UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
FINANCIAL CRIMES ENFORCEMENT NETWORK

IN THE MATTER OF:	)	
	)	
METROPOLITAN BANK & TRUST COMPANY	)	**Number 2006 - 2**
NEW YORK BRANCH	)	
NEW YORK, NEW YORK	)	

ASSESSMENT OF CIVIL MONEY PENALTY

I. INTRODUCTION

Under the authority of the Bank Secrecy Act and regulations issued pursuant to that Act,[1] the Financial Crimes Enforcement Network has determined that grounds exist to assess a civil money penalty against Metropolitan Bank & Trust Company, New York Branch ("Metrobank" or "the Bank"). To resolve this matter, and only for that purpose, Metrobank has entered into a CONSENT TO THE ASSESSMENT OF CIVIL MONEY PENALTY ("CONSENT"), without admitting or denying the determinations by the Financial Crimes Enforcement Network, as described in Sections III and IV below, except as to jurisdiction in Section II below, which is admitted.

The CONSENT is incorporated into this ASSESSMENT OF CIVIL MONEY PENALTY ("ASSESSMENT") by this reference.

II. JURISDICTION

Metrobank is a U.S. Branch of Metropolitan Bank & Trust Company (the "Metrobank Group"), a financial institution based in Manila, Philippines. Metrobank has a single location in New York City. As of September 30, 2005, Metrobank had total assets of $35.3 million. The Office of the Comptroller of the Currency is Metrobank's Federal functional regulator and examines Metrobank for compliance with the Bank Secrecy Act and its implementing regulations and with similar rules under Title 12 of the United States Code.

At all relevant times, Metrobank was a "financial institution" and a "bank" within the meaning of the Bank Secrecy Act and the regulations issued pursuant to that Act.[2]

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[1] 31 U.S.C. § 5321 and 31 U.S.C. § 103.57.
[2] 31 U.S.C. § 5312(a)(2) and 31 C.F.R. § 103.11.

III. DETERMINATIONS

A. Summary

Metrobank failed to implement an adequate Bank Secrecy Act compliance program, including an anti-money laundering program with internal controls, independent testing and other measures to detect and report potential money laundering and other suspicious activity.

The Metrobank Group, the largest bank in the Philippines, offers a wide variety of banking and other financial services such as deposit accounts, commercial loans, credit cards, trade finance, and remittance services. The Metrobank Group has 822 branches and offices worldwide, with branches in New York City, Guam, Hong Kong, Beijing, Shanghai, Taipei, Kaoshiung, Tokyo, Osaka, Seoul, Pusan and London. The branch network outside of the Philippines provides a range of banking and other financial services, including remittance services for Filipino overseas workers.

Metrobank is affiliated with Metro Remittance Center, Incorporated ("Metro Remittance"), a wholly owned subsidiary of the Metrobank Group that is registered with the Financial Crimes Enforcement Network as a money services business. Metro Remittance, headquartered in New York City, is licensed as a money transmitter in New York, New Jersey, Nevada, Illinois, and the District of Columbia, and in 2005 was planning to expand to Hawaii and to Toronto and Vancouver in Canada. As a money services business, Metro Remittance is also required to implement an anti-money laundering program under the Bank Secrecy Act and its implementing regulations.[3] However, prior to March 2005, Metrobank handled Bank Secrecy Act compliance operations for Metro Remittance as well as for itself. At all relevant times, Metro Remittance and Metrobank had the same Bank Secrecy Act compliance program, with the same Bank Secrecy Act compliance failures described in Section III.

Metrobank and Metro Remittance handle large volumes of funds transfers involving the Philippines and, since September 2003, the People's Republic of China. The volume of funds transfers to the Philippines in 2003 was 162,000 transactions totaling $208 million. Prior to February 11, 2005, the Philippines was included in the list of Non-Cooperative Countries or Territories designated by the Financial Action Task Force on Money Laundering.

An examination of Metrobank by the Office of the Comptroller of the Currency found deficiencies in Metrobank's anti-money laundering program, revealing that Metrobank had failed to implement an adequate system of internal controls to ensure compliance with the Bank Secrecy Act and manage the risks of money laundering involving funds transfers. The examination also revealed that Metrobank had failed to conduct adequate independent testing to allow for the timely identification and correction of Bank Secrecy Act compliance failures. These failures in internal controls and independent testing led, in turn, to failures by Metrobank to identify and report suspicious transactions in a timely manner. The failures of Metrobank to comply with the Bank Secrecy Act and the regulations issued pursuant to that Act were significant.

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[3] 31 U.S.C. § 5318(h)(1) and 31 C.F.R. § 103.125.

B. Violations of the Requirement to Implement an Anti-Money Laundering Program

The Financial Crimes Enforcement Network has determined that Metrobank violated the requirement to establish and implement an adequate anti-money laundering program. Since April 24, 2002, the Bank Secrecy Act and its implementing regulations have required financial institutions to establish and implement anti-money laundering programs.[4] A federal branch of a foreign bank must implement an anti-money laundering program that conforms with the rules of the Office of the Comptroller of the Currency. Since 1987, the Office of the Comptroller of the Currency has required a program "reasonably designed to assure and monitor compliance" with reporting and record keeping requirements under the Bank Secrecy Act.[5] Reporting requirements under the Bank Secrecy Act include the requirement to report suspicious transactions.[6] An anti-money laundering program must contain the following elements: (1) a system of internal controls; (2) independent testing for compliance; (3) the designation of an individual, or individuals, to coordinate and monitor day-to-day compliance; and (4) training of appropriate personnel.[7]

1. Internal Policies, Procedures and Controls

Metrobank failed to implement an adequate system of internal controls reasonably designed to ensure compliance with the Bank Secrecy Act and manage the risks of money laundering involving funds transfers. Metrobank's written anti-money laundering policies and procedures did not address, or inadequately addressed, a number of significant areas. The written policies and procedures did not address widely known areas of elevated risk, such as pouch activity and payable upon proper identification activity. Pouch activities alone totaled $8 million in a sampled 8 day period. The timeframe, threshold, and other filtering criteria for identifying suspicious and unusual transactions were also inadequate at the Bank. Monitoring reports primarily focused on transactions over $10,000 during a four week period, including funds transfers from a single originator to multiple beneficiaries or from multiple originators to a single beneficiary. Cash transaction reports for transactions between $3,000 and $10,000 were not reviewed on a consistent basis. Furthermore, the method of payment (e.g. cash, personal checks, money orders, traveler's checks) used to initiate remittance transactions was not taken into consideration when monitoring for, or investigating, suspicious activity.

Metrobank's failure to implement elements of its written policies and procedures led to inadequate customer due diligence. Metrobank did not implement adequate customer due diligence procedures called for by its written policies and procedures. The Bank also failed to collect sufficient information to develop a transaction profile for each customer, and did not designate customers into the four risk designations identified in the written policies and procedures. As a result of these failures to implement elements of its written policies and procedures, the Bank lacked an adequate framework for assessing the risks associated with its customers.

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[4] 31 U.S.C. § 5318(h)(1) and 31 C.F.R. § 103.120.
[5] 12 C.F.R. § 21.21(b).
[6] 31 C.F.R. § 103.18.
[7] 12 C.F.R. § 21.21(c).

Automated monitoring systems were inadequate to support the volume and types of money transfer transactions conducted by Metrobank. Metrobank purchased transaction monitoring software in 2003. However, after two years, Metrobank was not fully utilizing the system and had not implemented it into monitoring processes to facilitate compliance with the Bank Secrecy Act. Instead, Metrobank continued to rely on ineffective manual controls. In addition, Metrobank's inadequate customer due diligence hindered its ability to set up accurate customer risk ratings and anticipated transaction volumes in its transaction monitoring software. The Bank did not obtain, or document, sufficient customer information to be able to set realistic risk ratings and parameters of expected activity to ensure the detection and reporting of suspicious activities.

2. Independent Testing

Metrobank failed to implement adequate independent testing to ensure compliance with the Bank Secrecy Act. The scope of both internal audits and external compliance reviews was inadequate, particularly in light of the high-risk nature of certain products and services and the countries involved. Neither the internal audit nor the outsourced compliance review conducted a review of pouch activity. Although the internal audit covered remittance activity, neither it nor the outsourced compliance review identified the lack of sufficient customer information to facilitate monitoring of remittance transactions for suspicious activity. Also, neither the internal audit nor the outsourced compliance review conducted a review for compliance with the provisions of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 ("USA PATRIOT Act") on foreign correspondent banking,[8] or information sharing between law enforcement and financial institutions.[9] Furthermore, the audit procedures in Metrobank's policy manual were limited, outdated, and did not include the procedures actually in place at that time.

C. Violations of the Requirement to Report Suspicious Transactions

The Financial Crimes Enforcement Network has determined that Metrobank violated the suspicious transaction reporting requirements of the Bank Secrecy Act and regulations issued pursuant to that Act.[10] These reporting requirements impose an obligation on banks to report transactions that involve or aggregate to at least $5,000, are conducted by, at, or through the bank and that the bank "knows, suspects or has reason to suspect" are suspicious.[11] A transaction is "suspicious" if the transaction: (1) involves funds derived from illegal activities, or is conducted to disguise funds derived from illegal activities; (2) is designed to evade reporting or record keeping requirements under the Bank Secrecy Act; or (3) has no business or apparent lawful purpose or is not the sort in which the customer would normally be expected to engage, and the bank knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.[12]

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[8] USA PATRIOT Act § 313, 31 U.S.C. § 5318(j); USA PATRIOT Act § 319, 31 U.S.C. § 5318(k).
[9] USA PATRIOT Act § 314(a); 31 C.F.R. § 103.100.
[10] 31 U.S.C. § 5318(g) and 31 C.F.R. § 103.18.
[11] 31 C.F.R. §103.18(a)(2).
[12] 31 C.F.R. § 103.18(a)(2)(i)-(iii).

Banks must report suspicious transactions by filing suspicious activity reports.[13] In general, a bank must file a suspicious activity report no later than thirty calendar days after detecting facts that may constitute a basis for filing a suspicious activity report. If no suspect was identified on the date of detection, a bank may delay the filing for an additional thirty calendar days to identify a suspect. However, in no event may the bank file a suspicious activity report more than sixty calendar days after the date of detection.[14]

Metrobank violated the suspicious transaction reporting requirements of 31 U.S.C. § 5318(g) and 31 C.F.R. §103.18 by failing to timely file a substantial number of suspicious activity reports. During the period from 1998 to July 2004, Metrobank filed 34 suspicious activity reports. In contrast, Metrobank filed 198 suspicious activity reports from July 2004 to November 2005, including 56 in July-August 2004. Metrobank filed numerous suspicious activity reports after the Office of the Comptroller of the Currency commenced a review of the Bank's remittance activity in July 2004. These filings included 42 delinquently filed suspicious activity reports involving transactions totaling $6.3 million. An adequate anti-money laundering program would have allowed Metrobank to file suspicious activity reports in a timely manner.

IV. CIVIL MONEY PENALTY

Under the authority of the Bank Secrecy Act and the regulations issued pursuant to that Act,[15] the Financial Crimes Enforcement Network has determined that a civil money penalty is due for the violations the Bank Secrecy Act and the regulations issued pursuant to that Act and described in this ASSESSMENT.

Based on the seriousness of the violations at issue in this matter, and the financial resources available to Metrobank, the Financial Crimes Enforcement Network has determined that the appropriate penalty in this matter is $150,000.

V. CONSENT TO ASSESSMENT

To resolve this matter, and only for that purpose, Metrobank, without admitting or denying either the facts or determinations described in Sections III and IV above, except as to jurisdiction in Section II, which is admitted, consents to the assessment of a civil money penalty against it in the sum of $150,000. This penalty assessment shall be concurrent with the $150,000 penalty assessed against Metrobank by the Office of the Comptroller of the Currency and shall be satisfied by one payment of $150,000 to the Department of the Treasury.

Metrobank recognizes and states that it enters into the CONSENT freely and voluntarily and that no offers, promises, or inducements of any nature whatsoever have been made by the Financial Crimes Enforcement Network or any employee, agent, or representative of the Financial Crimes Enforcement Network to induce Metrobank to enter into the CONSENT, except for those specified in the CONSENT.

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[13] 31 C.F.R. § 103.18(b)(2).
[14] 31 C.F.R. § 103.18(b)(3).
[15] 31 U.S.C. § 5321 and 31 C.F.R. § 103.57.

Metrobank understands and agrees that the CONSENT embodies the entire agreement between Metrobank and the Financial Crimes Enforcement Network relating to this enforcement matter only, as described in Section III above. Metrobank further understands and agrees that there are no express or implied promises, representations, or agreements between Metrobank and the Financial Crimes Enforcement Network other than those expressly set forth or referred to in this document and that nothing in the CONSENT or this ASSESSMENT is binding on any other agency of government, whether federal, state, or local.

VI. RELEASE

Metrobank understands that its execution of the CONSENT, and compliance with the terms of this ASSESSMENT and the CONSENT, constitute a complete settlement of civil liability for the violations of the Bank Secrecy Act and regulations issued pursuant to that Act as described in the CONSENT and this ASSESSMENT.

By: Robert W. Werner

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