. Approximately one-tenth of a second after the 51st lot of the Genuine Order was filled, at 8:46:04.418 a.m., Trader 10 canceled his sell-side Spoof Order. A few seconds later, at 8:46:08.074, Trader 10 canceled the remaining 149 lots of his Genuine Order.

4. JPMS's Failure To Supervise

During the Relevant Period, JPMS failed to identify, investigate, and stop the violative conduct described above. JPMS' FCM Compliance Manual prohibited the FCM's personnel from engaging in disruptive trading practices including spoofing, forbid them to engage in manipulative activity, and required them to report internally any suspected or known fraudulent activity or market manipulation. JPMS also was required to conduct surveillance in order to identify potential market manipulation or other impermissible trading activity.

Prior to 2014, JPM's surveillance system lacked the ability to effectively identify spoofing conduct. Despite using a newer surveillance tool beginning in 2014, and despite numerous red flags, including internal surveillance alerts, inquiries from CME and the Commission, and internal allegations of misconduct from a JPM trader, JPMS still failed to provide supervision to its employees sufficient to enable JPMS to identify, adequately investigate, and put a stop to JPM's Precious Metals Desk and Treasuries Desk's misconduct. Accordingly, JPMS failed to perform its supervisory duties diligently.

5. Cooperation and Remediation

Although JPM's cooperation was not satisfactory during the earlier stages of the Division's investigation, JPM's cooperation later in the investigation was significant and allowed the Division to conserve resources and expedite its investigation.

During the earlier stages of the investigation, JPM failed to respond to certain of the Division's requests for documents in a timely manner, responded incompletely or unsatisfactorily to certain of the Division's information requests in a manner that resulted in the Division being misled, and failed to timely inform the Division of relevant information. Later in the investigation, however, JPM expended significant time and resources to provide the Division with timely updates and factual presentations on its internal investigation, expeditiously responded to Division requests for information, identified to the Division relevant evidence and information from the voluminous documents JPM collected and produced, and analyzed trading data. In addition, JPM has represented to the Division that it has devoted significant resources and engaged in extensive remedial measures to prevent the recurrence of the type of conduct addressed in the Order, as set forth in Section V.G below.

III. LEGAL DISCUSSION

A. Manipulation and Attempted Manipulation in Violation of Sections 6(c)(1), 6(c)(3), and 9(a)(2) of the Act and Regulations 180.1(a) and 180.2

Under Section 9(a)(2) of the Act, 7 U.S.C. § 13(a)(2) (2018), it is unlawful for "[a]ny person to manipulate or attempt to manipulate the price of any commodity in interstate

commerce, or for future delivery on or subject to the rules of any registered entity.” Manipulation under the Act therefore is the “intentional exaction of a price determined by forces other than supply and demand. *Frey v. CFTC*, 931 F.2d 1171, 1175 (7th Cir. 1991); *see In re Cox*, CFTC No. 75-16, 1987 WL 106879, at *8 (July 15, 1987) (“An artificial price is one that does not reflect the market or economic forces of supply and demand.”).

For conduct occurring on or after August 15, 2011, it is unlawful under Section 6(c)(1) of the Act, 7 U.S.C. § 9(1) (2018), and Regulation 180.1(a) (1) and (3), 17 C.F.R. § 180.1(a)(1), (3) (2019), to, directly or indirectly, in connection with any contract for future delivery on or subject to the rules of a registered entity, intentionally or recklessly “(1) [u]se or employ, or attempt to use or employ, any manipulative device, scheme, or artifice to defraud”; or “(3) [e]ngage, or attempt to engage, in any act, practice, or course of business, which operates or would operate as a fraud or deceit upon any person,” and unlawful under Section 6(c)(3) of the Act, 7 U.S.C. § 9(3), and Regulation 180.2, 17 C.F.R. § 180.2, “directly or indirectly, to manipulate or attempt to manipulate the price of any swap, or of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity.”

As described above, during the Relevant Period, traders on JPM’s Precious Metals Desk and Treasuries Desk manipulated and attempted to manipulate the price of precious metals and U.S. Treasury futures contracts and, between August 15, 2011 and the end of the Relevant Period, employed a manipulative and deceptive scheme wherein they entered Spoof Orders and Layered Spoof Orders to intentionally send market participants a false signal of greater buying or selling interest, thereby creating the false impression that market prices would likely rise or decline, and, in many instances, deceiving market participants into transacting against their Genuine Orders at artificial prices that did not reflect the legitimate forces of supply and demand. *Frey*, 931 F.2d at 1175; *Cox*, 1987 WL 106879, at *9; *see, e.g., In re Merrill Lynch Commodities, Inc.*, CFTC No. 19-07, 2019 WL 2725774, at *3-4 (June 25, 2019) (consent order) (finding that spoofing constituted attempted price manipulation under Sections 6(c)(3) and 9(a)(2) and Regulation 180.2); *In re McVean Trading & Invs., LLC*, CFTC No. 17-15, 2017 WL 2729956, at *11 (June 21, 2017) (consent order) (finding that “injecting false information into the marketplace that ‘portrayed a false appearance of wide investor interest’” was a manipulative or deceptive device under Section 6(c)(1) and Regulation 180.1 (quoting *SEC v. Commonwealth Chem. Secs., Inc.*, 410 F. Supp. 1002, 1013 (S.D.N.Y. 1976), *aff’d in part and modified in part on other grounds*, 574 F.2d 90 (2d Cir. 1978))); *cf. SEC v. Lek Sec. Corp.*, 276 F. Supp. 3d 49, 59-60 (S.D.N.Y. 2017) (noting that “trading engineered to stimulate demand” may inject false pricing signals into the market and thus constitute manipulation under the securities laws (quoting *ATSI Commc’ns, Inc. v. Shaar Fund, Ltd.*, 493 F.3d 87, 101 (2d Cir. 2007))). Through this misconduct, traders on JPM’s Precious Metals Desk and Treasuries Desk violated Section 9(a)(2) of the Act, and, for conduct occurring on or after August 15, 2011, violated Section 6(c)(1) and 6(c)(3) of the Act and Regulations 180.1(a)(1) and (3) and 180.2.

B. Spoofing in Violation of Section 4c(a)(5)(C) of the Act

For conduct occurring on or after July 16, 2011, Section 4c(a)(5)(C) of the Act, 7 U.S.C. § 6c(a)(5)(C) (2018), makes it “unlawful for any person to engage in any trading, practice, or conduct on or subject to the rules of a registered entity that . . . is, is of the character of, or is

commonly known to the trade as, ‘spoofing’ (bidding or offering with the intent to cancel the bid or offer before execution).” *See United States v. Coscia*, 866 F.3d 782, 792-93 (7th Cir. 2017), *cert. denied*, 138 S. Ct. 1989 (2018).

As described above, between July 16, 2011 and the end of the Relevant Period, traders on JPM’s Precious Metals Desk and Treasuries Desk entered bids or offers on a registered entity, specifically CME’s exchanges, with the intent to cancel the bids or offers before execution in violation of Section 4c(a)(5)(C) of the Act.

C. Respondents Are Liable for the Acts of Their Agents

Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2018), and Regulation 1.2, 17 C.F.R. § 1.2 (2019), provide that “[t]he act, omission, or failure of any official, agent, or other person acting for any individual, association, partnership, corporation, or trust within the scope of his employment or office shall be deemed the act, omission, or failure of such individual, association, partnership, corporation, or trust.” Pursuant to Section 2(a)(1)(B) of the Act and Regulation 1.2, strict liability is imposed on principals for the actions of their agents. *See, e.g., Dohmen-Ramirez & Wellington Advisory, Inc. v. CFTC*, 837 F.2d 847, 857-58 (9th Cir. 1988), *superseded by statute on other grounds*, Dodd–Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, § 753(a), 124 Stat. 1376, 1750-54 (2010), *as recognized in Chu v. CFTC*, 823 F.3d 1245, 1248-49 (9th Cir. 2016); *Rosenthal & Co. v. CFTC*, 802 F.2d 963, 966 (7th Cir. 1986); *CFTC v. Byrnes*, 58 F. Supp. 3d 319, 324 (S.D.N.Y. 2014).

Traders on JPM’s Precious Metals Desk and Treasuries Desk engaged in the conduct described herein within the scope of their employment or agency with, respectively, JPMCB and JPMS. Therefore, pursuant to Section 2(a)(1)(B) of the Act and Regulation 1.2, JPMCB and JPMS are liable for those acts, omissions, and failures in violation of the provisions of the Act and Regulations cited above. JPMC & Co., which is the ultimate parent company of all JPM entities including JPMCB and JPMS, is liable for all acts, omissions, and failures with respect to the conduct described above. *See In re Barclays PLC*, CFTC No. 15-25, 2015 WL 2445060, at *16 (May 20, 2015). Accordingly, as set forth above, all Respondents violated Sections 4c(a)(5)(C), 6(c)(1), 6(c)(3), and 9(a)(2) of the Act, and Regulations 180.1(a)(1) and (3) and 180.2.

D. Failure To Supervise in Violation of Regulation 166.3

Regulation 166.3, 17 C.F.R. § 166.3 (2019), requires that every Commission registrant (except associated persons who have no supervisory duties) diligently supervise the handling by its partners, employees and agents of all activities relating to its business as a registrant. Regulation 166.3 imposes upon registrants an affirmative duty to supervise their employees and agents diligently by establishing, implementing, and executing an adequate supervisory structure and compliance program.

In order to prove a violation of Regulation 166.3, the Commission must demonstrate that either: (1) the registrant’s supervisory system was generally inadequate; or (2) the registrant failed to perform its supervisory duties diligently. *In re Murlas Commodities, Inc.*, CFTC No. 85-29, 1995 WL 523563, at *9 (Sept. 1, 1995); *In re Paragon Futures Assoc.*, CFTC No. 88-18,

1992 WL 74261, at *14 (Apr. 1, 1992). A violation under Regulation 166.3 is an independent violation for which no underlying violation is necessary. *In re Collins*, CFTC No. 94-13, 1997 WL 761927, at *10 (Dec. 10, 1997).

Evidence of violations that “should be detected by a diligent system of supervision, either because of the nature of the violations or because the violations have occurred repeatedly,” is probative of a failure to supervise. *Paragon*, 1992 WL 74261, at *14; *see also In re J.P. Morgan Secs. LLC*, CFTC No. 17-04, 2017 WL 150288, at *3 (Jan. 11, 2017) (finding that JPMS, in allowing its employees to maintain inaccurate and faulty exchange fee reconciliations and in not detecting that it had been overcharging customers, failed in its supervision obligations as an FCM).

As described above, by failing to maintain an adequate supervisory system or to engage in diligent supervision sufficient to detect the spoofing and manipulative conduct on JPM’s Precious Metals and Treasuries Desks, JPMS violated Regulation 166.3.

IV.

FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that, during the Relevant Period, Respondents violated Sections 4c(a)(5)(C), 6(c)(1), 6(c)(3), and 9(a)(2) of the Act, 7 U.S.C. §§ 6c(a)(5)(C), 9(1), (3), 13(a)(2) (2018), and Regulations 180.1(a)(1) and (3), and 180.2, 17 C.F.R. §§ 180.1(a)(1), (3), 180.2 (2019); and that JPMS violated Regulation 166.3, 17 C.F.R. § 166.3 (2019).

V.

OFFER OF SETTLEMENT

Respondents have submitted the Offer in which, without admitting or denying the findings or conclusions herein, except to the extent that Respondents admit those findings in any related action against Respondents by, or any agreement with, DOJ or any other governmental agency or office, Respondents:

- A. Acknowledge service of this Order;
- B. Admit the jurisdiction of the Commission with respect to all matters set forth in this Order and for any action or proceeding brought or authorized by the Commission based on violation of or enforcement of this Order;
- C. Waive:
 1. The filing and service of a complaint and notice of hearing;
 2. A hearing;

3. All post-hearing procedures;
 4. Judicial review by any court;
 5. Any and all objections to the participation by any member of the Commission's staff in the Commission's consideration of the Offer;
 6. Any and all claims that they may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2018) and 28 U.S.C. § 2412 (2018), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Regulations, 17 C.F.R. pt. 148 (2019), relating to, or arising from, this proceeding;
 7. Any and all claims that they may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, tit. II, §§ 201-53, 110 Stat. 847, 857-74 (codified as amended at 28 U.S.C. § 2412 and in scattered sections of 5 U.S.C. and 15 U.S.C.), relating to, or arising from, this proceeding; and
 8. Any claims of Double Jeopardy based on the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief, including this Order;
- D. Stipulate that the record basis on which this Order is entered shall consist solely of the findings contained in this Order to which Respondents have consented in the Offer; and
- E. Request, for the reasons set forth in Respondents' letter dated August 7, 2020 ("Request Letter"), that the Commission advise that, under the circumstances, disqualification under Rule 262(a) of Regulation A and Rule 506(d)(1) of Regulation D of the Securities and Exchange Commission ("SEC"), 17 C.F.R. §§ 230.262(a), 230.506(d)(1) (2019), should not arise as a consequence of this Order;
- F. Consent, solely on the basis of the Offer, to the Commission's entry of this Order that:
1. Makes findings by the Commission that all Respondents violated Sections 4c(a)(5)(C), 6(c)(1), 6(c)(3), and 9(a)(2) of the Act, 7 U.S.C. §§ 6c(a)(5)(C), 9(1), (3), 13(a)(2) (2018), and Regulations 180.1(a)(1) and (3) and 180.2, 17 C.F.R. §§ 180.1(a)(1), (3), 180.2 (2019); and that JPMS violated Regulation 166.3, 17 C.F.R. § 166.3 (2019);
 2. Orders all Respondents to cease and desist from violating Sections 4c(a)(5)(C), 6(c)(1), 6(c)(3), and 9(a)(2) of the Act and Regulations 180.1(a)(1) and (3) and 180.2;

3. Orders JPMS to cease and desist from violating Regulation 166.3;
 4. Orders JPMCB and JPMC & Co. to pay, jointly and severally, restitution in the amount of two hundred five million nine hundred ninety-two thousand one hundred two dollars (\$205,992,102) related to precious metals trading, within ten business days of the date of the entry of this Order, plus post-judgment interest, if applicable; provided, however, that the restitution will be offset by the amount of any restitution payment made pursuant to the Deferred Prosecution Agreement between JPMC & Co. and DOJ dated September 29, 2020 (“DPA”);
 5. Orders JPMS and JPMC & Co. to pay, jointly and severally, additional restitution in the amount of one hundred five million seven hundred forty-four thousand nine hundred six dollars (\$105,744,906) related to Treasuries trading, within ten business days of the date of the entry of this Order, plus post-judgment interest, if applicable; provided, however, that the restitution will be offset by the amount of any restitution payment made pursuant to the DPA;
 6. Orders all Respondents to pay, jointly and severally, a civil monetary penalty in the amount of four hundred thirty-six million four hundred thirty-one thousand eight hundred eleven dollars (\$436,431,811), within ten business days of the date of the entry of this Order, plus post-judgment interest, if applicable;
 7. Orders Respondents and their successors and assigns to comply with the conditions and undertakings consented to in the Offer and as set forth in Part VI of this Order, including but not limited to the undertaking by JPMCB and JPMC & Co. to pay, jointly and severally, disgorgement in the amount of one hundred twenty million three hundred thirty-two thousand four hundred thirty dollars (\$120,332,430) related to precious metals trading, and by JPMS and JPMC & Co. to pay, jointly and severally, additional disgorgement in the amount of fifty one million seven hundred two thousand three hundred sixty dollars (\$51,702,360) related to Treasuries trading, within ten business days of the date of the entry of this Order, plus post-judgment interest, if applicable; provided, however, that the disgorgement will be offset by the amount of any criminal disgorgement payment made pursuant to the DPA and any disgorgement payment made pursuant to an order of the U.S. Securities and Exchange Commission dated September 29, 2020 (“SEC Order”); and
 8. Advises that, under the circumstances, disqualification under Rule 262(a) of Regulation A and Rule 506(d)(1) of Regulation D of the SEC should not arise as a consequence of this Order; and
- G. Represent that, beginning in late 2014 and continuing thereafter with its most significant improvements and enhancements implemented by 2016, JPM

proactively engaged in a systematic effort to reassess and enhance its market conduct compliance program and internal controls related to JPM's futures trading, including by:

1. Hiring hundreds of new compliance officers, significantly increasing compliance and internal audit's budget, and increasing its audit headcount;
2. Improving its anti-fraud and manipulation training and policies, for example, JPM's 2019 Business Conduct Training included specific scenarios covering different products and dedicated spoofing sections that highlighted regulators' concerns, key definitions, and a discussion of "Dos" and "Don'ts" and JPM has continued to issue compliance bulletins highlighting lessons learned from cases brought against traders and firms that were found to have engaged in spoofing;
3. Revising its trade and electronic communications surveillance programs, for example, JPM's systems now surveil trades on over 80 equities exchanges and over 40 futures and options exchanges. JPM also continues to refine its spoofing surveillance, modifying its spoofing parameters in response to lessons learned in the instant case and related interactions with exchanges and regulators, and currently uses three primary alert types within SMARTS to detect potential spoofing and layering;
4. Increasing its electronic communications surveillance program, such that JPM's communications surveillance platforms automatically ingest and process approximately 100 million messages on a monthly basis, and analysts review 100% of the alerts generated from these surveillances. JPM continues to update the universe of monitored employees and revise its lexicons on a regular basis to address evolving risks as well as utilize technology that allows for lexicon-based surveillance of voice recordings;
5. Implementing independent quality assurance testing of non-escalated and escalated surveillance alerts, which identifies potential defects in alert documentation and promotes consistency in the dispositioning of alerts, and now issues monthly spoofing alert reports that provide metrics on alerts by trader, desk, supervisor, and region;
6. Implementing tools and processes to facilitate enhanced supervision of traders, for example, by implementing the Supervisory Portal which is a web-based, centralized tool that helps supervisors meet their oversight responsibilities. The Supervisory Portal presents supervisors with a consolidated view of metrics ranging from the employee's attendance at trainings to the number and type of trading-related alerts they have triggered. This allows a supervisor to make assessments about an employee's risk profile by considering diverse metrics that might be meaningful in combination but not in isolation. Supervisors are also required to review and affirm employees' conduct on a monthly basis,

which incentivizes enhanced supervision. With regard to precious metals traders, Supervisory Portal reports contain granular information including, but not limited to, whether any trading was above applicable thresholds or required additional action and/or escalation; and

7. Taking into account employees' commitment to compliance in promotion and compensation decisions by, among other things, soliciting direct feedback from risk and control professionals when reviewing employees who individually or collectively are responsible for risk-taking or risk management at JPM.

Upon consideration, the Commission has determined to accept the Offer.

VI.

ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

- A. Respondents shall cease and desist from violating Sections 4c(a)(5)(C), 6(c)(1), 6(c)(3), and 9(a)(2) of the Act, 7 U.S.C. §§ 6c(a)(5)(C), 9(1), (3), 13(a)(2) (2018), and Regulations 180.1(a)(1) and (3) and 180.2, 17 C.F.R. §§ 180.1(a)(1), (3), 180.2 (2019).
- B. JPMS shall cease and desist from violating Regulation 166.3, 17 C.F.R. § 166.3 (2019).
- C. JPMCB and JPMC & Co. shall pay, jointly and severally, restitution in the amount of two hundred five million nine hundred ninety-two thousand one hundred two dollars (\$205,992,102) related to precious metals trading, and JPMS and JPMC & Co. shall pay, jointly and severally, additional restitution in the amount of one hundred five million seven hundred forty-four thousand nine hundred six dollars (\$105,744,906) related to Treasuries trading (together, the "Restitution Obligation"), within ten business days of the date of the entry of this Order. If the Restitution Obligation is not paid in full or otherwise satisfied within ten business days of the date of entry of this Order, then post-judgment interest shall accrue on the Restitution Obligation beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2018).

The Restitution Obligation will be offset by the amount of any restitution payment made pursuant to the DPA. Respondents shall provide proof of any payment pursuant to the DPA, including the case name(s) and number(s) in connection with which such payment has been made, and the amount by which the Restitution Obligation is to be reduced, within ten days of making such payment to:

Manal Sultan
Deputy Director, Division of Enforcement
Commodity Futures Trading Commission
140 Broadway, 19th Floor
New York, NY 10005

The Commission appoints the National Futures Association (NFA) to receive payments of restitution and any post-judgment interest from Respondents and to handle the distribution of payments to any persons designated to receive restitution. As provided in the DPA, DOJ will serve as the claims administrator with respect to the restitution payment received pursuant to the DPA and shall have sole discretion to determine how the restitution payment will be disbursed. The NFA shall receive such payment into an account designated the “JPM Victim Compensation Settlement Fund.” Because the NFA is not being specially compensated for these services, and these services are outside the normal duties of the NFA, it shall not be liable for any action or inaction arising from its appointment in this matter other than actions involving fraud.

Respondents shall make their payments of any portion of the Restitution Obligation that has not been offset and any post-judgment interest under this Order in the name of the “JPM Settlement Fund” and shall send such payments by electronic funds transfer, or U.S. postal money order, certified check, bank cashier’s check, or bank money order to the Office of Administration, National Futures Association, 300 South Riverside Plaza, Suite 1800, Chicago, Illinois 60606, under a cover letter that identifies the paying Respondent and the name and docket number of this proceeding. The paying Respondent shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

- D. JPMCB, JPMS, and JPMC & Co. shall pay, jointly and severally, a civil monetary penalty in the amount of four hundred thirty-six million four hundred thirty-one thousand eight hundred eleven dollars (\$436,431,811) (the “CMP Obligation”), within ten business days of the date of the entry of this Order. If the CMP Obligation is not paid in full within ten business days of the date of entry of this Order, then post-judgment interest shall accrue on the CMP Obligation beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2018).

Respondents shall pay the CMP Obligation and any post-judgment interest by electronic funds transfer, U.S. postal money order, certified check, bank cashier’s check, or bank money order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

MMAC/ESC/AMK326
Commodity Futures Trading Commission
Division of Enforcement
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
(405) 954-6569 office
(405) 954-1620 fax
9-AMC-AR-CFTC@faa.gov

If payment is to be made by electronic funds transfer, Respondents shall contact Marie Thorne or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Respondents shall accompany payment of the CMP Obligation with a cover letter that identifies Respondents and the name and docket number of this proceeding. Respondents shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

E. Respondents and their successors and assigns shall comply with the following undertakings set forth in the Offer:

1. PUBLIC STATEMENTS

Respondents agree that neither they nor any of their successors and assigns, agents, or employees under their authority or control shall take any action or make any public statement denying, directly or indirectly, any findings or conclusions in this Order or creating, or tending to create, the impression that this Order is without a factual basis; provided, however, that nothing in this provision shall affect Respondents': (i) testimonial obligations, or (ii) right to take legal positions in other proceedings to which the Commission is not a party. Respondents and their successors and assigns shall undertake all steps necessary to ensure that all of their agents and/or employees under their authority or control understand and comply with this agreement.

2. DISGORGEMENT

JPMCB and JPMC & Co. agree to pay, jointly and severally, disgorgement in the amount of one hundred twenty million three hundred thirty-two thousand four hundred thirty dollars (\$120,332,430) related to precious metals trading, and JPMS and JPMC & Co. agree to pay, jointly and severally, additional disgorgement in the amount of fifty one million seven hundred two thousand three hundred sixty dollars (\$51,702,360) related to Treasuries trading (together, the "Disgorgement Obligation"), within ten business days of the date of the entry of this Order. If the Disgorgement Obligation is not paid in full or otherwise satisfied within ten business days of the date of entry of this Order, then post-judgment interest shall accrue on the Disgorgement Obligation beginning on the

date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2018).

The Disgorgement Obligation will be offset by the amount of any criminal disgorgement payment made pursuant to the DPA or SEC Order. Respondents shall provide proof of any payment pursuant to the DPA or SEC Order, including the case name(s) and number(s) in connection with which such payment has been made, and the amount by which the Disgorgement Obligation is to be reduced, within ten days of making such payment to:

Manal Sultan
Deputy Director, Division of Enforcement
Commodity Futures Trading Commission
140 Broadway, 19th Floor
New York, NY 10005

Respondents shall pay any portion of the Disgorgement Obligation that has not been offset and any post-judgment interest by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

MMAC/ESC/AMK326
Commodity Futures Trading Commission
Division of Enforcement
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
(405) 954-6569 office
(405) 954-1620 fax
9-AMC-AR-CFTC@faa.gov

If payment is to be made by electronic funds transfer, Respondents shall contact Marie Thorne or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Respondents shall accompany payment of the Disgorgement Obligation with a cover letter that identifies Respondents and the name and docket number of this proceeding. Respondents shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

3. REMEDIATION

As set forth above in Part V.G, Respondents represent that they have already undertaken and continue to undertake remedial measures to enhance their compliance and internal controls. Respondents shall maintain and update their

compliance program as appropriate so it is designed and implemented to effectively detect and deter violations of the Act and Regulations, and JPMC & Co. shall comply with the obligations relating to its corporate compliance program and reporting requirements as set forth in the DPA.

4. COOPERATION WITH THE COMMISSION

Respondents shall cooperate fully and expeditiously with the Commission, including the Division, in this action and in any current or future Commission investigation or action related thereto. Respondents shall also cooperate with the Commission in any investigation, civil litigation, or administrative proceeding related to, or arising from, the subject matter of this proceeding. Respondents' cooperation shall continue for a period of five years from the date of entry of this Order. As part of such cooperation, Respondents agree to:

- a. Preserve and produce to the Commission in a responsive and prompt manner, as requested by Division staff, all non-privileged documents, information, and other materials wherever located, including, but not limited to, audio files, electronic communications, and trading records and data, in the possession, custody, or control of Respondents;
- b. Comply fully, promptly, completely, and truthfully, subject to any legally recognized privilege, with any inquiries or requests for information or documents by the Commission;
- c. Identify and authenticate relevant documents and other evidentiary materials, execute affidavits or declarations, and provide a corporate representative to testify completely and truthfully at depositions, trial, and other judicial proceedings, when requested to do so by Division staff;
- d. Use their best efforts to produce any current (as of the time of the request) officer, director, employee, or agent of Respondents, regardless of the individual's location and at such a location that minimizes Commission travel expenditures, to provide assistance at any trial, proceeding, or Commission investigation related to the subject matter of this proceeding, including, but not limited to, requests for testimony, depositions, or interviews, and to encourage them to testify completely and truthfully in any such trial, proceeding, or investigation; and
- e. Subject to applicable laws and regulations, use their best efforts to assist in locating and contacting any prior (as of the time of the request) officer, director, employee, or agent of Respondents.

5. PARTIAL SATISFACTION

Respondents understand and agree that any acceptance by the Commission of partial satisfaction of Respondents' Restitution Obligation, CMP Obligation, or Disgorgement Obligation shall not be deemed a waiver of their obligation to make further payments pursuant to this Order or a waiver of the Commission's right to seek to compel payment of any remaining balance.

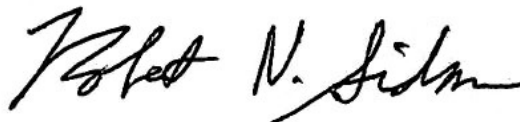
6. CHANGE OF ADDRESS/PHONE

Until such time as Respondents satisfy in full the Restitution Obligation, CMP Obligation, and Disgorgement Obligation as set forth in this Order, Respondents shall provide written notice to the Commission by certified mail of any change to their telephone number and mailing address within ten calendar days of the change.

- F. Based on the nature of the violations; the findings made, and the sanctions, conditions, and undertakings imposed in this Order; and the facts and representations in the Request Letter, and per past practice providing SEC notice of JPM's request, the Commission advises² that, under the circumstances, disqualification under Rule 262(a) of Regulation A and Rule 506(d)(1) of Regulation D of the SEC, 17 C.F.R. §§ 230.262(a), 230.506(d)(1) (2019), should not arise as a consequence of this Order.

The provisions of this Order shall be effective as of this date.

By the Commission.



Robert N. Sidman
Deputy Secretary of the Commission
Commodity Futures Trading Commission

Dated: September 29, 2020

² Rule 506(d)(1)(iii)(B) disqualifies an issuer from relying on the private offering exemptions provided for in Rule 506 if they or certain related parties are "subject to a final order of . . . [*inter alia*] the U.S. Commodity Futures Trading Commission . . . that: . . . [c]onstitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct." Rule 506(d)(2)(iii), however, provides that disqualification "shall not apply" if the CFTC "advises in writing" that disqualification under Rule 506(d)(1) "should not arise as a consequence of such order." See also 17 C.F.R. §§ 230.262(a)(3)(ii), (b)(3) (parallel provisions under Regulation A); SEC, Exemptions to Facilitate Intrastate and Regional Securities Offerings, 81 Fed. Reg. 83,494, 83,545 (Nov. 21, 2016) (stating that disqualification under Rule 504 arises "absent a waiver or other exception provided in Rule 506(d)").