

[Securities Regulation Daily Wrap Up, FRAUD AND MANIPULATION— Improperly disclosed past due loans will cost Wilmington Trust \\$44M, \(Oct. 11, 2017\)](#)

Securities Regulation Daily Wrap Up

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By [Amy Leisinger, J.D.](#)

A Delaware-based bank holding company has agreed to pay \$44 million in forfeiture to settle charges that the company made false statements regarding the quality of its loan portfolio. According to Delaware United States Attorney's Office, Wilmington Trust Corp. failed to fully and accurately disclose the number of past due and nonaccrual loans in its portfolio in filings with the SEC and the Federal Reserve. The forfeiture total reflects a credit for a prior \$16 million payment to the SEC in a [related action](#).

"To function effectively, our financial markets require accurate disclosures—and regulators need to receive accurate information," [said](#) Acting United States Attorney David Weiss. This resolution avoids the collateral consequences of a criminal conviction for the bank, including job losses and revenue declines for the community, he explained.

False reports. According to the [complaint](#), Wilmington Trust filed required call reports with the Fed detailing its financial position and operation results on a quarterly basis. Schedule RC-N of the call reports required disclosure of Wilmington Trust's total amount of loans that were past due or on nonaccrual status (no longer accruing interest). Following a 2009 Fed examination, Wilmington Trust entered into a Memorandum of Understanding requiring the bank to submit its total amount of past due loans to the Fed on a monthly basis.

While the bank's internal accounting system treated matured loans as past due, the complaint stated, Wilmington Trust used a practice of manually overriding the system not to include matured loans internally designated as "current for interest" and in the "process of extension" as past due in public reports. This waiver practice caused variances between loans treated as past due in the internal system and those reported publicly to the SEC and the Fed, according to the complaint. The bank did not describe its use of the practice in its reports and failed to report millions in commercial loans treated as past due on the internal system, the complaint alleged. The proceeds realized by selling stock at inflated prices in relation to waived past due loans constitutes an inappropriate corporate benefit to Wilmington Trust, according to the complaint.

Sanctions. In addition to the \$44 million forfeiture payment, the bank agreed to cooperate with the United States Attorney's Office going forward in exchange for dismissal of the pending criminal charges.

Attorneys: David C. Weiss, U.S. Attorney's Office, for the United States. Matthew P. Majadan (Skadden, Arps, Slate, Meagher & Flom LLP) for Wilmington Trust Corp.

Companies: Wilmington Trust Corp.

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