Banking and Finance Law Daily Wrap Up, ENFORCEMENT ACTIONS—Deutsche Bank resolves FCPA, fraud investigation, (Jan. 11, 2021)

Banking and Finance Law Daily Wrap Up

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The bank agreed to pay more than $130 million in criminal penalties, victim compensation, and monies to the Securities and Exchange Commission.

Deutsche Bank Aktiengesellschaft (Deutsche Bank) has agreed to pay more than $130 million to resolve an investigation into violations of the Foreign Corrupt Practices Act (FCPA) and commodities fraud. The resolution includes criminal penalties of $85,186,206, criminal disgorgement of $681,480, victim compensation payments of $1,223,738, and $43,329,622 to be paid to the Securities & Exchange Commission for the separate commodities fraud investigation.

According to the U.S. Attorney's Office for the Eastern District of New York, the charges against Deutsche Bank arose from a scheme to conceal corrupt payments and bribes made to third-party intermediaries by falsely recording them on Deutsche Bank's books and records, as well as related internal accounting control violations, and a separate scheme to engage in fraudulent and manipulative commodities trading practices involving publicly-traded precious metals futures contracts.

On Jan. 8, 2021, Deutsche Bank entered into a three-year deferred prosecution agreement with the U.S. Attorney's Office and the Department of Justice Criminal Division's Fraud Section and Money Laundering and Asset Recovery Section. The criminal information was filed in U.S. District Court for the Eastern District of New York charging Deutsche Bank with one count of conspiracy to violate the books and records and internal accounting controls provisions of the FCPA and one count of conspiracy to commit wire fraud affecting a financial institution in relation to the commodities conduct.

According to admissions and court documents, between 2009 and 2016, Deutsche Bank, acting through its employees and agents, including managing directors and high-level regional executives, knowingly and willfully conspired to maintain false books, records, and accounts to conceal, among other things, payments to a business development consultant (BDC) who was acting as a proxy for a foreign official and payments to a BDC that were actually bribes paid to a decisionmaker for a client in order to obtain lucrative business for the bank. In relation to a Saudi BDC, Deutsche Bank admitted that its employees conspired to contract with a company owned by the wife of a client decision maker to facilitate bribe payments of over $1 million to the decision maker.

Deutsche Bank also is charged with contracting with an Abu Dhabi BDC to obtain a lucrative transaction, despite Deutsche Bank employees knowing that the Abu Dhabi BDC lacked qualifications as a BDC and that the Abu Dhabi BDC was acting as proxy for the client decision maker. Deutsche Bank paid the Abu Dhabi BDC over $3 million without invoices, according to the U.S. Attorney's Office.

Deutsche Bank will pay a total criminal penalty of $79,561,206 in relation to the FCPA scheme. In a related matter with the Securities and Exchange Commission, Deutsche Bank also will pay $43,329,622 in disgorgement and prejudgment interest.

Fraud scheme. According to admissions and court documents, between 2008 and 2013, Deutsche Bank precious metals traders engaged in a scheme to defraud other traders on the New York Mercantile Exchange Inc. and Commodity Exchange Inc. On numerous occasions, traders on Deutsche Bank's precious metals desk in New York, Singapore, and London placed orders to buy and sell precious metals futures contracts with the intent to cancel those orders before execution, including in an attempt to profit by deceiving other market

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participants through injecting false and misleading information concerning the existence of genuine supply and demand for precious metals futures contracts.

Deutsche Bank has agreed to pay a total criminal amount of $7,530,218 in relation to the commodities scheme: criminal disgorgement of $681,480; victim compensation payments of $1,223,738; and a criminal penalty of $5,625,000, which will be fully credited against Deutsche Bank's payment of a civil monetary penalty of $30 million to the U.S. Commodity Futures Trading Commission in January 2018 in connection with substantially the same commodities conduct.

Companies: Deutsche Bank Aktiengesellschaft

LitigationEnforcement: CrimesOffenses EnforcementActions SecuritiesDerivatives

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