Securities Regulation Daily Wrap Up, ENFORCEMENT—Waters, Lynch issue scathing comments on recent bank wrongdoings, (Feb. 10, 2015)

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By Stephanie K. Mann, J.D.

RepresentativeStephen F. Lynch (D-Mass) and Ranking Member of the Financial Services Committee Rep. Maxine Waters (D-Cal) have issued statements on recent bank wrongdoings. Following the revelation that HSBC, the second largest commercial bank in the world, committed numerous violations of U.S. and international tax and finance laws,Waters expressed her concern at the continued lack of accountability for the individuals associated with providing financial services for some of the world's worst criminals and tax evaders.

"The recent revelations about HSBC's efforts to shield individuals from the laws of the U.S. and other nations are just the latest in a long list of troubling misdeeds by the bank. The documents released confirm that the scope of the bank's dealings with dubious figures, including known tax evaders, arms dealers and corrupt officials, exceeds even the shocking admission by HSBC that it actively turned off anti-money laundering controls to accommodate terrorist financing and Mexican drug cartels," said Waters. "Banks that actively help clients evade taxes, break American law, or provide services to those connected with illegal activity should be punished accordingly. While HSBC has paid billions in fines to the United States and other nations, it outrages me that not a single individual has been prosecuted or held accountable."

Following reports of money laundering violations by HSBC, Waters introduced the "Holding Individuals Accountable and Deterring Money Laundering Act" proposed legislation that would bolster the government's ability to prosecute and hold accountable individuals who violate the Bank Secrecy Act. Currently, the Bank Secrecy Act requires government agencies to seek out and prevent money laundering schemes in the financial system. Additionally, the proposed bill would make bank executives personally liable for wrongdoing, and empowers regulators to remove or permanently ban bankers who violate the law from the financial services industry (see Oct. 25, 2014, issue of *Banking and Finance Law Daily*).

Oppenheimer & Co. In a related action, Lynch expressed his concern with the SEC's decision to issue Oppenheimer & Co., Inc. a full waiver from their five year automatic disqualification. Oppenheimer's disqualification resulted from repeated violations, including unregistered sales of billions of shares of penny stocks, violations of anti-money laundering laws, and for allowing an unregistered broker to execute trades for its clients (see Jan. 28, 2015, issue of *Banking and Finance Law Daily*). Lynch has been a strong critic of the dangerous precedent of waiving bad actor provisions for firms who have knowingly and repeatedly engaged in violations.

"Accountability and transparency are vital to safeguarding the general public from the danger of criminal behavior from our financial institutions. Bad actor disqualification provisions are an important means to detract firms from engaging in unlawful conduct. By reflexively granting a full waiver of sanctions, we are not holding firms accountable for flagrant violations of critical financial regulations and anti-money laundering laws," said Lynch.

Companies: HSBC; Oppenheimer & Co.

LegislativeActivity: BrokerDealers Enforcement