

JPMorgan Said to Have Reached \$13 Billion U.S. Accord

By Tom Schoenberg and Dawn Kopecki - Oct 19, 2013

JPMorgan Chase & Co. has reached a tentative resolution of all civil mortgage-bond related matters with the U.S. Department of Justice under which the nation's largest bank will pay a record \$13 billion, a person familiar with the settlement talks said.

The amount increased from \$11 billion during negotiations last night, the person said. The deal includes \$4 billion for unspecified consumer relief and \$9 billion in fines and other payments, another person familiar with the matter said. The \$9 billion includes a \$4 billion accord with the Federal Housing Finance Agency over the bank's sale of mortgage-backed securities.

The pact, which isn't yet final, doesn't include a release of potential criminal liability for the bank, at the insistence of U.S. Attorney General Eric Holder, the first person said. Holder told JPMorgan Chief Executive Officer Jamie Dimon during talks that such a release wouldn't be forthcoming as part of any deal, said the person.

The proposed accord will probably require the bank to cooperate in criminal investigations of individuals tied to wrongdoing associated with the bank's mortgage practices, said the person, who requested anonymity because the matter isn't public. The deal, which may be announced next week, also includes pending inquiries by New York Attorney General Eric Schneiderman, the people said.

Tax Deductible

The pact would be more than half of JPMorgan's record \$21.3

billion in profits last year. Some portions of the deal, like relief to homeowners, would probably be tax deductible.

The possible inclusion of such relief has revived concerns among mortgage-bond investors that efforts to ease the financial burdens of millions of Americans stemming from the subprime collapse of the housing market may lower the value of instruments held by Wall Street.

The Association of Mortgage Investors, representing mutual funds and pensions, urged Holder in a letter Oct. 7 not to let banks saddle them with costs associated with relief for U.S. mortgage holders while resolving probes.

JPMorgan is the target of investigations in the U.S. and abroad, including probes of its hiring practices in Asia. The bank has tapped \$8 billion of \$28 billion in reserves set aside since 2010 to cover its legal costs.

The outline of the tentative accord was reached last night during a telephone call between Holder, Dimon, JPMorgan General Counsel Stephen Cutler and Associate U.S. Attorney General Tony West, said the person. The settlement's statement of facts is still being negotiated.

Justice Department

Joe Evangelisti, a spokesman for the New York-based bank, Brian Fallon, a spokesman for the Justice Department, and Matt Mittenthal, a spokesman for Schneiderman, declined to comment.

The FHFA sued JPMorgan and 17 other banks over faulty mortgage bonds two years ago in an effort to recoup some of the losses taxpayers were forced to cover when the government took control of the failing mortgage finance companies in 2008.

Fannie Mae and Freddie Mac, which are regulated by FHFA,

have taken \$187.5 billion in federal aid since then.

JPMorgan remains the subject of what another person familiar with the matter said was a criminal probe by U.S. prosecutors in California. It's also the subject of a probe by Manhattan U.S. Attorney Preet Bharara into claims it abetted Bernard Madoff's Ponzi scheme, a person familiar with that matter said.

Increasing Suits

The increasing number of lawsuits and regulatory probes led JPMorgan to take a \$7.2 billion charge in the third quarter, resulting in its first loss under Dimon, the bank said when it reported earnings Oct. 11.

"This is very painful for the company," Dimon told analysts on a call that day.

The company has so far paid more than \$1 billion to five different regulators to settle allegations involving a more than \$6.2 billion trading loss last year.

Dimon spent two hours at the Justice Department in Washington on Sept. 26 to discuss a possible global settlement with Holder, a person familiar with the talks said at the time. Others involved in the talks of a global deal included the Department of Housing and Urban Development and Schneiderman, who is co-chairman of a federal and state working group on residential mortgage-backed securities, which negotiated the civil-mortgage settlement with JPMorgan.

False Statements

The FHFA accused JPMorgan and its affiliates of making false statements and omitting material facts in selling \$33 billion in mortgage bonds to Fannie Mae and Freddie Mac from Sept. 7, 2005, through Sept. 19, 2007.

The regulator said executives at JPMorgan, Washington Mutual and Bear Stearns Cos., which were acquired by JPMorgan in 2008, knowingly misrepresented the quality of the loans underlying the bonds, among other things, according to the lawsuit filed in federal court in Manhattan.

UBS AG, Switzerland's largest bank, agreed to pay \$885 million last month to settle claims it misrepresented the quality of the loans backing \$4.5 billion in residential mortgage bonds it sponsored and \$1.8 billion of third-party mortgage bonds sold to Fannie Mae and Freddie Mac. UBS was the third bank to reach an agreement with FHFA.

Citigroup Inc. and General Electric Co. both paid undisclosed amounts to settle the regulator's claims.

Trading Loss

Over the past two months, JPMorgan resolved U.S. and U.K. investigations into its record 2012 trading loss. It also settled unrelated claims it unfairly charged customers for credit-monitoring products.

Two former employees were indicted Sept. 16 on charges including securities fraud and conspiracy in connection with the trading loss on credit derivatives.

Bruno Iksil, who built the position and came to be known as the London Whale because of the size of the bets, is cooperating in the investigation and hasn't been charged, prosecutors said.

Mounting fines and other sanctions are eroding JPMorgan's profits for the year and placing the firm's \$6 billion share-repurchase program at risk, Charles Peabody, an analyst at Portales Partners LLC, wrote in a Sept. 25 note to investors.

"Both the materiality of the potential litigation charges and the potential suspension of the share-repurchase program could

have a significant impact” on the bank’s stock, Peabody wrote.

Six Banks

The six biggest U.S. banks, led by JPMorgan and Charlotte, North Carolina-based Bank of America Corp., have piled up more than \$100 billion in legal costs since the financial crisis, a figure that exceeds all of the dividends paid to shareholders in the past five years, according to data compiled by Bloomberg.

In late September, U.S. prosecutors in California overseeing parallel civil and criminal investigations were preparing to file their own case against JPMorgan, a person familiar with the matter said. The threat of the suit helped restart negotiations between the bank and senior Justice Department officials over a broader settlement that would incorporate several state and federal probes, the person said.

Proposed settlement amounts swung by billions of dollars during the negotiations, people with knowledge of the talks said. At one point, federal officials rejected the bank’s offer to pay \$3 billion to \$4 billion, one person said at the time.

The Obama Administration set up the residential mortgage-backed securities working group in 2012 to coordinate a crackdown on deceptive underwriting practices that contributed to the financial crisis.

New York

Schneiderman’s office sued JPMorgan last October over mortgage-bonds packaged by Bear Stearns.

Schneiderman alleged Bear Stearns misled mortgage-bond investors about defective loans backing the securities. The firm failed to fully evaluate the debt, ignored defects uncovered by a limited review and hid that it failed to adequately scrutinize the loans or disclose their risks, according to the complaint.

At the time it was filed, the cumulative realized losses on more than 100 subprime and Alt-A securities that the bank and its affiliates sponsored and underwrote in 2006 and 2007 totaled about \$22.5 billion, or about 26 percent of the original balance of about \$87 billion, according to the complaint. Alt-A is a term for mortgages that typically didn't require documentation such as proof of income.

Schneiderman's office asserted claims under New York's Martin Act, an almost century-old law that gives the state's attorney general broad powers to target financial fraud. The bank denied the claims in the case, which is pending in state Supreme Court in Manhattan.

California

U.S. prosecutors in Sacramento, California, told the bank in May that they had already determined there were civil violations in connection with offerings of securities based on subprime and Alt-A residential loans from 2005 to 2007, the bank said in a quarterly regulatory filing in August.

The FHFA alleged in its 2011 lawsuit that the bank misled Fannie Mae and Freddie Mac about the soundness of mortgages backing billions of dollars of residential mortgage-backed securities. The bank didn't disclose that a significant portion of the loans failed to adhere to underwriting standards and had poor credit quality, according to the complaint.

The number of loans for owner-occupied properties was lower than investors were told, and the bank's disclosures misrepresented the properties' value, according to the complaint.

The case is Federal Housing Finance Agency v. JPMorgan Chase & Co., 11-06188, U.S. District Court Southern District of New York (Manhattan).