

BANK FINE MAY RISE TO \$3.5 BILLION—PLUS GUILTY PLEA

As reported here recently, a French bank is facing possible criminal charges by federal and state prosecutors based on allegations of violations of U.S. sanctions law. The amount of fines being discussed was as high as \$2 billion. Now reports have surfaced claiming that a fine of \$3.5 billion—possibly more—is on the table. Are authorities still pushing for the criminal charges?

Dealings With Iran and Sudan

The bank in question had set aside \$1.1 billion to cover exposure related to its alleged violation of U.S. sanctions laws pertaining to Iran, Sudan and other countries listed on the U.S. sanctions list. That was before talk of a fine in excess of \$2 billion came to light. Subsequently, a bank official announced: “There is uncertainty with respect to the amount and the nature of penalties the U.S. will impose. It’s not impossible that the fine is far in excess of the provision.”

Prior to the imposition of Western sanctions, France had a long history of extensive trade relations with Iran, and in February a group of French businessmen arranged a formal trade visit, citing the well-publicized thaw in Western-Iran tensions.

Allegations of “Softball” by U.S. Authorities

Previously, the U.S. Department of Justice (DOJ) was accused of letting the banking industry off easy after the financial crisis and following more recent scandals ranging from interest-rate fixing to foreign-exchange market manipulation. As if to address such accusations, senior DOJ officials have hinted at criminal charges being brought—the same as against any industry where laws are broken. The notion that some banks were simply “too big to prosecute” was dismissed by the DOJ last month.

Fear of Guilty Plea Leading to Shut Down: “Unfounded”

Critics of the criminal prosecution of big banks pointed out that if found guilty—whether by trial or entry of a guilty plea—such banks could no longer engage in a host of crucial banking functions, thus effectively shutting them down. However, last week, the bank’s lawyers met with the New York Department of Financial Services—the New York banking regulator—to discuss various scenarios and negotiate unspecified terms. Among possible resolutions of the case would be not revoking the bank’s license—if other penalties were harsh enough.

Possible Penalty Scenarios

Temporary suspension of dollar-clearing through New York-licensed facilities is one possible penalty being cited; another being considered is whether the parent company versus a subsidiary would plead guilty.

All of which, of course, begs the question: Are we back to square one with the imposition of multibillion dollar fines against banks in exchange for “business as usual” treatment?

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