



Case Study:

The \$9 Billion Fine Imposed on BNP Paribas



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The Case in Summary

On June 30th, 2014, BNP Paribas was fined \$ 9 billion for willfully violating US laws regarding economic sanctions against certain "black-listed countries" over a period of 10 years, falsifying records, refusing to take action despite warnings from authorities, and refusal to fully cooperate during the investigation.

This is one of the most publicized cases of ethical breaches in the banking industry, not because of the size of the financial penalty or the nature of the violations themselves (many, if not most, of the international banks had issues of this nature, in one form or another, evidencing lack of proper internal controls), but because of the lack of action on the part of the senior management and the board of BNP Paribas.

Compounding the issue, BNP Paribas were slow to acknowledge guilt and take action against senior managers involved. Eventually, however, BNP Paribas gave in and most senior managers of the period, including the Chairman & CEO, left the bank.

Governance Significance of this Case

This case raises interesting questions of:

- Ethics & compliance and the board
- Risk assessment (or lack thereof)
- Internal controls
- Relationship between board and management
- In this particular sector, the role of regulators
- Subsidiary (Group) Governance
- Crisis management

The Protagonists



The Ethics & Compliance Violation

According to documents released publicly today, over the course of eight years, BNPP knowingly and willfully moved more than \$8.8 billion through the U.S. financial system on behalf of sanctioned entities, including more than \$4.3 billion in transactions involving entities that were specifically designated by the U.S. Government as being cut off from the U.S. financial system. BNPP engaged in this criminal conduct through various sophisticated schemes designed to conceal from U.S. regulators the true nature of the illicit transactions. BNPP routed illegal payments through third party financial institutions to conceal not only the involvement of the sanctioned entities but also BNPP's role in facilitating the transactions. BNPP instructed other financial institutions not to mention the names of sanctioned entities in payments sent through the United States and removed references to sanctioned entities from payment messages to enable the funds to pass through the U.S. financial system undetected.

Department of Justice, Press release, June 30, 2014

The Refusal to Cooperate

“BNP ignored US sanctions laws and concealed its tracks. And when contacted by law enforcement it chose not to fully cooperate,” Deputy Attorney General Cole said. “This failure to cooperate had a real effect -- it significantly impacted the government’s ability to bring charges against responsible individuals, sanctioned entities and satellite banks. This failure together with BNP’s prolonged misconduct mandated the criminal plea and the nearly \$9 billion penalty that we are announcing today.”

Department of Justice, Press release June 30, 2014

The Penalties: Monetary and Other

The plea agreement, subject to approval by the court, provides that BNPP will pay total financial penalties of \$8.9736 billion, including forfeiture of \$8.8336 billion and a fine of \$140 million.

In addition to the joint forfeiture judgment, the New York County District Attorney's Office is also announcing today that BNPP has pleaded guilty in New York State Supreme Court to falsifying business records and conspiring to falsify business records. In addition, the Board of Governors of the Federal Reserve System is announcing that BNPP has agreed to a cease and desist order, to take certain remedial steps to ensure its compliance with U.S. law in its ongoing operations, and to pay a civil monetary penalty of \$508 million. The New York State Department of Financial Services (DFS) is announcing BNPP has agreed to, among other things, terminate or separate from the bank 13 employees, including the Group Chief Operating Officer and other senior executives; suspend U.S. dollar clearing operations through its New York Branch and other affiliates for one year for business lines on which the misconduct centered; extend for two years the term of a monitorship put in place in 2013, and pay a monetary penalty to DFS of \$2.2434 billion. In satisfying its criminal forfeiture penalty, BNPP will receive credit for payments it is making in connection with its resolution of these related state and regulatory matters. The Treasury Department's Office of Foreign Assets Control has also levied a fine of \$963 million, which will be satisfied by payments made to the Department of Justice.

Department of Justice, Press release, June 30, 2014

Acknowledging Guilt

BNP PARIBAS ANNOUNCES A COMPREHENSIVE SETTLEMENT REGARDING THE REVIEW OF CERTAIN USD TRANSACTIONS BY US AUTHORITIES

BNP Paribas today announced a comprehensive settlement of the pending investigation relating to US dollar transactions involving parties subject to US sanctions, including agreements with the U.S. Department of Justice, U.S. Attorney's Office for the Southern District of New York, the New York County District Attorney's Office, the Board of Governors of the U.S. Federal Reserve System (FED), the New York State Department of Financial Services (DFS), and the US Department of the Treasury's Office of Foreign Assets Control (OFAC).

The settlement includes guilty pleas entered into by BNP Paribas SA in relation to violations of certain US laws and regulations regarding economic sanctions against certain countries and related recordkeeping. BNP Paribas also agrees to pay a total of USD 8.97 billion (Euros 6.6 billion). Beyond what has already been provisioned, this will result in an exceptional charge of Euros 5.8 billion to be booked in the second quarter of 2014. BNP Paribas also accepts a temporary suspension of one year starting 1st January 2015 of the USD direct clearing focused mainly on the Oil & Gas Energy & Commodity Finance business line in certain locations.

The Public Apology, Departing CEO



The Public Apology, Incoming CEO

Jean-Laurent Bonnafé, CEO of BNP Paribas, said: "We deeply regret the past misconduct that led to this settlement. The failures that have come to light in the course of this investigation run contrary to the principles on which BNP Paribas has always sought to operate. We have announced today a comprehensive plan to strengthen our internal controls and processes, in ongoing close coordination with the US authorities and our home regulator to ensure that we do not fall below the high standards of responsible conduct we expect from everyone associated with BNP Paribas".

The Immediate Aftermath: Resignations, Investigations, Reputation

September 23, 2014 5:15 pm

BNP Paribas chairman Baudouin Prot to step down

By Martin Arnold in London [Author alerts](#)

Other senior executives who have said they will leave the bank since the US fine was announced include [Georges Chodron de Courcel](#), chief operating officer and chairman of the bank's Swiss unit that was behind many of the illegal transactions, and [Jean Clamon](#), head of compliance since 2008.

Thirteen employees left the bank at the request of US regulators. These also include [Vivien Lévy-Garboua](#), senior adviser to the BNP executive committee and former head of compliance; [Christopher Marks](#), head of debt capital markets; and [Stephen Strombelline](#), head of ethics and compliance for North America.

June 30, 2014 5:38 pm

Biggest threat to BNP Paribas could be to its reputation

By Michael Stothard and Martin Arnold [Author alerts](#)

November 19, 2014 9:40 pm

French prosecutor investigates senior BNP Paribas figures

Michael Stothard in Paris [Author alerts](#)



Three of the most senior figures at [BNP Paribas](#), Baudouin Prot, Michel Pébereau and Philippe Bordenave are being investigated as part of a preliminary inquiry by the French prosecutor into suspected insider trading at the bank.

The inquiry relates to shares sold by senior management in the year before France's largest bank took a [\\$1.1bn legal provision](#) in February in preparation for a fine for breaching US sanctions rules. The eventual fine, imposed on the bank in June, turned out to be [\\$8.9bn](#).

Humbling of France's BNP has implications for bank takeovers

Patrick Jenkins

Prospects of cross-border eurozone banking moves look that much slimmer

The Immediate Aftermath: Share Price



The Role of the Board

- What is the ethical & compliance breach ?
- What is the nature of the subsidiary governance problem ?
- What should senior management have done?
- What should the board have done ?
- What could have mitigated the bank's criminal behavior ?

The term “governance” comes from the classical Greek “kubernetes”, the art of steering a ship. Governance, like sailing, is all about team work, effective communication, setting direction and strict monitoring, in ever changing conditions.

