

# OCC CIRCLES BACK TO JP MORGAN'S MONEY LAUNDERING

When I first read that the government was going to investigate JP Morgan Chase for money laundering, I thought this was another case where the government continued to give wrist slaps—in the form of softball fines—to banks for behavior that never really changed. And to some degree that will be the case. After all, little more than a year ago Treasury's Office of Foreign Assets Control accused Jamie Dimon's company of a whole slew of things, including sending Iran a ton (literally) of gold bullion. And in spite of the fact OFAC said JPMC substantially cooperated with their investigation so they could give it a softball fine, the settlement actually made it clear they had done anything but. (Though the softball fine may have also had something to do with what I suspect was cooperation on setting up the Scary Iran Plot.)

So here we are again, investigating JPMC for money laundering. Again.

But I wonder whether this doesn't reflect an effort on the part of the Office of Comptroller and Currency, which the NYT says is leading the probe, to improve on its past willful neglect in this area.

Regulators, led by the Office of the Comptroller of the Currency, are close to taking action against JPMorgan Chase for insufficient safeguards, the officials said. The agency is also scrutinizing several other Wall Street giants, including Bank of America.

The comptroller's office could issue a cease-and-desist order to JPMorgan in coming months, an action that would force the bank to plug any gaps in oversight, according to several people

knowledgeable about the matter. But the agency, which oversees the nation's biggest banks, has not yet completed its case. JPMorgan is in the spotlight partly because federal authorities accused the bank last year of transferring money in violation of United States sanctions against Cuba and Iran.

Since OFAC let JPMC off with a wrist slap last year, the OCC has gotten a new confirmed head, Thomas Curry, from FDIC, and gotten rid of a corrupt Chief Counsel, Julie Williams. OCC also got hammered in Carl Levin's report on HSBC's money laundering.

To carry out [its oversight] mission, in the words of the OCC, it conducts "regular examinations to ensure that institutions under our supervision operate safely and soundly and in compliance with laws and regulations," including AML laws. However, the HSBC case history, like the Riggs Bank case history examined by this Subcommittee eight years ago, provides evidence that the current OCC examination system has tolerated severe AML deficiencies for years and given banks great leeway to address targeted AML problems without ensuring the effectiveness of their AML program as a whole. As a result, the current OCC examination process has allowed AML issues to accumulate into a massive problem before an OCC enforcement action is taken.

When Curry and a few others from OCC testified in the hearing on HSBC's money laundering in July, they promised to improve their Anti-Money Laundering oversight.

We have already identified a new approach that we will implement to assure that BSA/AML deficiencies are

fully considered in a safety and soundness context and are taken into account as part of the “Management” component of a bank’s CAMELS [Capital adequacy, Asset quality, Management, Earnings, Liquidity, and Sensitivity to market risk] rating. We are revising and clarifying the operation of our cross-functional Large Bank BSA Review Team (LB Review Team) to enhance our ability to bring different perspectives to bear and react on a more timely basis to circumstances where a bank has multiple instances of Matters Requiring Attention, or apparent violations of the required components of its BSA/AML program. We will also explore how we track and review relevant information in this regard and whether new initiatives are appropriate in that area as well. We will also revisit our current approach to citing BSA/AML violations in order to provide more flexibility for individual “pillar” violations to be cited, and we will identify what steps we can take in our examinations to more promptly obtain a holistic view of a bank’s BSA/AML compliance. Finally, we will review other areas, such as training, staffing, recruitment, policies, and interagency coordination, to make improvements in our BSA/AML supervision program.

NYT reports that this increased scrutiny is, in part, a response to the lessons OCC learned in reviewing its failures in the HSBC case.

The case against HSBC alarmed banking regulators, who wondered if monitoring flaws could be pervasive in the banking industry. The comptroller’s office, which lawmakers accused of missing warning signs about HSBC’s weaknesses, has stepped up its scrutiny of American banks in recent months.

So it makes sense that OCC would go back and investigate how JPMC was committing so many sanctions violations and what other money laundering it might be engaged in. It makes sense that OCC would go back and clean up the mess left by the incompetent OCC incompetent leadership of the last decade. The NYT even quotes a compliance person admitting OCC has done nothing in this area for years, though uses as an excuse OCC being “inundated with problem stemming” from the financial crash.

The surge in investigations, compliance experts say, is coming now because authorities were previously inundated with problems stemming from the 2008 financial turmoil. “These issues may have been put on hold during the financial crisis, and now regulators can go back to focus on money-laundering and other compliance problems,” said Alma M. Angotti, a director at Navigant, a consulting firm that advises banks on complying with anti-money-laundering rules.

Given that OCC has done pretty much nothing since the crash to fix things, it’s unclear how that could have been the distraction.

In any case, even in a best case scenario, this new effort will be about stopping JPMC’s facilitation of money laundering going forward, not punishing it for being utterly negligent in the past. NYT reports JPMC will get a Cease and Desist order, not the whopping fine they deserve to get. And OCC admits that C&Ds are simply remedial documents; they’re not punishment.

When deficiencies in the BSA/AML area rise to the level of a BSA compliance program violation (12 C.F.R. § 21.21), or when a bank fails to correct problems with the program that had been previously reported to the bank (including through MRAs), a statutory mandate (12 U.S.C. 1818(s)) requires the

banking agency to use its cease and desist (C&D) authority to correct the problem. Section 1818(s) specifically provides that if an insured depository institution has failed to establish and maintain a BSA compliance program or has failed to correct any problem with the BSA compliance program previously reported to the institution by the appropriate Federal banking agency, the agency shall issue a C&D order against the institution.

[snip]

The C&D order is a remedial document that is designed to obtain correction of violations of law and unsafe or unsound practices at the Bank. The issuance of the order does not preclude the OCC from assessing a civil money penalty at a later time. The OCC is now actively engaged in evaluating the Bank's compliance with the C&D order and in considering the assessment of CMPs.

After having been embarrassed in the HSBC probe, OCC is at least making noise about stopping the facilitation of money laundering by US banks. That might lead us to discover how much money laundering they've been facilitating. But it will be years—if ever—before they ever pay a price for being an accessory to all this crime.