Deutsche Bank Settles €4m ‘Cum-Ex’ Fraud Investigation

Deutsche Bank Settlement

Deutsche Bank was recently identified as the custodian bank in a series of “cum-ex” tradings, and agreed to pay the Frankfurt General Prosecutor’s Office 4 million euro to end further investigation into the deals.

Cum-ex fraudery has been referred to as “the largest tax scandal in postwar German history,” and multiple leading banks and financial institutions are facing further investigation from authorities for having either taken part in these deals themselves, financed transactions, or issued certificates.

While Deutsche Bank denies their involvement as a buyer or seller in the cum-ex deals in question, they did recognize their role in the activities of particular clients. The investigation dates back to September 2015, when the clients in question attempted to claim 37 million euros in tax refunds.

Cum-Ex Trading

Cum-ex tradings are also referred to as dividend-stripping schemes. The term has Latin origins, meaning “with-without,” and describes transactions where dividend payments have vanished.

When an individual buys a share, the short period before the dividend is declared is known as cum-dividend. Dividend stripping, or cum-ex trading, occurs when the individual buys the share during cum-dividend, and sells it at the reinvestment date. This allows them to then receive a dividend which the previous share-owner was entitled to, meaning that while tax is paid only once, both seller and owner can claim full refunds.

Dividend trading is often carried out as part of either an investment or tax avoidance strategy, and was common in Germany prior to 2012, before tax laws were revised. It allows shareholders to receive several refunds on taxes which they have only paid once.

Banks, financial service providers, stockbrokers and law firms all play a role in helping their clients carry out these controversial tax malpractices, which ultimately end up costing taxpayers a significant sum of money. Over the years, cum-ex transactions such as those under investigation at Deutsche Bank are estimated to have cost German taxpayers over 10 billion euros, as they ultimately ensure that shareholders are refunded money they were not entitled to. However, Deutsche Bank did clarify that regarding the case in question, no tax was evaded, as last year they withdrew the tax refund certificates they had originally issued.

Despite the agreement reached between Frankfurt prosecutors and Deutsche Bank, this case represents only one of eight cum-ex trading investigations which are currently underway throughout Germany.

Stronger EU tax authorities needed

The total cost to the state as a result of dividend stripping is estimated at approximately 31.8 billions euros, yet no entity, individual, or participating parties have yet been convicted. Despite warnings, and awareness by experts of these malpractices, nothing was done to curb this harsh impact on state funds, which indicates that stronger measures need to be enforced by EU tax authorities.

Overall, the trading scandal poses a huge challenge for regulations within the financial and insurance industries, and the EU are now calling for tighter operations and regulations between EU members, to prevent and detect further instances of tax injustice. The main priorities are to strengthen inquiries into dividend trades, tighten dividend disclosure requirements, establish cross-border tax investigation capabilities, and improve tax administration. These requests fall upon the EU's European Securities and Markets Authority and the European Banking Authority.

National authorities also hold responsibility, and need to enforce criminal investigations and penalties against perpetrators. When it comes to justice, it's not just the buyers and sellers who should come under scrutiny, but also the banks, tax advisors, lawyers and accountants involved in facilitating cum-ex activities.

Cum-ex trading isn't limited to Germany, as this type of tax fraud is estimated to affect over 11 EU states and has cost taxpayers up to 55 billion euros. Due to the speed of share transactions characteristic of dividend trading, and lack of communication between tax authorities, the real owners of these shares have become difficult to identify, resulting in multiple tax refunds. Without reform and appropriate action, unpaid taxes will continue to be mistakenly reimbursed.

Other banks who have been implicated in this stock-trading scam include Commerzbank, Hypovereinsbank and Warburg Bank, Barclays in Britain, BNP Paribas in France, as well as financial giants Bank of America, JPMorgan, and Morgan Stanley. Investment companies such as BlackRock are also facing scrutiny.