

United States v. Deutsche Bank Aktiengesellschaft (E.D.N.Y. 2020)

Nature of the Business.

Deutsche Bank Aktiengesellschaft ("Deutsche Bank") is a global financial institution headquartered in the Frankfurt, Germany. Deutsche Bank maintains common stock publicly traded on the NYSE and registered with the SEC pursuant to Section 12(b) of the Exchange Act.

Influence to be Obtained.

According to the DOJ, from 2009 and 2016, third party intermediaries, namely "business development consultants", hired by Deutsche Bank made corrupt payments to foreign officials and the corresponding transactions were falsely recorded on the bank's books and records. The consultants acted as proxies to foreign officials to obtain lucrative transaction work in Abu Dhabi, Saudi Arabia, and Italy. Allegedly, payments to the consultants were not subject to meaningful due diligence and were made without invoices or adequate documentation of services provided.

Relatedly, the DOJ charged Deutsche Bank with conspiracy to commit wire fraud in respect of its alleged efforts to defraud precious metals market participants by creating materially false information regarding supply or demand for the metals, inducing others to enter into futures contracts at terms they otherwise would not have. The bank settled similar allegations with the CFTC in 2018 for \$30 million.

Enforcement.

On January 8, 2021, the DOJ announced that it had entered into a three-year deferred prosecution agreement with Deutsche Bank on December 18, 2020, pursuant to which the bank agreed to pay a criminal monetary penalty of \$87,091,424. Deutsche Bank received a twenty-five percent discount off the recommended minimum sentence under the U.S. Sentencing Guidelines for its cooperation and full remediation. Further, the DOJ credited certain amounts paid to other enforcement agencies and funds related to its commodities trading conduct, including \$1,223,738 to a Victims Compensation Fund, \$5,625,000 in criminal penalties paid to the CFTC, and \$681,480 criminal disgorgement. Of the remaining amount, \$20 million will also be credited for payment to the U.S. Postal Inspection Service Consumer Fraud Fund.

On January 8, 2021, the SEC settled its enforcement action against Deutsche Bank for violating the internal controls provisions of the FCPA. Deutsche Bank was ordered to pay disgorgement of \$35.1 million and prejudgment interest of \$8.2 million.

Key Facts

Citation. *United States v. Deutsche Bank Aktiengesellschaft*, No. 20-cr-00584 (E.D.N.Y. 2020).

Date Filed. December 18, 2020.

Date Unsealed. January 8, 2021.

Country. Saudi Arabia, Italy, and United Arab Emirates.

Date of Conduct. 2009 - 2016.

Amount of the Value. About \$5.4 million.

Amount of Business Related to the Payment. Not stated.

Intermediary. Third-party consultants.

Foreign Official. Unnamed Saudi and Abu Dhabi government officials; unnamed regional tax judge in Italy.

FCPA Statutory Provision. Books-and-Records; Internal Controls.

Other Statutory Provision. None.

Disposition. Deferred-Prosecution Agreement.

Defendant Jurisdictional Basis. Issuer.

Defendant's Citizenship. Germany.

Total Sanction. \$87,091,424.

Compliance Monitor/Reporting Requirements. 3 Year Reporting Requirement.

Related Enforcement Actions. *In the Matter of Deutsche Bank AG* Admin. Proc. File No. 3-20200 (January 8, 2021).

Total Combined Sanction. \$130,421,046.