

II. FINDINGS

The Commission finds the following:

A. SUMMARY

Reporting is at the heart of the Commission's market and financial surveillance programs, which are critical to the Commission's mission to protect market participants and promote market integrity. Accurate swap data is essential to effective fulfillment of the regulatory functions of the Commission, including meaningful surveillance and enforcement programs.

As provisionally registered swap dealers, Respondents are required to comply with certain reporting requirements related to their swap transactions. During the Relevant Period, Respondents failed to report 2,184,520 short-dated foreign exchange ("FX") swap transactions. This conduct violated Sections 2(a)(13)(G) and 4r(a)(3) of the Act, 7 U.S.C. §§ 2(a)(13)(G), 6r(a)(3), and Regulation 45.3, 17 C.F.R. § 45.3 (2020).

B. RESPONDENTS

JPMorgan Chase Bank, N.A. became a provisionally registered swap dealer on December 31, 2012. JPMorgan Chase Bank, N.A. is a wholly-owned indirect U.S. subsidiary of JPMorgan Chase & Co.

J.P. Morgan Securities LLC became a provisionally registered swap dealer on December 31, 2012. J.P. Morgan Securities LLC is a wholly-owned indirect U.S. subsidiary of JPMorgan Chase & Co.

J.P. Morgan Securities, plc became a provisionally registered non-U.S. swap dealer on October 9, 2013. J.P. Morgan Securities, plc is a wholly owned indirect subsidiary of JPMorgan Chase & Co.

C. FACTS

Short-dated FX swap transactions, sometimes referred to as "tomorrow-next" transactions, are transactions in which the parties exchange two currencies the day after execution (i.e., "tomorrow"), and then reverse that exchange at a predetermined rate on the following business day (i.e., the "next" day). Short-dated FX swaps are reportable transactions under the Act.

During the Relevant Period, Respondents erroneously believed that short-dated FX swap transactions did not meet the definition of a "foreign exchange swap" under the Act as interpreted in the CFTC's 2012 guidance regarding the definition of a swap, and therefore were

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.

not required to be reported.² As a result, Respondents did not report 2,184,520 short-dated FX swap transactions they executed during the Relevant Period. These unreported short-dated FX swap transactions represented approximately fifty-one percent of the total number of FX swaps that Respondents executed during that same period.

Respondents began reporting short-dated FX swaps in February 2020. Respondents have represented that they have reported all of the previously-unreported FX swaps transactions they were obligated to report.

III. LEGAL DISCUSSION

A. Respondents' Conduct Violated Sections 2(a)(13)(G) and 4r(a)(3) of the Act and Regulation 45.3.

Sections 2(a)(13)(G) and 4r(a)(1) of the Act, 7 U.S.C. §§ 2(a)(13)(G), 6r(a)(1), require that all swaps, both cleared and uncleared, be reported to a registered swap data repository ("SDR"). Section 4r(a)(3) of the Act, 7 U.S.C. § 6r(a)(3), sets forth which swap counterparty is required to report the swap to a SDR. These reporting requirements apply to short-dated FX swaps. *Further Definition of "Swap," "Security-Based Swap," and "Security-Based Swap Agreement;" Mixed Swaps; Security-Based Swap Agreement Recordkeeping*, 77 Fed. Reg. 48208, 48254 n.522 (Aug. 13, 2012); *see also Determination of Foreign Exchange Swaps and Foreign Exchange Forwards Under the Commodity Exchange Act*, 77 Fed. Reg. 69694, 69703 (Nov. 20, 2012) (stating that notwithstanding a determination by the Department of the Treasury to exempt foreign exchange swaps from regulation as "swaps" under the CEA, such swaps would remain subject to the Commission's reporting requirements). Part 45 of the Regulations, 17 C.F.R. pt. 45 (2020), implements the Act's swaps data reporting requirement. Regulation 45.3, 17 C.F.R. § 45.3, requires swap dealers to report swap creation data electronically to a swap data repository, specifies that a swap dealer is to report all primary economic terms data, and sets forth the manner in which this data shall be reported, including FX swaps.

Short-dated FX swaps constitute "foreign exchange swaps" under the Act because they involve an exchange of currencies and a reversal of that exchange on specific dates and at rates fixed at the inception of the contract. *See* Section 1a(25) of the Act, 7 U.S.C. § 1a(25). Therefore, Respondents were required by the Act and Regulations to report their short-dated FX swaps, which they failed to do during the Relevant Period. As a result, Respondents violated Sections 2(a)(13)(G) and 4r(a)(3) of the Act and Regulation 45.3.

² This guidance was published in *Further Definition of "Swap," "Security-Based Swap," and "Security-Based Swap Agreement;" Mixed Swaps; Security-Based Swap Agreement Recordkeeping*, 77 Fed. Reg. 48208, 48256-58 (Aug. 13, 2012).

IV. FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that, during the Relevant Period, Respondents violated Sections 2(a)(13)(G) and 4r(a)(3) of the Act, 7 U.S.C. §§ 2(a)(13)(G), 6r(a)(3), and Regulation 45.3, 17 C.F.R. § 45.3 (2020).

V. OFFER OF SETTLEMENT

Respondents have submitted the Offer in which they, without admitting or denying the findings and conclusions herein:

- 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 and 28 U.S.C. § 2412, 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, §§ 201–253, 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;

- E. Consent, solely on the basis of the Offer, to the Commission’s entry of this Order that:
1. Makes findings by the Commission that Respondents violated Sections 2(a)(13)(G) and 4r(a)(3) of the Act, 7 U.S.C. §§ 2(a)(13)(G), 6r(a)(3), and Regulation 45.3, 17 C.F.R. § 45.3 (2020);
 2. Orders Respondents to cease and desist from violating Sections 2(a)(13)(G) and 4r(a)(3) of the Act and Regulation 45.3;
 3. Orders Respondents to pay, jointly and severally, a civil monetary penalty in the amount of eight hundred fifty thousand dollars (\$850,000), plus post-judgment interest; and
 4. 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; and
- F. Represent that they have remediated these violations, including, but not limited to, back-reporting all previously unreported short-dated FX swap transactions executed during the Relevant Period.

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

VI. ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

1. Respondents and their successors and assigns shall cease and desist from violating Sections 2(a)(13)(G) and 4r(a)(3) of the Act, 7 U.S.C. §§ 2(a)(13)(G), 6r(a)(3), and Regulation 45.3, 17 C.F.R. § 45.3 (2021).
2. Respondents shall pay, jointly and severally, a civil monetary penalty in the amount of eight hundred fifty thousand dollars (\$850,000) (“CMP Obligation”). If the CMP Obligation is not paid immediately, 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.

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.

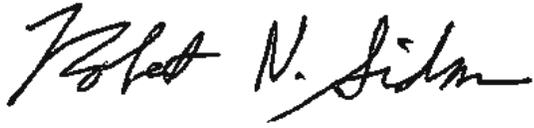
HQ Room 181
Oklahoma City, OK 73169
(405) 954-6569 office
(405) 954-1620 fax
9-AMC-AR-CFTC@faa.gov

If payment is to be made by electronic funds transfer, Respondents shall contact Tonia King 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 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.

3. Respondents and their successors and assigns shall comply with the following conditions and 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 comply with this agreement, and 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. **Partial Satisfaction:** Respondents understand and agree that any acceptance by the Commission of any partial payment of Respondents' CMP 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.
 3. **Change of Address/Phone:** Until such time as Respondents satisfy in full their CMP 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.

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

By the Commission.

A handwritten signature in black ink, reading "Robert N. Sidman". The signature is written in a cursive style with a horizontal line underneath it.

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

Dated: July 5, 2022