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After 20 Years of Repeated Illegal Conduct, the DOJ Must Bring Criminal Charges Against JPMorgan Chase and Its Executives



**JPMorgan Chase's RAP Sheet:
*80 Legal Actions, \$39 Billion in Fines and Settlements,
and Counting***



INTRODUCTION

JPMorgan Chase is reportedly on the verge of settling **its third major criminal action** in the last several years, this time for the bank's **extensive market manipulation in the metals futures markets that went on for eight years**.¹ Shockingly, the reported settlement with the Department of Justice and financial regulators appears to be yet another sweetheart deal that will only require JPMorgan Chase to pay a fine. That is no punishment because it allows the bank to once again use shareholders' money to pay the fine, which de facto buys get-out-of-jail-free cards for its executives.

That will be a miscarriage of justice and should not be allowed in light of (1) the egregiousness of the alleged 8-year long criminal conduct,² (2) JPMorgan Chase's two prior criminal proceedings (including admissions and a deferred prosecution agreement [DPA]), and (3) JPMorgan Chase's 20-year RAP sheet of repeated alleged or admitted illegal conduct, as detailed below.

The DOJ simply must heavily weigh JPMorgan Chase's criminal and civil recidivist record in determining the appropriate punishment for its latest alleged crimes. In particular, it appears that those crimes were engaged in throughout the time of JPMorgan Chase's prior criminal activities as reflected in the prior criminal proceedings, which included the DPA. That criminal conduct should void any properly drafted DPA and cause the DOJ to bring those prior criminal charges against JPMorgan Chase along with the new criminal charges. Otherwise, the DPA is a farce and a fraud on the public.

Those prior criminal cases include JPMorgan Chase's key enabling role as Bernie Madoff's banker for years and turning a blind eye to his Ponzi scheme,³ which was the largest Ponzi fraud in history.⁴ This

¹ See Benjamin Bain, Tom Schoenberg & Matt Robinson, *JPMorgan Is Set to Pay \$1 Billion in Record Spoofing Penalty*, BLOOMBERG, (Sept. 23, 2020), available at <https://www.bloomberg.com/news/articles/2020-09-23/jpmorgan-is-set-to-pay-1-billion-in-record-spoofing-penalty?sref=mQvUqJZj>; see also Dave Michaels & Dave Sebastian, *Justice Department Charges Three Traders Over Alleged Metals Contracts Manipulation*, WALL ST. J., (Sept. 16, 2019), available at <https://www.wsj.com/articles/justice-department-charges-three-traders-over-alleged-metals-contracts-manipulation-11568646947>.

² See Tom Schoenberg, *Inside the JPMorgan Trading Desk the U.S. Called a Crime Ring*, (September 28, 2020), available at <https://www.bloomberg.com/news/articles/2020-09-28/inside-the-jpm-precious-metals-desk-called-a-crime-ring-by-prosecutors?srnd=premium&sref=mQvUqJZj>.

³ See *JP Morgan Chase, Bernie Madoff's \$64.8 Billion Ponzi Scheme and Crime on Wall Street*, BETTER MARKETS BLOG, (Dec. 18, 2014), available at <https://bettermarkets.com/blog/jp-morgan-chase-bernie-madoff%E2%80%99s-648-billion-ponzi-scheme-crime-wall-street>.

⁴ See Kate Sprague, *The Largest Ponzi Scheme in History Unraveled 10 Years Ago Today – Here's How the World Reacted*, CNBC (Dec. 11, 2018), available at <https://www.cnbc.com/2018/12/11/watch-how-the-largest-ponzi-scheme-in-history-unraveled-10-years-ago.html>.



Jamie Dimon, chief executive officer of JPMorgan Chase & Co. testifies during a House Financial Services Committee hearing in Washington, D.C., U.S., on Wednesday, April 10, 2019. A decade after the financial crisis, the chiefs of the largest U.S. banks faced a grilling from lawmakers on everything from income inequality to their ties to politically controversial industries. Photo by J. Lawler Duggan/For The Washington Post via Getty Images.

resulted in JPMorgan Chase being charged in 2014 with two criminal felony counts and being a party to a DPA (as well as paying \$2.6 billion).⁵ Then, in 2015, JPMorgan Chase admitted to a criminal felony count for rigging foreign exchange markets, which resulted in the bank becoming “an admitted felon” after “more than 200 years of operation.”⁶

But those criminal proceedings are not even close to all of JPMorgan Chase’s alleged illegal activities. In fact, JPMorgan Chase has a 20-year long RAP sheet that includes at least 80 major legal actions that have resulted in over \$39 billion in fines and settlements. That RAP sheet, detailed below, reveals wide-ranging, predatory, and recidivist lawbreaking – some admitted, some alleged -- from 1998 through 2019. The bottom line is this: JPMorgan Chase has reportedly committed scores of illegal acts and preyed upon and ripped off countless Main Street Americans with a frequency and severity that is shocking in its depth and breadth.

Any other business in America with that recidivist record would almost certainly have been shut down by prosecutors long ago; executives at any other business in America with that recidivist record would likely be serving long prison sentences. But not JPMorgan Chase. Instead, this gigantic, wealthy, powerful, politically connected and too-big-to-fail Wall Street bank repeatedly gets favorable treatment by the government and is repeatedly allowed to use shareholders’ money to pay fines and buy get-out-of-jail-free cards for its executives in sweetheart settlements.

⁵ See Pam Martens & Russ Martens, *JPMorgan’s Jamie Dimon Deals With His Bank’s Felony Charge – Badly*, WALL STREET ON PARADE, (May 21, 2015), available at <https://wallstreetonparade.com/2015/05/jpmorgans-jamie-dimon-deals-with-his-banks-felony-charge-badly/>; see also Pam Martens & Russ Martens, *Jamie Dimon Gets \$31.5 Million Pay Despite Bank’s Criminal Charges as US Slides Below Uruguay on Corruption Index*, WALL STREET ON PARADE, (Jan. 24, 2020), available at <https://wallstreetonparade.com/2020/01/jamie-dimon-gets-31-5-million-pay-despite-banks-criminal-charges-as-u-s-slides-below-uruguay-on-corruption-index/>; David Henry & Emily Flitter, *Decades-Long Ties to Madoff Cost JPMorgan \$2.6 Billion*, REUTERS, (Jan. 7, 2014), available at <https://www.reuters.com/article/us-jpmorgan-madoff-deal/decades-long-ties-to-madoff-cost-jpmorgan-2-6-billion-idUSBREA060JL20140107>.

⁶ See Pam Martens & Russ Martens, *JPMorgan’s Jamie Dimon Deals With His Bank’s Felony Charge – Badly*, WALL STREET ON PARADE, (May 21, 2015), available at <https://wallstreetonparade.com/2015/05/jpmorgans-jamie-dimon-deals-with-his-banks-felony-charge-badly/>.



If “equal justice under law” actually means anything to the DOJ, then that sordid history must end, and the pending criminal case is the perfect vehicle to end it. While JPMorgan Chase might remain too-big-to-fail, too-big-to-regulate, and too-big-to-manage, it should not be too-big-to-prosecute, punish and deter. This case is an acid test for the credibility and integrity of the DOJ: will there be one standard of justice for the rich and powerful and one for everyone else in America or will the DOJ start treating Wall Street banks and bankers like it treats Main Street lawbreakers? “Equal justice under law” is what is at stake in the pending criminal case and any settlement related to it with JPMorgan Chase.

The Pending Investigation into JPMorgan Chase as a Criminal Enterprise Manipulating Markets for Eight Years

There are actually two reported pending criminal and civil cases by the Department of Justice and other financial regulators.⁷ One case relates to JPMorgan’s trading of Treasury securities and futures, and the other case relates to the bank’s **extensive market manipulation in the metals futures markets that went on for eight years**. The criminal market manipulation was so extreme and outrageous that the DOJ referred to JPMorgan Chase’s precious metals trading desk as an actual “criminal enterprise” that manipulated the precious metals markets.⁸ Such designation and the related use of the criminal RICO statute is rare and only authorized by the DOJ in the most extreme cases.⁹

These violations—including the operation of a criminal enterprise within JPMorgan Chase for years—could only have happened if (1) the bank’s executives tacitly approved of or turned a blind eye to the operation of the precious metals desk’s criminal operations or (2) JPMorgan executives were so incapable of ensuring compliance that they/the bank utterly failed to detect the years-long criminal enterprise operating right

⁷ See above, n. 1 and 2.

⁸ See Tom Schoenberg & David Voreacos, *JPMorgan’s Metals Desk Was a Criminal Enterprise, US Says*, BLOOMBERG, (Sept. 16, 2019), available at <https://www.bloomberg.com/news/articles/2019-09-16/jpmorgan-s-metals-desk-was-a-criminal-enterprise-u-s-says?sref=mQvUqJZj>.

⁹ See Tom Schoenberg, *Inside the JPMorgan Trading Desk the U.S. Called a Crime Ring*, (September 28, 2020), available at <https://www.bloomberg.com/news/articles/2020-09-28/inside-the-jpm-precious-metals-desk-called-a-crime-ring-by-prosecutors?srnd=premium&sref=mQvUqJZj>.

under their noses.¹⁰ Put differently, either (1) they knew about the eight-year-long criminal enterprise, in which case they should be prosecuted, or (2) they should have known but did not due to grossly deficient management, systems, and/or controls that were incapable of ensuring that it was detected and stopped quickly, in which case they should be charged with recklessness and/or fired or otherwise punished for incompetence. After all, this is remarkably similar to JPMorgan Chase's deficient management, systems, and controls that failed to catch Madoff for many years¹¹ (if in fact they were not aware, which is highly questionable and contradicted by contemporaneous facts¹²).

It is now reported that JPMorgan Chase is negotiating a settlement with DOJ and other regulators.¹³ In keeping with the sad pattern between DOJ and Wall Street's biggest banks, it has been reported that once again JPMorgan Chase will only have to pay a fine, reportedly of around \$1 billion (some of which may be covered by insurance or tax deductible and, therefore, it could be meaningfully less than \$1 billion). That sounds like a lot of money (and it is to most companies and certainly to most people), but it is almost meaningless to a bank like JPMorgan Chase which just posted record profits for 2019 with a net income of \$36.4 billion, the most ever earned by a bank in 12 months; in fact, JPMorgan Chase made \$8.5 billion in just the last three months of 2019.¹⁴ Thus, even a \$1 billion fine would just be a little more than 10% of what the bank made *in only three months*.

Adding insult to injury, the settlement reportedly will have no other provisions of consequence imposed on the bank or its senior executives. For example, it is reported that JPMorgan Chase will not have to admit fault and will be subject to no restrictions on any of the bank's operations or activities. Thus, once again, JPMorgan Chase will be allowed to use shareholders' money to pay a fine, de facto buying get-out-of-jail-free cards for its executives.

¹⁰ To the extent executives insist they had no knowledge of the wrongdoing—and assuming that is even a credible claim—then it is clear that their banks are at least too-big-to-manage. Corporate leadership cannot have it both ways, protesting their innocence due to lack of knowledge while insisting that they are capable of managing such massive, sprawling, and unwieldy banks and that they deserve gigantic bonuses whenever the bank's stock goes up. See *SEC Enforcement Has Incentivized, Rewarded & Guaranteed More Wall St Crime*, BETTER MARKETS BLOG, (Jan. 9, 2013), (highlighting the SEC's failure to impose meaningful penalties or hold individual executives accountable), available at <https://bettermarkets.com/blog/sec-enforcement-has-incentivized-rewarded-guaranteed-more-wall-st-crime>; see also, e.g., Better Markets Comment Letter on *Proposed Guidance On Supervisory Expectation For Boards Of Directors*, (Feb. 15, 2018), available at <https://bettermarkets.com/sites/default/files/FRS-%20CL-%20BoD%20Supervision%20Expectations%202-15-18.pdf> (highlighting the need for greater accountability and more rigorous supervisory expectations for boards of directors).

¹¹ See Dept. of Justice Press Release, Manhattan U.S. Attorney And FBI Assistant Director-In-Charge Announce Filing Of Criminal Charges Against And Deferred Prosecution Agreement With JPMorgan Chase Bank, N.A., In Connection With Bernard L. Madoff's Multi-Billion Dollar Ponzi Scheme, (Jan. 7, 2014), available at <https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-and-fbi-assistant-director-charge-announce-filing-criminal>; See also Ben Protess & Jessica Silver-Greenberg, *JP Morgan Is Penalized \$2 Billion Over Madoff*, N.Y. TIMES, (Jan. 7, 2014), available at <https://dealbook.nytimes.com/2014/01/07/jpmorgan-settles-with-federal-authorities-in-madoff-case/>.

¹² See *JP Morgan Chase, Bernie Madoff's 464.8 Billion Ponzi Scheme and Crime on Wall Street*, BETTER MARKETS BLOG (Dec. 18, 2014), available at <https://bettermarkets.com/blog/jp-morgan-chase-bernie-madoff%E2%80%99s-648-billion-ponzi-scheme-crime-wall-street>.

¹³ See above, n.1.

¹⁴ See Emily Flitter, *Big Banks ended 2019 on a High Note*, N.Y. TIMES, (Jan. 14, 2020), available at <https://www.nytimes.com/2020/01/14/business/jpmorgan-citigroup-wells-fargo-earnings.html>.

The image shows the exterior of a building with the words "DEPARTMENT OF JUSTICE" engraved in large, dark, serif capital letters on a light-colored stone or concrete wall. To the left, a portion of a window with dark blue or black frames is visible.

DEPARTMENT OF JUSTICE

Of course, the \$1 billion fine will generate big headlines and make it appear to the public that the bank has been punished. However, as is clear from its earnings and the RAP Sheet, JPMorgan Chase (like Wall Street's other too-big-to-jail banks) simply is not meaningfully punished and certainly not deterred even by seemingly large monetary fines imposed on the bank. After all, banks do not commit crimes, bankers do. Thus, the Wall Street crime spree will continue until such illegal conduct results in (1) criminal charges against the bank; (2) meaningfully large financial penalties; (3) serious limitations on the bank's future activities, and (4) most importantly, aggressive prosecutions to ensure that senior executives are personally charged, jailed, fined, and barred from the industry. Until that happens, Wall Street will not change, and the illegal conduct will continue, if not get even worse. After all, when crime is not properly punished, crime pays, which incentivizes more crime.

Therefore, based on the publicly known facts, its prior admitted criminal conduct, and its lengthy RAP Sheet of prior illegal conduct reflected in 80 major legal actions, DOJ and the other regulators must obtain the following sanctions and conditions at a minimum to settle the pending cases against JPMorgan Chase:

1. a full and complete disclosure of
 - a. all of the material acts, actions, and activities undertaken in connection with and constituting the crimes; and
 - b. every JPMorgan Chase employee involved in any way in the illegal conduct as well as all those who were responsible in management, risk, compliance, legal, and audit for ensuring that the systems and controls would prevent these crimes from happening or being detected and caught quickly if they did;
2. a guilty plea to criminal charges by the bank holding company;
3. a non-tax-deductible fine of not less than \$3.64 billion or 10% of its 2019 earnings;
4. the imposition of a truly independent monitor who is required to file public reports quarterly detailing the changes made by the bank to ensure such violations of law never happen again;
5. limitations on the bank's collateral activities; and
6. prosecution, personal monetary penalties, and industry bars brought to bear on the materially involved or responsible executives and officers.

Anything less will send the message—again—that crime pays and that the DOJ and other regulators simply are not serious about punishing or deterring crime at Wall Street's biggest banks.



JPMORGAN CHASE & CO

JPMorgan Chase's RAP Sheet¹⁵

JPMorgan Chase's 20 years of admitted and alleged illegal actions are not technical, routine, or to be expected, even by a bank engaged in complex financial transactions. The violations giving rise to JPMorgan's multiple major legal actions were serious and astonishingly wide-ranging, including:

Pre-crash: Mishandling customer funds, bribing friends of government officials to win business related to municipal bond offerings, providing conflict-ridden stock research analysis, ripping off active-duty service members on their mortgages, misrepresentations in the sale of auction rate securities, and anticompetitive practices in the bond market;

2008 Crash-related: Fraud and abuse in the sale of mortgage-backed securities, loan servicing and foreclosure violations, unsafe and unsound mortgage servicing practices, and submitting false information to obtain FHA and VA insurance and guarantees for non-compliant mortgages;

Post-crash: Widespread market manipulation of global benchmark rates, manipulation of electricity markets, significant management and oversight failures leading to the "London Whale" disaster that resulted in \$6 billion in losses, violation of pay-to-play rules, charging customers for credit monitoring services they never received, failure to disclose conflicts of interest, operating a criminal enterprise out of its precious metals trading desk and engaging in market manipulation.

JPMorgan's lengthy RAP sheet shows that this illegal behavior is not a one-off, occasional outlier due to a rogue employee here or there. It also shows that the illegal behavior was not just part of the bank's activities prior to the 2008 crash. The RAP sheet shows that its illegal activities actually *increased* after the 2008 crash.

Moreover, it is clear that all of these fines and settlements have been grossly inadequate. They have not been nearly enough to punish JPMorgan for its prior illegal behavior or to deter the bank from engaging in future illegal conduct. In fact, it appears that these fines and settlements are just a cost of doing business, a speed bump on the road to ever larger bonuses, however they are generated.

¹⁵ Better Markets released a RAP sheet report on all six of the nation's largest banks, including JP Morgan Chase, last year. See Report, *Wall Street's Six Biggest Bailed-Out Banks: Their RAP Sheets & Their Ongoing Crime Spree*, (Apr., 2019), available at <https://bettermarkets.com/sites/default/files/Better%20Markets%20-%20Wall%20Street%27s%20Six%20Biggest%20Bailed-Out%20Banks%20FINAL.pdf>.



Illegal Activity at JPMorgan Has Continued Since the 2008 Crash and Bailouts

JPMorgan has amassed a RAP sheet showing that the financial crash of 2008 did little if anything to slow the pace of illegal activity that was well underway in the years leading up to the crash. JPMorgan was allegedly engaged in extensive illegal activity before the crash; it reached new heights of alleged lawlessness in connection with the crash; and it continued to violate the law in the post-crash era based on major legal actions. In fact, it's gotten worse.

Below is a list of the major actions taken against JPMorgan since 2000, which captures violations of law spanning roughly the last 20 years, from 1998 to 2019. The cases have been grouped according to these criteria:

Three Time Periods. The cases are grouped into three categories as they relate to the 2008 crash:

- Pre-crash, representing misconduct that occurred primarily before 2008 and was not related to the mortgage underwriting practices, residential mortgage-backed securities (“RMBS”) offerings, or foreclosure abuses directly tied to the financial crash;
- Crash-related, representing the core violations in the areas of mortgage underwriting practices, fraudulent RMBS offerings, and foreclosure abuses that helped trigger and fuel the financial crash; and
- Post-crash, representing misconduct that occurred primarily after 2008 and was not related to the financial crash.

Types of Actions. Included in the review were civil enforcement actions, administrative enforcement actions, and criminal actions at the federal level; state actions; and private litigation. These cases were brought by federal regulators and prosecutors; self-regulatory organizations (FINRA); state regulators; state attorneys general; private claimants; and others.

Sanctions. The monetary sanctions reflected in the review include civil penalties, criminal penalties, disgorgement of ill-gotten gains, civil damages, re-purchase obligations, and other amounts such as consumer relief and mandated payments to public interest groups or causes.

“In short, JPMorgan has apparently continued to commit serious violations of law, spanning an extraordinary variety of civil and criminal misconduct and resulting in tens of billions of dollars in penalties, civil judgments, and other monetary sanctions.”

A conservative approach. The list of actions taken against JPMorgan is undoubtedly conservative in that it does not include every governmental action taken against it in response to its illegal activities. In addition, it includes relatively few private lawsuits against JPMorgan alleging financial fraud and other abuses because those suits were difficult to identify. Hence, this survey actually understates the magnitude of the unlawful actions by JPMorgan.

Here is what the RAP sheet shows:

- **The NUMBER OF CASES against JPMorgan HAS INCREASED** relative to the pre-crash years.
- **The NATURE AND VARIETY OF THE VIOLATIONS throughout the period is ASTOUNDING**, spanning virtually every conceivable type of white-collar crime, fraud, or breach of contract that a bank could commit. They encompass everything from fraud, money laundering, and market manipulation to foreclosure abuses, antitrust violations, conflicts of interest, and kickback schemes.

In short, JPMorgan has apparently continued to commit serious violations of law, spanning an extraordinary variety of civil and criminal misconduct and resulting in tens of billions of dollars in penalties, civil judgments, and other monetary sanctions. These violations, involving allegations of fraud, market manipulation, and other abuses against their clients, investors, and the financial markets, appear to continue unabated, and may even be increasing. As a result, the bank continues to generate massive profits and huge compensation packages for its executives, without facing any meaningful punishment, deterrence, or accountability.

The following chart sets forth the RAP sheet for JPMorgan, followed by a more detailed summary, including prime examples of the violations committed. Additional details about the actions and sanctions against JPMorgan are available on Better Markets' website at www.bettermarkets.com.

JPMorgan Chase RAP Sheet

Total Actions: 76

Total Sanctions: \$38,862,326,000

TIME PERIOD:	Pre-Crash	Crash-Related	Post-Crash
ACTIONS:	15	18	47
SANCTIONS:	\$4,288,800,000	\$29,846,700,000	\$4,914,207,083

PRIME EXAMPLES:	<p>\$461 million for willfully violating the Bank Secrecy Act by failing to report suspicious transactions arising out of Bernard L. Madoff's decades-long, multi-billion dollar fraudulent investment scheme.¹ <i>(See page 14 for citations.)</i></p>	<p>\$13 billion settlement with DOJ to resolve claims arising out of the packaging, marketing, sale, and issuance of residential mortgage-backed securities contributing to the financial crash.²</p>	<p>\$920 million paid to the Federal Reserve, Securities and Exchange Commission, Office of Comptroller of the Currency, and the United Kingdom's Financial Conduct Authority to settle claims relating to derivatives trading in the "London Whale" disaster.³</p>
	<p>\$228 million in restitution, penalties, and disgorgement to federal and state agencies for engaging in anticompetitive activity in the municipal bond market.⁴</p>	<p>\$5.3 billion as JPMorgan Chase's share of the \$25 billion National Mortgage Settlement between the nation's five largest mortgage servicers and the federal government and 49 state AGs, for widespread mortgage loan servicing and foreclosure abuses.⁵</p>	<p>\$329 million for engaging in unfair billing practices that harmed 2.1 million consumers by charging them for credit monitoring services they did not receive and for mistakes in thousands of debt-collection lawsuits.⁶</p>
	<p>\$75 million to settle allegations relating to an unlawful payment scheme that enabled the bank to win business involving municipal bond offerings and swap agreement transactions with Jefferson County, Ala.⁷</p>	<p>\$153.6 million for misleading investors in a complex mortgage securities offering as the housing market was starting to plummet.⁸</p>	<p>\$267 million against two JPMorgan Chase wealth management subsidiaries for failing to disclose conflicts of interest to advisory clients.⁹</p>



Examples of JPMorgan's Illegal Activities

Massive Frauds that Fueled the Financial Crash.

Some of the most reckless and illegal activities conducted by JPMorgan triggered and fueled the 2008 crash. Here is a just a brief overview, centered around rampant fraud in the offer and sale of countless residential mortgage-backed securities.

- In November 2013, the DOJ, along with other federal and state regulators, announced a \$13 billion settlement with JPMorgan for its part in packaging, securitizing, marketing, and selling RMBS in the years leading up to the crash. The settlement makes clear that the bank falsely assured investors that its RMBS were backed by sound mortgages when it knew that they were in fact full of mortgages likely to fail.

Earlier, in November 2012, JPMorgan agreed to pay \$296.9 million to settle SEC charges that the firm misled investors about the delinquency rate of mortgages underlying a \$1.8 billion mortgage-backed security. According to the SEC, JPMorgan misrepresented that of the 9,000 loans underlying the security, only 0.04%, or four loans, had a delinquent status. In fact, 7% of the loans underlying the security were delinquent. JPMorgan received more than \$2.7 million in fees on the offering while investors sustained at least \$37 million in losses.

The Beat Goes On: Major Violations of Law Continue.

Even after this series of historically large settlements and sanctions resulting from JPMorgan's pervasive frauds, which, along with the actions of other megabanks like Goldman Sachs were largely responsible for the worst financial crash since the Great Depression, it has apparently learned little. Since the crash, JPMorgan has continued to engage in a wide range of illegal activities, including the following:

- **Manipulation of the "U.S. Dollar ISDA Fix"**

In June 2017, the CFTC issued a consent order against JPMorgan for its attempts to manipulate a leading global benchmark used to price a range of interest rate derivatives, all for the benefit

of the bank's trading positions. The violations extended from 2007 into 2012, and involved multiple traders, including the head of the bank's interest rate products trading group in the U.S. The sanctions included a \$120 million civil penalty.

- **London Whale Disaster**

In April 2012, reports began to surface about losses at JPMorgan resulting from bad trades on complex derivatives. JPMorgan CEO Jamie Dimon dismissively referred to the matter as a “tempest in a teapot,” when in fact it turned out to be a Category 5 hurricane—JPMorgan ultimately lost \$6.2 billion and had to restate its first-quarter financial results because traders had been instructed to cover up the mounting losses. The scandal revealed widespread institutional issues at JPMorgan, including oversight, supervision, and risk management failures, ultimately resulting in fines of nearly \$1 billion paid to various regulators.

- **Price Fixing in GSE Bond Market**

In 2019, JPMorgan, along with 11 other banks, contributed to a \$250 million settlement for a lawsuit alleging that it engaged in a widespread conspiracy to fix the prices of bonds issued by Fannie Mae and Freddie Mac. As a result of the price-fixing, JPMorgan's victims, including several pension funds, paid severely inflated prices, bilking millions of hard-working Americans out of their savings.

- **Running a Precious Metals Criminal Enterprise**

Perhaps nothing illustrates the rampant criminality at JPMorgan than the fact that there was a criminal enterprise being operated within the bank. To date, six JPMorgan traders have been indicted for manipulating the precious metals markets. Most remarkably, the Department of Justice has taken the extraordinary step of labeling JPMorgan's precious metals trading desk a criminal enterprise under RICO—the same law typically used to prosecute gangsters. And now it appears that the bank itself, not just the individual traders involved, is facing possible charges for its role in the prolonged market manipulation.

CONCLUSIONS

For over 20 years, JPMorgan Chase, America's largest bank, has repeatedly engaged in alleged—and in some cases admitted—illegal criminal and civil conduct, resulting in at least 80 major legal actions and over \$39 billion in fines and settlements. Even the shocking impact of the 2008 financial crisis appears not to have changed the bank's behavior, given that its lawless conduct actually increased following the crisis based on major legal actions. Moreover, apparently, even the two prior criminal proceedings had little impact on the bank given that the eight years of an allegedly undetected “criminal enterprise” operating within the bank overlapped with the time periods of the prior criminal conduct.

“The inescapable conclusion is that JPMorgan Chase remains a too-big-to-fail, too-big-to-jail, too-big-to-regulate, and too-big-to-manage Wall Street bank.”

The bank’s executive leadership, including its CEO, have been allowed to keep their positions even though these activities have continued; put differently, there appears to be no accountability for the senior executives of the bank for the 20 years of illegal activities as reflected in the major legal actions. While regulators and prosecutors have claimed to punish and deter this illegal conduct from time-to-time, their efforts have clearly fallen well short of the type of prosecution and enforcement that would actually put a stop to the bank’s recidivist conduct.

The only conclusion is that these prior enforcement actions and fines amount to nothing more than a mere cost of doing business for the bank. Given that the latest proposed fine—for eight years of criminal conduct—would just be a little more than 10% of what the bank made *in only three months*, that pattern appears to be repeating.

Revelations last year about the eight-year-long criminal enterprise operated within JPMorgan Chase’s precious metals trading desk is just the latest proof of the bank’s egregious misconduct and need for meaningful punishment. That’s why the DOJ and the other regulators must use the currently pending investigations into JPMorgan Chase’s criminal conduct at its metals desk and the market manipulation of Treasury securities and futures to impose meaningful penalties on the bank and its executives as noted earlier and as follows:

1. a full and complete disclosure of
 - i. all of the material acts, actions and activities undertaken in connection with and constituting the crimes; and
 - ii. every JPMorgan Chase employee involved in any way in the illegal conduct as well as all those who were responsible in management, risk, compliance, legal and audit for ensuring that the systems and controls would prevent these crimes from happening or being identified and caught quickly if they did;
2. a guilty plea to criminal charges by the bank holding company;
3. a non-tax-deductible fine of not less than \$3.64 billion or 10% of its 2019 earnings;
4. the imposition of a truly independent monitor who is required to file public reports quarterly detailing the changes made by the bank to ensure such violations of law never happen again;
5. limitations on the bank’s collateral activities; and
6. prosecution, personal monetary penalties, and industry bars brought to bear on the materially involved or responsible executives and officers.

Anything less will send the message—again—that crime pays and that the DOJ and other regulators simply are not serious about punishing or deterring crime at Wall Street’s biggest banks.

CITATIONS

- ¹ *JPMorgan Admits Violation of the Bank Secrecy Act for Failed Madoff Oversight; Fined \$461 Million by FinCEN*, FINANCIAL CRIMES ENFORCEMENT NETWORK, (Jan. 7, 2014), available at <https://www.fincen.gov/news/news-releases/jpmorgan-admits-violation-bank-secrecy-act-failed-madoff-oversight-fined-461>.
- ² *JP Morgan Settlement agreement*, available at <https://www.justice.gov/iso/opa/resources/69520131119191246941958.pdf>.
- ³ *JPMorgan to pay \$920 million for 'London Whale' probes*, NBC NEWS, (Sept. 19, 2013), available at <https://www.nbcnews.com/businessmain/jpmorgan-pay-920-million-london-whale-probes-4B11198211>.
- ⁴ *JPMorgan Chase Admits to Anticompetitive Conduct by Former Employees in the Municipal Bond Investments Market and Agrees to Pay \$228 Million to Federal and State Agencies*, DEPARTMENT OF JUSTICE OFFICE OF PUBLIC AFFAIRS, (July 7, 2011), available at <https://www.justice.gov/opa/pr/jpmorgan-chase-admits-anticompetitive-conduct-former-employees-municipal-bond-investments>.
- ⁵ *Federal Government and State Attorneys General Reach \$25 Billion Agreement with Five Largest Mortgage Servicers to Address Mortgage Loan Servicing and Foreclosure Abuses*, DEPARTMENT OF JUSTICE OFFICE OF PUBLIC AFFAIRS, (Feb. 9, 2012), available at <https://www.justice.gov/opa/pr/federal-government-and-state-attorneys-general-reach-25-billion-agreement-five-largest>.
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