

FinCEN Assesses \$14.5 Million Penalty against UBS Financial Services for Anti-Money Laundering Failures

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WASHINGTON—The Financial Crimes Enforcement Network (FinCEN) today announced an assessment (https://www.fincen.gov/sites/default/files/enforcement_action/2018-12-17/UBS%20Assessment%2012.17.2018%20FINAL.pdf) against UBS Financial Services, Inc. (UBSFS) for willful violations of the Bank Secrecy Act (BSA).

FinCEN assessed a \$14.5 million civil money penalty, of which \$5 million will be paid to the U.S. Department of the Treasury and the remainder will be concurrent with penalties for similar or related conduct imposed by the Securities and Exchange Commission (SEC) and the Financial Industry Regulatory Authority (FINRA).

As described in the assessment, UBSFS failed to develop and implement an appropriate, risk-based anti-money laundering (AML) program that adequately addressed the risks associated with accounts that included both traditional brokerage and banking-like services. UBSFS failed to implement appropriate policies and procedures to ensure the detection and reporting of suspicious activity through all accounts—particularly for those accounts that exhibited little to no securities trading. The firm did not adequately structure its AML program to address the use of securities accounts for the purpose of moving funds rather than trading securities.

“Broker-dealers providing banking-like services must properly mitigate the AML risks associated with this kind of service. These services enable the flow of funds through mechanisms such as wire transfers, check writing, and ATM withdrawals, creating AML risks that need to be properly addressed,” said FinCEN Director Kenneth A. Blanco. “Although brokerage firms may provide such services to their clients, those doing so need to apply commensurate diligence to ensure that the firm does not become a conduit for movement of illicit funds creating a haven for criminals and other malign actors to benefit from, and to further, their illicit activity. For more than a decade, UBSFS failed to implement sufficient policies and procedures that adequately addressed the risks associated with the products and services it offered.”

As a full-service broker-dealer, UBSFS is required to establish and implement an AML program, as well as perform periodic reviews of its correspondent accounts for foreign financial institutions. FinCEN determined that from 2004 to 2017, UBSFS failed to implement an adequate AML program and failed to implement an adequate due diligence program for foreign correspondent accounts.

UBSFS failed to provide sufficient resources to ensure day-to-day AML compliance. Inadequate staffing led to a significant backlog of alerts and decreased UBSFS’s ability to timely file suspicious activity reports (SARs). Law enforcement investigators rely upon SARs to recognize and pursue financial criminals and other bad actors to protect our national security and our people from harm. Allowing a backlog of transaction alerts and delays in filing SARs stifles the ability of law enforcement agents to fulfill this critical national security mission.

Over several years, UBSFS processed through certain of its brokerage accounts hundreds of transactions that exhibited red flags associated with shell company activity. UBSFS failed to adequately monitor foreign currency-denominated wire transfers—amounting to tens of billions of dollars—that were conducted through its commodities accounts and retail brokerage accounts. UBSFS’s AML monitoring system failed to capture critical information about these foreign currency-denominated wires, including sender and recipient information and the country of origin and destination. As a result, it was unable to identify and investigate

potentially suspicious transactions based on the presence of important risk factors, such as jurisdiction and the involvement of politically exposed persons. Financial institutions must fully evaluate and identify the specific AML risks of the business and services they offer to their customers so they can proactively develop and implement an appropriate AML program to mitigate those risks.

FinCEN recognizes that UBSFS has made significant investments in BSA/AML staffing and technology, demonstrating its commitment and ability to correct the issues listed in the assessment through significant remedial efforts, including an upgraded AML surveillance monitoring system, enhanced oversight of its AML monitoring, enhanced training for AML compliance staff, and the implementation of a new quality assurance system.

FinCEN acknowledges its close coordination with the SEC and FINRA in the settlement of this action.

The mission of the Financial Crimes Enforcement Network is to safeguard the financial system from illicit use, combat money laundering, and promote national security through the strategic use of financial authorities and the collection, analysis, and dissemination of financial intelligence.

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