

**Alert | Financial Regulatory & Compliance/
White Collar Defense & Special Investigations**



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Danske Bank Pleads Guilty, Agrees to Pay More Than \$2 Billion in Coordinated Resolution of Investigations into Fraud Related to Its Anti-Money Laundering Controls

Introduction

On Dec. 13, 2022, the Department of Justice **announced** that Danish global financial institution Danske A/S (Danske Bank) pled guilty and agreed to forfeit \$2 billion to resolve an investigation into fraudulent representations it made to U.S. banks about its anti-money laundering (AML) controls in Estonia. As part of a parallel proceeding, the SEC also **announced** that Danske Bank agreed to pay \$413 million to settle charges for misleading investors about its Estonian AML compliance program and failing to disclose risks posed by the program's deficiencies.

Danske Bank, Denmark's largest financial institution, has been embroiled in controversy for several years, following allegations that its small Estonian branch lacked adequate AML controls, causing it to facilitate the movement of potentially criminal proceeds from Russia and other former Soviet states.

The DOJ plea and SEC settlement are part of a global resolution between Danske Bank and the SEC, the DOJ, the United States Attorney's Office for the Southern District of New York, DOJ's Money Laundering and Asset Recovery Section (MLARS), and Denmark's Special Crime Unit.

Overview of DOJ Settlement

DOJ's investigation focused on Danske Bank's interactions with U.S. financial institutions and the ways in which Danske Bank's AML compliance failures exposed the U.S. financial system to criminal proceeds. The investigation revealed that, between 2008 and 2016, employees of Danske Bank's Estonia branch conspired with non-resident customers to shield the true nature of their transactions, including by using shell companies to obscure fund ownership. On behalf of the non-resident customers, Danske Bank Estonia processed \$160 billion through U.S. banks.

DOJ alleged, and Danske Bank ultimately admitted, that the bank defrauded U.S. financial institutions by providing false information about its AML controls and the risks posed by its Estonian customers in order to induce U.S. banks to open or maintain U.S. dollar accounts for Danske Bank Estonia.

To resolve the DOJ's criminal investigation, Danske Bank pled guilty to one count of conspiracy to commit bank fraud and agreed to forfeit more than \$2 billion.

Overview of SEC Settlement

The SEC, led by the Salt Lake Regional Office, charged Danske Bank with violating the antifraud provisions of the Securities Exchange Act of 1934 for misrepresenting, and for failing to timely disclose, known misconduct and widespread AML failures to its investors. To settle the charges, Danske Bank agreed to \$178.6 million in disgorgement, \$55.8 million in prejudgment interest, and \$178.6 million in a civil penalty.

In agreeing to a coordinated resolution with multiple agencies, both in the United States and in Denmark, Danske will be able to receive credit for certain payments made to other participating agencies, consistent with DOJ's so-called anti-piling-on policy.

Key Takeaways

The Danske Bank resolutions mark the latest in a growing trend of aggressive government scrutiny of the sufficiency of financial institutions' AML programs. As this case demonstrates, small branches can pose a particular risk for money laundering in the absence of adequate oversight.

These resolutions also confirm that U.S. authorities will not shy away from exercising jurisdiction over non-U.S. financial institutions if the conduct at issue meaningfully affects the U.S. financial system. As Deputy Attorney General Lisa Monaco cautioned in announcing the guilty plea, "Whether you are a U.S. or foreign bank, if you use the U.S. financial system, you must comply with our laws. We expect companies to invest in robust compliance programs—including at newly acquired or far-flung subsidiaries—and to step up and own up to misconduct when it occurs. Failure to do so may well be a one-way ticket to a multi-billion-dollar guilty plea."

Financial institutions should ensure that AML controls are adequately tailored to customer risk and adequately implemented throughout the organization, including within branches and subsidiaries. Special care should also be taken with any representations made to partner financial institutions within the United States.

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