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Release Number 8951-24

CFTC Orders The Bank of New York Mellon to Pay \$5 Million for Swap Reporting and Supervision Failures and Violation of a Prior CFTC Order

August 26, 2024

Washington, D.C. — The Commodity Futures Trading Commission today issued an order simultaneously filing and settling charges with **The Bank of New York Mellon** (BNYM) for repeatedly failing to correctly report millions of swap transactions to a registered swap data repository, in violation of a prior CFTC order against BNYM, and for failing to properly supervise its swap dealer business as required by the Commodity Exchange Act (CEA) and CFTC regulations. [See CFTC Press Release Nos. [8033-19](#) and [8042-19](#)] The order imposes a \$5 million civil monetary penalty and incorporates BNYM’s decision to retain an independent compliance consultant to review and provide advice regarding its compliance program.

“Accurate reporting is a core pillar of the regulatory regime for swaps, and every individual data field matters,” said Division of Enforcement Director Ian McGinley. “It is essential that swap dealers get this right. In that vein, I commend BNYM for its extensive cooperation, remediation, and decision to retain an independent compliance consultant to assist the bank in improving its compliance program and preventing the reoccurrence of misconduct.”

Case Background

The order finds from approximately 2018 through 2023, BNYM repeatedly failed to correctly report at least five million swap transactions and failed to properly supervise its swap dealer business with respect to swap data reporting and monitoring of its associated persons (AP). Many of the reporting failures also constituted a violation of the CFTC’s September 30, 2019 order against BNYM. In re Bank of New York Mellon, CFTC No. 19-42, 2019 WL 4915489 (Sep. 30, 2019) (consent order) (the 2019 Order). The 2019 order required BNYM to cease and desist from further violating some of the same sections of the CEA and CFTC regulations that are the subject of the current action.

In addition to the supervision failures reflected in BNYM’s swap data reporting violations, BNYM also failed to properly supervise its business as a swap dealer in that it had no written policies or procedures to monitor the voice communications of its APs or monitor the e-communications of its APs communicating in languages other than English, in order to ensure its APs were complying with the CEA and CFTC regulations.

The reduced civil monetary penalty in the order recognizes BNYM’s self-reporting; acknowledges BNYM’s representations concerning its remediation efforts, including engagement of an outside compliance consultant; and recognizes substantial cooperation with the Division of Enforcement’s investigation.

The Division of Enforcement staff responsible for this matter are Daniel Jordan and Rick Glaser as well as former staff members Amanda Burks and Phillip Tumminio.

-CFTC-

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