

UNITED STATES OF AMERICA
BEFORE THE
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
WASHINGTON, D.C.

In the Matter of

COMMERZBANK AG
Frankfurt am Main, Germany

Docket No. 15-001-B-FB
15-001-CMP-FB

Order to Cease and Desist and Order
of Assessment of a Civil Money
Penalty Issued Upon Consent
Pursuant to the Federal Deposit
Insurance Act, as Amended

WHEREAS, Commerzbank AG, Frankfurt am Main, Germany (“Commerzbank”) is a foreign bank as defined in section 1(b)(7) of the International Banking Act (12 U.S.C. § 3101(7)) that controls a large complex financial organization that consists of a number of separate business lines and legal entities in many countries around the world;

WHEREAS, Commerzbank conducts operations in the United States through a branch in New York, New York (the “New York Branch”) and other entities;

WHEREAS, the Board of Governors of the Federal Reserve System (the “Board of Governors”) is the appropriate federal supervisor in the United States of Commerzbank and the New York Branch;

WHEREAS, Commerzbank oversees compliance and risk management procedures for entities within the Commerzbank organization;

WHEREAS, the U. S. Department of Justice (“DOJ”), the District Attorney for the County of New York, New York (“DANY”), the Office of Foreign Assets Control of the U.S. Department of the Treasury (“OFAC”), the New York State Department of Financial Services (“NYDFS”), and the Board of Governors have been conducting an investigation into

the practices of Commerzbank concerning the transmission of funds to and from the United States through the New York Branch and unaffiliated U.S. financial institutions, including by and through entities and individuals subject to sanctions regimes imposed under the International Emergency Economic Powers Act (“IEEPA”), 50 U.S.C. §§ 1701-06, and the Trading with the Enemy Act, 50 U.S.C. §§ 5 and 16, both of which are administered by OFAC (collectively, the “OFAC Regulations”);

WHEREAS, the DOJ and NYSDFS have also been conducting an investigation concerning Commerzbank’s compliance with the anti-money laundering (“AML”) policies and procedures, including the Bank Secrecy Act (“BSA”) (31 U.S.C. § 5311 et seq.);

WHEREAS, in order to resolve the investigations, Commerzbank has agreed to enter into settlement agreements with DOJ, DANY, OFAC, and NYSDFS;

WHEREAS, effective June 8, 2012, Commerzbank and the New York Branch entered into a Written Agreement with the Federal Reserve Bank of New York (the “Reserve Bank”) that required the New York Branch to improve compliance with applicable federal and state laws, rules, and regulations relating to AML policies and procedures, including the BSA (31 U.S.C. § 5311 et seq.); the rules and regulations issued thereunder by the U.S. Department of the Treasury (31 C.F.R. Chapter X) and the requirements of Regulation K of the Board of Governors to report suspicious activity and maintain an adequate BSA/AML compliance program (12 C.F.R. §§ 221.24(f) and (j)) (collectively, the “BSA/AML Requirements”) regarding their U.S. dollar bulk cash transactions business line (the “2012 Written Agreement”);

WHEREAS, effective October 12, 2013, Commerzbank and the New York Branch consented to an Order to Cease and Desist issued by the Board of Governors that required Commerzbank and the New York Branch to improve compliance with BSA/AML Requirements regarding the New York Branch's correspondent banking business line (the "2013 Cease and Desist Order");

WHEREAS, Commerzbank has conducted a voluntary review of its U.S. dollar transactions and has undertaken, outside the United States, enhancements to its OFAC compliance systems and controls designed to address the historical deficiencies in its U.S. dollar payment processing;

WHEREAS, this Order to Cease and Desist and Order of Assessment of a Civil Money Penalty (the "Order") is issued with respect to the following:

A. Commerzbank lacked adequate risk management and legal review policies and procedures to ensure that activities conducted at offices outside the United States complied with applicable OFAC Regulations;

B. From at least 2002 to 2007, certain business lines within Commerzbank developed and implemented policies and procedures for processing U.S. dollar-denominated funds transfers through the New York Branch and through unaffiliated U.S. financial institutions involving parties subject to OFAC Regulations that deleted or otherwise did not contain relevant information from payment messages necessary for the U.S. financial institutions to determine whether these transactions were carried out in a manner consistent with U.S. law, and engaged in certain other transactions that violated applicable OFAC Regulations after 2007; and

C. As described in the Whereas clauses in the 2012 Written Agreement and in the 2013 Cease and Desist Order, the Reserve Bank conducted examinations that found Commerzbank failed to provide effective oversight to ensure the New York Branch's compliance with BSA/AML Requirements;

D. Commerzbank's head office and certain of its other offices outside of the United States failed to provide timely and accurate information about transactions of Commerzbank's foreign-based customers conducted through the New York Branch, resulting in the New York Branch's processing of hundreds of millions of dollars in transactions without adequately complying with BSA/AML requirements.

WHEREAS, the unsafe or unsound practices described above warrant the assessment of a civil money penalty by the Board of Governors against Commerzbank under section 8(i)(2)(B) of the Federal Deposit Insurance Act, as amended (12 U.S.C. § 1818(i)(2)(B)) (the "FDI Act");

WHEREAS, to address the deficiencies described above, Commerzbank must continue to implement improvements in its oversight and compliance program for activities involving the offices of Commerzbank and its subsidiaries outside the United States that in whole or in part impact the ability of the New York Branch and unaffiliated U.S. financial institutions to comply with applicable OFAC sanctions;

WHEREAS, the Board of Governors, the Reserve Bank, and Commerzbank have common goals to ensure that Commerzbank and its subsidiaries comply with United States laws, rules, and regulations that apply to the activities of the Commerzbank organization, and that Commerzbank fosters a strong commitment towards compliance;

WHEREAS, the Board of Governors is issuing this consent Order;

WHEREAS, pursuant to delegated authority, Günter Hugger, General Counsel, Commerzbank AG, is authorized to enter into this Order on behalf of Commerzbank and consent to compliance with each and every provision of this Order by Commerzbank and to waive any and all rights that Commerzbank may have pursuant to section 8 of the FDI Act (12 U.S.C. § 1818), including, but not limited to: (i) the issuance of a notice of charges on any matters set forth in this Order; (ii) a hearing for the purpose of taking evidence on any matters set forth in this Order; (iii) judicial review of this Order; and (iv) challenge or contest, in any manner, the basis, issuance, validity, terms, effectiveness or enforceability of the Order or any provision hereof.

NOW, THEREFORE, before the filing of any notices, or taking of any testimony or adjudication of or finding on any issues of fact or law herein, and solely for the purpose of settling this matter without a formal proceeding being filed and without the necessity for protracted or extended hearings or testimony, it is hereby ordered, pursuant to sections 8(b)(1) and (4) and 8(i)(2) of the FDI Act (12 U.S.C. §§ 1818(b)(1) and 1818(b)(4) and 1818(i)(2)), that:

U.S. Law Compliance Program

1. Within 90 days of this Order, Commerzbank shall submit to the Reserve Bank an acceptable program, including a timetable for implementation, to ensure compliance with applicable OFAC and BSA/AML Regulations by Commerzbank's global business lines, including, but not limited to, the New York Branch (the "U.S. Law Compliance Program"), that shall, at a minimum, provide for:

BSA/AML compliance elements

(a) Measures to ensure that Commerzbank and its global affiliates and subsidiaries appropriately identify and communicate activities, deficiencies, and all material information within its operations that may impact the ability of the New York Branch to comply with BSA/AML Requirements, including, but not limited to, the filing of Suspicious Activity Reports (“SARs”); and

(b) policies and procedures that require the escalation of significant issues related to BSA/AML Requirements to appropriate senior officers for resolution.

OFAC compliance elements

(c) an annual assessment of OFAC compliance risks arising from the global business activities and customer base of Commerzbank subsidiaries, including risks arising from transaction processing and trade finance activities conducted by or through Commerzbank’s global operations;

(d) policies and procedures to ensure compliance with applicable OFAC Regulations by Commerzbank’s global business lines, including screening with respect to transaction processing and trade financing activities for the direct and indirect customers of Commerzbank subsidiaries;

(e) the establishment of an OFAC compliance reporting system that is widely publicized within the global organization and integrated into Commerzbank’s other reporting systems in which employees report known or suspected violations of OFAC Regulations, and that includes a process designed to ensure that known or suspected OFAC violations are promptly escalated to appropriate compliance personnel for appropriate resolution and reporting;

- (f) procedures to ensure that the OFAC compliance elements are adequately staffed and funded;
- (g) training for Commerzbank's employees in OFAC-related issues appropriate to the employee's job responsibilities that is provided on an ongoing, periodic basis; and
- (h) an audit program designed to test for compliance with OFAC Regulations.

2. (a) During the term of this Order, to ensure that the OFAC compliance elements of the U.S. Law Compliance Program are functioning effectively to detect, correct, and report OFAC-sanctioned transactions when they occur, Commerzbank shall conduct on an annual basis: (i) a review of OFAC compliance policies and procedures and their implementation for Commerzbank's global business lines, including, but not limited to, the New York Branch and (ii) an appropriate risk-focused sampling of U.S. dollar payments (the "OFAC Compliance Review").

(b) The OFAC Compliance Review, the first of which shall commence one year after the date of this Order, shall be conducted by an independent third party with appropriate expertise in OFAC compliance issues acceptable to the Reserve Bank. No later than 30 days before the scheduled commencement of the OFAC Compliance Review, Commerzbank shall submit an engagement letter acceptable to the Reserve Bank that details the independent third party's scope of work.

(c) Each OFAC Compliance Review shall be conducted in accordance with generally accepted auditing standards and the results of each review shall be submitted to the Reserve Bank within 90 days of the anniversary date of this Order.

3. Within 60 days of the Reserve Bank's approval of the U.S. Law Compliance Program required by paragraph 1, Commerzbank shall complete a global OFAC risk assessment with particular attention to transactions involving group affiliates. A copy of the risk assessment shall be submitted to the Reserve Bank upon its completion.

Accountability for Employees Involved in Misconduct

4. Commerzbank shall not in the future directly or indirectly retain any individual as an officer, employee, agent, consultant, or contractor of Commerzbank or of any affiliate of Commerzbank who, based on the investigative record compiled by U.S. authorities, participated in the illegal conduct underlying this Order, who has been subject to formal disciplinary action as a result of Commerzbank's internal disciplinary review or performance review in connection with the conduct described above, and has either separated from Commerzbank or had his or her employment terminated.

5. Commerzbank shall continue to provide substantial assistance to the Board of Governors in connection with the investigations of whether separate remedial or punitive actions should be taken against individuals who are or were institution-affiliated parties of Commerzbank and who were involved in the illegal conduct underlying this Order and the Deferred Prosecution Agreement.

Assessment of Civil Money Penalty

6. (a) The Board of Governors hereby assesses Commerzbank a civil money penalty in the amount of \$200,000,000 as follows:

(i) a civil money penalty of \$66,000,000 is assessed in connection with allegations of unsafe and unsound practices related to OFAC Regulations; and

(ii) a civil money penalty of \$134,000,000 is assessed in connection with allegations of unsafe and unsound practices related to BSA/AML Requirements; and

(b) The civil money penalty shall be remitted at the time of the execution of this Order by Fedwire transfer of immediately available funds to the Federal Reserve Bank of Richmond, ABA No. 05 1000033, beneficiary, Board of Governors of the Federal Reserve System. The Federal Reserve Bank of Richmond, on behalf of the Board of Governors, shall distribute this sum to the U.S. Department of the Treasury, pursuant to section 8(i) of the FDI Act (12 U.S.C. § 1818(i)).

Compliance with the Order

7. Within 30 days after the end of each calendar quarter following the date of this Order, Commerzbank shall submit to the Reserve Bank written progress reports detailing the form and manner of all actions taken to secure compliance with this Order and the results thereof.

Approval and Implementation of Program

8. (a) Commerzbank shall submit the written program that is acceptable to the Reserve Bank within the time period set forth in paragraph 1 of this Order. An independent consultant acceptable to the Reserve Bank shall be retained by Commerzbank within the time period set forth in paragraph 2(b) of this Order. An engagement letter acceptable to the Reserve Bank shall be submitted within the time period set forth in paragraph 2(b) of this Order.

(b) Within 10 days of approval by the Reserve Bank, Commerzbank shall adopt the approved program. Upon adoption, Commerzbank shall promptly implement the approved program, and thereafter fully comply with it.

(c) During the term of this Order, the approved program and engagement letter shall not be amended or rescinded without the prior written approval of the Reserve Bank.

Notices

9. All communications regarding this Order shall be sent to:
 - (a) Patricia Meadow
Senior Vice President
Federal Reserve Bank of New York
33 Liberty Street
New York, New York 10045
 - (b) Richard M. Ashton
Deputy General Counsel
Board of Governors of the Federal Reserve System
Washington, D.C. 20551
 - (c) Volker Barth
Divisional Board Member Compliance
Commerzbank AG
Hafenstrasse 51
60261 Frankfurt am Main, Germany
 - (d) Günter Hugger
General Counsel
Commerzbank AG
Kaiserstrasse 16
60261 Frankfurt am Main, Germany
 - (e) Armin Barthel
Managing Director – Head of Legal North America
Commerzbank AG
New York Branch
225 Liberty Street
New York, NY 10281

Miscellaneous

10. Notwithstanding any provision of this Order to the contrary, the Reserve Bank may, in its sole discretion, grant written extensions of time to Commerzbank to comply with this Order.

11. The provisions of this Order shall be binding upon Commerzbank and each of its institution-affiliated parties, as defined in sections 3(u) and 8(b)(4) of the FDI Act (12 U.S.C. §§ 1813(u) and 1818(b)(4)), in their capacities as such, and their successors and assigns.

12. Each provision of this Order shall remain effective and enforceable until stayed, modified, terminated, or suspended in writing by the Reserve Bank.

13. The provisions of this Order shall not supersede the 2012 Written Agreement or the 2013 Cease and Desist Order.

14. The provisions of this Order shall not bar, estop, or otherwise prevent the Board of Governors, the Reserve Bank, or any other federal or state agency from taking any other action affecting Commerzbank, any subsidiary thereof, or any of their current or former institution-affiliated parties and their successors and assigns.

By Order of the Board of Governors of the Federal Reserve System effective this 12th day of March, 2015.

COMMERZBANK AG

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM

By: _____/S/_____
Günter Hugger
General Counsel
Commerzbank AG

By: _____/S/_____
Margaret McCloskey Shanks
Deputy Secretary of the Board