

Significant Penalties Assessed Against First Bank of Delaware for AML Violations

November 21, 2012

On November 19, 2012, the Federal Deposit Insurance Corporation (FDIC) and the Financial Crimes Enforcement Network (FinCEN) announced their imposition of a concurrent \$15 million civil monetary penalty against First Bank of Delaware, Wilmington, Delaware, for its violation of the Bank Secrecy Act (BSA) and anti-money laundering (AML) laws and regulations. [1] First Bank of Delaware also settled civil charges brought by the U.S. Department of Justice, U.S. Attorney's Office for the Eastern District of Pennsylvania, for the bank's involvement in related activities. [2]

According to bank regulators, First Bank of Delaware failed to implement a robust AML compliance program designed to identify and report evidence of money laundering and other illegal activities. In particular, the bank failed to sufficiently monitor third-party processor relationships and related products and services in a manner consistent with the risks presented. As Martin J. Gruenberg, Acting Chairman of the FDIC, noted in the wake of the announcement, "Effective Bank Secrecy Act and anti-money laundering programs that are commensurate with the risk profile of the institution are vital to protecting our financial system." Moreover, Jennifer Shasky, Director of FinCEN, stated, "To make money, First Bank of Delaware entered into risky lines of business and chose to disregard its Bank Secrecy Act responsibilities. As a result of its failure to implement systems and controls to identify and report suspicious activities, as required by the BSA, financial predators were able to victimize consumers."

First Bank of Delaware's \$15 million penalty also settles charges brought by the U.S. Attorney's Office. Specifically, the U.S. Attorney's Office claims that First Bank of Delaware initiated withdrawal

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transactions on behalf of fraudulent merchants from 2009 to 2011 in violation of the Financial Institutions Reform, Recovery and Enforcement Act. The civil complaint states that the bank knew or should have known that consumer authorizations for these withdrawals were obtained fraudulently. As part of its settlement, the bank also agreed to \$500,000 in restitution.

Following the sale of its assets to Bryn Mawr Trust Company on November 16, 2012, First Bank of Delaware's charter was terminated by the Delaware Office of State Bank Commissioners.

The significant penalty assessed against First Bank of Delaware provides yet a further warning to U.S. financial institutions that the implementation of effective, risk-based AML compliance programs must be a priority. Indeed, the failure to develop strong internal controls to detect and report money laundering not only exposes U.S. financial institutions to significant operational and reputational risks, but also substantial legal risks. In this regard, U.S. financial institutions are advised to familiarize themselves with the BSA and its implementing regulations and embrace a culture of AML compliance.

[1] Joint Release: FDIC and FinCEN Assess Civil Money Penalty Against First Bank of Delaware (Nov. 19, 2012).

[2] U.S. Department of Justice, U.S. Attorney's Office Eastern District of Pennsylvania: Department of Justice Announces \$15 Million Settlement with Local Bank Accused of Consumer Fraud (Nov. 19, 2012).