

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

## **ASSESSMENT OF CIVIL MONEY PENALTY**

## I. INTRODUCTION

The Financial Crimes Enforcement Network has determined that grounds exist to assess a civil money penalty against Saddle River Valley Bank (“SRVB” or the “Bank”), pursuant to the Bank Secrecy Act and regulations issued pursuant to that Act.<sup>1</sup> SRVB enters into the CONSENT TO THE ASSESSMENT OF CIVIL MONEY PENALTY (“CONSENT”) with the Financial Crimes Enforcement Network.

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

The Financial Crimes Enforcement Network has authority to investigate banks for compliance with and violation of the Bank Secrecy Act pursuant to 31 C.F.R. § 1010.810, which grants the Financial Crimes Enforcement Network “overall authority for enforcement and compliance, including coordination and direction of procedures and activities of all other agencies exercising delegated authority under this chapter.” SRVB was a “financial institution”

<sup>1</sup> The Bank Secrecy Act is codified at 12 U.S.C. §§ 1829b, 1951-1959 and 31 U.S.C. §§ 5311-5314, 5316-5332. Regulations implementing the Bank Secrecy Act appear at 31 C.F.R. Chapter X (formerly 31 C.F.R. Part 103). On March 1, 2011, a transfer and reorganization of Bank Secrecy Act regulations from 31 C.F.R. Part 103 to 31 C.F.R. Chapter X became effective. A cross-reference index of Chapter X and Part 103 is located at [http://www.fincen.gov/statutes\\_regs/ChapterX/](http://www.fincen.gov/statutes_regs/ChapterX/).

and a “bank” within the meaning of the Bank Secrecy Act and its implementing regulations during the time relevant to this action. 31 U.S.C. § 5312(a)(2) and 31 C.F.R. § 1010.100.

SRVB was established in 2006 and was located in Saddle River, New Jersey. SRVB was a small community bank that operated two branches in Bergen County, New Jersey with approximately \$118 million in assets and 20 employees. On August 1, 2012, SRVB sold substantially all of its assets and oversaw the transfer of its customer accounts to another U.S. financial institution. The proceeds of the sale were placed into an escrow account pending the resolution of investigations described below, and that escrow account currently contains approximately \$9.2 million.

The U.S. Attorney’s Office for the District of New Jersey investigated SRVB for the processing of approximately \$1.5 billion in transactions on behalf of four casas de cambio (“CDCs” or “CDC accounts”), also known as money exchange houses, through the Bank. Three casas de cambio were located in Mexico, and one was located in the Dominican Republic. The U.S. Attorney’s Office has filed a civil forfeiture action alleging that SRVB willfully failed to establish and maintain an effective anti-money laundering program, in violation of 31 U.S.C. § 5318(h)(1) and 31 C.F.R. § 1020.210, and willfully failed to establish adequate due diligence policies, procedures, and controls for foreign correspondent accounts, in violation of 31 U.S.C. § 5318(i)(1) and 31 C.F.R. § 1010.610. In a Settlement Agreement filed contemporaneously with this CONSENT, SRVB has agreed to forfeit \$4.1 million to settle the civil forfeiture complaint with the U.S. Attorney’s Office.

The Office of the Comptroller of the Currency (“OCC”) is SRVB’s Federal functional regulator, and SRVB was subject to examination for compliance with the Bank Secrecy Act and its implementing regulations and similar rules under Title 12 of the United States Code. The

OCC has determined that SRVB violated the Bank Secrecy Act, from 2009 through April 2011, by failing to establish and maintain an adequate anti-money laundering compliance program, in violation of 31 U.S.C. § 5318(h) and 31 C.F.R. § 1020.210. The OCC has also determined, among other things, that SRVB failed to establish an appropriate, risk-based due diligence program for correspondent accounts for foreign financial institutions, as required by 31 C.F.R. § 1010.610, and failed to file suspicious activity reports (“SARs”) in a timely manner, in violation of 31 C.F.R. § 1020.320 and 31 U.S.C. § 5318(g). The OCC is simultaneously issuing a Consent Order citing these violations. SRVB has agreed to a \$4.1 million civil money penalty assessed by the OCC.

## **II. DETERMINATIONS**

An investigation conducted by the Financial Crimes Enforcement Network, working in conjunction with the OCC and DOJ, determined that, from 2009 through May 2011, SRVB willfully violated the Bank Secrecy Act’s program, recordkeeping, and reporting requirements. The Financial Crimes Enforcement Network has determined that SRVB willfully violated the Bank Secrecy Act since at least June 2009 by: (1) lacking an effective anti-money laundering program reasonably designed to manage risks of money laundering and other illicit activity, in violation of 31 U.S.C. §§ 5318(a)(2) and 5318(h), and 31 C.F.R. § 1020.210; (2) failing to conduct adequate due diligence on foreign correspondent accounts, in violation of 31 U.S.C. § 5318(i) and 31 C.F.R. § 1010.610; and (3) failing to detect and adequately report suspicious activities in the Mexican and Dominican Republic CDC accounts in a timely manner, in violation of 31 C.F.R. § 1020.320 and 31 U.S.C. § 5318(g).

## **A. Violations of the Requirement to Implement an Anti-Money Laundering Program**

Since April 24, 2002, the Bank Secrecy Act and its implementing regulations have required banks to establish and implement anti-money laundering programs. 31 U.S.C. §§ 5318(a)(2) and 5318(h). SRVB was required to establish and maintain an anti-money laundering program that, at a minimum: (a) provided for a system of internal controls to assure ongoing compliance; (b) provided for independent testing for compliance conducted by bank personnel or by an outside party; (c) designated an individual or individuals responsible for coordinating and monitoring day to day compliance; and (d) provided training for appropriate personnel. 31 C.F.R. §§ 1020.100(d)(1) and 1020.210.<sup>2</sup>

SRVB was deficient in all four pillars. SRVB failed to implement an effective anti-money laundering program reasonably designed to identify and report transactions through the CDC accounts that exhibited indicia of money laundering or other suspicious activity, in light of the types of products and services offered by the Bank, the volume and scope of its business, and the nature of its customers. SRVB failed to implement a program commensurate with its correspondent banking for the four Mexican and Dominican Republic CDC accounts, which included wire transfer and remote deposit capture activity.<sup>3</sup> Publicly available information

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<sup>2</sup> A bank regulated by a Federal functional regulator is deemed to have satisfied Bank Secrecy Act/anti-money laundering program requirements if it implements and maintains an anti-money laundering program that complies with the regulations of its Federal functional regulator. 31 C.F.R. §§ 1020.100(d)(1) and 1020.210; 12 C.F.R. § 163.177 (OCC's regulation).

<sup>3</sup> Remote Deposit Capture ("RDC") is a deposit transaction delivery system that allows a financial institution to receive digital information from deposit documents captured at remote locations such as financial institution branches, ATMs, domestic and foreign correspondents, or locations owned or controlled by commercial or retail customers of the financial institution. In substance, RDC is similar to traditional deposit delivery systems at financial institutions, such as pouch activities. However, RDC enables customers of financial institutions to deposit items electronically from locations globally. Therefore, RDC introduces additional risks beyond

provided ample notice of heightened risk. In 2006, the Financial Crimes Enforcement Network issued an advisory, FIN-2006-A003, notifying financial institutions of the potential threat of narcotics-based money laundering between Mexico and the United States and specifically noted risk from CDC accounts. The United States Department of State International Narcotics Control Strategy Reports dating back to 2002 have consistently rated Mexico as a country of primary concern for money laundering and financial crimes. In addition, a 2010 FinCEN public enforcement action highlighted the heightened risk with Mexican CDC accounts.

SRVB focused on revenue generation from the CDC accounts, rather than the associated risks. Wire transfer and RDC activity in the CDC accounts represented the majority of the Bank's overall wire and RDC activity from 2009 to 2011. SRVB did not ensure appropriate compliance staffing and training, and exercised inadequate oversight for compliance responsibilities. SRVB did not use an adequate automated transaction monitoring system to monitor the CDC wires. Instead, SRVB largely monitored wires manually. This limited SRVB's ability to identify patterns and trends. As a result, SRVB failed to timely file approximately 190 SARs, which greatly diminished the value of the SARs to law enforcement and regulatory agencies.

**B. Violations of the Requirement to Establish an Adequate Due Diligence Program for Correspondent Accounts for Foreign Financial Institutions**

Foreign correspondent accounts are gateways to the U.S. financial system. As part of their anti-money laundering obligations, U.S. banks maintaining correspondent accounts in the United States for foreign financial institutions must subject the accounts to certain due diligence measures. 31 U.S.C. § 5318(i)(1) and 31 C.F.R. § 1010.610. Banks must implement and

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traditional deposit delivery systems. *See generally* OCC Bulletin 2009-4: Remote Deposit Capture, Interagency Guidance.

maintain risk-based policies, procedures, and controls reasonably designed to gather all relevant due diligence information concerning such foreign correspondent accounts, employ this due diligence information to determine whether an account is subject to enhanced due diligence, conduct assessments of money laundering risks for each account, and comply with suspicious activity reporting requirements. 31 C.F.R. §§ 1010.610(a)(1), (2) and (3). SRVB violated the Bank Secrecy Act customer due diligence requirements by failing to identify its Mexican and Dominican Republic CDC accounts as foreign correspondent accounts and collect or maintain adequate due diligence information. As a result, transactions flowed to and from the U.S. without appropriate monitoring and alerts to identify movement of funds.

### **C. Violations of the Requirement to Report Suspicious Transactions**

The Bank Secrecy Act and its implementing regulations 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. 31 U.S.C. § 5318(g) and 31 C.F.R. § 1020.320. 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 the reporting or recordkeeping requirements of the Bank Secrecy Act or regulations under the 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 background and possible purpose of the transaction. 31 C.F.R. §§ 1020.320(a)(2)(i) - (iii). SRVB violated Bank Secrecy Act suspicious activity reporting requirements by failing to detect and report suspicious activity and by filing late SARs.

Most notably, the Bank failed to properly identify, monitor, and report suspicious activities related to the transactions being conducted on behalf of the Mexican and Dominican Republic CDC accounts. In 2011, SRVB performed a review of transactions, known as a “lookback,” in connection with a 2011 Consent Order by the OCC. As a result of this lookback, the Bank filed approximately 190 SARs late, totaling an estimated \$1.5 billion in aggregate suspicious activity for transactions occurring between August 2009 and May 2011. The previously undetected suspicious activities that were identified during the lookback primarily involved either RDC transactions or wire transfers where the source of funds and purpose of the transactions was unknown or unclear for the four Mexican and Dominican Republic CDC accounts through which money flowed. More than 50 percent of the SARs involved a subject domiciled in Mexico.

### **III. CIVIL MONEY PENALTY**

The Financial Crimes Enforcement Network has determined that a civil money penalty in the amount of \$4.1 million is warranted for SRVB’s violations of the Bank Secrecy Act and its implementing regulations, as described in this ASSESSMENT. 31 U.S.C. § 5321 and 31 C.F.R. § 1010.820.

### **IV. CONSENT TO ASSESSMENT**

To resolve this matter, and only for that purpose, SRVB consents to the assessment of a civil money penalty in the sum of \$4.1 million.

This ASSESSMENT shall be concurrent with the assessment of a civil money penalty, in the amount of \$4.1 million, by the OCC, and shall be satisfied by one payment of \$4.1 million to the Department of the Treasury.

SRVB 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 SRVB to enter into the CONSENT, except those specified in the CONSENT.

SRVB understands and agrees that the CONSENT embodies the entire agreement between SRVB and the Financial Crimes Enforcement Network relating to this enforcement matter only, as described in Section II above. SRVB further understands and agrees that there are no express or implied promises, representations, or agreements between SRVB 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 in this ASSESSMENT is binding on any other agency of government, whether federal, state, or local.

#### **V. RELEASE**

SRVB understands that execution of the CONSENT, and compliance with the terms of this ASSESSMENT and the CONSENT, constitute a complete settlement and release of the Bank's 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:

/s/	9/24/2013
Jennifer Shasky Calvery Director FINANCIAL CRIMES ENFORCEMENT NETWORK U.S. Department of the Treasury	Date