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Deutsche Bank Agrees To Pay $7.2 Billion For Misleading Investors In Its Sale Of Residential Mortgage-Backed Securities

Deutsche Bank's Conduct Contributed to the 2008 Financial Crisis

WASHINGTON --The Justice Department, along with federal partners, announced today a $7.2 billion settlement with Deutsche Bank resolving federal civil claims that Deutsche Bank misled investors in the packaging, securitization, marketing, sale and issuance of residential mortgage-backed securities (RMBS) between 2006 and 2007. This $7.2 billion agreement represents the single largest RMBS resolution for the conduct of a single entity. The settlement requires Deutsche Bank to pay a $3.1 billion civil penalty under the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA). Under the settlement, Deutsche Bank will also provide $4.1 billion in relief to underwater homeowners, distressed borrowers and affected communities.

"This resolution holds Deutsche Bank accountable for its illegal conduct and irresponsible lending practices, which caused serious and lasting damage to investors and the American public," said Attorney General Loretta E. Lynch. "Deutsche Bank did not merely mislead investors: it contributed directly to an international financial crisis. The cost of this misconduct is significant: Deutsche Bank will pay a $3.1 billion civil penalty, and provide an additional $4.1 billion in relief to homeowners, borrowers, and communities harmed by its practices. Our settlement today makes clear that institutions like Deutsche Bank cannot evade responsibility for the great cost exacted by their conduct."

"This $7.2 billion resolution – the largest of its kind – recognizes the immense breadth of Deutsche Bank's unlawful scheme by demanding a painful penalty from the bank, along with billions of dollars of relief to the communities and homeowners that continue to struggle because of Wall Street's greed," said Principal Deputy Associate Attorney General Bill Baer. "The Department will remain relentless in holding financial institutions accountable for the harm their misconduct inflicted on investors, our economy and American consumers."

“In the Statement of Facts accompanying this settlement, Deutsche Bank admits making false representations and omitting material information from disclosures to investors about the loans included in RMBS securities sold by the Bank. This misconduct, combined with that of the other banks we have already settled with, hurt our economy and threatened the banking system,” said Principal Deputy Assistant Attorney General Benjamin C. Mizer, head of the Justice Department’s Civil Division. “To make matters worse, the Bank’s conduct encouraged shoddy mortgage underwriting and improvident lending that caused borrowers to lose their homes because they couldn’t pay their loans. Today’s settlement shows once again that the Department will aggressively pursue misconduct that hurts the American public.”

“Investors who bought RMBS from Deutsche Bank, and who suffered catastrophic losses as a result, included individuals and institutions that form the backbone of our community,” said U.S. Attorney Robert L. Capers for the Eastern District of New York. “Deutsche Bank repeatedly assured investors that its RMBS were safe investments. Instead of ensuring that its representations to investors were accurate and transparent, so that investors could make properly informed investment decisions, Deutsche Bank repeatedly misled investors and withheld critical information about the loans it securitized. Time and again, the bank put investors at risk in pursuit of profit. Deutsche Bank has now been held accountable.”

“Deutsche Bank knowingly securitized billions of dollars of defective mortgages and subsequently made false representations to investors about the quality of the underlying loans,” said Special Agent In Charge Steven Perez of the Federal Housing Finance Agency, Office of the Inspector General. “Its actions resulted in enormous losses to investors to whom Deutsche Bank sold these defective Residential Mortgage-Backed Securities. Today’s announcement reaffirms our commitment to working with our law enforcement partners to hold accountable those who deceived investors in pursuit of profits, and contributed to our nation’s financial crisis. We are proud to have worked with the U.S. Department of Justice and the U.S Attorney’s Office for the Eastern District of New York.”

As part of the settlement, Deutsche Bank agreed to a detailed Statement of Facts. That statement describes how Deutsche Bank knowingly made false and misleading representations to investors about the characteristics of the mortgage loans it securitized in RMBS worth billions of dollars issued by the bank between 2006 and 2007. For example:

- Deutsche Bank represented to investors that loans securitized in its RMBS were originated generally in accordance with mortgage loan originators’ underwriting guidelines. But as Deutsche Bank now acknowledges, the bank’s own reviews confirmed that “aggressive” revisions to the loan originators’ underwriting guidelines allowed for loans to be underwritten to anyone with “half a pulse.” More generally, Deutsche Bank knew, based on the results of due diligence, that for some securitized loan pools, more than 50 percent of the loans subjected to due diligence did not meet loan originators' guidelines.

- Deutsche Bank also knowingly misrepresented that loans had been reviewed to ensure the ability of borrowers to repay their loans. As Deutsche Bank acknowledges, the bank's own employees recognized that Deutsche Bank would "tolerate misrepresentation" with "misdirected lending practices" as to borrower ability to pay, accepting even blocked-out borrower pay stubs that concealed borrowers' actual incomes. As a Deutsche Bank employee stated, "What goes around will eventually come around; when performance (default) begins affecting profits and/or the investors who purchase the securities, only then will Wall St. take notice. For now, the buying continues."

- Deutsche Bank concealed from investors that significant numbers of borrowers had second liens on their properties. In one instance, a supervisory Deutsche Bank trader specifically instructed his team that if investors asked about second liens, "'[t]ell them verbally . . . [b]ut don't put in the prospectus.'" Deutsche Bank knew that these second liens increased the likelihood that a borrower would default on his or her loan.

- Deutsche Bank purchased and securitized loans with substantial defects to provide "flexibility" to the mortgage originators on whom Deutsche Bank's RMBS program depended for a continued supply of loans. Indeed, after the president of a large mortgage originator told Deutsche Bank he was "very upset with the rejection percentage," Deutsche Bank's diligence team was instructed, on three separate occasions, to clear loans it previously determined should be rejected.

- While Deutsche Bank conducted due diligence on samples of loans it securitized in RMBS, Deutsche Bank knew that the size and composition of these loan samples frequently failed to capture loans that did not meet its representations to investors. In fact, Deutsche Bank knew "the more you sample, the more you reject."

- Deutsche Bank knowingly and intentionally securitized loans originated based on unsupported and fraudulent appraisals. Deutsche Bank knew that mortgage originators were "'giving' appraisers the value they want[ed]" and expecting the resulting appraisals to meet the originators' desired value, regardless of the actual value of the property. Deutsche Bank concealed its knowledge of pervasive and consistent appraisal fraud, instead representing to investors home valuation metrics based on appraisals it knew to be fraudulent. Deutsche Bank misrepresented to investors the value of the properties securing the loans securitized in its RMBS and concealed from investors that it knew that the value of the properties securing the loans was far below the value reflected by the originator's appraisal.

- By May 2007, Deutsche Bank knew that there was an increasing trend of overvalued properties being sold to Deutsche Bank for securitization. As one employee noted, "We are finding ourselves going back quite often and clearing large numbers of loans [with inflated appraisals] to bring down the deletion percentages." Deutsche Bank nonetheless purchased and securitized such loans because it received favorable prices on the fraudulent loans. Ultimately, Deutsche Bank enriched itself by paying reduced prices for risky loans while representing to investors valuation metrics based on appraisals the Bank knew to be inflated.

- Deutsche Bank represented to investors that disclosed borrower FICO scores were accurate as of the "cut-off date" of the RMBS issuance. However, Deutsche Bank knowingly represented borrowers' FICO scores as of the time of the origination of their loans despite the bank's knowledge that these scores had often declined materially by the cut-off date.

Assistant U.S. Attorneys Edward K. Newman, Matthew R. Belz, Jeremy Turk, and Ryan M. Wilson of the U.S. Attorney's Office for the Eastern District of New York investigated Deutsche Bank's conduct in connection with the issuance and sale of RMBS between 2006 and 2007. The investigation was conducted with the Office of the Inspector General for the Federal Housing Finance Agency.

The $3.1 billion civil monetary penalty resolves claims under FIRREA, which authorizes the federal government to impose civil penalties against financial institutions that violate various predicate offenses, including wire and mail fraud. It is one of the largest FIRREA penalties ever paid. The settlement does not release any individuals from potential criminal or civil liability. As part of the settlement, Deutsche Bank has agreed to fully cooperate with investigations related to the conduct covered by the agreement.

Deutsche Bank will also provide $4.1 billion in the form of relief to aid consumers harmed by its unlawful conduct. Specifically, Deutsche Bank will provide loan modifications, including loan forgiveness and forbearance, to distressed and underwater homeowners throughout the country. It will also provide financing for affordable rental and for-sale housing throughout the country. Deutsche Bank's provision of consumer relief will be overseen by an independent monitor who will have authority to approve the selection of any third party used by Deutsche Bank to provide consumer relief. To report RMBS fraud, go to: http://www.stopfraud.gov/rmbs.html

About the RMBS Working Group:

The RMBS Working Group, part of the Financial Fraud Enforcement Task Force, was established by the Attorney General in late January 2012. The Working Group has been dedicated to initiating, organizing, and advancing new and existing investigations by federal and state authorities into fraud and abuse in the RMBS market that helped precipitate the 2008 Financial Crisis. The Working Group's efforts to date have resulted in settlements providing for tens of billions of dollars in civil penalties and consumer relief from banks and other entities that are alleged to have committed fraud in connection with the issuance of RMBS.