

CLIENT MEMORANDUM

Federal Reserve Board Obtains First Volcker Rule Consent Order and Civil Money Penalty

April 26, 2017

AUTHORS

David S. Katz | Stephen P. Forster

On April 20, 2017, the Board of Governors of the Federal Reserve System (the “Board”) entered into a [Consent Order and Assessment of a Civil Money Penalty](#) (the “Order”) with Deutsche Bank AG (“Deutsche Bank”) as a result of certain proprietary trading compliance program violations under the final rules (“Final Rules”) to implement section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank,” together with the Final Rules, the “Volcker Rule”).¹ Pursuant to the Order, Deutsche Bank and certain of its subsidiaries (collectively, the “Firm”) are required to pay a civil monetary penalty of \$19.71 million to the Board as well as make certain improvements to senior management oversight and the Firm’s Volcker Rule compliance program.

Compliance Program Deficiencies

According to the Order, on March 30, 2016, Deutsche Bank’s Co-CEO executed and delivered to the Board a Volcker Rule CEO attestation that identified the existence of weaknesses in the Firm’s Volcker Rule compliance policy. The Board subsequently determined that Deutsche Bank had not implemented a compliance program reasonably designed to ensure and monitor compliance with the Volcker Rule because:

¹ Section 619 of Dodd-Frank was codified at Section 13 of the Bank Holding Company Act of 1956.

Federal Reserve Board Obtains First Volcker Rule Consent Order and Civil Money Penalty

Continued

- Significant gaps existed across key aspects of Deutsche Bank's Volcker Rule compliance program, including policies and procedures, management framework and internal controls. The gaps, in turn, caused deficiencies in the scope of Deutsche Bank's independent testing efforts;
- Significant weaknesses existed in the analyses required for Deutsche Bank's permitted market-making activities to ensure that its proprietary trading does not exceed the reasonably expected near term demands of clients, customers, or counterparties, and Deutsche Bank did not subject its trading desks' methodologies for determining such reasonably expected near term demands to sufficient review or challenge by internal control groups; and
- Deutsche Bank's metrics reporting and monitoring process suffered from weaknesses that, together with the absence of sufficient internal controls, limited its ability to adequately monitor trading activity to detect impermissible proprietary trades.

The Order requires Deutsche Bank to submit within 60 days (i) a written plan acceptable to the Board to improve the senior management oversight of the Firm's compliance with the Volcker Rule and (ii) an enhanced written internal controls and compliance risk management program acceptable to the Board for the Firm to comply with the Volcker Rule, particularly with respect to the items outlined above. These plans, once approved by the Board, have to be fully implemented within six months. Additionally, the Firm was required to pay a civil money penalty of \$19.71 million to the Board.

If you have any questions regarding this memorandum, please contact David S. Katz (202-303-1149, dkatz@willkie.com), Stephen P. Forster (212-728-8773, sforster@willkie.com) or the Willkie attorney with whom you regularly work.

Willkie Farr & Gallagher LLP is an international law firm with offices in New York, Washington, Houston, Paris, London, Frankfurt, Brussels, Milan and Rome. The firm is headquartered at 787 Seventh Avenue, New York, NY 10019-6099. Our telephone number is (212) 728-8000 and our fax number is (212) 728-8111. Our website is located at www.willkie.com.

April 26, 2017

Copyright © 2017 Willkie Farr & Gallagher LLP.

This memorandum is provided by Willkie Farr & Gallagher LLP and its affiliates for educational and informational purposes only and is not intended and should not be construed as legal advice. This memorandum may be considered advertising under applicable state laws.

WILLKIE FARR & GALLAGHER_{LLP}