

JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Tuesday, June 12, 2012

ING Bank N.V. Agrees to Forfeit \$619 Million for Illegal Transactions with Cuban and Iranian Entities

WASHINGTON – ING Bank N.V., a financial institution headquartered in Amsterdam, has agreed to forfeit \$619 million to the Justice Department and the New York County District Attorney’s Office for conspiring to violate the International Emergency Economic Powers Act (IEEPA) and the Trading with the Enemy Act (TWEA) and for violating New York state laws by illegally moving billions of dollars through the U.S. financial system on behalf of sanctioned Cuban and Iranian entities. The bank has also entered into a parallel settlement agreement with the Treasury Department’s Office of Foreign Assets Control (OFAC).

The announcement was made by Lisa Monaco, Assistant Attorney General for National Security; Ronald C. Machen, U.S. Attorney for the District of Columbia; Assistant Attorney General Lanny A. Breuer of the Criminal Division; District Attorney Cyrus R. Vance Jr., of the New York County District Attorney’s Office; James W. McJunkin, Assistant Director in Charge of the FBI Washington Field Office; Richard Weber, Chief, Internal Revenue Service (IRS) Criminal Investigation; and Adam J. Szubin, Director of the Office of Foreign Assets Control.

A criminal information was filed today in federal court in the District of Columbia charging ING Bank N.V. with one count of knowingly and willfully conspiring to violate the IEEPA and TWEA. ING Bank waived the federal indictment, agreed to the filing of the information and has accepted responsibility for its criminal conduct and that of its employees. ING Bank agreed to forfeit \$619 million as part of the deferred prosecution agreements reached with the Justice Department and the New York County District Attorney’s Office.

According to court documents, starting in the early 1990s and continuing until 2007, ING Bank violated U.S. and New York state laws by moving more than \$2 billion illegally through the U.S. financial system – via more than 20,000 transactions – on behalf of Cuban and Iranian entities subject to U.S. economic sanctions. ING Bank knowingly and willfully engaged in this criminal conduct, which caused unaffiliated U.S. financial institutions to process transactions that otherwise should have been rejected, blocked or stopped for investigation under regulations by OFAC relating to transactions involving sanctioned countries and parties.

“The fine announced today is the largest ever against a bank in connection with an investigation into U.S. sanctions violations and related offenses and underscores the national security implications of ING Bank’s criminal conduct. For more than a decade, ING Bank helped provide state sponsors of terror and other sanctioned entities with access to the U.S. financial system, allowing them to move billions of dollars through U.S. banks for illicit purchases and other activities,” said Assistant Attorney General Monaco. “I applaud the agents, analysts and prosecutors who for years pursued this case.”

“Banks that try to skirt U.S. sanctions laws undermine the integrity of our financial system and threaten our national security,” said U.S. Attorney Machen. “When banks place their loyalty to sanctioned clients above their obligation to follow the law, we will hold them accountable. On more than 20,000 occasions, ING intentionally manipulated financial and trade transactions to remove references to Iran, Cuba and other sanctioned countries and entities. Today’s \$619 million forfeiture – the largest ever – holds ING accountable for its wrongdoing.”

“For years, ING Bank blatantly violated U.S. laws governing transactions involving Cuba and Iran, and then used shell companies and other deceptive measures to cover up its criminal conduct,” said Assistant Attorney

General Breuer. “Today’s resolution reflects a strong collaboration among federal and state law enforcement partners to hold ING accountable.”

“Investigations of financial institutions, businesses and individuals who violate U.S. sanctions by misusing banks in New York are vitally important to national security and the integrity of our banking system,” said New York County District Attorney Vance. “These cases give teeth to sanctions enforcement, send a strong message about the need for transparency in international banking and ultimately contribute to the fight against money laundering and terror financing. I thank our federal partners for their cooperation and assistance in pursuing this investigation.”

“Today, ING Bank was held accountable for their illegal actions involving the movement of more than \$2 billion through the U.S. financial system on behalf of Cuban and Iranian entities subject to U.S. economic sanctions,” said FBI Assistant Director in Charge McJunkin. “Investigations of this type are complicated and demand significant time and dedication from agents, analysts and prosecutors. In this case, their steadfast tenacity brought this case through to today’s result, and we will continue to pursue these matters in diligent fashion.”

“In today’s environment of increasingly sophisticated financial markets, it’s critical that global institutions follow U.S. law, including sanctions against other countries,” said IRS Criminal Investigation Chief Weber. “The IRS is proud to share its world-renowned financial investigative expertise in this and other complex financial investigations. Creating new strategies and models of cooperation among our law enforcement partners to ensure international financial compliance is a top-priority of the IRS.”

“Our sanctions laws reflect core U.S. national security and foreign policy interests and OFAC polices them aggressively. Today’s historic settlement should serve as a clear warning to anyone who would consider profiting by evading U.S. sanctions,” said OFAC Director Szubin. “We commend our federal and state colleagues for their work on this important investigation.”

The Scheme

According to court documents, ING Bank committed its criminal conduct by, among other things, processing payments for ING Bank’s Cuban banking operations through its branch in Curaçao on behalf of Cuban customers without reference to the payments’ origin, and by providing U.S. dollar trade finance services to sanctioned entities through misleading payment messages, shell companies and the misuse of ING Bank’s internal suspense account.

Furthermore, ING Bank eliminated payment data that would have revealed the involvement of sanctioned countries and entities, including Cuba and Iran; advised sanctioned clients on how to conceal their involvement in U.S. dollar transactions; fabricated ING Bank endorsement stamps for two Cuban banks to fraudulently process U.S. dollar travelers’ checks; and threatened to punish certain employees if they failed to take specified steps to remove references to sanctioned entities in payment messages.

According to court documents, this conduct occurred in various business units in ING Bank’s wholesale banking division and in locations around the world with the knowledge, approval and encouragement of senior corporate managers and legal and compliance departments. Over the years, several ING Bank employees raised concerns to management about the bank’s sanctions violations. However, no action was taken.

For decades, the United States has employed sanctions and embargoes on Iran and Cuba. Financial transactions conducted by wire on behalf of Iranian or Cuban financial institutions have been subject to these U.S. sanctions. The TWEA prohibits U.S. persons from engaging in financial transactions involving or benefiting Cuba or Cuban nationals and prohibits attempts to evade or avoid these restrictions. IEEPA makes it a crime to willfully attempt to commit, conspire to commit, or aid and abet in the commission of any violations of the Iranian Transaction Regulations, which prohibit the exportation of any services from the United States to Iran and any attempts to evade or avoid these restrictions. IEEPA and TWEA regulations are administered by OFAC.

The Investigation

The Justice Department’s investigation into ING Bank arose out of ongoing investigations into the illegal export

of goods from the United States to sanctioned countries, including Iran. For instance, ING processed payments on behalf of one customer, Aviation Services International B.V. (ASI), a Dutch aviation company which was the subject of a U.S. Commerce Department-initiated criminal investigation, through the United States for trade services relating to the procurement by ASI of dual-use U.S. aviation parts for ASI's Iranian clients. The ING Bank investigation also resulted in part from a criminal referral from OFAC, which was conducting its own probe of ING Bank.

ING Bank's forfeiture of \$309.5 million to the United States and \$309.5 million to the New York County District Attorney's Office will settle forfeiture claims by the Department of Justice and the state of New York. In light of the bank's remedial actions to date and its willingness to acknowledge responsibility for its actions, the Department will recommend the dismissal of the information in 18 months, provided ING Bank fully cooperates with, and abides by, the terms of the deferred prosecution agreement.

OFAC's settlement agreement with ING deems the bank's obligations to pay a civil settlement amount of \$619 million to be satisfied by its payment of an equal amount to the Justice Department and the state of New York. OFAC's settlement agreement further requires the bank to conduct a review of its policies and procedures and their implementation, taking a risk-based sampling of U.S. dollar payments, to ensure that its OFAC compliance program is functioning effectively to detect, correct and report apparent sanctions violations to OFAC.

The case was prosecuted by Trial Attorney Jonathan C. Poling of the Justice Department's National Security Division; Assistant U.S. Attorneys Ann H. Petalas and George P. Varghese, of the National Security Section of the U.S. Attorney's Office for the District of Columbia; and Trial Attorney Matthew Klecka of the Criminal Division's Asset Forfeiture and Money Laundering Section.

The case was investigated by the FBI's Washington Field Office and the IRS-Criminal Investigation's Washington Field Division, with assistance from the Treasury Department's OFAC and the Commerce Department's Bureau of Industry and Security.

The Department of Justice expressed its gratitude to Executive Assistant District Attorney, Chief of Investigation Division Adam Kaufmann; and Assistant District Attorneys Sally Pritchard and Garrett Lynch of the New York County District Attorney's Office, Major Economic Crimes Bureau.

Component(s):

Criminal Division

Press Release Number:

12-742

Updated September 15, 2014