



## Union Bank Ordered to Pay Nearly \$32 Million in Drug Money Laundering Case

Union Bank of California will pay \$31.6 million in penalties and forfeitures for failing to adequately monitor a Mexican money transfer business that moved millions of dollars in illegal drug proceeds through the bank.

Union Bank, a unit of San Francisco-based UnionBanCal Corp., will forfeit \$21.6 million in a deferred prosecution agreement with the U.S. Justice Department, the department said in a statement Monday.

The bank also will pay a total \$10 million to settle penalties from the U.S. Treasury Department's Office of the Comptroller of the Currency and Financial Crimes Enforcement Network.

The Justice Department charged Union Bank with one count of failing to maintain an effective anti-money laundering program. The charge will be dismissed in 12 months if the bank complies with the agreement, which also requires Union Bank to improve its suspicious activity reporting, customer due diligence and AML compliance training.

"The bank's program failed across the board: everything from 'know your customer' to suspicious activity reporting," said Kenneth Bryant, the managing director of Bryant & Associates, a Hayesville, North Carolina-based AML consultancy.

Union Bank, which had been cited for similar failures in 2005, has spent more than \$100 million since then to improve its AML program, bank spokesman Stephen Johnson said Monday in an interview. The bank also has increased the number of AML investigators on staff to nine from six, some of them former law enforcement, he said. It has added more experienced staff, training programs and improved its internal audit functions.

The bank has "a long way to go, but we have made significant progress," he said.

### **Casa de Cambio**

The government actions against Union Bank are largely the result of its failures to monitor a Mexican money transfer center, called a casa de cambio, that moved millions of dollars through accounts at the bank between November 2003 and December 2005, U.S. authorities said. The bank failed to identify suspicious activity and file hundreds of SAR reports during the period, according to federal regulators.

"Banks that knowingly disregard their legal obligations under the Bank Secrecy Act are easily exploited by drug cartels and other criminals," said Assistant U.S. Attorney General Alice S. Fisher.

Last month, three Colombians, Ricardo Mauricio Bernal Palacios, Juan Manuel Bernal Palacios, and Camilo Andres Ortiz Echeverri, pleaded guilty to money laundering charges in a scheme in which they used the Mexican exchange house to launder \$3 million in drug profits through U.S. banks.

At least \$2.5 million was laundered through an account at Union Bank of California, according to an affidavit filed in U.S. court for the Southern District of Florida. The \$21.6 million forfeiture likely reflects that amount, as well as other discrepancies at the bank, said Don Semesky, the chief of the Drug Enforcement Administration's office of financial operations.

"There were other activities at UBOC that were noticed during that investigation as well," he said, declining to elaborate further.

### **'Serious breakdown'**

There was a “serious breakdown in the bank’s SAR processes on an organization-wide basis,” the OCC said in a cease and desist order released Monday. The bank’s due diligence and know your customer procedures were “insufficient to facilitate meaningful transaction analysis,” it said. Under the order, the bank must also analyze its BSA staff to ensure they are knowledgeable and have received the most up-to-date training.

Though the \$10 million penalty will affect the bank’s bottom line, some financial institutions may not be coerced by regulatory fines, said Bryant. He compared the case to the repeated compliance problems of American Express’s Miami-based private banking unit, which was hit with a \$65 million penalty for deficiencies in its AML program.

That case, which was also tied to a DEA investigation, followed a 1994 case in which bank was fined \$35.2 million for allowing laundered Colombian and Mexican drug money to pass through its accounts. In both cases, the fines that American Express Cos. paid at that time represented the largest paid by a U.S. institution.

“A lot of these banks are looking at this as a cost of doing business, so larger banks can absorb it even if smaller banks can’t,” said Bryant, adding that financial institutions may look at spending less on their compliance departments as an acceptable trade-off for penalties. “If once every ten years, they get a \$10 million penalty, it comes out cheaper.”

#### **Past Problems**

The bank has gotten into trouble for AML compliance problems in the past. OCC examiners ordered the bank to make compliance improvements in a 2005 memorandum of understanding. Those improvements weren’t adequately made, according to the actions issued by federal regulators on Monday.

During a 2006 examination, the OCC found that the bank’s financial intelligence unit still was ineffective in detecting and reporting suspicious activity – as required by the MOU – “because of staff skill deficiencies and weak oversight.”

Bank parent Tokyo-Mitsubishi UFJ Ltd. has also been the subject of AML-related enforcement actions in the past year. In December, the Federal Deposit Insurance Corp., the Federal Reserve and the New York State Banking Department sanctioned the bank, citing deficiencies in its BSA compliance training program, including measures for identifying politically exposed persons.

Japan’s financial regulator in June also ordered Bank of Tokyo to make improvements to its AML program.

Last month, to improve its overall AML operations, Union Bank of California created the new position of chief risk officer responsible for overseeing anti-money laundering and risk compliance reporting companywide.

In an earlier case, Union Bank of California signed a written agreement with the Federal Reserve in October 2004 to improve its AML controls at its international operation in New York. That operation, which has since been shut down, mostly provided correspondent accounts for Russian and Eastern European banks.

#### **‘Redemption’**

Steve Smith, a retired special agent of the IRS Criminal Investigation Division who is now an AML consultant in Miami, Florida, said he was surprised to hear that a bank would get a penalty even after it was told to make changes in key areas.

“That seems to be a very self-destructive decision,” he said. “It’s unusual. If they were clued in to what they had to do and chose to ignore it, it’s hard to comprehend. I certainly think that common sense would say if a regulator gives you an opportunity to redeem yourself, you seek

redemption.”

“When banks fail to uphold their responsibilities, they turn their legitimate business into a currency stash house used by international drug traffickers to line their pockets, fuel more trafficking, and corrupt government officials and global economies,” said Drug Enforcement Administrator Karen P. Tandy. “The Union Bank of California will pay the price for its failure with a hefty fee.”

Along with the OCC, FinCEN and the Department of Justice, the Internal Revenue Service and Drug Enforcement Agency also investigated the case.

The bank was required to forfeit the \$21.6 million under the federal civil asset forfeiture law. The law (Title 18, USC Sec. 981) permits the forfeiture of property involved in or derived from a wide range of crimes, including money laundering. Unlike the criminal forfeiture laws, it does not require the filing of criminal charges prior to seizing the property.

By paying \$10 million to the U.S. Treasury, the bank satisfies the penalties from both the OCC and FinCEN.

Union Bank said in a July statement reporting second-quarter earnings that it had set aside \$10 million to deal with a possible monetary penalty.

*Reporter Brian Orsak contributed to this report.*