JUDICIARY OF
ENGLAND AND WALES

REGINA (THE FINANCIAL CONDUCT AUTHORITY)
-v-
NATIONAL WESTMINSTER BANK PLC

Southwark Crown Court

Sentencing Remarks of Mrs Justice Cockerill

13 December 2021

INTRODUCTION

1. The Defendant, National Westminster Bank Plc (NatWest or the Bank), appears for sentence for three offences contrary to the Money Laundering Regulations 2007 ("the Regulations") to which it has pleaded guilty, pursuant to a Plea Agreement dated 6 October 2021.

2. Those offences are:
   a. Between 7 November 2013 and 23 June 2016, failing to comply with the requirement to conduct ongoing monitoring of a business relationship contrary to regulations 8(1) and 45(1) of the Money Laundering Regulations 2007;
   b. Between 8 November 2012 and 23 June 2016, failing to comply with the requirement to determine the extent of ongoing monitoring on a risk-sensitive basis and be able to demonstrate to its supervisory authority that the extent of the ongoing monitoring is appropriate in view of the risks of money laundering and terrorist financing contrary to regulations 8(3) and 45(1) of the Money Laundering Regulations 2007;
   c. Between 8 November 2012 and 23 June 2016 failing to apply enhanced ongoing monitoring to its business relationship with Fowler Oldfield, in a situation which by its nature presented a higher risk of

money laundering and terrorist financing contrary to regulations 14(1) and 45(1) of the Money Laundering Regulations 2007.

3. This is the first criminal conviction of a bank under the Regulations.

4. The Bank's pleas were offered on an agreed factual basis set out in a lengthy Statement of Facts attached to the Plea Agreement. I reach the sentence in this case on the basis of that Statement of Facts, which is attached to these sentencing remarks as an Appendix.

5. I would like to record my gratitude to the prosecution and defence for their excellent co-operation in producing such a full and helpful document, and in arriving at joint submissions on sentence, which set out an agreed approach to many parts of the sentencing exercise. I have also been very much assisted by the extremely clear and skilful oral submissions of Ms Montgomery QC for the FCA and Mr Kelsey Fry QC for the Bank.

THE FACTS

6. The essential facts, on the basis of which I sentence Natwest, are as follows. They relate to a company called Fowler Oldfield, which has been the subject of an extensive investigation in relation to money laundering offences. As at today's date, 11 individuals have entered guilty pleas in connection with cash delivered to Fowler Oldfield's premises. Other cash couriers are in the system and a trial of another 13 suspects is listed for April 2022.

7. NatWest is a subsidiary of the NatWest Group PLC, a British bank holding company whose customer-facing subsidiaries (which it refers to as 'Brands'), offer a variety of banking services, including retail and commercial banking. Within the UK the main Brands are: The Royal Bank of Scotland, Ulster Bank, Coutts & Co, Lombard and NatWest.

8. During the Indictment Period which runs between 8 November 2012 to 23 June 2016, NatWest was a 'credit institution' under the Regulations. As such, the Bank was a 'relevant person' required to adhere to certain requirements designed to prevent it from being used for money laundering

purposes. The Regulations included requirements to carry out ongoing monitoring of business relationships (Regulation 8(1)), to do so on a risk-sensitive basis (Regulation 8(3)) and to carry out enhanced monitoring in high-risk cases (Regulation 14).

9. Failing to comply with each of those requirements constituted a criminal offence by virtue of Regulation 45(1). Whether or not a relevant person has committed an offence is to be considered in light of their compliance with relevant approved guidance, namely that issued by the Joint Money Laundering Steering Group (the "JMLSG").

10. Throughout the Indictment Period, it is accepted both that NatWest sought to discharge its monitoring obligations under the Regulations and that it failed to do so as regards the counts to which it has pleaded guilty.

11. Consistent with industry standards, NatWest utilised a 'Three Lines of Defence' model regarding compliance with Anti-Money Laundering ("AML") obligations (which included its obligations under the Regulations to conduct and record ongoing monitoring, conduct risk-based monitoring and conduct enhanced monitoring).

12. It is also not in issue that NatWest had policies and procedures in place to address the ongoing monitoring of its customers.

13. Specifically it sought to discharge its first line of defence obligations in the following ways:
    a. Manual monitoring of transactions by staff (also known as staff vigilance);
    b. Monitoring by members of the relationship management team ("Relationship Management Team") in the Business and Commercial Banking section of the Corporate Banking Division ("CBD") (and later, after the restructuring, Commercial and Private Banking ("CPB"). An intrinsic part of this monitoring involved Know Your Customer' ("KYC") / Know Your Business ("KYB") procedures;
    c. General staff vigilance (e.g. cash centre staff);
    d. Reviews of customer accounts on either a periodic basis ("Periodic Reviews" or "PRs") or as triggered by a predetermined set of events ("Event Driven Reviews" or "EDRs");

e. Automated monitoring of transactions ("AMT") by software systems; and
f. Investigation of activity identified as unusual/suspicious by automated/manual monitoring.

14. 'Second Line of Defence' oversight was provided principally at Group level. From 2013, this was provided by the Conduct & Regulatory Affairs function ("C&RA"), which included the Financial Crime Intelligence and Investigations Unit ("FCIIU"). The 'Third Line of Defence' was provided by the Group's internal audit function. It is the first line of defence which, it is agreed, has failed in the present case.

15. The overarching design of the Bank's ongoing monitoring systems, and the policies and procedures in relation to ongoing monitoring, were in line with the industry guidance. However:
    a. The Group's policies and procedures did not address the need for staff to guard against overreliance being placed on relationship managers when considering suspicious activity on a customer account. The Financial Crime Guide published by the FCA, a guidance document banks were encouraged to consider and follow, specifically highlighted this risk (though the JMLSG Guidance did not); and
    b. The Group policy stated that differential monitoring in automated systems was only required *"where the capability to do so exists"*. This would not in itself fulfil JMLSG guidance that required firms to monitor customer transactions to ensure they were consistent with their risk profile.

16. There were also a number of weaknesses in the monitoring of the account of Fowler Oldfield. The effect of these weaknesses was that:

    a. NatWest failed to comply with Regulations 8(3) and 14 between 8 November 2012 and 23 June 2016, by failing to conduct its ongoing monitoring of Fowler Oldfield on a risk-sensitive basis (Regulation 8(3)), and by failing to conduct enhanced ongoing monitoring of Fowler Oldfield (Regulation 14) (Counts 2 and 3).

    b. NatWest further accepts that, between 7 November 2013 and 23 June 2016, the effect of the monitoring weaknesses was that the Bank failed to comply with Regulation 8(1) by failing to conduct adequate

ongoing monitoring of the Fowler Oldfield business relationship (Count 1).

17. There were weaknesses in NatWest's automated transaction monitoring ("ATM") system in that:

    a. Throughout the Indictment Period, cash deposits made directly through Bank cash centres were erroneously interpreted by the system as cheque deposits. Although they were subject to the Security Blanket (as defined below), those cash deposits were not subjected to cash-specific monitoring rules. Instead, they were subjected to less stringent rules applicable to cheque deposits (when such rules existed). At times these were switched off, for example because too many alerts were generated. This had a significant impact because the Security Blanket applied a higher weighting to cash transactions;
    b. For most of NatWest's relationship with Fowler Oldfield, there were no cheque-specific monitoring rules in place. Those deposits by Fowler Oldfield made through Bank cash centres amounted to millions of pounds in cash that were neither monitored as cash nor subjected to rules specifically targeting cheque deposits;
    c. For part of the Indictment Period (June 2014 to September 2015) the rules in place did not include cash-specific rules;
    d. There were no specific rules in place for high risk customers until March 2016;
    e. Rules relating to medium sized businesses were either absent or in place for only a short time; and
    f. A system-wide rule, known as the 'Security Blanket', (the "Security Blanket"), which compared ongoing account activity to a picture of historical transactional activity taken from every account on the system, to determine whether it deviated from the norm, was impaired by the system's failure to correctly recognise cash deposits and the absence of review/tuning between 2008 and 2016 owing to the complexity of the operation and the need for a test environment. In particular it was not sensitive to risk status.

18. It is agreed that some of those deficiencies would have affected business relationships with customers other than Fowler Oldfield.

The Bank and its anti-money laundering systems

19. Anti-money laundering (AML") functions within the Bank were carried out at both a divisional / franchise level, and also at a Group level. NatWest retained responsibility for adhering to the requirements of the Regulations.

20. In accordance with Part 7 of the Proceeds of Crime Act 2002 ("POCA") and Regulation 20 of the Regulations, NatWest was required to have a nominated officer ("Nominated Officer") responsible for -amongst other things- receipt of internal reports of suspected money laundering and consideration of external reports to the relevant authority (from 2013, the National Crime Agency ("NCA")). In addition, and pursuant to FCA requirements, the Bank was required to have a Money Laundering Reporting Officer ("MLRO"), responsible for oversight of the Bank's compliance with its AML obligations and acting as a focal point for its AML activity.

21. The Bank had encountered some previous issues with its AML procedures. In particular in one case before and two cases in the wake of the 2008 financial crisis it was subjected to fines by the FCA in relation to its AML procedures.

22. Since then Bank has been attempting, and I accept this submission, to improve its systems and to comply with its obligations. It is accepted that it has had an open and constructive relationship with the FCA – reflected in the way in which this matter has been handled, with extensive agreement on the key facts and submissions on sentence.

23. Between 2011 and 2016, the Bank followed a risk-based approach to AML, meaning that each of its customers was assigned a risk rating following a customer risk assessment. CBD's AML policy, in force between 2011 and summer 2012 (whereupon it was superseded by Group policy in 2012), stressed the importance of relationship managers being alive to issues that might affect a customer's risk rating. From the summer of 2012 onwards, the Group policy placed this responsibility on the division.

24. In 2011, KPMG identified areas requiring attention within CBD that included: the risk assessment of customers; a lack of subject matter expertise within the First Line of Defence; the absence of differential

monitoring for high-risk customers within the automated transaction monitoring system; and gaps within CBD's Periodic and Event Driven Review framework. A later review noted that progress to embed effective Periodic Review and EDR processes was “negligible” and that there was an increasing backlog. Remediation of these issues was to fall within some thing called the “AML Change Programme” which ran from the second half of 2010 and was scheduled to finish in 2015; although it was still not complete when the Fowler Oldfield relationship terminated - despite some chasing from the FCA, for example in mid-2013.

25. In 2013, the Group underwent a Group-wide exercise to review the risk ratings of customers, entitled the "Accelerated Data Review" ("ADR"). The process was intended to re-rate the entire CBD customer portfolio, based on a new risk assessment methodology, enabling effective prioritisation of KYB and CBD reviews from early 2014. The ADR considered factors such as industry classification of the customer, trading activities and jurisdiction, most of which it gleaned from the Group's systems, in order to generate a revised risk rating for each customer. Industry information was taken from information which had itself been amended following a 2013 exercise entitled the SIC Remediation Programme – designed to provide a more granular categorisation for customer industry and trading activity.

26. The Bank's policies and procedures required the ongoing review of customer information to ensure that it was up to date, that it accurately reflected certain categories of customer information, and that the risk rating was appropriate. Both the Group and the 2011 CBD AML Policy required staff to conduct PRs and EDRs for this purpose.

27. PRs had to seek to identify and remediate any incomplete customer due diligence information; identify changes in customer structure or particulars; verify new information as appropriate and confirm that the risk rating for the customer was appropriate. The frequency of PRs was to be determined by the customer's risk rating. For high-risk customers, PRs were to take place at least annually. EDRs were to be triggered by events relating to a customer's structure, ownership or behaviour, or other events which might directly impact on the customer's risk rating.

Fowler Oldfield

28. The offences relate to the Bank's relationship with a company called Fowler Oldfield. Fowler Oldfield was a buyer and seller of gold, and first became a customer of the Bank in 2011 (outside the Indictment Period). Throughout the Indictment Period, Fowler Oldfield was a commercial customer of NatWest.

29. When Fowler Oldfield was taken on by the Bank, it was a small company owned by a married couple. The application was initially declined for risk reasons, because the Bank took a cautious approach to the nature of the business involved

30. The relationship manager responsible (the "Relationship Manager") described the Fowler Oldfield business model in the KYB document at that time as follows:
    a. It was a buyer and seller of gold, with plans to purchase assay equipment;
    b. It bought gold for cash obtained from Travelex (the foreign exchange company) that day;
    c. Fowler Oldfield sold this gold the same day by pre-agreement, receiving payment by electronic transfer;
    d. The Bank would not handle any cash for the business; and
    e. Future sales were predicted to be £15m per annum.

31. When Fowler Oldfield was taken on by the Bank as a customer in 2011, the Group policy included certain indicative factors that a customer might be high risk. One of the high-risk indicators highlighted in the Group policy was "High cash turnover businesses (eg 'cash for gold' operations)". Between 2012 and 2016, the Group policy also identified businesses involved in the extraction, manufacture and wholesale buying / selling of jewellery as high risk.

32. Following the initial refusal, Fowler Oldfield was taken on by the Bank as a customer following a resubmission of the application by the Relationship Manager, supported by further information relating to the company's KYC and AML procedures. It is fair to say that the Relationship Manager

advocated for Fowler Oldfield's being taken on. There were defects in the information put forward by the Relationship Manager at this time.

33. The application was approved on 8 November 2011 by the Bank's Central Exceptions Unit ("CEU"), later replaced by the High Risk Customer Controls team ("HRCC"). This dealt with referrals for customers in certain high risk sectors on account opening or exit. The approval was made on the condition that the Relationship Manager remain close to the account to ensure that transactions were as expected and undertake an additional desktop review (on top of normal monitoring procedures) after 6 months to ensure that the account was operating as anticipated. The account was opened on 11 November 2011, with a risk rating of 'high'. There is no documentary evidence that establishes whether or not the Relationship Manager conducted the 'Desktop Review'.

34. One of the key failings in this case is that on 7 December 2013, Fowler Oldfield's risk rating as recorded in the Relationship Management Database was amended from high to low. This change occurred following the ADR and SIC Remediation programmes, rather than through any bespoke or manual action regarding the risk rating for this specific customer. At some point within the SIC Remediation Programme, the nature of Fowler Oldfield's business activity was changed on the system from 'precious metals' to 'wholesale of metals and metal ores'. This amendment, combined with low risk factors such as Fowler Oldfield's jurisdiction, may in turn have led to the downgrading of the risk assessment during the ADR remediation process. Ultimately, the Bank has been unable to say definitively how this happened.

35. The industry classification of 'wholesale of metals and metal ores' was incorrect, and in any event Fowler Oldfield should have been rated as high risk throughout its relationship with the Bank. On 17 April 2014, the Relationship Manager amended the risk rating to "medium". The customer was rated as medium risk from April 2014 to March 2016 when it was increased to "high". For the period 7 December 2013 to 3 March 2016, therefore Fowler Oldfield was incorrectly risk rated by NatWest.

36. As noted, there were key features of the business model at the time of opening the account, namely that the Bank would handle no cash for the business and that Fowler Oldfield's turnover would be approximately £15 million per annum. In fact, during the five-year period of Fowler Oldfield's

relationship with NatWest, it deposited a total of approximately £365m with the Bank, of which approximately £264m was in cash.

37. Almost all of this cash was deposited after a significant change in Fowler Oldfield's business model which commenced in November 2013, with approximately £201m in cash being deposited between November 2013 and June 2016. At the height of the activity on the account, Fowler Oldfield was depositing up to £1.8m in cash per day with NatWest. During the Indictment Period between 8 November 2012 to 23 June 2016, approximately £287m was deposited into the Fowler Oldfield accounts with a rapid escalation.

38. Prior to November 2013 the changes were smaller and to an extent ambiguous:

    a. By 7 December 2011, Fowler Oldfield ceased to use Travelex for its cash withdrawals and engaged G4S instead. To facilitate this, Fowler Oldfield was added to the NatWest Bulk Cash Scheme and soon the business withdrew cash from NatWest on a regular basis;
    b. On 9 December 2011 a new director was appointed. No EDR was conducted as the Bank's policies required;
    c. A further director would be appointed in July 2012. No EDR was conducted as the Bank's policies required;
    d. On 21 December 2011, a credit facility was agreed for Fowler Oldfield with a Group Brand, to provide funding for equipment to be used to analyse and refine gold;
    e. A review on 11 October noted that predicted turnover for the year was £30 million and noted that "much of their purchases are done in cash, and cash transactions through the account over the last 12m total £18M";
    f. Between January 2012 and 6 November 2013, the transactions on the account predominantly consisted of electronic payments into the account (over £36m) and cash withdrawals (over £25m) out of the account. In addition, Fowler Oldfield made over £170,000 of cash deposits, and over £78,000 in international payments which were mostly made to companies related to precious metals.

39. During this period a Periodic review should have taken place, but did not. Charges 2 and 3 date from the date when this review should have taken place. In October 2013 notes by the Relationship Manager indicate a

degree of knowledge that cash would be coming in via sales of gold grain to jewellery businesses, but there was no very clear flag – perhaps because there seems to have been no perception on the part of the Relationship Manager of the significance of this change.

40. In November 2013 there was a notable (indeed as Mr Kelsey-Fry QC noted "startling") change in the business model of Fowler Oldfield. At this point the customer started for the first time to deposit cash in significant amounts. This represented the way in which the account was used for the rest of its relationship with the Bank: significant cash deposits, and electronic transfers out of the account to major suppliers of precious metals (in particular, gold). This was a significant change in the activity visible to the Bank.

41. The following cash deposits were made into the account in the period November 2013 to June 2014:

Month	**Amount**
November 2013	£148,760
December 2013	£395,500
January 2014	£700,868
February 2014	£1,219,264
March 2014	£936,969
April 2014	£1,872,644
May 2014	£2,168,068
June 2014	£2,353,156

42. The cash came in in three forms: Business Quick Deposit ("BQD") (by which business customers and third parties could deposit cash straight into the branch network without interacting with branch staff). This was a system which had been identified as particularly vulnerable to money laundering and the Direct Cash and Bulk Cash schemes.

43. The Relationship Management Team, despite regular contact with the customer and adequate training by the Bank, failed adequately to:

a. Corroborate, scrutinise or critically assess the customer's explanation for the change in activity on the account to large cash deposits, said to be the result of a change in its business model;
b. Sufficiently scrutinise and critically assess and/or corroborate the customer's explanations for unusual activity on the account thereafter;
c. Initiate reviews of the customer relationship following trigger events such as changes in transaction patterns or directorships; and
d. Ensure Fowler Oldfield was subject to the correct risk rating.

44. It is also fair to say that the Relationship Manager's descriptions of the business in this period for KYB purposes did not cohere with the business which was taking place.

45. Alerts were triggered by these activities. Cash centre staff, branch staff, and Fowler Oldfield's assistant relationship manager ("Assistant Relationship Manager") raised 11 IMLSRs and the Bank's automated transaction monitoring system alerted 10 times in relation to Fowler Oldfield account activity ("TM alert") between 7 November 2013 and 23 June 2016. All but one of these arose in the period after January 2014.

46. In addition, the Bank's automated transaction monitoring system triggered 10 times between March 2014 and the end of the business relationship. The most frequent trigger was the Security Blanket, which triggered four times between August 2015 and November 2015. The second most frequently triggered rule was a rule that concerned "Large Cheque Deposits," in place between September 2015 and January 2016.

47. None of the records of the 19 investigations into the suspicious activity that post-dated the November 2013 change in account activity, and predated the March 2016 KYB update, referred to or assessed the credibility of the change in business model and activity on the account, as described by the Relationship Manager.

48. However:
a. The investigators examining did not have access to nor did they request the customer's KYB forms, the KYC report completed on Fowler Oldfield in November 2013 or the customer's risk rating - which had been raised from low to medium in April 2014.

b. The information contained on the Relationship Management Platform ("RMP") utilised by the Relationship Manager was not accessible to investigators.
    i. Between 8 November 2012 and 11 February 2015, five IMLSRs and four TM alerts were investigated by analysts;
    ii. Access to RMP was requested by the investigators in April 2015, but there is no documentary evidence that confirms if or when access to the system was granted to investigators after April 2015.
c. When an update flagging the "significant" change of business model and "significant money laundering implications" was put on the RMP by the Relationship Manager on 30 June 2014 it did not result in in an EDR or the updating of the customer's KYB form.
d. There was overreliance on and/or failure to sufficiently challenge explanations provided by the Relationship Manager;
e. In certain instances, there was failure to seek further information from internal and open sources about Fowler Oldfield;
f. There was a repeated failure to identify that the customer was erroneously rated by NatWest as 'low' or 'medium' risk for most of the relationship;
g. There was failure adequately to identify, and respond to a series of money laundering 'red flags' including the change in business model;
h. There was a failure adequately to analyse Fowler Oldfield's account behaviour against information provided at the account opening and following EDRs; and
i. There was a failure to consider the cumulative implications of prior investigations when determining each new IMLSR / TM alert. Indeed the satisfaction of these alerts would make the triggering of future alerts less likely as the algorithm learned from experience.
j. There were no Periodic Reviews which, if performed correctly, would have involved the scrutiny of transactions.

49. One reason for these issues was that the office charged with most of the investigations - Borehamwood – was not operating as effectively as it should have been. It was a new office, created as part of the attempts to improve NatWest's AML response. It was designed specifically to deal with such alerts. There was, perhaps unsurprisingly, a lack of experience in the staff. Sufficient material available to train its staff, but that material was apparently not effectively deployed – knowledge was as the parties put it

"not sufficiently embedded". In particular there was apparently an emphasis on timing – closing alerts within 30 days - rather than quality. This led to many of the staff prioritising timing rather than thorough investigation of the alert. There was also a high staff attrition rate. The Bank accepts that its investigations were inadequate.

50. Shortly after the change of business model an EDR was conducted, at the request of the Relationship Manager - not because of any change in the business but because Fowler Oldfield had added two new directors. The KYC analyst who conducted the review does not appear to have cross checked the inaccurate account of the customer's business on the KYB form with the transactional activity. If this had been done it would have been noted that there were a significant number of international transactions on an account which was stated to do business within the UK only.

51. From late 2013, numerous branches started to receive millions in Fowler Oldfield cash. Staff in a number of branches and cash centres flagged concerns about the activity or submitted IMLSRs; however, staff in some other branches/centres did not do so. The non-notifiers included branches/centres which received sums between £12 and 43 million and situations which included the deposit of such large sums of cash that they were brought in in black bin bags, which tore because of their weight, and sums so large that the bank's safes were inadequate to store them.

52. An example of a concern being raised was in the Washington cash centre. Over the summer of 2014 Washington staff repeatedly raised concerns about Fowler Oldfield's cash deposits over the phone and via email with the relevant Bank departments. The centre, which would ultimately raise three IMLSRs on the customer during the relevant period, was troubled by the high volumes of cash coming in for the customer, the high volumes of Scottish notes (which quite apart from the bulk was unusual for a business based so far from the border) and that the cash would at times carry a prominent, musty smell, indicative of long storage, rather than business use. Staff at the centre were sufficiently concerned about the activity they set up a dedicated team to monitor the cash deposits received in from Fowler Oldfield and had conducted their own enquiries.

53. On 21 July 2014 the NCA submitted a formal information request relating to Fowler Oldfield to the Bank under section 7 of the Crime and Courts Act

2013 arising out of concerns triggered by the Scottish banknotes. The document was not recorded on Fowler Oldfield's GK file (there was no internal policy requirement to do so) and no IMLSR was raised. Concerns were raised by the Financial Intelligence Unit, who provided support to investigators, about the explanations provided by the Relationship Manager. These concerns were not recorded on the relevant database which was used by the analysist in the relevant office for the purposes of deciding whether to report specific transactions. No EDR was triggered. No Sar was submitted.

54. The manager of the Basingstoke cash centre, a highly experienced employee, flagged his own concerns to a Financial Crime Manager rather than raise an IMLSR as the most suspicious activity he had seen and he regarded it as a matter of urgency. However the manager in question took the view that there were sufficient explanations on the file. Further alterts from this branch were closed by the investigator without contacting the Relationship Manager.

55. Fowler Oldfield was listed as an associated party/remitter in one suspicious activity report ("SAR") submitted to the NCA in August 2015: an alert had been triggered on an account belonging to a supplier of hair extensions/wigs, hair accessories and cosmetics. It was noted that the company had received approximately £387k from Fowler Oldfield, following which the funds were transferred to a pub business before being transferred out to money transfer businesses.

56. An IMLSR at this time triggered a request for the Relationship Manager to consider whether an EDR was necessary. His assurance that *"there are no AML concerns with activity fully explained and consistent with the account information being produced"* was accepted. No checking (to the extent checking was possible) took place of his inaccurate summary of the relationship with HMRC. No concerns were raised about the fact that he did not recommend the client be moved to a high-risk rating, or the fact that he had not initiated an EDR.

57. An EDR was triggered in March 2016. It did acknowledge the high cash use, but described the high levels of cash as *"common to the sector"*. The level of scrutiny of this EDR appears to have been deficient. It does not appear that the reviewer responsible for this EDR examined any transactional activity on the account; nor challenged the Relationship

Manager's assertions that the business did not have a disproportionate level of cash turnover relative to its business proposal. Neither was the incorrect assertion of an operational hub in Scotland checked.

58. No SARs were submitted to the NCA concerning Fowler Oldfield itself until the Bank was notified of the NCA/West Yorkshire Police investigation into it.

The investigation and its aftermath

59. In 2016 a West Yorkshire Police ("WYP") investigation uncovered what it suspects was a large-scale money laundering operation run out of Fowler Oldfield from January 2014 (the "Fowler Oldfield Operation") and notified NatWest of this in June 2016. The Bank was in communication with WYP and agreed to cooperate with their investigation from 23 June 2016. NatWest subsequently exited the customer and the Bank notified the FCA that it had discovered "concerns" in the management of this customer relationship.

60. After NatWest became aware of the WYP/NCA investigation into Fowler Oldfield, the Nominated Office submitted 13 SARs which retrospectively reported conduct on the account including conduct dating back to 2013 and sought consent for account closures.

61. The Bank ultimately incurred a small loss from its relationship with Fowler Oldfield, the sums it received as fees being more than offset by an informally extended loan which was outstanding when the company ceased to trade.

62. There followed various internal reviews, which were numerous and extensive and which indicate a very serious resolve on the part of the Bank to deal with the issues which have arisen. In the course of those reviews the Bank identified and remediated a number of issues, some directly connected to problems observed on the Fowler Oldfield account, and some intended more generally to strengthen the Bank's controls.

63. In particular:

a. The quality assurance undertaken within the Nominated Office Function was reviewed and made more rigorous (having been described by the Nominated Officer as not “fit for purpose”);
b. Repeat non-disclosures on an account were in the future required to be escalated and reviewed;
c. A monthly report was instituted, to ensure that if a customer's high risk rating was lowered, an EDR would take place, and potential risks identified and escalated.
d. Training also was updated within the Nominated Office Function to reflect the importance of challenging explanations provided by relationship managers, and making an independent decision, rather than relying on previous decisions not to disclose.

64. A review by a “Skilled Person” appointed by the FCA to test the effectiveness of the AML Change Programme reported that demonstrable progress had been made noting that senior management was serious about improving its AML systems and controls, that there was a clear 'tone from the top' and that the Group's key values of 'doing the right thing' and 'taking risks seriously' had filtered down to the front line. It did however still note issues for improvement - in particular in relation to remediation of “high risk” files. Since then the Skilled Person has acknowledged positive progress made by the Group in completing the vast majority of the recommendations initially raised by the review although delays in remediation, particularly in relation to high risk files were also flagged.

65. It is apparent that a serious financial commitment has been made to this issue:

a. During the period 2010 to 2015, the Group authorised the expenditure of £700m, on its AML systems, processes and controls.
b. From 2016 to date, the Group is said to have invested over £700m on financial crime;
c. The Group's current intention is to spend in excess of £1 billion between 2021 and 2025 on financial crime arrangements. It has created a new and centralised FinCrime team, and has grown the size of its Financial Crime and Fraud team to 5,000 members, representing roughly 8% of NWG's total employees.

66. I will now summarise the reasons why, against this background, NatWest has breached the relevant Regulations.

Count 1: Regulation 8(1): Ongoing monitoring

67. Regulation 8(1) of Regulations required NatWest to conduct ongoing monitoring of all relevant business relationships. This requirement was made up of two obligations:
    a. To scrutinise transactions to ensure they were consistent with expected business activity (Regulation 8(2)(a)); and
    b. To keep documents, data or information obtained for the purposes of customer due diligence up to date (Regulation 8(2)(b)).

First Element of Regulation 8(1) - Scrutinising transactions

68. There were a number of weaknesses in the monitoring of the Fowler Oldfield account, the effect of which was that NatWest failed to comply with Regulation 8(1) between 7 November 2013 and 23 June 2016 by failing adequately to scrutinise transactions on the Fowler Oldfield account to ensure they were consistent with expected business activity. The weaknesses in monitoring included:
    a. The Relationship Management Team, despite regular contact with the customer and adequate training by the Bank, failed adequately to:
        i. Corroborate, scrutinise or critically assess the customer's explanation for the change in activity on the account to large cash deposits, said to be the result of a change in its' business model;
        ii. Sufficiently scrutinise and critically assess and/or corroborate the customer's explanations for unusual activity on the account thereafter;
        iii. Initiate reviews of the customer relationship following trigger events such as changes in transaction patterns or directorships; and
        iv. Ensure Fowler Oldfield was subject to the correct risk rating.

    b. NatWest's automated transaction monitoring system failed, as already noted, in that:
        i. Throughout the Indictment Period, cash deposits made directly through Bank cash centres were erroneously interpreted by the system as cheque deposits. Although they were subject to the Security Blanket, they were subjected to less stringent rules

applicable to cheque deposits. The Security Blanket was itself in need of attention;

ii. For most of NatWest's relationship with Fowler Oldfield, there were no cheque-specific monitoring rules in place. Those deposits by Fowler Oldfield made through Bank cash centres amounted to millions of pounds in cash that were neither monitored as cash nor subjected to rules specifically targeting cheque deposits;

iii. For part of the Indictment Period (June 2014 to September 2015) the rules in place did not include cash-specific rules; and

c. Staff raised 11 IMLSRs and the Bank's automated transaction monitoring system alerted 10 times in relation to Fowler Oldfield account activity ("TM alert"). The Bank's investigations of these alerts between 7 November 2013 and 23 June 2016 were inadequate due to a number of failings by those investigating, including :

i. Overreliance on and/or failure to sufficiently challenge explanations provided by the Relationship Manager;

ii. In certain instances, failure to seek further information from internal and open sources about Fowler Oldfield;

iii. Failure to identify that the customer was erroneously rated by NatWest as 'low' or 'medium' risk for most of the relationship;

iv. Failure to adequately identify, and respond to a series of money laundering 'red flags' including a change in Fowler Oldfield's business model from transfers in/cash out to cash in/transfers out;

v. Failure to adequately analyse Fowler Oldfield's account behaviour against information provided at the account opening and following EDRs; and

vi. Failure to consider the cumulative implications of prior investigations when determining each new IMLSR / TM alert.

d. NatWest failed to conduct any adequate independent review of activity on the account.

i. Fowler Oldfield was not subject to any Periodic Reviews during the almost five year relationship period which, if performed correctly, would have involved the scrutiny of transactions.

ii. Two EDRs involving input from KYC and KYB teams and the review of KYB information were conducted (in November 2013 and March 2016) but were inadequate and failed to identify significant differences between actual transactions on Fowler Oldfield's accounts and the type of account activity expected by

the Bank based on the information it held about the customer. In addition, when multiple events which should, under NatWest's policy, have triggered further reviews occurred, the Bank failed to conduct additional EDRs.

Second Element of Regulation 8(1) - Keeping documents, data or information up to date

69. NatWest also failed to comply with Regulation 8(1) between 7 November 2013 to 23 June 2016 by failing to keep documents, data or information obtained for the purposes of customer due diligence up to date. In particular, NatWest failed to conduct sufficient formal reviews of activity on the account during the Indictment Period, in line with its own policies.

70. PRs and EDRs should have been the primary means of keeping documents, data and the recording of information up to date but were either not conducted or not conducted as frequently as they should have been, and were not completed timeously. In addition, following the investigation of alerts on the Fowler Oldfield account, Bank guidance required consideration of follow up actions which could include updating Fowler Oldfield's customer due diligence information and / or risk rating. Despite alert investigations into matters that were relevant to Fowler Oldfield's recorded customer due diligence taking place at fairly regular intervals from 2014 onwards, no such updates were made.

Count 2: Regulation 8(3): Risk-sensitive ongoing monitoring

71. Regulation 8(3) required NatWest to:
    a. Conduct ongoing monitoring on a risk-sensitive basis (as set out at Regulation 7(3)(a)); and
    b. Be able to demonstrate to the FCA (as its supervisory authority) that the extent of its measures were appropriate in view of the risks (as set out at Regulation 7(3)(b)).

First Element of Regulation 8(3) – Conduct risk-sensitive ongoing monitoring

72. The effect of the weaknesses in the monitoring arrangements for Fowler Oldfield meant that NatWest failed to comply with Regulation 8(3) between 8 November 2012 and 23 June 2016, in that it failed to conduct

ongoing monitoring of Fowler Oldfield on the basis that it was a high-risk customer. The relevant weaknesses were:

a. A failure to treat Fowler Oldfield as a high-risk customer for a period of over two years. Fowler Oldfield was erroneously downgraded to low risk in December 2013 before being increased to medium risk in April 2014. It was not until 3 March 2016 that it was returned to high;
b. A lack of any differentiated automated transaction monitoring of high-risk customers (including Fowler Oldfield) until April 2016;
c. A lack of automated transaction monitoring rules that specifically targeted cash deposits made via BQD;
d. A failure to conduct IMLSR and TM alert investigations in a manner that reflected Fowler Oldfield's high-risk;
e. A failure to conduct any PRs (PRs for Fowler Oldfield should have been annual);
f. A failure to conduct a sufficient number of EDRs; and
g. A failure to conduct the EDRs that took place on the relationship in a suitably risk-sensitive manner.

Second Element of Regulation 8(3) – Demonstrate to the FCA that the extent of ongoing monitoring was appropriate to the risks

73. Because it did not conduct ongoing monitoring of Fowler Oldfield on a risk-sensitive basis, NatWest was unable to demonstrate to the FCA that the extent of its ongoing monitoring was appropriate in view of the risks. That was a further failure to comply with Regulation 8(3).

Count 3: Regulation 14(1): Enhanced ongoing monitoring

74. Regulation 14 required NatWest, where there was a situation which, by its nature, could present a higher risk of money laundering (Regulation 14(1)(b)), to apply enhanced customer due diligence and enhanced ongoing monitoring on a risk-sensitive basis (Regulation 14(2)).

75. The effect of the weaknesses in the monitoring arrangements for Fowler Oldfield meant that NatWest failed to comply with Regulation 14 between 8 November 2012 and 23 June 2016 in relation to its relationship with Fowler Oldfield. NatWest accepts that Fowler Oldfield was, throughout

that period, a high-risk customer. Despite that higher risk, NatWest failed to:

a. Rate Fowler Oldfield as a high-risk customer or subject the relationship to enhanced scrutiny sufficient to identify its erroneous risk-rating as detailed above for over two years;
b. Apply any differentiated automated transaction monitoring of high-risk customers (including Fowler Oldfield) until April 2016;
c. Conduct IMLSR and TM alert investigations in a manner that reflected Fowler Oldfield's high risk; or
d. Conduct any PRs or sufficient EDRs each time a trigger event occurred under Bank policy.

SENTENCING PRINCIPLES

76. It is important to emphasise that while joint submissions on sentence were tendered in compliance with the Attorney General's guidelines on "*Plea discussions in cases of serious or complex fraud"* and the Consolidated Criminal Practice Direction, as both parties have accepted that as the sentencing Judge I am not bound by any agreement reached between them.

77. I acknowledge again with gratitude the co-operation between Prosecution and Defence, and have been much assisted by their agreed documents and submissions. However I proceed to sentence on the basis of my own consideration of the materials and the submissions.

78. Pursuant to Regulation 45(1) the maximum penalty upon conviction of a corporate defendant for breaching the Regulations is an unlimited fine. It is right that I should note that it is not suggested that there has been any deliberate flouting of the rules or that there was any criminal intent. These are strict liability offences. As my summary of the relevant facts underpinning liability demonstrates these are not offences which relate to a lack of commitment by the Bank to the principles underpinning the Regulations.

79. There are no specific sentencing guidelines for offences under the Regulations, nor are there any appellate authorities on sentencing for offences under the Regulations.

80. The FCA (and its predecessor, the Financial Services Authority) has imposed civil penalties on relevant persons under reg 42 of the Regulations (and for AML related breaches of the FCA's Principles for Businesses). I have been provided with copies of the relevant Final Decision Notices both as regards AML regulatory penalties for retail and investment banks in the period 2010-2021 and embodying regulatory findings against NatWest and the NatWest Group between 2002 and 2021 (the most recent being in 2014).

81. Pursuant to s. 59(1) Sentencing Code I am obliged to follow any sentencing guideline which is relevant to a particular case, unless it would be contrary to the interests of justice to do so. There are two relevant Guidelines:

    a. General Guideline: Overarching Principles;
    b. "Corporate offenders: fraud, bribery and money laundering" (the Corporate Guidelines).

82. The former Guideline provides:

> "a) Where there is no definitive sentencing guideline for the offence, to arrive at a provisional sentence the court should take account of all of the following (if they apply):
>
> the statutory maximum sentence (and if appropriate minimum sentence) for the offence;
>
> sentencing judgments of the Court of Appeal (Criminal Division) for the offence; and
>
> definitive sentencing guidelines for analogous offences.
>
> …
>
> When considering definitive guidelines for analogous offences the court must apply these carefully, making adjustments for any differences in the statutory maximum sentence and in the elements of the offence. This will not be a merely arithmetical exercise."

83. The Corporate Guidelines apply to offences of substantive money laundering. Whilst the maximum sentence for substantive money

laundering and breaches of the Regulations by corporate offenders are unlimited fines, they have different statutory maximum offences for natural persons: 14 years' imprisonment for substantive money laundering; 2 years' imprisonment for breaches of the Regulations.

84. I also note that as there are three offences I will sentence in relation to one offence, which I will take as the lead offence and impose no separate penalty in relation to the others. However the sentence on the lead offence will have to take into account the totality of the offending behaviour – a point to which I will revert in due course.

THE PRINCIPLES APPLIED

85. I am required to consider whether the Court should make a compensation order and must give reasons if I do not do so.

86. In this case it is not suggested that the court should impose a compensation order in this case. Having considered the facts I agree that this is not a case where a compensation order would be appropriate because of the absence of personal injury, loss or damage resulting from the offence.

87. I must also consider the making of a confiscation order. It is agreed, and I also accept, that a sum representing the amount gained by the Bank from its relationship with Fowler Oldfield from 8 November 2012 ought to be the subject of a confiscation order under s. 6 of the Proceeds of Crime Act 2002.

88. Consistent with paragraphs 149-150 of the Statement of Facts, the total fees and charges gained by the Bank are £400,818 and after cost of living **£460,047.04**.

89. The amount of fees and charges gained over the indictment period (figures to be provided), following adjustment for CPIH[1] , will be the recoverable amount.

[1] Consumer Prices Index including owner occupier's housing costs

90. The next steps in the process are to consider the questions of harm and culpability.

Harm

91. The Corporate Guidelines indicate that the harm figure may be calculated in various ways: the general approach focuses on the amount obtained or intended to be obtained (or loss avoided, or intended to be avoided). For offences of money laundering it says that: *"the appropriate figure will normally be the amount laundered or, alternatively, the likely cost avoided by failing to put in place an effective anti-money laundering programme if this is higher."*

92. I consider that in this case the only sensible way of assessing harm is by reference to the funds paid into Fowler Oldfield's accounts during the indictment period. The alternative of taking the turnover in the area of business seems to point at an unrealistically large figure and to be subject to a disconnect which is an undesirable starting point. The FCA and NatWest agree with this approach. They also agree that this figure is **£287,794,887.06**.

93. There is then a question about the period after 23 June 2016. That date is relevant because on that date the Bank became aware of the West Yorkshire Police investigation into Fowler Oldfield. It agreed to assist West Yorkshire Police, without notifying Fowler Oldfield or the Relationship Management Team. Therefore, although Fowler Oldfield continued to pay money into its accounts following 23 June 2016 (£66,527,680.87 in total), the Bank had by this stage started to co-operate with the investigation. The parties have jointly submitted that these sums should therefore be excluded from the harm figure. I accept that submission.

94. The parties also submit that there should be some adjustment to the harm figure to reflect:
    a. The difference between breaches of the Regulations and substantive money laundering (the Corporate Guidelines providing for the latter); and

b. That some of the funds paid into NatWest accounts by Fowler Oldfield may not have been the proceeds of crime.

95. The parties submit that the harm figure should therefore be reduced by 40%. I regard the latter point as somewhat nebulous and speculative.

96. However there is real force in the former point, not least bearing in mind the disparity in maximum sentences for natural persons noted above. I therefore accept the submission that the harm figure should be reduced by 40% - essentially a reflection that this is not substantive money laundering while paying due weight to the preventative approach of the Regulations. This results in a revised harm figure of **£172,676,932.23**.

Determining the offence category: culpability

97. The Corporate Guidelines set out a list of factors which denote different levels of culpability. I do also bear in mind that the factors listed in the Corporate Guidelines are primarily intended for substantive money laundering offences (in addition to bribery and fraud) so must be read in that context.

98. Of the high culpability factors, it is agreed that the following is present: *"Offending committed over a sustained period of time"*. However, this has to be taken in a nuanced way because some of the failings in monitoring of the Fowler Oldfield account which contribute to that sustained period pre-dated the indictment period. Even without the pre-indictment period however I would conclude that this factor was present.

99. Of the lesser culpability factors, it might be said that the position is analogous to that which is envisaged by the following factor: *"Some effort made to put bribery prevention measures in place but insufficient to amount to a defence (section 7 Bribery Act only)"*.

100. This is therefore a case where there are culpability factors which fall under different categories. The Guideline says that in such a case "the court should balance these characteristics to reach a fair assessment of the offender's culpability". It also points the way to Category B where there are factors present in A and C which balance each other out.

101. I also bear in mind that the culpability factors listed in the Corporate Guidelines are not exhaustive. Other facts which I was invited to consider were the following:
    a. Some of the failings in the Bank's ongoing monitoring of Fowler Oldfield (e.g. in the automatic transaction monitoring system) were not peculiar to the Fowler Oldfield account, and would have affected other business relationships.
    b. The breaches in this case related to a customer that was high risk in multiple ways. However, the high-risk nature of the situation is an ingredient of the regulation 14(1) offence, and therefore the court should be careful to avoid "double-counting" as regards that offence.

102. Balancing the above characteristics, I conclude that the culpability in this case ought to be characterised as "medium" (culpability level B). This aligns with the parties' agreed position.

Starting point and category range

103. The starting point for culpability level B (medium) is 200% of the harm figure, with a range of 100% to 300%.

104. Having determined the starting point, the Guidelines require me to consider adjustment within the category range for aggravating or mitigating factors - always being careful to avoid "double counting".

105. It is agreed by the parties that the following additional aggravating factors are relevant:
    a. Previous regulatory action (including the regulatory penalty imposed by the FCA on NatWest Plc in 2010 for breaches of reg 20(1) of the Regulations; and the regulatory history in relation to other entities within the NatWest Group);
    b. Likely serious nature of the underlying criminal activity.

106. It is agreed by the parties that the following additional mitigating factors are relevant:
    a. NatWest co-operated with the investigation. However it must be noted that NatWest is regulated by the FCA and therefore the majority of the evidence in the case was obtained via the FCA's powers of compulsion;
    b. NatWest made early factual admissions. Again I note however that the Bank did not accept that the facts alleged amounted to offences;

c. NatWest voluntarily reported the offending. However this was after West Yorkshire Police informed the Bank of its investigation into Fowler Oldfield, and that, as a regulated firm, the Bank was required to bring the issue to the FCA's attention;
d. The Bank made a small direct loss from its failures to monitor Fowler Oldfield;
e. This is not a case where there was no attempt to monitor the account; or there was in fact no monitoring at all;
f. NatWest has taken steps to address the offending behaviour. Having said that it is apparent from the materials before me that there is still work that remains outstanding.

107. Balancing all of the above, the parties submit that the factors effectively cancel each other out and that the culpability multiplier that should be applied is 200%.

108. I take all of these points into account. I also take into account the letter dated 9 December 2021 from the Chairman and Chief Executive Officer of NatWest on behalf of the NatWest Board. It is a letter which I entirely accept represents the views of the Board and does them credit. In it they say this:

> "The bank's failings in this case are a matter of deep regret to the Board and we apologise for the disappointment and concern that they will have caused to our customers, staff, shareholders and regulators.
>
> The prevention of financial crime is a leading priority for our bank and we have committed substantial resources over many years to a continuing programme of investment that seeks to counter the significant and evolving threat this type of crime poses to society. We are determined as an organisation to continue to learn lessons from this case and to intensify our work to prevent NatWest's systems from being misused by criminals.
>
> As we have previously announced, that programme of investment will include a further £1 billion over the next five years in strengthening and upgrading our financial crime systems and controls, particularly in the areas of customer screening, transaction monitoring and customer due diligence. Recognising that the vigilance and financial crime awareness of our staff are key components in the identification and prevention of financial crime, we have also continued to enhance and expand our training programmes.
>
> We wish to convey the bank's commitment to being a hostile and unattractive environment for financial crime and to working as closely as possible with industry bodies, law enforcement agencies and regulators to help to protect the customers and communities that we serve."

109. I also acknowledge the steps (outlined earlier in these remarks) which NatWest has taken and is continuing to take in improving its AML procedures.

110. Taking all these matters together I conclude that the culpability multiplier should be the 200% on which the parties had agreed. That produces a figure of **£345,353,864.47.**

Adjustment of fine

111. The Corporate Guideline also requires the court to *""step back" and consider the overall effect of its orders,"* in order to achieve:
    a. The removal of all gain;
    b. Appropriate additional punishment; and
    c. Deterrence.

112. This is not a case of gain and therefore the first of these points does not bite.

113. However as regards the latter two I should in this context bear in mind that one of the key purposes of the Regulations was to prevent the financial sector being used for the purposes of money laundering. The Recitals to the Third Money Laundering Directive, to which the Regulations gave domestic effect, began thus:

> "Massive flows of dirty money can damage the stability and reputation of the financial sector and threaten the single market, and terrorism shakes the very foundations of our society. In addition to the criminal law approach, a preventive effort via the financial system can produce results.
>
> The soundness, integrity and stability of credit and financial institutions and confidence in the financial system as a whole could be seriously jeopardised by the efforts of criminals and their associates either to disguise the origin of criminal proceeds or to channel lawful or unlawful money for terrorist purposes…"

114. The parties also drew my attention to the additional guidance (echoed in part in the General Guidelines), that:
    a. The fine may be adjusted to ensure that these objectives are met in a fair way. The court should consider any further factors relevant to the setting of the level of the fine to ensure that the fine is proportionate, having regard to the size and financial position of the offending organisation and the seriousness of the offence.

b. The fine must be substantial enough to have a real economic impact which will bring home to both management and shareholders the need to operate within the law. Whether the fine will have the effect of putting the offender out of business will be relevant; in some bad cases this may be an acceptable consequence.

115. I must of course also consider the question of totality. In other words, the sentence imposed must be such as to reflect all the offending behaviour before the Court – ie. the fact that there are three counts - and it must be just and proportionate to the totality of the criminal behaviour.

116. Mr Kelsey Fry has urged me to go no higher than the figure produced thus far by the calculation process which I have outlined. Indeed he has urged me, by reference to various authorities in relation to other instances of corporate criminal offending, to move down somewhat from the figure reached. He has emphasised the Bank's evident commitment to remediate the flaws which have been highlighted. He has emphasised the key role played by overreliance on a Relationship Manager who had failed to be sufficiently critical of what seems to have been a customer whom he saw frequently and may well have come to trust.

117. He has suggested that in this case there is no need to bring home to this bank the seriousness of the issues, and where the picture is one of striving not always successfully to comply with the rules.

118. He has also reminded me of the fines imposed in a number of other cases: *SFO v Rolls Royce*, *SFO v Airbus*, *Environment Agency v Southern Water* and *SFO v Petrofac*. My attention was also drawn to the SFO Decision Notices against Deutsche Bank and Standard Chartered. In all of these, he says the wrongdoing is manifestly more serious than in this case. He suggests that the figure I am looking at based on the calculation is disproportionate for a failure adequately to monitor a single customer's account.

119. Elegantly made as these points were, I am not persuaded by them. The criminal cases concern very different factual scenarios, and very different amounts. Following the line indicates, of simply looking back at the headline amounts can only serve to undercut the approach by reference to the Guideline, which it is agreed is my best guide. While I must step back

and reflect, it has to be in the context of the building blocks and the facts of this case.

120. The factors to which the defence adverts have in effect already been taken into account in the significant reduction made to the harm figure and by the pitching of the multiplier considerably below the kinds of multipliers utilised in the cases to which he refers.

121. It seems to me that in this case despite the Bank's commitment to improvement and regret it is incumbent on the Court to pass a sentence which is of sufficient size that it will be felt by management and shareholders of the Bank and that this requires some upwards adjustment from the figure I have reached so far.

122. The Bank is a major retail Bank. It forms an important part of the network of banks which are used by individuals across the country daily and which is therefore in a position of some trust. As the JMLSG Guidance noted many millions of retail banking transactions are conducted each week. It is also an important financial institution within our financial system. All banks operating in the retail banking space have had it clearly flagged to them by the JMLSG that the provision of services to cash- generating businesses is a particular area of risk, and that there is a corresponding need for careful assessment of that risk. It is incumbent upon corporate entities in such positions to justify their position by a scrupulous regard both for establishing and carefully operating systems which will prevent the infiltration of the financial sector by money which is the proceeds of crime and will also ensure that those who seek to do so are not allowed to flourish.

123. In this case NatWest failed signally to do so. This is seen in the length of the indictment period, the number of counts to which NatWest has had no realistic alternative but to plead guilty, the sums involved, the fact that both operational and systemic failures played their part - and the glaring nature of some of the failures to which I have alluded above. Moreover, it must be borne in mind that although in no way complicit in the money laundering which took place, the Bank was functionally vital. Without the Bank – and without the Bank's failures - the money could not be effectively laundered.

124. The Bank is an entity which operates in the many millions of pounds. I have been taken to its reports and accounts. While in 2020 it posted a small

pre-tax loss, in 2018 and 2019 its pre-tax profits were between £3 and 4 billion. Again this year pre-tax profits are running at somewhere in the region of £3.6 billion to the end of the third quarter. Even its compliance costs are anormous – the increase which has recently been made from £700 million to £1 billion for the next 5 years gives some hint of what is needed to properly comply with these Regulations which though demanding are of such great importance.

125. Assessing a sentence which is meaningful in that context requires a very considerable fine to be imposed. Simply following the mathematical calculation runs to risk of imposing a fine not commensurate with the size and financial position of the offending organisation and the seriousness of the offence.

126. In those circumstances, while I appreciate that in one sense there is an artificiality in fining heavily an entity which has seen no net financial benefit from its involvement with Fowler Oldfield's money laundering, I consider that it is appropriate to make a further uplift of 15%, essentially to reflect the need for appropriate additional punishment and deterrence (to the wider market as well as itself) as well as totality, which would itself suggest an upward shift of some percentage.

127. That produces a figure before reduction for plea of **£397,156,944.14**.

Reduction for guilty pleas

128. The Bank pleaded guilty at its first appearance on 7 October 2021. It follows that that it is entitled to a one third reduction for its early pleas pursuant to s. 73 Sentencing Code.

129. The fine which I will therefore impose in relation to Count 1 is **£264,772,619.95.** As regards the other Counts I will impose no separate penalty.

Ancillary orders

130. I have been invited to order NatWest to pay the FCA's costs: s. 18(1) Prosecution of Offences Act 1985.

131. Those costs have now been agreed as **£4,297,466.27**, made up as follows:

Year	Internal FCA Costs	External Case Costs
17/18	£158,055.88	£37,368
18/19	£321,165.80	£75,287
19/20	£566,006.75	£1,014,459
20/21	£532,256.45	£1,054,097
21/22	£192,646.39	£346,124
Totals	£1,770,131.27	£2,527,335

THE SENTENCE OF THE COURT

132. For the offences of:
    a. Failing to comply with the requirement to conduct ongoing monitoring of a business relationship contrary to regulations 8(1) and 45(1) of the Money Laundering Regulations 2007.
    b. Failing to comply with the requirement to determine the extent of ongoing monitoring on a risk-sensitive basis and be able to demonstrate to its supervisory authority that the extent of the ongoing monitoring is appropriate in view of the risks of money laundering and terrorist financing contrary to regulations 8(3) and 45(1) of the Money Laundering Regulations 2007.
    c. Failing to apply enhanced ongoing monitoring to its business relationship with Fowler Oldfield, in a situation which by its nature presented a higher risk of money laundering and terrorist financing contrary to regulations 14(1) and 45(1) of the Money Laundering Regulations 2007.

133. I sentence NatWest as follows:
    a. A confiscation Order in the amount of £460,047.04
    b. A fine in the amount of £264,772,619.95;
    c. Payment of the costs of the FCA in the amount of £4,297,466.27.

134. The surcharge applies to this offence and will be added to the Court record in the appropriate amount.