



ENFORCEABLE UNDERTAKING

Australian Securities and Investments Commission Act 2001

Section 93AA

The commitments in this undertaking are offered to the Australian Securities and Investments Commission (ASIC) by:

J.P. Morgan Securities plc

J.P. Morgan Securities (Asia Pacific) Ltd

J.P. Morgan Securities LLC

Definitions

In addition to terms defined elsewhere in this undertaking, the following definitions are used:

ASIC Act means the *Australian Securities and Investments Commission Act 2001*.

Class Order means:

- (a) in relation to JPMSPLC - ASIC Class Order [CO 03/1099];
- (b) in relation to JPMSAPL - ASIC Class Order [CO 03/1103]; and
- (c) in relation to JPMSLLC - ASIC Class Order [CO 04/829] and ASIC Instrument 09-00905.

Corporations Act means the *Corporations Act 2001*.

Disclosure Requirement means the requirement under the Class Order to provide written disclosure to all persons to whom the financial services are provided in this jurisdiction (before the financial services are provided) containing prominent statements to the effect that:

- (a) the body is exempt from the requirement to hold an Australian financial services licence under the Corporations Act in respect of the financial services; and
- (b) the body is authorised and regulated by the relevant foreign regulatory authority under the relevant foreign laws, which differ from Australian laws.

JPMSPLC means J.P. Morgan Securities plc, a body corporate incorporated under the laws of the United Kingdom.

JPMSAPL means J.P. Morgan Securities (Asia Pacific) Ltd, a body corporate incorporated under the laws of Hong Kong.

JPMSLLC means J.P. Morgan Securities LLC, a body corporate incorporated under the laws of the United States.

J.P.Morgan means JPMSPLC, JPMSAPL and JPMSLLC collectively.

1. ASIC's role

- 1.1 Under section 1 of the ASIC Act, ASIC is charged with a statutory responsibility to perform its functions and to exercise its powers so as to promote the confident and informed participation of investors and consumers in the financial system.

2. Background

- 2.1 JPMSPLC, a financial service provider regulated by the Financial Conduct Authority of the United Kingdom, is exempt under the Class Order from the requirement to hold an

Australian financial services licence for the provision of financial services to wholesale clients in this jurisdiction. Under the Class Order, JPMSPLC is required to comply with certain obligations including the Disclosure Requirement.

- 2.2 JPMSAPL, a financial service provider regulated by the Securities and Futures Commission of Hong Kong is exempt under the Class Order from the requirement to hold an Australian financial services licence for the provision of financial services to wholesale clients in this jurisdiction. Under the Class Order, JPMSAPL is required to comply with certain obligations including the Disclosure Requirement.
- 2.3 JPMSLLC, a financial service provider primarily regulated by the U.S Securities and Exchange Commission, the Financial Industry Regulatory Authority and the U.S. Commodity Futures Trading Commission, is exempt under the Class Order from the requirement to hold an Australian financial services licence for the provision of financial services to wholesale clients in this jurisdiction. Under the Class Order, JPMSLLC is required to comply with certain obligations including the Disclosure Requirement.

3. J.P.Morgan's conduct

- 3.1 In April 2014 JPMSPLC reported to ASIC a breach of the Disclosure Requirement. JPMSPLC estimates that 518 wholesale clients have been impacted by this breach over a period of approximately six years.
- 3.2 In March 2008 JPMSPLC reported to ASIC a breach of the Disclosure Requirement in relation to 26 wholesale clients.
- 3.3 In June 2005 JPMSPLC reported to ASIC a breach of the Disclosure Requirement in relation to 21 wholesale clients.
- 3.4 In March 2014 JPMSAPL reported to ASIC a breach of the Disclosure Requirement. JPMSAPL estimates that 55 wholesale clients have been impacted by this breach over a period of approximately six years.
- 3.5 In April 2008 JPMSAPL reported to ASIC a breach of the Disclosure Requirement in relation to 22 wholesale clients.
- 3.6 In February 2014 JPMSLLC reported to ASIC a breach of the Disclosure Requirement. JPMSLLC estimates that 226 wholesale clients have been impacted by this breach over a period of approximately six years.
- 3.7 In March 2008 JPMSLLC reported to ASIC a breach of the Disclosure Requirement in relation to 16 wholesale clients.
- 3.8 ASIC has met with J.P.Morgan, engaged in correspondence with J.P.Morgan and reviewed material provided by J.P.Morgan. J.P.Morgan has advised ASIC that it has implemented remedial measures to address the breaches reported in 2014.

4. ASIC's concerns

- 4.1 In light of the previous breaches of the Disclosure Requirement that occurred in 2005 and 2008, ASIC considers the breaches reported to ASIC in 2014 to be significant as they relate to a repeated failure by J.P.Morgan to comply with the Disclosure Requirement. The breaches affected a large number of wholesale clients over an extended period of time.
- 4.2 ASIC is concerned that the breaches reported in 2014 demonstrated a material and systemic weakness in the controls that J.P.Morgan had in place to ensure compliance with the Disclosure Requirement.

5. Acknowledgements

- 5.1 J.P.Morgan acknowledges that:
- (a) ASIC's concerns are reasonably held; and
 - (b) the remedial steps set out in this undertaking are necessary to address ASIC's concerns and to ensure compliance with the Disclosure Requirement.
- 5.2 ASIC acknowledges that:
- (a) J.P.Morgan has co-operated and worked constructively with ASIC; and
 - (b) J.P.Morgan has voluntarily implemented significant remedial measures to ensure compliance with the Disclosure Requirement.
- 5.3 Subject to J.P.Morgan's compliance with the undertakings in this enforceable undertaking, ASIC will not take action against J.P.Morgan, including action to exclude J.P.Morgan from relying on the Class Order, in relation to the subject matter of ASIC's concerns as outlined in paragraph 4.

6. Undertakings

Acceptance of the enforceable undertaking

- 6.1 Under section 93AA of the ASIC Act, J.P.Morgan has offered the undertakings in this enforceable undertaking, and ASIC has agreed to accept those undertakings as an alternative to ASIC commencing civil proceedings or taking administrative action against J.P.Morgan, including action to exclude J.P.Morgan from relying on the Class Order.

Appointing the Independent Expert

- 6.2 Within twenty business days of the date of acceptance by ASIC of this enforceable undertaking, or such longer period as agreed with ASIC, J.P.Morgan must appoint a person (the *Independent Expert*) for the purposes of this enforceable undertaking.

- 6.3 The Independent Expert:
- (a) must have the necessary expertise, experience and operational capacity to perform the role contemplated by this enforceable undertaking; and
 - (b) must be independent of J.P.Morgan, its related bodies corporate and its officers.
- 6.4 The appointment, and the terms of engagement of, the Independent Expert must be approved by ASIC in writing before the appointment and engagement takes effect. J.P.Morgan must advise ASIC of the expertise and prior association of the proposed Independent Expert with J.P.Morgan, its related bodies corporate and officers at the time approval is sought from ASIC. ASIC will not unreasonably withhold its approval.
- 6.5 If the engagement is terminated because of an actual or potential conflict of interest of the Independent Expert that arises during the engagement, J.P.Morgan must, within 15 business days, or such longer period as agreed with ASIC, after that termination, appoint and engage another person to perform the role of the Independent Expert in accordance with paragraph 6.4 and for the remaining duration of this enforceable undertaking.

Terms of engagement

- 6.6 J.P.Morgan must ensure that the terms of engagement of the Independent Expert:
- (a) engage the Independent Expert to perform the tasks necessary to fulfil J.P.Morgan's obligations under this enforceable undertaking;
 - (b) permit the Independent Expert, subject to any claim of legal professional privilege, and to the extent that it is reasonable having regard to the requirements of this enforceable undertaking, to have access to its books, to interview present employees, contractors, agents and/or consultants and to consult with ASIC and disclose to ASIC any further information obtained by the Independent Expert in the course of carrying out their assessment;
 - (c) require J.P.Morgan to give the Independent Expert any information, document, or explanation reasonably requested by the Independent Expert in relation to any matter in any way connected with the reports required to be prepared by the Independent Expert under this enforceable undertaking;
 - (d) otherwise reasonably assist the Independent Expert in conducting the assessments and producing the reports required under this enforceable undertaking;
 - (e) include a statement that on request, ASIC is to be copied into all or some communications between J.P.Morgan and the Independent Expert;
 - (f) require that the Independent Expert provide ASIC with a copy of the finalised versions of each of the First Report and Second Report, at the same time as each version is provided to J.P.Morgan;

- (g) require that the Independent Expert provide ASIC with a copy of the testing methodology that has been developed following review of the First Remedial Action Plan, no later than twenty business days prior to the commencement of the Second Review. The Independent Expert must make any reasonable modifications to this testing methodology requested by ASIC, provided ASIC has made such a request within ten business days after ASIC was provided with a copy of the testing methodology.
- (h) provide that once ASIC has approved the terms of engagement, it may only be varied with the agreement of ASIC; and
- (i) makes provision for circumstances where an actual or potential conflict of interest arises in relation to the Independent Expert, including a requirement that the Independent Expert:
 - (i) as soon as possible after becoming aware of an actual or potential conflict of interest that arises during the engagement, inform J.P.Morgan and ASIC;
 - (ii) follow the reasonable directions from ASIC to effectively manage the actual or potential conflict of interest; and
 - (iii) if the actual or potential conflict of interest cannot be effectively managed, follow the reasonable directions from ASIC to terminate the engagement.

Role of the Independent Expert

6.7 J.P.Morgan must procure the Independent Expert to:

- (a) conduct and complete a review (the **First Review**) of J.P.Morgan's compliance with the Disclosure Requirement in accordance with Annexure 1 and otherwise in accordance with the requirements of this enforceable undertaking; and
- (b) deliver a report (the **First Report**) in relation to the conduct and completion of the First Review, to J.P.Morgan and ASIC in accordance with Annexure 1 and otherwise in accordance with the requirements of this enforceable undertaking; and
- (c) conduct and complete a review (the **Second Review**) of J.P.Morgan's compliance with the Disclosure Requirement in accordance with Annexure 2 and otherwise in accordance with the requirements of this enforceable undertaking; and
- (d) deliver a report (the **Second Report**) in relation to the Second Review to J.P.Morgan and ASIC in accordance with Annexure 2 and otherwise in accordance with the requirements of this enforceable undertaking.

The First Report

6.8 J.P.Morgan must ensure that the terms of the engagement require the Independent Expert to deliver the First Report to J.P.Morgan and ASIC within four

months after the date of the appointment of the Independent Expert (or such longer period as ASIC approves in writing).

- 6.9 The First Report must include:
- (a) details of any weaknesses (*Deficiencies*) in J.P.Morgan's compliance framework that were identified in the First Review, as set out in more detail in Annexure 1; and
 - (b) recommendations on how to ensure those Deficiencies are rectified to ensure compliance with the Disclosure Requirement.

The First Remedial Action Plan

- 6.10 J.P.Morgan must consider any Deficiencies identified and the recommendations to rectify those Deficiencies made by the Independent Expert in the First Report and develop a plan (*First Remedial Action Plan*) to rectify those Deficiencies.
- 6.11 J.P.Morgan must provide ASIC and the Independent Expert with a copy of the First Remedial Action Plan within one month after the receipt of the First Report (or such longer period as ASIC approves in writing).
- 6.12 J.P.Morgan must make any reasonable modifications to the First Remedial Action Plan requested by ASIC within ten business days after receiving a request from ASIC to do so, provided ASIC has made such a request within twenty business days after ASIC was provided with a copy of the First Remedial Action Plan.
- 6.13 The First Remedial Action Plan must set out:
- (a) the action J.P.Morgan proposes to take to rectify any Deficiencies identified in the First Report; and
 - (b) that such action is to be taken to implement these actions by no later than three months after the date of the creation of the First Remedial Action Plan.
- 6.14 J.P.Morgan must, within five business days after the deadline for implementing the actions required under the First Remedial Action Plan, provide written notice to ASIC as to whether or not the First Remedial Action Plan is fully implemented and, if not, why not.

The Second Report

- 6.15 J.P.Morgan must ensure that the terms of the engagement require the Independent Expert to deliver the Second Report to J.P.Morgan and ASIC within four months after the date of commencement of the Second Review (or such longer period as ASIC approves in writing).
- 6.16 The Second Report must include:
- (a) details of any weaknesses (*Deficiencies*) in J.P.Morgan's compliance framework that were identified in the Second Review, as set out in more detail in Annexure 2; and

- (b) recommendations on how to ensure those Deficiencies are rectified to ensure compliance with the Disclosure Requirement.

The Second Remedial Action Plan

- 6.17 J.P.Morgan must consider any Deficiencies identified and the recommendations to rectify those Deficiencies by the Independent Expert in the Second Report and develop a plan (*Second Remedial Action Plan*) to rectify those Deficiencies.
- 6.18 J.P.Morgan must provide ASIC and the Independent Expert with a copy of the Second Remedial Action Plan within one month after receipt of the Second Report (or such longer period as ASIC approves in writing).
- 6.19 J.P.Morgan must make any reasonable modifications to the Second Remedial Action Plan requested by ASIC within ten business days after receiving a request from ASIC to do so, provided ASIC has made such a request within twenty business days after ASIC was provided with a copy of the Second Remedial Action Plan.
- 6.20 The Second Remedial Action Plan must set out:
 - (a) the action J.P.Morgan proposes to take to rectify any Deficiencies identified in the Second Report; and
 - (b) that such action is to be taken to implement these actions by no later than three months after the date of the creation of the Second Remedial Action Plan.
- 6.21 J.P.Morgan must, within five business days after the deadline for implementing the actions required under the Second Remedial Action Plan, provide written notice to ASIC as to whether or not the Second Remedial Action Plan is fully implemented and, if not, why not.
- 6.22 This enforceable undertaking will end if, following receipt of the written notice to ASIC in paragraph 6.21, ASIC within twenty business days of that receipt confirms whether or not the Second Remedial Action Plan has been implemented to its satisfaction in addressing its concerns referred to in paragraph 4. Such confirmation will not be unreasonably withheld by ASIC.

Other

- 6.23 J.P.Morgan undertakes that it will pay the costs of its compliance with this enforceable undertaking.
- 6.24 J.P.Morgan will, within a reasonable period of receiving a request from ASIC, provide all documents and information requested by ASIC from time to time for the purpose of assessing J.P.Morgan's compliance with the terms of this enforceable undertaking, including any correspondence with the Independent Expert, subject to legal professional privilege.

Non-compliance

6.25 J.P.Morgan must notify ASIC as soon as reasonably practicable and in any event within five business days after becoming aware of any failure by J.P.Morgan to comply with this enforceable undertaking.

7. Acknowledgements as to the operation of this enforceable undertaking

7.1 J.P.Morgan acknowledges that ASIC:

- (a) may issue a media release on execution of this enforceable undertaking referring to its terms and to the concerns of ASIC which led to its execution;
- (b) may from time to time publicly refer to this enforceable undertaking; and
- (c) will make this enforceable undertaking available for public inspection.

7.2 J.P.Morgan acknowledges that, in relation to the First Report, Second Report, First Remedial Action Plan and Second Remedial Action Plan, ASIC:

- (a) may issue a media release referring to the content of and compliance with any of those reports and plans;
- (b) may from time to time publicly refer to any of those reports and plans;
- (c) may make available for public inspection a summary of any of those reports and plans; and
- (d) may make available for public inspection a statement that refers to the content of any of those reports and plans.

7.3 ASIC acknowledges that, in relation to paragraph 7.2, it will delete, remove or not refer to any information if:

- (a) requested in writing to do so by J.P.Morgan at the respective times the First Report, Second Report, First Remedial Action Plan and Second Remedial Action Plan are provided to ASIC; and
- (b) ASIC is satisfied:
 - (i) it would or could reasonably be expected to unreasonably affect the business, commercial or financial affairs of the J.P.Morgan; or
 - (ii) otherwise should not be disclosed because it would not be in the public interest to do so; or
 - (iii) consists of personal information about an individual.

7.4 J.P.Morgan further acknowledges that:

- (a) ASIC's acceptance of this enforceable undertaking does not affect ASIC's power to investigate, conduct surveillance or pursue a criminal prosecution or its power

to lay charges or seek a pecuniary civil order in relation to any contravention not the subject of ASIC's concerns in this enforceable undertaking or arising from future conduct or past conduct of which ASIC has not been made aware as at the date of commencement of this enforceable undertaking;

- (b) ASIC reserves all its rights and remedies to take any action it deems necessary in responding to:
 - (i) breaches of the Disclosure Requirement not reported ASIC, that are identified by the Second Review and reported in the Second Report; or
 - (ii) any remaining concerns as referred to in paragraph 4, with either the lack of, or partial implementation of the Second Remedial Action Plan.
- (c) this enforceable undertaking in no way derogates from the rights and remedies available to any other person or entity arising from any conduct described in this enforceable undertaking or arising from future conduct;
- (d) this enforceable undertaking has no operative force until accepted by ASIC; and
- (e) the date of commencement of this enforceable undertaking is the date on which it is accepted by ASIC.

7.5 Nothing in this enforceable undertaking constitutes an admission by J.P.Morgan, its related bodies corporate, its present or former directors, officers, employees or any other person.

8. Provision of documents to ASIC

8.1 The address for providing ASIC with any document or notification which this enforceable undertaking requires to be provided to ASIC is:

Senior Manager
Investment Banks
Australian Securities and Investments Commission
GPO 9827
Sydney NSW 2001

For and on behalf of J.P. Morgan Securities plc



Alessandro Barnaba
Managing Director

For and on behalf of J.P. Morgan Securities (Asia Pacific) Ltd

.....

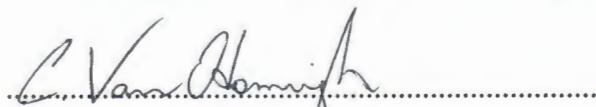
Filippo Gori
Managing Director

For and on behalf of J.P. Morgan Securities LLC

.....

William Freilich
Managing Director

Accepted by the Australian Securities and Investments Commission under section 93AA of the ASIC Act by its duly authorised delegate:



CHRIS VAN HOMRIGH, JEL INVESTMENT BANKS 16/11/15

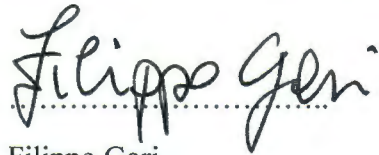
Delegate of Australian Securities and Investments Commission

For and on behalf of J.P. Morgan Securities plc

.....

Alessandro Barnaba
Managing Director

For and on behalf of J.P. Morgan Securities (Asia Pacific) Ltd



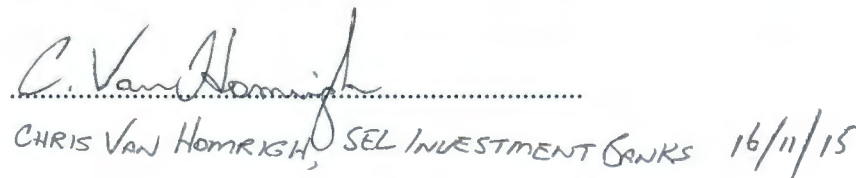
.....
Filippo Gori
Managing Director

For and on behalf of J.P. Morgan Securities LLC

.....

William Freilich
Managing Director

Accepted by the Australian Securities and Investments Commission under section 93AA of the ASIC Act by its duly authorised delegate:



.....
CHRIS VAN HOMRIGH, SEL INVESTMENT BANKS 16/11/15

Delegate of Australian Securities and Investments Commission

For and on behalf of J.P. Morgan Securities plc

.....

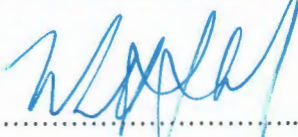
Alessandro Barnaba
Managing Director

For and on behalf of J.P. Morgan Securities (Asia Pacific) Ltd

.....

Filippo Gori
Managing Director

For and on behalf of J.P. Morgan Securities LLC



William Freilich
Managing Director

Accepted by the Australian Securities and Investments Commission under section 93AA of the ASIC Act by its duly authorised delegate:



CHRIS VAN HOMRIGH, SEL INVESTMENT BANKS. 16/11/15

Delegate of Australian Securities and Investments Commission

ANNEXURE 1

1. The Independent Expert will conduct a First Review which will:
 - (a) review J.P.Morgan's policies, procedures, practices, training and monitoring implemented to comply with the Disclosure Requirement; and
 - (b) assess whether J.P.Morgan's policies, procedures, practices, training and monitoring are designed sufficiently to ensure effective and enduring compliance with the Disclosure Requirement.
2. The Independent Expert will deliver the First Report to J.P.Morgan and ASIC within four months after the date of the appointment of the Independent Expert.

ANNEXURE 2

1. The Independent Expert will commence the Second Review on or around 12 months but no later than 13 months after the date of the implementation of the First Remedial Action Plan.
2. The Second Report will be delivered to J.P.Morgan and ASIC within four months after the date of commencement of the Second Review. The Second Review will:
 - (a) assess remedial actions (if any) implemented by J.P.Morgan following the implementation of the First Remedial Action Plan;
 - (b) test the effectiveness of the implementation of the recommendations and the actions arising from the First Report;
 - (c) consider potential remaining gaps in internal controls areas as they relate to the Disclosure Requirement and provide further recommendations as appropriate; and
 - (d) review any matters set out in Annexure 1 that were not addressed in the First Review.