

J.P. Morgan, SEC in Settlement Talks Over How It Steers Clients' Investments

Probe focuses on whether bank inappropriately steered private-banking clients to its own investment products

The SEC has been examining J.P. Morgan's alleged steering of clients to its own proprietary products and away from those offered by outside firms.

By

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Updated June 24, 2015 7:18 p.m. ET

J.P. Morgan Chase & Co. is in talks with the Securities and Exchange Commission to settle a probe into whether the bank inappropriately steered private-banking clients to its own investment products, people familiar with the matter said.

The regulator has been examining whether J.P. Morgan guided clients to its own so-called proprietary products and away from those offered by other firms. A settlement including a fine could happen as early as this summer, the people said, though the size couldn't be determined.

Moving clients into a bank's own products generally leads to higher fees for the bank. The practice, while not banned, is closely watched by regulators. The civil inquiry by the SEC's enforcement division has moved alongside queries launched more than a year ago by the Office of the Comptroller of the Currency.

J.P. Morgan disclosed in a May filing that the SEC and other regulators are looking into its sale and use of proprietary products, such as J.P. Morgan mutual funds, in its wealth-management division. The bank said at the time it is responding and cooperating with the authorities.

Regulators including the SEC have long monitored whether brokers sell their clients the right product for them, or push the ones that make their firm the most money.

Financial advisers can operate under different rules depending on whether they register as an investment adviser with the SEC. If they do, they must adhere to a fiduciary standard requiring them to recommend only those investment products that are in the best interests of their clients. Others generally adhere to a different standard that allows them to recommend products that are merely suitable for the individual.

Generally, investment specialists in J.P. Morgan's private bank who have discretion over client assets are bound by a fiduciary standard, whereas private bankers, who are relationship managers, aren't.

The SEC's settlement talks with J.P. Morgan come as the OCC is putting more pressure on the large U.S. banks it monitors to disclose possible conflicts of interest to customers, people familiar with the situation said. That includes banks such as Bank of America Corp. and Wells Fargo & Co.

The OCC's earlier inquiries into J.P. Morgan in 2014 helped prompt the bank to change the way it discloses to private-banking clients the differences between its own products and outside offerings and how much of clients' assets were invested in each. The OCC didn't force the changes, The Wall Street Journal reported last year.

But since the scrutiny intensified over the last year, some banks have come up with new policies, procedures and committees to specifically address possible conflicts of interest, these people said.

For instance, Bank of America in recent years has been giving more details about its fees and potential conflicts of interest when describing investment products to clients, a person familiar with the bank said.

The bank's executives have said publicly it supports increased transparency and a consistent higher standard for investment professionals when recommending advice or products.

The increased focus on conflicts of interest also is showing up in pay practices. About six months ago, some parts of J.P. Morgan's private bank changed a metric that helped determine compensation to further emphasize the sales of non-J.P. Morgan products as well as in-house products, people familiar with the matter said.

The bank also has included in regular training sessions a greater focus on role playing in which employees are trained what to say if clients ask about fee disclosures or conflicts of interest, some of the people said.

J.P. Morgan also notes in some of its client disclosures that potential conflicts could extend to situations in which the bank has relationships with third-party providers. A J.P. Morgan division outside the private bank known as J.P. Morgan Clearing Corp. told clients in statements as late as 2014 that “a potential conflict of interest” existed “in the form of an additional financial incentive to J.P. Morgan for making available to customers mutual funds whose affiliates enter into revenue sharing arrangements.”

The OCC in recent months has asked banks questions about fee transparency for customers, people familiar with the matter said. The OCC also is asking banks about whether they charge customers differently depending on whether they purchase proprietary products or third-party products.

Government and industry participants for years have been working on policies to address alleged conflicts of interests on Wall Street. The Labor Department in April put out a proposal that would require brokers giving retirement advice to make recommendations in their clients’ best interests.

The Securities Industry and Financial Markets Association, a Wall Street trade group, has said some of the conditions of the Labor Department’s proposal would be too burdensome for broker-dealers to service lower-balance accounts and would end up hurting consumers.

Sifma earlier this month further detailed its position, which also incorporates a “best-interest” standard. Under its proposal, the sale of proprietary products wouldn’t be considered a violation of the standard. The group says it wants firms to disclose possible conflicts of interest and for customers to retain the choice of how to invest or act based on the disclosure.

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