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What can we learn from the Standard Chartered Bank Order on its Failed Anti-Money Laundering Systems?

Yesterday the New York Department of financial Services published its Consent Order with Standard Chartered Bank ("SC"). You can read the Order at: <http://www.dfs.ny.gov/about/ea/ea140819.pdf> It is only about 10 pages long.

It proves that even when a major bank is under a regulatory order to improve its AML systems and has all the money needed to have a compliant system and has an expert internal monitor on sight, that things can still go wrong. All the consultants and all of the auditors and all of the regulators could not get their system working properly. It is inexplicable but it proves that the dollar clearing business is next to impossible to do correctly and without major risks.

What went wrong?

It seems from the Order that SC had adopted a rulebook to outline how it would review transactions to catch the one that were suspicious. This rulebook was surely acceptable to the regulators. However, what was in the rulebook did not jibe with what SC was actually doing with its transaction monitoring system to flag the high-risk transactions.

The internal monitor that was put into place did some testing of the transaction monitoring system and found that because of inadequate testing and continued analysis and failure to audit the system, the system failed to catch transactions that the rulebook covered. As a result the NYDFS concluded that SC "is operating with certain ineffective compliance risk management systems for the identification . . . of compliance risks . . . related to U.S. Dollar clearing for clients."

What will Standard Chartered Bank have to do now?

First, pay \$300,000,000 (not tax deductible) to the NYDFS.

Then develop a new transaction monitoring system acceptable to the NYDFS and of course do a remediation and appoint a new executive to oversee the remediation.

For U.S. dollar clearing from affiliates, SC will have to insure that it has the originator of any payments transactions name, address and country and for beneficiaries of any payments SC will have to obtain the beneficiary identification information at the time of the transaction. If SC does not have the beneficiary's country in the transaction information SC will have to do a after the fact review.

For U.S. dollar clearing from non-affiliates, SC must obtain the country of the originator and beneficiary for all transactions. In transactions where the country of the originator or the beneficiary was not received and cannot be derived from address information, SC must undertake an enhanced review protocol.

Can Standard Chartered Bank still do Dollar Clearing?

Yes, the Order does not affect SC's worldwide business except that SC must suspend dollar transactions for certain Hong Kong high-risk retail business clients. SC and the monitor have identified these clients already. The suspension will continue until the Monitor is satisfied that the transaction monitoring systems are working. In the United Arab Emirates, SC is jettisoning certain small and medium business clients and must complete this in 90 days. Some high-risk clients can be retained if SC requalifies them and performs heightened monitoring and the Monitor agrees with these retained clients.