

# NYDFS ISSUES ENFORCEMENT ACTION AGAINST THE INDUSTRIAL BANK OF KOREA

The New York State Department of Financial Services yesterday issued an enforcement action against the Industrial Bank of Korea (“IBK”) for violations of New York’s anti-money laundering and recordkeeping obligations. It is the first of these type of BSA/AML enforcement actions issued by the Department in some time; this is not surprising, given that NYDFS, like other regulators, has been consumed with responding to the COVID-19 pandemic.

Significant elements of the Consent Order include:

- a \$35 million penalty to be paid to NYDFS;
- findings by NYDFS that IBK repeatedly failed to improve its BSA/AML program over many examination cycles;
- the requirement of remediation plans concerning the Bank’s BSA/AML program, suspicious activity reporting, customer due diligence and corporate governance; and
- two years of quarterly reporting obligations.

There are a number of notable findings in the Consent Order. One is that the Order specifically discusses the Department’s finding that the Bank was out of compliance with the NYDFS transaction monitoring regulation, “Part 504,” during the 2018 examination cycle. (3 N.Y.C.R.R. § 504) The Order also goes on to say that, despite the Department’s finding of non-compliance, the Bank nevertheless certified in April 2018 that it was fully in compliance with Part 504. Notably, the Consent Order does not specifically charge the Bank with running afoul of Part 504 in its “Violations” section, instead charging violations of the general anti-money laundering regulation (3 N.Y.C.R.R. § 116) and recordkeeping requirements statute (Banking Law § 200-c).

Another factual finding noted in the Order is that the Compliance Officer for the New York Branch warned management on at least two separate occasions that the Branch’s compliance staffing and technology was seriously under-resourced. The Compliance Officer clearly explained in writing that a failure to respond sufficiently could result in serious supervisory consequences like an enforcement action.

A third notable finding is that NYDFS emphasized the Bank’s “substantial cooperation” with its investigation, and also

made an affirmative finding that the Bank, having now sought sufficient outside and internal expertise, was finally in compliance with Part 504 and a prior Written Agreement entered into in 2016.

In an action filed the same day, IBK admitted to similar facts in a felony information as part of a deferred prosecution agreement with the U.S. Justice Department, pursuant to which IBK must forfeit an additional sum of \$51 million and report to DOJ on a semi-annual basis, on the grounds of having violated the Bank Secrecy Act. IBK also entered into a [non-prosecution agreement with the New York Attorney General](#) based on the identical conduct.

Financial institutions may note several key takeaways from this enforcement action. First, despite its recent focus on consumer-facing investigations, NYDFS continues its mission of ensuring compliance with BSA/AML requirements for its regulated entities. Second, financial institutions must take seriously the recommendations from the compliance function about the need for resources. Here, the well-founded pleas from the Branch's Compliance Officer appear to have been ignored until it was too late. Finally, maintaining an open line of communication with supervisors about ongoing progress, and fully cooperating with investigations, typically improve outcomes for financial institutions facing supervisory action.