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Eidgenössische Bankenkommission
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Media Release

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SFBC reprimands UBS for lack of due diligence with Abacha funds and orders audit

The Swiss Federal Banking Commission (SFBC) has completed its investigation into USB AG's handling of funds possibly linked to Mr. Abacha and ordered an on-site audit of the bank. The SFBC concluded from its investigations that UBS had failed to fulfil its duty to collect detailed information and review the economic background for unusual business relationships, in connection with the opening of an account in 1996. The on-site audit of UBS to be carried out by the SFBC in 2003 will assess the current effectiveness of the bank's controlling mechanisms, which have been significantly strengthened in recent years.

July 15, 2002 – Since the end of February 2002, the SFBC has been conducting an investigation into UBS AG's handling of funds possibly connected to Mr. Abacha. On 20 February 2002, UBS made public a dubious business relationship with suspected relatives of the late Nigerian dictator Sani Abacha and decided to report the matter to the SFBC and to the Money Laundering Reporting Office. UBS recognised the need to report the matter following an earlier SFBC investigation of various banks in connection with Abacha funds in 2000. The new investigation, which focused solely on UBS, was necessary because UBS had been unaware of the possible links to Sani Abacha until January 2002.

Background to the dubious business relationship

In 1996, a respected British client who had been with the former Swiss Bank Corporation for many years introduced a new corporate client to the bank, a company whose beneficial owners included the client as well as two of his Nigerian business partners. The fact that the two Nigerians had links with Abacha did not come to light until 2002. At the opening of the account and during the course of this relationship, the bank relied on the client's express declaration that his Nigerian partners were not "politically exposed persons" (PEPs), to whom special due diligence obligations apply. The bank had requested such a statement because its top management had decided in 1994 not to entertain business relationships involving Sani Abacha in order to protect its reputation. Aside from the client's explanation that the two Nigerian beneficial owners were friends and business partners, the bank knew nothing about them. While the relationship was active, assets totalling approximately USD 60 million flowed into the company's accounts at UBS. Funds were mostly transferred to the Swiss account from banks in Kenya, Germany and Jersey.

Identifying the dubious relationship

UBS made a total of three attempts between 1999 and 2001 to identify assets owned by persons linked to Abacha – all of which were unsuccessful. Two attempts failed because the bank did not know the names of everyone in Abacha's entourage. The third search proved unsuccessful due to administrative problems with regard to the electronic archiving of client documents, some of which were previously only available in paper form. It was only in its fourth attempt that the bank succeeded in establishing a connection between the relationship in question and Sani Abacha. Further investigations were then initiated.

The SFBC ruling

After completing its investigation, the SFBC issued a ruling – as it had done for three other banks in September 2000 – levelling the following two main criticisms against UBS:

- UBS failed to exercise due diligence with regard to the dubious business relationship in question and also neglected its duty to investigate the economic background of this unusual relationship. UBS relied exclusively on the information supplied by its client on the two other beneficial owners he had specified. Consequently, the bank was unaware of the true identity of the two other persons involved in this relationship and of their business activities.

- UBS did not conduct its search for potential business links to the Abacha family with due care and diligence.

However, the SFBC's investigation also revealed that the bank has since undertaken significant efforts to strengthen its internal regulatory framework and controlling mechanisms for identifying and monitoring unusual business relationships and transactions. The implementation and effectiveness of these internal measures will be the subject of an on-site audit by the SFBC in 2003, which will be carried out in conjunction with UBS's statutory auditors, Ernst & Young.

Relevance in connection to the planned Money Laundering Ordinance

This investigation of UBS and the findings published following the SFBC's Abacha investigation in 2000 highlights the importance of the Money Laundering Ordinance published by the SFBC last week. The Ordinance stipulates the obligation of banks to conduct investigations of all business relationships – both new and old – which, like the one described above, involve increased levels of risk. This means that the banks will not be allowed to rely entirely on information supplied by other clients, but must instead examine such statements critically and verify them through their own investigations.

Links

- Draft of the SFBC Money Laundering Ordinance:
  http://www.ebk.admin.ch/d/regulier/consult.htm (German and French only)

- Media Release dated 4 September 2000 on the SFBC's Abacha investigation at 19 banks:
  http://www.ebk.admin.ch/d/archiv/2000/neu14-00.pdf (German and French only)

- Media Release dated 13 November 2001 on the SFBC's Montesinos investigation:
  http://www.ebk.admin.ch/d/archiv/2001/m1113-01d.pdf (German and French only)

- UBS AG Media Release dated 20 February 2002:
  http://www.ubs.com/e/index/media1/mediareleases/20020220a.html