

## Securities Regulation Daily Wrap Up, TOP STORY—CFTC: RBS Settles Allegations of LIBOR Fraud; Japan Subsidiary Will Plead Guilty to Felony Charges, (Feb. 6, 2013)

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By Anne Sherry, J.D.

The Royal Bank of Scotland plc and RBS Securities Japan Limited (collectively, RBS) today settled LIBOR manipulation charges brought by the CFTC. The respondents will pay a \$325 million penalty (*In the Matter of The Royal Bank of Scotland plc*, February 6, 2013). The Justice Department also announced today that RBS Securities Japan Limited will plead guilty to felony wire-fraud charges and pay a \$50 million fine, and the parent company will pay a separate \$100 million penalty as part of a deferred-prosecution agreement.

**CFTC enforcement.** The CFTC's order instituting proceedings, to which RBS consented without admitting or denying its findings or conclusions, orders RBS to cease and desist from violating provisions of the Commodity Exchange Act and to pay a civil penalty of \$325 million. RBS also agreed to comply with undertakings meant to correct the problems of lax internal controls, policies, and procedures and lack of supervision that enabled the respondents for years to manipulate Yen and Swiss Franc LIBOR. According to the order instituting proceedings, from 2006 through 2010, certain RBS derivatives traders whose compensation was based on their trading in financial products tied to Yen and Swiss Franc LIBOR attempted to manipulate those benchmarks for their benefit, in the process defrauding counterparties who were unaware of the manipulation.

CFTC Chairman Gary Gensler said in a press release that the financial institutions' conduct is "a blatant example of what bad actors can do when a benchmark rate's underlying market becomes virtually nonexistent." Commissioner Bart Chilton described the conduct as "serious malfeasance" that "was despicable and deserving of this large penalty." He continued, "When we talk about the need for a 'culture shift' in the financial sector and specifically at large financial institutions, this case shows how ingrained this behavior was in the bank's culture. Even after all of these [LIBOR] cases were being investigated, it is amazing that RBS employees tried to fly above the law."

**DOJ actions.** The Justice Department also announced today that RBS Securities Japan Limited will plead guilty to felony wire-fraud charges for its role in the LIBOR manipulation scheme and will pay a \$50 million fine. The government is also charging parent company The Royal Bank of Scotland plc with wire fraud as part of a deferred-prosecution agreement that requires the bank to admit and accept responsibility for its misconduct and pay a \$100 million penalty. Added to the \$325 million CFTC penalty and \$137 million imposed as a result of a UK Financial Services Authority action, the DOJ penalties bring the total resolution to \$612 million.

Assistant Attorney General Lanny Breuer said that "holding RBS accountable for a stunning abuse of trust" as the department did with Barclays and UBS sends a clear message that no financial institution is above the law. Scott Hammond, Deputy Assistant Attorney General for Criminal Enforcement, concurred, noting that "RBS' conduct not only harmed its unsuspecting counterparties, it undermined the integrity and the competitiveness of financial markets everywhere."

Companies: The Royal Bank of Scotland plc; RBS Securities Japan Limited

MainStory: TopStory CommodityFutures Derivatives Enforcement FraudManipulation