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CFTC Orders Truist Bank to Pay \$3 Million Penalty and Remediate Recordkeeping and Supervision Failures Relating to Widespread Use of Unapproved Communications Methods

Truist Receives Substantially Reduced Penalty for Self-Reporting to the Division of Enforcement

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Order: Truist Bank

August 14, 2024

Washington, D.C. — The Commodity Futures Trading Commission today issued an order simultaneously filing and settling charges against North Carolina swap dealer **Truist Bank**. The order finds Truist failed to maintain, preserve, or produce records required to be kept under CFTC recordkeeping requirements. Truist also failed to diligently supervise matters related to its business as a CFTC swap dealer.

Truist admits the facts detailed in the order, is ordered to cease and desist from further violations of recordkeeping and supervision requirements, is ordered to pay a \$3 million civil monetary penalty, and is ordered to engage in specific remedial undertakings.

Truist self-reported it proactively conducted a review of the use of unapproved communications methods by its employees. The review demonstrated widespread and longstanding use of unapproved communication methods by swap dealer employees—including senior-level employees—to engage in firm business. The order recognizes Truist’s self-report, its substantial cooperation with the Division of Enforcement’s investigation, and remediation in the form of a substantially reduced penalty.

“In responding to an industry-wide and consequential problem, Truist set itself apart from the more than 20 other registrants the CFTC brought actions against for use of unapproved communications methods. How? Truist made the decision to self-report to the Division of Enforcement it had serious recordkeeping and supervisory failures. It is the only registrant to do so,” said Director of Enforcement Ian McGinley. “Truist’s decision to self-report, cooperate, remediate, and be held accountable allowed it to benefit in the form of a substantially reduced penalty. At the same time, the CFTC’s message remains clear—recordkeeping and supervision requirements are fundamental, and registrants that fail to comply with these core obligations do so at their own peril.”

Case Background

From December 2019 through the present, Truist’s policies and procedures broadly prohibited employees from using unapproved communication methods, such as personal text messages and social applications, to engage in business-related communications about the firm’s swap dealer. Truist required regular attestations from swap dealer employees that they were not using personal text messages and social applications to engage in business-related communications.

Messages sent through Truist-approved communications methods were monitored, subject to review, and when appropriate, archived. By contrast, messages sent using unapproved communication methods, including personal text messages, were generally not monitored, subject to review, or archived.

As a result of Truist’s failure to ensure that employees—including supervisors and senior-level employees—complied with the firm’s communications policies and procedures, Truist failed to maintain many business-related communications, including communications in connection with its commodities and swaps business, and thus failed to diligently supervise its business as a CFTC registrant.

After reviewing public CFTC orders entered with other CFTC registrants for similar conduct, Truist undertook its own internal survey of senior employees, identified potential violations, and promptly self-reported those facts to the CFTC. Truist substantially cooperated with the CFTC’s investigation, including expanding and sharing the results of its sampling analysis. Truist represents it is enhancing its disciplinary policies and continuing remediation efforts it began at the time of the self-report.

Related Civil Actions

The U.S. Securities and Exchange Commission today also filed and settled an order against Truist Securities, Inc., Truist Investment Services, Inc., and Truist Advisory Services, Inc., and imposed a civil monetary penalty for recordkeeping and supervision violations related to the use of unapproved communications methods.

The Division of Enforcement staff responsible for this matter are Ansley Schrimpf, Joseph Patrick, Elizabeth Streit, Scott Williamson, and Robert T. Howell.

-CFTC-

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