

American Express Sets Aside \$60M for Possible DOJ Action Against Miami Unit



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By Brian Orsak

American Express Co. has set aside \$60 million for regulatory and legal matters related to a U.S. Justice Department investigation of anti-money laundering compliance programs at its private banking operation.

The financial services company acknowledged Wednesday in a regulatory filing that it established the reserve during the first quarter for a possible action against its American Express Bank International unit. American Express first disclosed the matter when it reported first-quarter earnings on April 19.

The Miami-based unit was subpoenaed by the Justice Department in early 2004 for information on its AML programs and some client accounts, American Express said. Last September the department told the company that the investigation may result in an enforcement action.

American Express Bank International has been cooperating with investigators, New York-based American Express said.

Previous Infractions

The amount of money set aside by American Express suggests that charges will likely involve drug trafficking or a violation of regulations regarding politically exposed persons, according to Greg Baldwin, a lawyer for Holland & Knight in Miami. The penalty also may reflect that the international banking unit has been the subject of AML-related infractions in the past, he said.

In 1994 the AEBI agreed to pay \$35.2 million to settle AML charges involving Mexican and Colombian drug traffickers. At the time, it was the largest penalty against a U.S. based bank in a money laundering case.

Earlier that year, two former employees of the private banking unit—Antonio Giraldi and Maria Reategui—were sentenced to prison for helping launder \$30 million in drug proceeds.

The sum that was set aside points to an increasing willingness of the federal government to slap companies with large fines, according to Kenneth Bryant, the managing director of Bryant & Associates, a Hayesville, North Carolina-based AML consultancy. Businesses have had six years to comply with AML standards set forth in the 2001 Patriot Act, he said.

“The honeymoon is over,” said Bryant. “Next year, we might see fines upward of \$100 million.”

Should the \$60 million be used for fines, it would represent the second largest U.S. penalty for AML-related violations. In 2005, Netherlands-based bank ABN Amro agreed to pay federal and state regulators \$80 million to settle charges of deficiencies in its U.S. dollar clearing operations. The bank announced in April that it had set aside €365 million (\$498 million) in anticipation of a settlement of a DOJ criminal probe.

Indirect costs, not figured into the disclosed amount, are likely to be significant for American Express, said Bryant. The price of upgrading software and security systems, legal counsel, and work associated with extra government scrutiny can be two to three times higher than any penalty, he said.

Getting the Message

Because the beneficiaries of correspondent banking transactions and wire transfers are difficult to trace, providing such services to

wealthy individuals is fraught with AML compliance risks, according to Bob Serino, senior counsel at Washington, D.C.-based Buckley Kolar LLP. Some money laundering is inevitable, he said, though most financial institutions have been careful in avoiding liabilities.

“The industry has gotten the message, and doesn’t want to be slapped with something like this,” he said.

A DOJ spokesperson declined to comment on questions related to the case.