

Banking and Finance Law Daily Wrap Up, ENFORCEMENT ACTIONS—Despite progress made, HSBC Bank must improve anti-money laundering compliance, (Apr. 2, 2015)

By Thomas G. Wolfe, J.D.

The U.S. Department of Justice has submitted a status report to Judge Gleeson of the U.S. District Court for the Eastern District of New York concerning implementation of the deferred prosecution agreement between the federal government and HSBC Bank, USA, N.A. and HSBC Holdings plc (HSBC Group) in connection with the monitoring of HSBC Group's anti-money laundering and sanctions compliance program. In its [April 1, 2015, status report](#), the Justice Department summarizes the findings of the independent monitor's "First Annual Follow-Up Review" of HSBC Group's compliance. In concurring with the independent monitor's assessments, the Justice Department relates that despite the "material progress" made by HSBC Group and its good-faith efforts thus far, the global financial institution not only must continue to maintain compliance with the strict terms of the deferred prosecution agreement, it must also improve its compliance technology and transform its corporate culture.

Background. In December 2012, HSBC Group entered into a deferred prosecution agreement with the Department of Justice. In January 2015, the independent monitor, Michael G. Cherkasky, submitted his First Annual Follow-Up Review Report concerning HSBC Group. In turn, the Justice Department reviewed and analyzed the independent monitor's findings and recommendations.

After discussing these findings and recommendations with both Cherkasky and HSBC Group, the Justice Department presented its own status report to Judge Gleeson in *United States v. HSBC Bank USA, N.A. and HSBC Holdings plc* (Criminal Docket No. 12-763 (JG)).

Highlights. Among other things, the Justice Department's April 2015 status report notes that:

1. HSBC Group has made progress in developing an effective anti-money laundering and sanctions compliance program and is better protected from financial crime and positioned to detect financial crime than it was when HSBC Group entered into the deferred prosecution agreement.
2. In particular, HSBC Group has made progress in the areas of "risk assessment, 'Know Your Customer' information and customer due diligence processes, compliance monitoring and testing, transaction monitoring alert adjudication and suspicious activity reporting, distribution of information to management, responses to potential financial crime violations, and incentivizing AML [anti-money laundering] and sanctions compliance

through compensation adjustment.”

3. At the same, however, HSBC Group’s progress “has been too slow” in certain instances.
4. While “adopting strong written policies is a significant step,” two of the “greatest impediments to HSBC Group’s implementation of a sustainable compliance program are its corporate culture and its compliance technology.”
5. The Justice Department will continue to closely monitor HSBC’s progress in connection with the deferred prosecution agreement’s “elevated standards of compliance,” and “stands ready to pursue all available remedies should HSBC fail to adhere to...[the] terms.”