

Department of Justice

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Rabobank NA Pleads Guilty, Agrees to Pay Over \$360 Million**As a Result of Rabobank's Bank Secrecy Act and Anti-Money Laundering Failures it Processed over \$360 Million in Illicit Funds and then Conspired with its Executives in an Attempt to Conceal These Ongoing Failures From its Regulator**

Rabobank National Association (Rabobank), a Roseville, California subsidiary of the Netherlands-based Coöperatieve Rabobank U.A., appeared today before U.S. Magistrate Judge Jill L. Burkhardt and pleaded guilty to a felony conspiracy charge for impairing, impeding and obstructing its primary regulator, the Department of the Treasury's Office of the Comptroller of the Currency (the OCC) by concealing deficiencies in its anti-money laundering (AML) program and for obstructing the OCC's examination of Rabobank. Rabobank will forfeit \$368,701,259 as a result of allowing illicit funds to be processed through the bank without adequate Bank Secrecy Act (BSA) or AML review.

Acting Assistant Attorney General John P. Cronan of the Justice Department's Criminal Division, U.S. Attorney Adam L. Braverman for the Southern District of California, Special Agent in Charge Dave Shaw of U.S. Immigration and Customs Enforcement's Homeland Security Investigations (HSI) in San Diego and Special Agent in Charge R. Damon Rowe of Internal Revenue Service Criminal Investigation (IRS-CI) made the announcement.

At today's hearing, Rabobank pleaded guilty to conspiracy to defraud the United States and to corruptly obstruct an examination of a financial institution. In pleading guilty, Rabobank admitted to conspiring with several former executives to defraud the United States by unlawfully impeding the OCC's ability to regulate the bank, and to obstruct an examination by the OCC of its operations throughout California, including its Calexico and Tecate bank branches. Rabobank admitted that its deficient AML program allowed hundreds of millions of dollars in untraceable cash, sourced from Mexico and elsewhere, to be deposited into its rural bank branches in Imperial County, and transferred via wire transfers, checks, and cash transactions, without proper notification to federal regulators as required by law. Knowing these failures, during the OCC's 2012 examination of Rabobank's BSA/AML compliance program, Rabobank executives actively sought to hide and minimize the deficiencies in its AML program in an effort to deceive the regulators as to its true state in hopes of avoiding regulatory sanctions that had previously been imposed on Rabobank in 2006 and 2008 for nearly identical failures.

Rabobank's guilty plea comes less than two months after a former Rabobank vice president, George Martin, entered into a deferred prosecution agreement with the United States for his role in aiding and abetting Rabobank's failure to maintain an AML program that met BSA requirements. Martin admitted his conduct in federal court in San Diego on Dec. 14, 2017. As part of its guilty plea, Rabobank agreed to cooperate with the United States' continuing investigation.

"When Rabobank learned that substantial numbers of its customers' transactions were indicative of international narcotics trafficking, organized crime, and money laundering activities, it chose to look the other way and to cover up deficiencies in its anti-money laundering program," said Acting Assistant Attorney General Cronan. "Worse still, Rabobank took steps to obstruct an examination by its regulator into those same deficiencies. The integrity of our financial system depends on prompt reporting by banks and other financial institutions of suspicious, potentially criminal transactions, and on these entities' truthfulness and transparency with their regulators. Rabobank's guilty plea today and forfeiture of more than \$360 million is a warning to financial institutions that there are significant consequences for banks that engage in obstructive conduct in an effort to hide their anti-money laundering program failures from their regulators."

"Rabobank had an obligation to shine light on suspected drug traffickers, money launderers and organized crime," said U.S. Attorney Braverman. "Instead, this bank deliberately allowed hundreds of millions of dollars of suspicious cash transactions and wire transfers to flow through its branches and took measures to hide this activity from regulators. We will vigorously protect the integrity of the banking system, and we will not allow the financial institutions in our communities to play any role in facilitating international money laundering or financing transnational criminal organizations."

"It is the responsibility of Homeland Security Investigations to monitor and investigate activity which exploits the global infrastructure, to include financial systems," said Special Agent in Charge Shaw. "This complex investigation revealed, and Rabobank admits, that Rabobank was aware of the extreme risk that it was processing hundreds of millions of dollars related to transnational crime and international money laundering – activity which plagues the Southwest Border. This plea and significant forfeiture send a strong message to financial institutions that this activity will not be tolerated."

"Today, Rabobank is being held accountable for its illegal actions involving the movement of more than \$360 million through the U.S. financial system on behalf of high risk customers," said Special Agent in Charge Rowe. "In today's environment of increasingly sophisticated financial markets, it's critical that global institutions follow U.S. law and abide by our anti-money laundering regulations. The IRS is proud to share its world-renowned financial investigative expertise in this and other complex financial investigations."

The BSA requires financial institutions to implement and maintain an AML compliance program reasonably designed, among other things: (i) to detect suspicious activity indicative of money laundering and other crimes and (ii) to assure and monitor compliance with the BSA's recordkeeping and reporting requirements, including to report to the U.S. Department of the Treasury any suspicious transactions (through the filing "suspicious activity reports" or "SARs") indicative of a possible violation of the law. In its plea agreement, Rabobank admitted knowing that between 2009 and 2012 its BSA/AML program failed in significant ways. Some of these BSA/AML program failures resulted from policies and procedures at Rabobank that precluded and suppressed investigations into suspicious transactions that occurred at its branches, by its accountholders, or by individuals conducting transactions on behalf of its accountholders that had various indications of being involved in, derived from, or promoting illegal conduct.

According to court documents, Rabobank received regular alerts of transactions by "High-Risk" customers, or through accounts deemed to be "High-Risk," and that had been the subject of prior SARs filed by Rabobank. These High-Risk customers and accounts included those controlled and managed by Mexican businesses, nonresident aliens, and U.S.-based accountholders who transacted hundreds of millions of dollars in untraceable cash, sourced from Mexico and elsewhere, into and through Rabobank accounts.

According to court documents, Rabobank also created and implemented policies and procedures to prevent adequate investigations into these suspicious transactions, customers, and accounts. Among those policies and procedures was Rabobank's "Verified List" – a policy that effectively resulted in Rabobank executing an end-run the BSA/AML and SAR requirements. In particular, Rabobank instructed its employees that if a customer was on the "Verified List," no further review of that customer's transactions was necessary – even if the transactions generated an internal alert, or the customer's activity had changed dramatically from when it was "verified." Rabobank's BSA/AML staff were further instructed to aggressively increase the number of bank accounts on the Verified List, as evidenced by the fact

that in 2009, Rabobank had less than 10 "verified" customers, but by 2012, as a result of its defective BSA/AML policies and procedures, it had more than 1,000 "verified" customers.

Additionally, Rabobank admitted failing to monitor and conduct adequate investigations into these transactions and submit SARs to the Financial Crimes Enforcement Network (FinCEN), as required by the BSA. Rabobank's border branches, including those located in Calexico and Tecate in Imperial County, California, were heavily dependent on cash deposits from Mexico. Rabobank knew that millions of dollars in cash deposits at these branches were likely tied to illicit conduct. In particular, the Calexico branch, located about two blocks from the U.S.-Mexico border, was the "highest performing" branch in the Imperial Valley region due to the cash deposits from Mexico. Throughout the relevant time period, Rabobank continued this practice of soliciting cash-intensive customers from Mexico and elsewhere, all the while employing the foregoing inadequate BSA/AML policies and procedures to address the obvious, known "High Risks" associated with these accounts, transactions, and transactors.

When the OCC began conducting its periodic examination of Rabobank in 2012, Rabobank, acting through three of its executives, agreed to, among other things, knowingly obstruct the OCC's examination. Rabobank responded to the OCC's February 2013 initial report of examination with false and misleading information about the state of Rabobank's BSA/AML program. Rabobank also made false and misleading statements to the OCC regarding the existence of reports developed by a third-party consultant, which detailed the deficiencies and resulting ineffectiveness of Rabobank's BSA/AML program.

To further conceal the inadequate nature of its BSA/AML program and to avoid "others contradicting our findings" and statements to the OCC, Rabobank demoted or terminated two RNA employees who were raising questions about the adequacy of Rabobank's BSA/AML program.

The investigation was conducted by HSI, IRS-CI, and the Financial Investigations and Border Crimes Task Force (the FIBC), a multiagency Task Force based in San Diego and Imperial Counties, and funded by the Treasury Executive Office of Asset Forfeiture (TEOAF). The investigation occurred in parallel with regulatory investigations by the OCC, Office of General Counsel, and FinCEN, Enforcement Division. The case is being prosecuted by Trial Attorneys Kevin G. Mosley and Maria Vento of the Criminal Division's Money Laundering and Asset Recovery Section and Assistant U.S. Attorneys Daniel C. Silva, Mark W. Pletcher and David J. Rawls from the Southern District of California.

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Topic(s):

Financial Fraud

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