

How Deutsche Bank botched AML compliance in the Jeffrey Epstein case

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Most of us would like to think that “character is destiny.” Maybe, but more often biography is destiny. If you know enough about someone’s past behavior, you’re in a good position to predict what they’ll do next.

Jeffrey Epstein was accused and convicted of sex trafficking over a period of years. After he was convicted, and despite the bank’s knowledge of his chronic and criminal behavior, Epstein became a client at Deutsche Bank. And then, after he became a client, Epstein tripped multiple red flags during his five-year relationship with the bank. Were the fees generated worth [the \\$150 million fine](#), attendant legal costs and impugned reputation?

We know so much about Epstein’s financial dealings thanks to the July 2020 New York State Department of Financial Services order, which provides [a devastating amount of detail](#) on the bank’s long relationship with Epstein. Epstein is referred to in the order as “a wealthy financier with hundreds of millions of dollars in assets and an extensive network of friends and connections that included prominent financial institutions, politicians, royalty, and billionaires.”

What’s particularly interesting about the level of detail in the DFS order is *not* that the bank missed all of this; to the contrary, the bank prepared a memo that covered the highlights of Epstein’s convictions and misconduct up to that point before onboarding Epstein in its private wealth department, obtaining either the express consent or implicit acquiescence

of senior executives in the wealth management, compliance and legal departments. And therein lies the first lesson of the Epstein case: No matter how good a bank's customer due diligence is, it can be defeated by a corrupt corporate culture.

Deutsche Bank entered the customer relationship in 2013 — five years *after* Epstein's registering as a sex offender based on his felony conviction in state court in 2008 for solicitation of a minor to engage in prostitution. There were also articles in national publications detailing his troubling reputation as early as 2005. Epstein signed a deferred prosecution agreement with the Department of Justice that covered federal charges and there were also numerous civil suits against Epstein brought by his underage victims.

The Epstein case illustrates that customer due diligence is an ongoing process that only starts at account opening. Epstein was being onboarded by a relationship manager who was coming from another bank, which was one of many red flags scattered throughout the bank's relationship with Epstein.

Whenever relationship managers leave a previous institution and bring a high-risk account to a bank or other financial institution, don't let the dollar signs obscure the need to ask questions until the answers make sense. In the Epstein case and in other fraud cases, relationship managers who put the needs of the client ahead of the institution can become facilitators of criminal activity.

Also, if the client is coming to you from another financial institution, heed the advice of the Financial Crimes Enforcement Network and consider sending a 314(b) information request to that institution. One of the key questions to ask is whether the client left voluntarily or was asked to leave due to suspicious activity. Conducting a negative news search is necessary, but don't dismiss the results of the search, as so many institutions find

themselves doing, with the refrain "this is a good person, we've known them for years"

Ensure that the customer explains the purpose for the account as well as expected activity. Again, continue to ask questions until the answers make sense (or not). When Deutsche Bank onboarded one of Epstein's companies, Southern Trust Co. Inc., at the beginning of the account relationship, it was described as a "database company and services" founded in the U.S. Virgin Islands. A trust company that has a database and services business? Does that combination even make sense?

We do not know all of the efforts the bank went to as part of its due diligence, but from the perspective of the order, it does not appear that basic questions were raised, such as "Why did you choose to open a database and services company in the U.S. Virgin Islands?" Other questions that should have been asked include, "Why are these funds held in a trust?" and "Who are the beneficiaries of the trust?"

Account opening is also the time to ask for sources of wealth, not just sources of funds: Where did Epstein, a math teacher who never graduated from college, get to the point of owning a private island? Evidently no one, including the DFS, ever asked that question and certainly there has been no explanation of Epstein's supposed great wealth in the media.

Always get documentation: If your prospective client states that she or he "is the heir to the Dairy Queen fortune," as one fraudster told another financial institution in a different case, you can ask for the will, the trust agreement and the names of other financial institutions with whom they did business, including relationship managers.

At a minimum, higher-risk customers should be reviewed annually and, in the highest-risk cases, quarterly. In the Epstein case, negative news and civil cases continued to accumulate, were reviewed by the bank and then

regularly dismissed. And his account activity at the bank reflected his reprehensible behavior, including payments to named co-conspirators and to young women for "tuition."

This fits the pattern of activity of someone engaging in the exact activity he had been convicted for in 2008. Further, don't normalize bad behavior. Despite identifying troubling activity in the Epstein accounts, the bank allowed the accounts to "continue trades in existing accounts without compliance pre-approval" and due to poor internal communication, this became a de facto reason to clear similar "alerts." Eventually, payments to Russian models were being labeled as "normal for this account."

Finally, concerned that a prospective or existing client won't be happy with your questions? Just explain to them that federal and state regulators are cracking down on compliance with anti-money-laundering laws. As Mark Twain once said, "When all else fails, tell the truth."