

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORKZAHAVA ROSENFELD, derivatively as a  
shareholder of DEUTSCHE BANK AG and  
on behalf of DEUTSCHE BANK AG,

Plaintiff,

vs.

PAUL ACHLEITNER, JOSEF  
ACKERMANN, CLEMENS BÖRSIG,  
ANSHU JAIN, JÜRGEN FITSCHEN,  
JOHN CRYAN, CHRISTIAN SEWING,  
HENRY RITCHOTTE, GARTH RITCHIE,  
MARCUS SCHENCK, STEFAN KRAUSE,  
KARL VON ROHR, STUART LEWIS,  
SYLVIE MATHERAT, KIMBERLY L.  
HAMMONDS, JAMES VON MOLTKE,  
CHRISTIANA RILEY, HENNING  
KAGERMANN, DETLEF POLASCHEK,  
MARTINA KLEE, MICHELE TROGNI,  
HENRIETTE MARK, GABRIELE  
PLATSCHER, BERND ROSE, NORBERT  
WINKELJOHANN, GERD ALEXANDER  
SCHÜTZ, JOHN A. THAIN, LUDWIG  
BLOMEYER-BARTENSTEIN, LOUISE M.  
PARENT, CHRISTOF VON DRYANDER,  
FRANK BSIRSKE, MAYREE CARROLL  
CLARK, JAN DUSCHECK, DR. GERHARD  
ESCHELBECK, RICHARD MEDDINGS,  
KATHERINE GARRETT-COX, TIMO  
HEIDER, SABINE IRRGANG, DAGMAR  
VALCÁRCEL, JOHANNES TEYSSEN,  
WOLFGANG BÖHR, PETER LÖSCHER,  
STEPHAN SZUKALSKI, DINA DUBLON,  
CLEARY GOTTSLIEB STEEN &  
HAMILTON LLP and DB USA  
CORPORATION,

Defendants,

- and -

DEUTSCHE BANK AG,

Nominal Defendant.

Index No. \_\_\_\_\_

**SUMMONS**

Index No. Purchased: Mar. \_\_, 2020

**TO THE ABOVE-NAMED DEFENDANTS:**

YOU ARE HEREBY SUMMONED to answer the verified complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the attorneys for the plaintiff within 20 days after service of this summons, exclusive of the days of service (or within 30 days after service is complete if this summons is not personally delivered to you within the State of New York). In the case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

New York County is designated as the place of trial pursuant to Section 503 of the New York Civil Practice Law and Rules on the basis that (1) a number of the defendants reside in this County; and (2) the acts and transactions in connection with the wrongdoing complained of occurred in this County.

Dated: New York, New York  
March 9, 2020

\_\_\_\_\_  
s/ Clifford S. Robert  
Clifford S. Robert

ROBERT & ROBERT, PLLC  
Clifford S. Robert  
Michael Farina  
767 Third Avenue, 26th Floor  
New York, New York 10017  
Telephone: (212) 858-9270  
Facsimile: (516) 832-7080  
crobert@robertlaw.com  
mfarina@robertlaw.com

BRAFMAN & ASSOCIATES, P.C.  
Benjamin Brafman  
767 Third Avenue, 26th Floor  
New York, New York 10017  
Telephone: (212) 750-7800  
Facsimile: (212) 750-3906  
bbrafman@brafmanlaw.com

BOTTINI & BOTTINI, INC.  
Francis A. Bottini, Jr. (*pro hac vice*)  
Michelle C. Lerach (*pro hac vice*)  
James D. Baskin (*pro hac vice*)  
Albert Y. Chang  
Yury A. Kolesnikov (*pro hac vice*)

7817 Ivanhoe Avenue, Suite 102  
La Jolla, California 92037  
Telephone: (858) 914-2001  
Facsimile: (858) 914-2002  
fbottini@bottinilaw.com  
mlerach@bottinilaw.com  
jbaskin@bottinilaw.com  
achang@bottinilaw.com  
ykolesnikov@bottinilaw.com

WEISS LAW LLP  
Joseph H. Weiss  
David C. Katz  
Joshua M. Rubin  
1500 Broadway, 16th Floor  
New York, New York 10036  
Telephone: (212) 682-3025  
Facsimile: (212) 682-3010  
jweiss@weisslawllp.com  
dkatz@weisslawllp.com  
jrubin@weisslawllp.com

THEMIS PLLC  
John P. Pierce (*pro hac vice*)  
2305 Calvert Street, NW  
Washington, District of Columbia 20008  
Telephone: (202) 567-2050  
jpierce@themis.us.com  
*Counsel for Plaintiff*

**Defendants' Addresses:****Paul Achleitner**

Supervisory Board  
Deutsche Bank AG  
Taunusanlage 12  
60325 Frankfurt am Main  
Germany

**Clemens Börsig**

The Supervisory Board  
Daimler AG  
Mercedesstraße 120  
Geb. 120, 4. OG, Zone A  
D-70372 Stuttgart  
Germany

**Jürgen Fitschen**

Supervisory Board  
Ceconomy AG  
Kaistr. 3  
40221 Düsseldorf  
Germany

**Christian Sewing**

Board of Management  
Deutsche Bank AG  
Taunusanlage 12  
60325 Frankfurt am Main  
Germany

**Garth Ritchie**

48 Addison Road  
London W14 8JH  
United Kingdom

**Stefan Krause**

8516 Franklin Avenue  
Los Angeles, CA 90069

**Stuart Lewis**

Deutsche Bank AG  
Winchester House  
1 Great Winchester Street  
London EC2N 2DB  
United Kingdom

**Kimberly L. Hammonds**

102 Mangrove Avenue  
Anna Maira, FL 34216

**Josef Ackermann**

280 Park Avenue South  
New York, NY 10010

**Anshu Jain**

Cantor Fitzgerald L.P.  
110 East 59th Street  
New York, NY 10022

**John Cryan**

2032 Ferry Farms Road  
Annapolis, MD 21409

**Henry Ritchotte**

4309 37th Street  
Washington, DC 20008

**Marcus Schenck**

Perella Weinberg Partners  
20 Grafton Street  
London W1S 4DZ  
United Kingdom

**Karl von Rohr**

Liebfrauenstraße 26,  
61440 Oberursel  
Germany

**Sylvie Matherat**

Board of Management  
Deutsche Bank AG  
Taunusanlage 12  
60325 Frankfurt am Main  
Germany

**James von Moltke**

348 Loveland Hill Road  
White River Junction, VT 05001

**Christiana Riley**  
20 Lindsay Drive  
Greenwich, CT 06830

**Henning Kagermann**  
Supervisory Board  
Deutsche Bank AG  
Taunusanlage 12  
60325 Frankfurt am Main  
Germany

**Detlef Polaschek**  
Supervisory Board  
Deutsche Bank AG  
Taunusanlage 12  
60325 Frankfurt am Main  
Germany

**Martina Klee**  
Supervisory Board  
Deutsche Bank AG  
Taunusanlage 12  
60325 Frankfurt am Main  
Germany

**Michele Trogni**  
8 Chapel Lane  
Riverside, CT 06878

**Henriette Mark**  
Radspielerstraße 2  
81927 München  
Germany

**Gabriele Platscher**  
Supervisory Board  
Deutsche Bank AG  
Taunusanlage 12  
60325 Frankfurt am Main  
Germany

**Bernd Rose**  
Werringser Str.  
5158706 Menden (Sauerland)  
Germany

**Norbert Winkeljohann**  
Schledehauser Weg 77  
49086 Osnabrück  
Germany

**Gerd Alexander Schütz**  
C-QUADRAT Investment AG  
Schottenfeldgasse 20  
1070 Wien  
Austria

**John A. Thain**  
Pine Island Capital Partners LLC  
650 Fifth Avenue  
17th Floor  
New York, NY 10019

**Ludwig Blomeyer-Bartenstein**  
Supervisory Board  
Deutsche Bank AG  
Taunusanlage 12  
60325 Frankfurt am Main  
Germany

**Louise M. Parent**  
Cleary Gottlieb Steen & Hamilton LLP  
One Liberty Plaza  
New York, NY 10006

**Christof von Dryander**  
Cleary Gottlieb Steen & Hamilton LLP  
Main Tower  
Neue Mainzer Strasse 52  
60311 Frankfurt am Main  
Germany

**Frank Bsirske**  
Supervisory Board  
Deutsche Bank AG  
Taunusanlage 12  
60325 Frankfurt am Main  
Germany

**Mayree Carroll Clark**  
Eachwin Capital  
50 Madison Avenue  
New York, NY 10010

**Jan Duscheck**

Vereinte Dienstleistungsgewerkschaft  
Paula-Thiede-Ufer 10  
10179 Berlin  
Germany

**Dr. Gerhard Eschelbeck**

10501 Florence Drive  
Cupertino, CA 95014

**Richard Meddings**

Little Fribbery, Downgate Farm  
Silverden Lane  
Sandhurst, Cranbrook, TN18 5NU  
United Kingdom

**Katherine Garrett-Cox**

Gulf International Bank B.S.C.  
1 Knightsbridge, Belgravia  
London SW1X 7XS  
United Kingdom

**Timo Heider**

Ellerstraße 7  
96450 Coburg  
Germany

**Sabine Irrgang**

Supervisory Board  
Deutsche Bank AG  
Taunusanlage 12  
60325 Frankfurt am Main  
Germany

**Dagmar Valcárcel**

Supervisory Board  
Deutsche Bank AG  
Taunusanlage 12  
60325 Frankfurt am Main  
Germany

**Johannes Teyssen**

E.ON SE  
Brüsseler Platz 1  
45131 Essen  
Germany

**Wolfgang Böhr**

Deutsche Bank Works Council  
Königsalle 45-47  
40212 Dusseldorf 0211/883  
Germany

**Peter Löscher**

D.A.L.F.A. Munich Office  
Residenzstraße 27,  
80333 München  
Germany

**Stephan Szukalski**

Deutscher Bankangestellten-Verband  
Berger Straße 175  
60385 Frankfurt am Main  
Germany

**Dina Dublon**

33 Springhurst Road  
Bedford Hills, NY 10507

**Cleary Gottlieb Steen  
& Hamilton LLP**

One Liberty Plaza  
New York, NY 10006

**DB USA Corporation**

C T Corporation System  
28 Liberty Street  
New York, NY 10005

**Deutsche Bank AG**

Taunusanlage 12  
60325 Frankfurt am Main  
Germany

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**VERIFIED DERIVATIVE  
COMPLAINT FOR AND ON  
BEHALF OF DEUTSCHE  
BANK AG**

**DEMAND FOR JURY TRIAL**

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Plaintiff alleges upon personal knowledge with respect to those allegations pertaining to herself, and upon information and belief based upon, *inter alia*, a review of public filings, press releases, articles and reports, and investigations undertaken by counsel, as to all other allegations. Plaintiff believes that substantial evidentiary support will exist for the allegations set forth below after a reasonable opportunity for discovery.<sup>1</sup>

## I. INTRODUCTION AND OVERVIEW OF ALLEGATIONS

1. Plaintiff Zahava Rosenfeld, a longtime Deutsche Bank AG (“Deutsche Bank” or the “Bank”) holder of common stock, brings this action derivatively on behalf of Deutsche Bank, seeking: (i) compensatory damages for the damage caused Deutsche Bank over past years by the recklessness, negligence, lack of due care and prudence, violations of the laws of the State of New York and other jurisdictions, financial and accounting irregularities, failure to comply with IRS and other regulations, falsehoods and deceitful practices, price fixing, sanctions violations, money laundering, critical deficiencies in its capital planning practices, financial reporting failures, inadequate legal, regulatory, and

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<sup>1</sup> Deutsche Bank AG is one of the largest, and most high-profile banks in the world. The decline and near collapse of the Bank has been covered by sophisticated and reputable financial publications such as *the Financial Times*, *Der Spiegel*, *Reuters*, *The New York Times*, *The Wall Street Journal*, *Forbes*, *Barron’s* and *Fortune*, which have investigated and reported the misconduct of Deutsche Bank’s Managers and Supervisors — obtaining secret documents and information from insiders and government regulators.

It is also the subject of a new book (released February 2020), *Dark Towers* by David Enrich, the Finance Editor of *The New York Times*, who, after interviewing nearly 200 people, has noted that Deutsche Bank is “the most scandalous bank in the world” and “the global face of financial recklessness and criminality.”

Because this reporting by reputable publications is reliable, Plaintiff relies on it. Also, because it was the worldwide coverage of Deutsche Bank that has damaged its reputation, these articles are quoted at length. No Defendant has sued any of these publications, or the others quoted here, for libel.

compliance controls and procedures, bribery, and other wrongdoing and breaches of fiduciary duties and the Bank's own Code of Conduct by members of its Management Board ("Managers") and Supervisory Board ("Supervisors") (the "Individual Defendants"); (ii) the disgorgement of all monies/compensation paid by Deutsche Bank to the Defendant Managers and Supervisors and others who participated in the alleged ongoing mismanagement, failures and wrongdoing; and (iii) compensatory and punitive damages from the law firm Defendant whose conduct was deliberate (*i.e.*, intentional or knowing) and disloyal to Deutsche Bank.

2. The action alleges Defendants' breaches of their duties of prudence, due care and loyalty, *i.e.*, to act as "***diligent and conscientious managers***" with loyalty to Deutsche Bank and its owners/shareholders, as well as participating in a course of conduct that influenced and facilitated the Individual Defendants' actions that unlawfully disadvantaged and damaged Deutsche Bank in violation of the laws and regulations of the State of New York, the United States, and Germany, as well as the Bank's own Code of Conduct.

3. Deutsche Bank, having risen out of the ashes of World War II and its Nazi-stained past, helped lead the post war German economic miracle. It survived the financial crisis of 2008–2010 without overt government assistance and appeared to be one of the largest and most successful "full-service" banks in the world. Deutsche Bank had almost \$2 trillion in assets and over 100,000 employees operating in 70 countries — conducting millions of transactions involving billions of dollars for thousands of customers every day. Its apparent financial success and strong financial condition allowed the Bank to enjoy funding costs below the rates paid by its competitors, giving it a competitive advantage. The Bank was reporting strong profits and paying good dividends. It enjoyed a reputation for honesty and reliability — a reputation absolutely essential to its, or any other financial

institution's, continuing success. Deutsche Bank's stock reached a post financial crisis high of \$60 per share in 2011, giving Deutsche Bank a market capitalization of over \$70 billion.

4. Today, however, Deutsche Bank is on deathwatch. Its finances are gravely impaired and its long-term survival in doubt. A share of its common stock sells for the price of a pack of cigarettes. Alone among its peers, during the strong economic recovery and unprecedented "bull markets" that followed the financial crisis, the Bank has shocked the financial world — and enraged its shareholders/owners — as it has become the most dysfunctional, chaotic, investigated, sued, fined and punished bank of its size in history. Due to the misconduct of the Individual Defendants, it has paid over \$18 billion in penalties and settlements. Yet it remains engulfed in several ongoing criminal and other regulatory investigations. The Bank has reported large revenue declines and billions in losses over the past five years. It has completely eliminated its dividend. It just reported a 2019 \$6 billion loss — its fourth multi-billion-dollar loss in the last five years and was forced to undertake a huge restructuring, *i.e.*, shrinkage, firing almost 25,000 employees, in an effort to survive. Many of its top executives have been ousted, while pocketing millions in bonuses and "face saving" exit payments even though they were pushed out for their misconduct and breach of duties to the Bank.

5. According to *The New York Times*:

Until the 1990s, Deutsche Bank was a provincial German company with a limited presence outside Europe. Today it is a \$1.5 trillion colossus, one of the world's largest banks, with offices in 59 countries — and, thanks to its well-documented ***pattern*** of violating laws, an international symbol of greed, recklessness and hubris. Its rap sheet includes manipulating international currency markets; playing a central role in rigging a crucial benchmark interest rate known as Libor; whisking billions of dollars in and

out of Iran, Syria, Myanmar and other countries in violation of sanctions; laundering billions of dollars on behalf of Russian oligarchs, among many others; and misleading customers, investors and American, German and British regulators.

David Enrich, *The Money Behind Trump's Money: The Inside Story of the President and Deutsche Bank, His Lender of Last Resort*, THE NEW YORK TIMES MAGAZINE, Feb. 4, 2020.

**A. The Collapse and Near Destruction of Deutsche Bank**

6. In 2011–2012, as the financial crisis ebbed, Deutsche Bank's Supervisors and Managers undertook a worldwide expansion of its New York-headquartered corporate/investment bank. Because of the carnage visited upon the large international banks and their shareholders during the recent financial crisis, as they undertook this aggressive expansion the Supervisors and Managers took pains to assure Deutsche Bank's owners/shareholders that the Supervisors knew that due to the ***“impact of the financial crisis [a] ... change of corporate culture in the financial sector [is] absolutely imperative.”*** As a result, ***“we have established sophisticated processes and structures”*** because ***“an effective control and monitoring system is a necessity in order to manage a company with global activities.”*** They stated ***“responsible corporate governance ... requires a stringent compliance system”*** with ***“strict rules for our staff across the entire spectrum of areas of activity”*** to assure ***“adherence to laws, regulations, [and] standards.”*** They told the shareholder/owners of the Bank that this was because it is ***“through our compliance with [the] law, we ensure that the company [and] its shareholders ... are protected comprehensively as possible.”***

7. Because of the Bank's vast international operations, the Supervisors and Managers promised "***in the area[s] of money laundering, corruption or financial crime the compliance management system of Deutsche Bank is geared to strict conformity with laws.***"

8. These stewards of the Bank also assured the shareholder/owners that the Bank "***operated an anti-retaliation policy regarding whistleblowers***" ... "***and a supportive environment that encourages employees to raise questions and concerns in the bank, including [with] Compliance, Anti-Money Laundering, Anti-Bribery and Anti-Corruption legal ... teams.***" These assurances were all lies. No such "sophisticated processes and structures" had been established. No "stringent compliance system" existed to assure "strict conformity with law" existed. Whistleblowers were intimidated, squashed and fired, not protected or listened to.

9. Deutsche Bank's apparent post-financial crisis success was based on the rapid expansion of its New York/London corporate/investment banking operation, which generated over half of the Bank's total revenue/profits. But that apparent success was a façade. This success was an illusion created by the Bank's Managers' and Supervisors' engaging in or permitting a widespread ***course of illegal or improper conduct by Bank executives that artificially boosted the Bank's reported revenue and profits and*** falsified its financial statements to hide billions in overvalued assets, which in turn boosted the top Managers and executives' ***compensation and bonuses***. This apparent success concealed a corporate wide "***pattern***"<sup>2</sup> of systemic ***improper and illegal***

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<sup>2</sup> The criminal proceedings and regulatory investigations that have unfolded over the past decade were not due to isolated, unconnected instances of random misbehavior by a few miscreant employees. In December 2018, the Financial Times reported a "clear pattern" to Deutsche Bank's mounting legal woes:

**conduct** in violation of the laws and regulations of the United States and other countries and Deutsche Bank's own internal compliance policies and procedures as well.

10. Just as the expansion of the corporate/investment bank was getting going in 2010-2011, Deutsche Bank employees began to bring illegal conduct inside the corporate/investment bank to the attention of supervisors and Bank compliance officers. The employees were intimidated, squashed and fired. They became whistleblowers – going to government regulators. Over time, widespread wrongful conduct of Bank executives far beyond that which the original whistleblowers reported came under regulatory scrutiny. ***When Bank Managers and Supervisors who had been personally involved in, or had permitted the wrongdoing to occur, hindered, stonewalled and blocked ongoing investigations to try to protect themselves (at the expense of the Bank), regulators retaliated and escalated their efforts.***

11. Over the following years, numerous government investigations in the United States and around the world resulted in the exposure and punishment of this unprecedented “***pattern***” of reckless, improper and criminal conduct by Bank Managers and their deputies, *i.e.*, executives, unlike anything that has ever occurred under the oversight of a supervisory or management board of a large international bank.

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***... [W]e are not talking about isolated cases but about a multitude of issues that habitually pop up in different business areas all across the bank,” said a former member of the supervisory board. “The problem is that there’s a clear pattern.”***

Olaf Storbeck, *The “Clear Pattern” to Deutsche Bank’s Mounting Legal Woes*, FINANCIAL TIMES, Dec. 11, 2018.



12. Because Deutsche Bank's top Managers and Supervisors (with the help of Deutsche Bank's lawyers) tried to obstruct these government investigations— to try to protect themselves and the executives who had been involved in or overseen the wrongdoing – regulators retaliated and expanded their investigations. In some cases, they imposed extra-large punitive fines on Deutsche Bank for the obstructive behavior of the Bank's Managers and Supervisors. The penalties, fines and settlements ultimately aggregated over \$18 billion, while the drumbeat of adverse publicity gravely damaged the Bank's reputation.

13. As a result of the Individual Defendants' failure to fulfill their duties of due care, prudence and loyalty, *i.e.*, ***“the care of a diligent and conscientious manager,”*** as required under the German Stock Corporation Act, the Bank has suffered multiple criminal convictions and remains the subject of ongoing criminal investigations. The Bank's Managers/Supervisors permitted, facilitated or engaged in: (i) ***repeated instances of money laundering and illegal monetary transfers to assist international criminals and to evade U.S. anti-terrorist sanctions***; (ii) ***the largest worldwide price fix in history and other “cartel conduct”***; (iii) ***fraudulent and deceptive conduct in selling billions of worthless mortgage-backed securities to U.S. government entities and also in selling billions of worthless “toxic securities” to customers, securities the Bank's executives called “crap” “blow” and a “Ponzi scheme”***; (iv) ***manipulation of stock exchange trading for the personal gain of Deutsche Bank employees***; and (v) ***violation of the U.S. Foreign Corrupt Practices Act via payoffs and bribes to influential Russian and Chinese nationals and Saudi Royals.***

14. One of the whistleblowers, Eric Ben-Artzi, a Deutsche Bank risk analyst stated: “I thought I was joining a winner backed by a German notion of

disciplined organization ..., ***within months I was disillusioned .... This was one of the biggest banks in the world and I didn't want to be part of it.... There was cultural criminality .... Deutsche Bank was structurally designed by management to allow corrupt individuals to commit fraud.*** Because of this years-long accumulation of such serious wrongdoing, the Bank is now in danger of losing its qualification to act as a fiduciary manager of billions in ERISA pension fund assets in the United States — which would cripple Deutsche Bank's lucrative "crown jewel" money management business.

15. The Bank's catastrophic fall from grace is due to the misconduct, negligence and lack of due care by the Bank's Supervisors and Managers. According to an October 28, 2016 *Der Spiegel* article:

***Greed, provincialism, cowardice, unfocused aggression, mania, egoism, immaturity, mendacity, incompetence, weakness, pride, blundering, decadence, arrogance... If you are looking for words that explain the fall of Deutsche Bank, you can choose freely and justifiably from among the above list.***

The bank, 146 years after its founding, has become the target for all manner of pejoratives, and not just from outside observers. ***All of the above terms were used in interviews held during months of reporting into the causes of the downfall of Germany's largest financial institution.***

***They popped up over the course of several hours of interviews with four Deutsche Bank CEOs, three former and one current.*** And they were uttered in interviews with eight additional senior bank managers and board members conducted over the course of several years, from the 1990s until today, and in meetings with captains of industry who know the bank well and during encounters with major stakeholders. ***More than anything, the disparaging words come up frequently in***

***interviews with those who have worked or still work at the bank ... in positions lower down on the food chain.***

***What we have found*** in the course of these myriad interviews — combined with the hours spent analyzing bank balance sheets, thousands of pages of files, committee meeting minutes and archive material — ***is that the collapse of Deutsche Bank is the result of years, decades, of failed leadership, culminating in the complete loss of control of the company by top managers ...***

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***When a bank like Deutsche, once an icon of respectability and solidity, transforms into a caricature of "The Wolf of Wall Street," something must have gone wrong and someone must have been responsible.***

***And there are people who deserve blame: management [the CEO] members of senior management and advisory board members over the course of several years.***

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Once a symbol of Germany — Germany Inc. — and the country's financial pillar. ***Its managers were respected, admired as people who lived up to the country's values and expected the same of their employees.***

***Those times are gone. Deutsche Bank as we once knew it is dead. Deutsche Bank is broken ... when compared to that which it once was: a brand, a symbol, a German icon.***

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***The proud institution became a self-serve buffet for a few, who became fantastically rich. And so the work of generations went down the drain. And we are told that no one is to blame.***

Von Ullrich Fichtner, Hauke Goos & Martin Hesse, *The Deutsche Bank Downfall*  
*How a Pillar of German Banking Lost Its Way*, SPIEGEL ONLINE, Oct. 28, 2016.

16. The Bank's vitally important IT systems and internal financial/accounting and regulatory/legal compliance controls were meant to assure accurate financial reporting and prevent illegal or improper conduct by Bank managers, executives and employees. During the time this rampant misconduct of Deutsche Bank executives was taking place, however, these IT systems and internal controls were hopelessly inadequate and ineffective. After the financial crisis, as the Bank's corporate/investment bank rapidly expanded, the essential IT Systems and internal financial/accounting and legal/regulatory compliance controls ***were never properly modernized, updated or fixed despite repeated warnings, criticisms and demands — internally at the Bank and from U.S. and German banking regulators.***

17. This lack of controls facilitated and allowed the rampant "pattern" of wrongdoing by the Individual Defendants to continue even as regulators repeatedly objected to the inadequacy of controls and demanded improvements be made. Deutsche Bank's Supervisors repeatedly promised to fix the defects — but never did.

18. Deutsche Bank USA — ***alone among all large U.S. banks — failed U.S. Federal Reserve stress tests in 2015, 2016, 2017, and 2018, drawing the designation "troubled/problem bank" — a horribly damaging event for a big bank in the post-financial crisis world.***

19. The U.S. Federal Reserve found Deutsche Bank had ***"widespread and critical deficiencies"*** across its capital planning policies and ***"serious"*** ***"systemic"*** failings in ***"controls against money laundering terrorist financing and sanctions."*** Elsewhere, prosecutors staged widely publicized searches of Deutsche Bank's ***and its Supervisors' and Managers' personnel offices*** to confirm ***"suspected transfers of money from criminal activity."*** These ***"severely damaging"*** searches ***"inflicted***

*terrible damage” on Deutsche Bank’s reputation. Regulators “lambasted the bank’s lackadaisical oversight,” at its corporate/investment banking operations which “allowed a corrupt group of traders and offshore entities to improperly transfer more than \$10 billion out of Russia,” conduct “highly suggestive of financial crime”* One insider admitted the “*mercenaries*” in the investment bank “*didn’t care about ethics.*”

20. According to New York Banking regulators, executives at Deutsche Bank’s corporate/investment bank in New York engaged in “*improper, unsafe, unsound conduct*” and “*repeatedly abused the trust of their customers and violated New York State Law over the course of many years.*” *Deutsche Bank executives also “unlawfully, willfully and knowingly participated in [tax shelters] financial transactions” to cheat the United States — conduct the Bank was forced to acknowledge “was wrong and unlawful.*”

21. As a result of this toxic culture and unprecedented “*pattern*” of wrongdoing, Deutsche Bank now endures government restrictions on its ability to operate, putting it at a competitive disadvantage and the humiliation of the placement of multiple government designated “*monitors*” inside the Bank to *oversee its operations — and try to prevent illegal conduct by the Bank’s employees which the Managers and Supervisors have not been able or willing to do.*

22. In July 2015, Deutsche Bank’s then CEO, John Cryan, admitted in a letter to employees that the Bank’s “*reputation*” had been “*damaged by instances of serious misconduct*” due in part to “*ineffective processes, antiquated and inadequate technology ... unsuccessful investments in our infrastructure.*” Later, after expressing alarm about the “*total mess*” of

the Bank's IT systems, Cryan directed that they be **"ripped out."** He later admitted:

***These legacy issues have not only cost us a lot of money; they have also cost us dearly in terms of reputation and trust.***

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***Serious errors were made ... conduct ... did not meet our standards and was completely unacceptable. Unfortunately, the same also applies in other instances.***

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***It was generally the misconduct of a relatively small number of individuals pursuing their own short-term interests that jeopardized Deutsche Bank's most valuable asset: its reputation.***

He also stated ***"I feel responsible for basically a \$7 billion loss. Personally, all of it."***

23. When Deutsche Bank continued to report ***multi-billion-dollar losses***, Cryan was fired. The new CEO, Christian Sewing, stated: ***"we have to regain our credibility"*** because the Bank ***"lost our moral compass."*** Sewing admitted: ***"Since the turn of the millennium, many mistakes have been made [by Deutsche Bank], [and] the bank has paid "high fines" for these mistakes." He criticized the prior managers' "over expansion [of] the new investment bank."*** Sewing also announced that even though the Bank had already spent billions in recent years to try to fix its broken and ineffective IT Systems and internal financial/accounting and legal/regulatory compliance controls, those controls were still ***so ineffective and insufficient that another \$13 billion needed to be spent on these systems, controls and procedures to try to prevent a recurrence of the dubious and illegal actions of Bank executives which resulted in billions in fines, infuriated regulators and damaged the Bank.***

24. Deutsche Bank's Chief Operating Officer who was in charge of regulatory compliance before being ousted, described Deutsche Bank as the ***"most dysfunctional company she ever worked for,"*** while the official in charge of the Bank's IT systems before being ousted said they operate by ***"trial and error"*** – like sending ***"airplanes into the sky, watching them crash and then trying to learn from the mistakes."*** When fired, both of them and several other ousted executives were given multi-million dollars "face saving" exit payments.

25. The collapse of Deutsche Bank has occurred as Paul Achleitner, Supervisory Board Chair ***since 2012***, has presided over and controlled the Bank. This unprecedented litany of wrongdoing by Deutsche Bank's Managers and Supervisors has been overseen — ***and participated in*** by Achleitner and other Supervisors. Achleitner unblushingly admitted: ***"Have I made mistakes in the course of the past several years-of course I made mistakes."*** Achleitner's past is littered with egregious mistakes and misconduct, in his role as a Goldman Sachs partner (in New York, London and Frankfurt) before he joined Deutsche Bank, and as a Supervisor or Manager at other large German corporations including Allianz, Daimler Benz and Bayer, each of which suffered a major shareholder value destruction event involving Achleitner. While he has run the Deutsche Bank Supervisory Board, the Bank has gone through a series of failed/fired CEOs who were unable to halt the chaos inside the Bank, install and/or maintain necessary IT systems and internal financial/accounting and legal/regulatory compliance controls, stop the ongoing improper and illegal conduct by Bank executives, and halt the Bank's continuing descent to the brink of failure.

26. On March 21, 2019, the *Financial Times* reported:

The vision of creating a German Banking superpower has haunted Mr. Achleitner for the best part of two decades.

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***Since Mr. Achleitner took over as chairman of Deutsche Bank, the once mighty lender has been in almost constant crisis mode.***

***Since 2012, it has gone through two acrimonious changes in leadership, two large-scale capital increases and a series of strategic U-turns. On top of this it endured a maelstrom of misconduct scandals, police raids and eye-watering fines.***

Olaf Storbeck, *Paul Achleitner: Deutsche Bank's Chairman in the Eye of the Storm*, FINANCIAL TIMES, Mar. 21, 2019.

27. During 2018 and 2019, any illusion that Deutsche Bank could continue as a worldwide financial institution with a successful international investment banking operation came to an ugly end. Christian Sewing, the most recent in a series of CEOs, confirmed that the cumulative impact of years of scandal, criminality, fines and losses had gutted the Bank's finances, forcing the Bank into a shrinkage/entrenchment. In the face of falling revenues and huge losses, the Bank completely eliminated its already slashed common stock dividend. It is laying off 18,000 employees — on top of 8,000 layoffs in 2015-2016. It put \$250 billion of "illiquid" assets accumulated in past years into a so-called "bad bank," to sell off at huge losses. It is suffering large declines in revenue, the kiss of death of any public entity. All this required a monstrous \$7.4 billion dollar "restructuring charge" in 2019 and resulted in an operating loss — exceeding \$6.2 billion — on top of the billions in write-downs and losses reported in 2015, 2016 and 2017. The Bank's credit rating has been slashed. Its funding costs have



soared.<sup>3</sup> Investors, depositors and counterparties shy away — fearing the Bank may fail. Its toxic stock is now excluded from large bank and European stock indices. It is considered “**uninvestible**” by many. Deutsche Bank’s market capitalization — its shareholder value — has collapsed to some \$15 billion from over \$70 billion a few years ago.

28. The Financial Times has described this most recent restructuring plan as “**Deutsche Bank Gambles on a Last Throw of the Dice.**” *The New York Times* calls it a “[l]ast ditch effort to stop its spiral.” A Wall Street sage calls Deutsche Bank “**one sick puppy.**” Deutsche Bank is on “**death watch.**” *See The Deutsche Bank Death Watch Has Taken a Very Interesting Turn, Snyder, THE ECONOMIC COLLAPSE BLOG (“The biggest bank in Europe is in the process of imploding, and there are persistent rumors that the financial collapse could happen sooner rather than later.”)*

29. On July 8, 2019, the *Business Insider* reported:

**“For Deutsche Bank, this is the last chance — but these measures have come far too late,” said the institution’s former chief economist Thomas Mayer in an interview ....**

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**“Achleitner is mainly to blame for Deutsche Bank’s crisis ... Achleitner is no longer tenable.”**

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**“Unfortunately, this is an emergency plan that could have been avoided ....”**

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**It really is a shame to have to spend so much money, especially because so much money has already been burned through bonuses and fines.**

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<sup>3</sup> The Bank has been able to maintain its liquidity by issuing over \$1.25 billion in debt, paying an extraordinarily high rate of 6% to get the money.

***“It’s quite a realistic possibility that Deutsche Bank will cease to exist ....”***

Ruqayyah Moynihan and John Stanley Hunter, *the bad decisions that led to the German giant’s demise*, BUSINESS INSIDER, July 8, 2019.

30. The failure of the Defendants to comply with the law and their fiduciary duties has resulted in a catastrophe for the Bank and its owners/shareholders — while corporate insiders have lined their own pockets, plundering the Bank and wasting billions of its assets. According to the Financial Times, Deutsche Bank’s employees pocketed some ***\$80 billion dollars in bonuses over past years — more than the Bank reported as net profits during that period — a period during which “shareholders earned a net \$20 billion from owning Deutsche Bank.”*** In the last few years, with Achleitner as Chair of the famously misnamed Compensation “Control” Committee, as well as in control of the entire Supervisory Board, the Supervisors have caused Deutsche Bank to pay out over \$50 million in undeserved, unjustified exit payments to executives who were forced out — executives ***who should have been, and in effect were, fired for cause*** — for participating in wrongful conduct that has damaged Deutsche Bank. Achleitner and his allies admit these exit payments are ***“face saving”*** payments. In fact, they are payments to help secure the silence and/or cooperation of the ousted executives, to protect Achleitner and his allies, as Deutsche Bank ***remains the subject of several criminal, civil and regulatory investigations where these individuals can implicate them personally in the wrongdoing.***

**B. The Quashed Internal Investigation and Attempt to “Whitewash” Achleitner and His Allies**

31. Initially, while the disaster was unfolding at Deutsche Bank, an honest, legitimate attempt was commenced inside the Bank to investigate the evident misconduct of the Supervisors and Managers and evaluate if they could be

sued **by Deutsche Bank to recover damages for Deutsche Bank**. In 2016, a highly respected lawyer (Georg F. Thoma — a Deutsche Bank Supervisor since 2013), a senior partner in an international law firm of the highest repute (New York-headquartered Sherman & Sterling), and the Chair of the Board's Integrity Committee, undertook such an investigation. The Integrity Committee was charged with investigating past wrongdoing inside the Bank and had authorized Thoma to pursue this investigation. **Thoma pursued an aggressive investigation to determine if Achleitner and other Supervisors/Managers could be held responsible for the damages caused to Deutsche Bank by the misconduct that had taken place on their watch, including improperly impeding government investigations. Achleitner and other likely culpable Supervisors quashed this investigation because Thoma was too "vigorous" in pursuing the investigation. They orchestrated Thoma's ouster from the Integrity Committee and from the Board, and stopped that investigation. Later, they fired the CEO who approved the investigation.**

32. Achleitner and other key Supervisors — **the targets of the quashed investigation** — then got a compliant Supervisor (Louise M. Parent), a New York lawyer who is "of counsel" to the New York-headquartered Cleary Gottlieb Steen & Hamilton LLP ("Cleary Gottlieb"), to fill the vacant Chair seat on the Integrity Committee. **Then they had her law firm lead a new compromised/conflicted "investigation" under the supervision and control of a former senior partner of the Cleary Gottlieb law firm, Christof von Dryander, who was Global General Counsel — the highest-ranking legal officer of Deutsche Bank.** The **targets of the quashed real investigation** actually took control of the "whitewash"

investigation and the Supervisory Board, and the revamped Integrity Committee and the conflicted Global General Counsel orchestrated this new “investigation” to a pre-arranged result.

33. After booting Thoma from the Board, Achleitner promised an investigation that would result in a “**substantial financial contribution**” by former executives to compensate the Bank **for the damage** their misconduct caused it. Instead, several unnamed Deutsche Bank executives later “**voluntarily**” gave up several millions of **not yet paid** deferred compensation **to which they were not entitled** in light of their misconduct. But they were allowed, together with other Supervisors and Managers, to keep millions more in unjustified compensation. **Achleitner announced that he was pleased to “close this chapter.”** Orchestrated by Achleitner, Parent, von Dryander and Cleary Gottlieb, as well as other Supervisors and Managers, the sham “investigation” was intended from the outset to **whitewash** and provide cover to the top Deutsche Bank Managers and Supervisors from legal responsibility for **damages** to Deutsche Bank.

34. The conflicted/compromised “investigation” supposedly concluded that no legal action against **anyone — anyone** at the Bank — **could** even be pursued, despite: (i) the clear evidence of egregious violations of law, wrongdoing and admissions that the Bank “**had been damaged by instances of serious misconduct**” and the “**serious mistakes**” and “**serious fateful and fatal errors**” of the Deutsche Bank Managers and Supervisors — that resulted in billions in fines, penalties and settlements paid by Deutsche Bank; (ii) many of the apparent wrongdoers who benefitted from the “sham” investigation — and many others who did not “voluntarily” give up anything — have pocketed hundreds of millions of dollars in bonuses based on their misconduct and will collect millions more in deferred compensation; (iii) all of the present and past Deutsche Bank

Supervisors and Managers ***are covered by a multi-hundred million dollar Directors and Officers liability insurance policy/policies paid for by Deutsche Bank to protect Deutsche Bank against damage due to the negligence, lack of due care and breaches of fiduciary duties of those insureds***; and (iv) under German corporate law ***any Supervisor or Manager sued for damages bears the burden of proof — the burden of proving that they complied with their duties of due care and prudence***. This is a burden of proof — ***unique to substantive German corporate law*** — which none of the Supervisors or Managers could ever carry.

35. Given these circumstances, the failure to objectively and independently investigate and pursue these valuable claims for damages against potential wrongdoers and other insider defendants ***who were insured and personally have millions of dollars that are the fruits of their personal wrongdoing and their attempt*** to “whitewash” what happened was itself a breach of the then Managers’ and Supervisor’s duties of due care, prudence and loyalty to Deutsche Bank.

**C. The Damage to Deutsche Bank Is Due to Defendants’ Misconduct, Not External Market or Economic Factors**

36. The massive damage to Deutsche Bank is not due to external events, economic or financial market disruptions or the acts of third parties. ***This near destruction of the world’s largest Bank has taken place after the financial crisis of 2008-2010 was over. It occurred due to egregious misconduct of the Defendants that continues to today.*** During the years that Deutsche Bank has been so severely damaged and shareholder value has been destroyed, the world has enjoyed the longest economic expansion in history and its stock markets have enjoyed the strongest “Bull Market” ever. Other large international banks have prospered, reported huge and growing profits, restored

and increased their dividends and seen their shareholder value soar. According to the Financial Times:

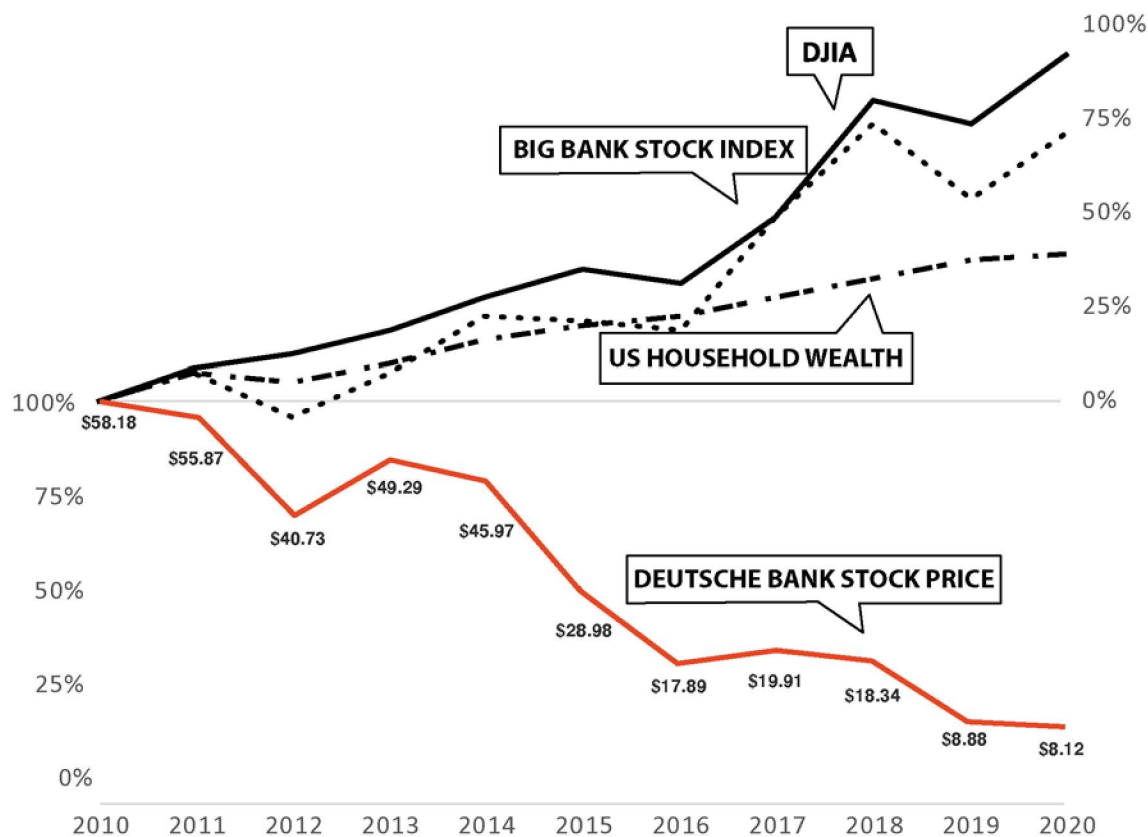
The past decade has been kind to the biggest US banks. ***This week's earnings round showed that for all the worries about regulation, low interest rates and technological disruption, the largest universal and investment banks have more than doubled their collective profits since 2009.***

Rob Armstrong & Laura Noonan, *Largest US Banks Double Profits in Past Decade*, FINANCIAL TIMES, Jan. 18, 2020.

37. Deutsche Bank — alone among its peers — has become engulfed in a tsunami of investigations and controversies that resulted in criminal charges and billions in fines, penalties, write-offs, and losses that have crippled the Bank. This disaster is Deutsche Bank specific, caused by the acts of the Defendants and insured by large policies paid for by the Deutsche Bank shareholders to protect their company from the kind of unlawful, reckless and negligent conduct engaged in by the Bank's Supervisors and Managers.

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**DOW JONES/BIG BANK STOCK INDEX/U.S. HOUSEHOLD, 2010-2020**  
**vs.**  
**DEUTSCHE BANK STOCK PRICE**

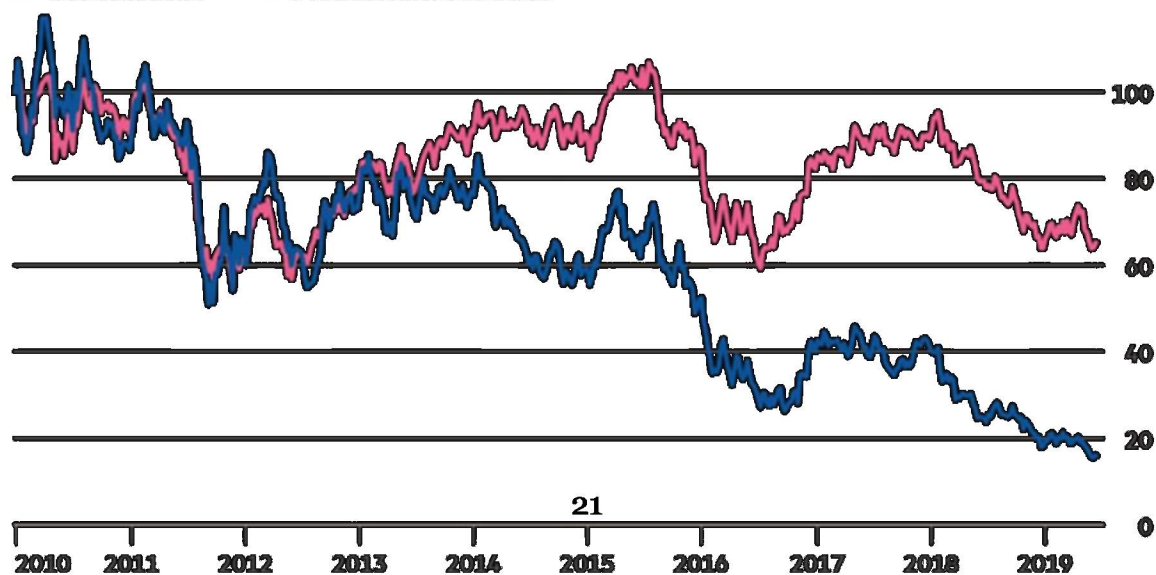


**FT**

## Deutsche Bank falls away from the pack

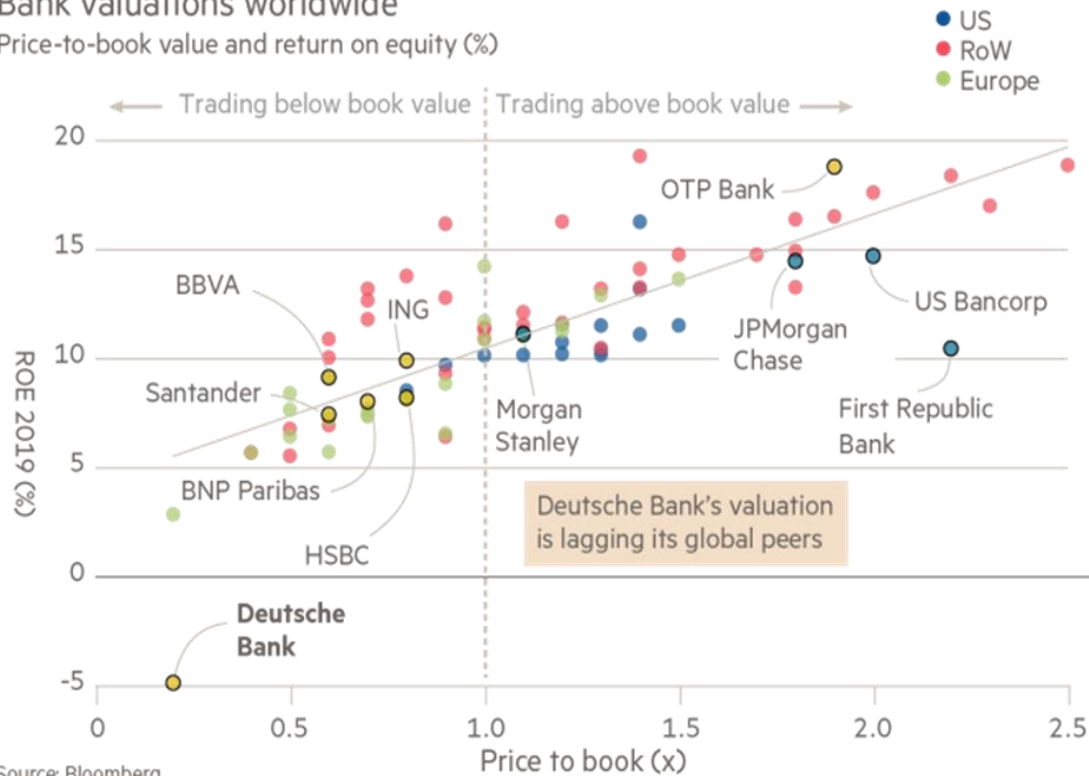
Share prices (rebased)

— Deutsche Bank — FTSE Eurofirst 300 Banks



## Bank valuations worldwide

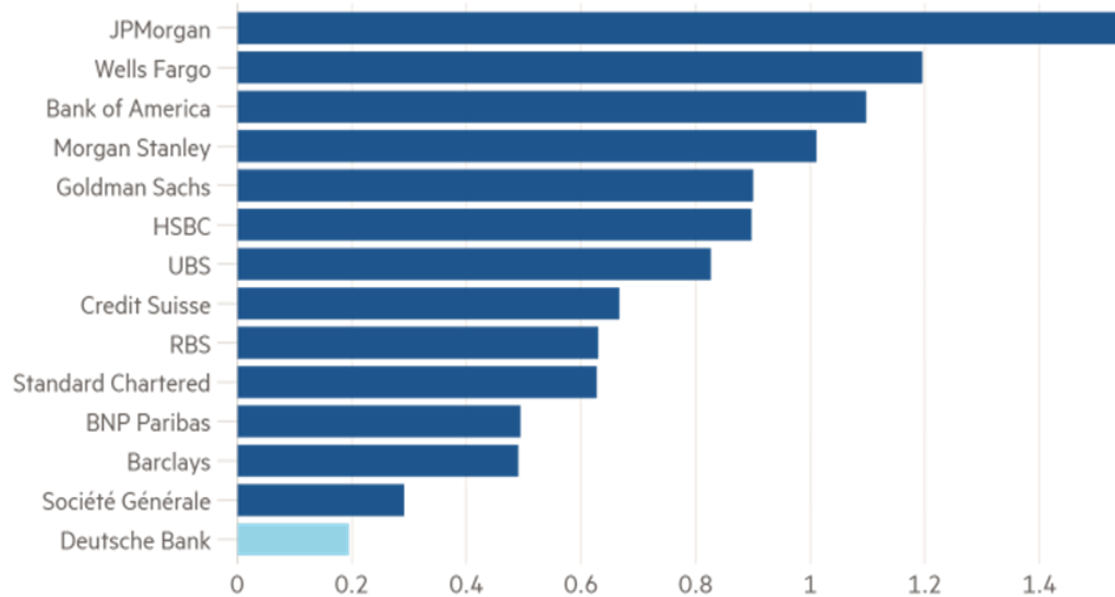
Price-to-book value and return on equity (%)



Source: Bloomberg  
© FT

## Deutsche lags behind peers

Price to book (x)



Source: Bloomberg  
© FT



**D. The Unprecedented Abuse and Mismanagement of Deutsche Bank Has Been Criticized World Wide**

38. Nothing like this never-ending “**pattern**” of misconduct (including criminal conduct) has ever happened at a large international bank. The wrongdoing, recklessness, gross negligence and misconduct of the Deutsche Bank Managers and Supervisors and those who acted with them is unprecedented. While *The New York Times* described how “**Deutsche Bank’s well documented pattern of violating laws**” had made it “**an international symbol of greed, recklessness and hubris,**” other sophisticated financial publications and commentators have condemned the Deutsche Bank disaster as a **massive management and corporate governance failure — one huge scandal after another.**

- Giulia Saudelli, *Deutsche Bank’s 5 Biggest Scandals*, DEUTSCHE WELLE, Dec. 29, 2018:

Police in Frankfurt raided six offices of the country’s largest moneylender, Deutsche Bank ... following allegations of facilitating and failing to report money laundering.

Prosecutors suspect Deutsche Bank helped its customers “**transfer money from criminal activities**” to tax havens.

***But the German lender isn’t new to criminal investigations, fines and settlements.***

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**1. Laundering Russian Money**

In 2017, Deutsche Bank was fined a total of \$630 million (€553.5 million) by US and UK financial authorities over accusations of having laundered money out of Russia.

According to US and British regulators, Deutsche Bank’s anti-money laundering control mechanisms failed to spot sham trades with a value of up to \$10 billion, not knowing who the customers involved in the trades were and where their money came from.

***“These flaws allowed a corrupt group of bank traders and offshore entities to improperly and covertly transfer more than \$10 billion out of Russia,”*** the regulators said.

## **2. Libor Interest Rate Scam**

Two years prior, Deutsche Bank had already been fined a record \$2.5 billion dollars by US and British authorities for its role in an interest rate scam ...

***The bank's London subsidiary pleaded guilty to counts of criminal wire fraud,*** after it was accused of fixing interest rates like the London Interbank Offered Rate (Libor)...

***British banking authorities said at least 29 Deutsche Bank employees were involved in the scam, while US regulators ordered the bank to fire seven employees, including directors and vice-presidents.***

UK regulator Georgina Philippou said at the time:  
***“This case stands out for the seriousness and duration of the breaches by Deutsche Bank — something reflected in the size of today’s fine.”***

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## **3. Violation of US Economic Sanctions**

... after the Libor scandal fines, Deutsche Bank agreed to a hefty ... settlement with the US financial authorities. This time, ***it was for violating US sanctions against a number of countries, including Iran, Syria, Libya and Sudan.***

The bank was accused of conducting clearing transactions for its customers, also using “non-transparent methods and practices” ***to disguise its actions. These transactions ... were not allowed under US laws that banned business transactions with countries accused of financing terrorism.***

***Deutsche Bank employees had devised strategies to get around the sanctions and carry out transactions worth roughly \$10.9***

***billion. The bank agreed to pay \$258 million in settlements.***

#### **4. Sale of Toxic Securities Leading Up to the Financial Crisis**

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***The bank signed a \$7.2 billion settlement with the US Department of Justice in 2017***, after being accused of having sold investors bad mortgage-backed securities ...

US Attorney General Loretta Lynch said at the time that ***“Deutsche Bank did not merely mislead investors: it contributed to an international financial crisis.”***

- *John Seetoo, Even After Deutsche Bank’s Plunge, the Other Shoe Could Still Be Poised to Drop*, THE MOTLEY FOOL, Nov. 13, 2019:

Despite the German reputation for efficiency, frugality, and exactitude, ***the financial institution repeatedly flouted banking laws in the U.S. and in the EU with impunity. However, in 2015, the wind changed. Since then, it has been repeatedly caught with its hand in the proverbial cookie jar in a series of well-publicized scandals, and been punished accordingly:***

- In April 2015, Deutsche Bank was fined for \$2.5 billion cumulatively from U.S. and UK authorities over its role in the LIBOR rigging scandal.
- In November 2015, it was forced to pay a \$258 million settlement for violating U.S. sanctions against Iran.
- In September 2016, its fixed-income division was charged by U.S. officials with trading improprieties in collateralized mortgage obligations to the tune of over \$14 billion, eventually settling with the Department of Justice for \$7.2 billion.
- \$10 billion in Russian money laundering was traced to Deutsche Bank by U.S. and UK officials, resulting in a \$630 million fine.

- Jack Ewing, *Deutsche Bank Leaders, Facing Angry Investors, Survive Vote*, THE NEW YORK TIMES, May 23, 2019:

***Deutsche Bank has suffered multiple blows to its reputation over the past year, having failed US bank stress tests, suffered downgrades to its investment grade ratings ....***

***“It’s shocking and sad what has become of Deutsche Bank,”*** Alexandra Annecke, a portfolio manager at Union Investment, a German fund manager, told shareholders.

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***“We believe it is time for shareholders to hold the boards accountable for the many years of substantial monetary and reputational costs to the bank borne by shareholders,”*** ... Institutional Shareholder Services, said in a report this month ...

ISS and Glass, Lewis & Company, another influential advisory firm ... ***cited the damage inflicted on the bank’s finances and reputation by persistent money-laundering scandals.***

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Shareholders directed special wrath at Mr. Achleitner

...

***“I have had enough of the way you destroy our wealth,”*** said Karl-Walter Freitag ... ***“You’re by far the worst chairman the bank has ever had.”***

39. The Individual Defendants’ misconduct and the resulting destruction of Deutsche Bank persist to the present day. On March 2, 2020, the *Financial Times* reported that “[t]he UK financial regulator has criticised Deutsche Bank for failing to improve its anti-money laundering and compliance controls, and warned this could jeopardise the German lender’s access to the UK after Brexit”:

Bank of England supervisors have told Deutsche executives they now require monthly updates, instead of the normal quarterly meetings, according to people familiar with the matter.

Regulators are concerned that issues are still occurring four years after Deutsche was first censured and placed under special supervision by the Financial Conduct Authority for “serious” and “systemic” failings in its controls against money laundering, terrorist financing and sanctions breaches.

***Deutsche has been embroiled in a plethora of compliance and misconduct scandals in the UK, US and Europe over the past decade, which have dented its reputation and resulted in billions of dollars in fines. Further compliance and systems blunders occurred at the start of this year, the Financial Times has learnt.***

Stephen Morris & Olaf Storbeck, *UK Regulator Warns Deutsche Over Repeated Compliance Failings*, FINANCIAL TIMES, Mar. 1, 2020 (emphases added).

40. This damage to Deutsche Bank — this unprecedented destruction of shareholder value — was caused by the Individual Defendants’ violations of law and their duties of due care, prudence, loyalty and candor to Deutsche Bank and its shareholders, their failure to act as “**diligent and conscientious managers**” and by their taking actions influencing Deutsche Bank Supervisors and Managers to act to the disadvantage, detriment and damage of Deutsche Bank. They are jointly and severally liable to Deutsche Bank for the damage their misconduct has caused, and in the case of the New York-based Law Firm Defendant, and Defendants Parent and von Dryander, whose breaches of duties involved intentional, reckless and/or deliberate misconduct and a violation of their **duty of loyalty to Deutsche Bank**, for punitive damages as well.

## II. THE PARTIES

### A. Named Plaintiff

41. Plaintiff Zahava Rosenfeld is a U.S. citizen domiciled in New York. Plaintiff owns shares of Deutsche Bank common stock and Deutsche Bank American Depositary Receipts (“ADRs”) and has owned them since 2000 — during

the period of alleged wrongdoing and continues to own and hold them today. She did not purchase her shares to bring a lawsuit.

**B. Deutsche Bank AG and DB USA Corporation**

42. Nominal Defendant Deutsche Bank AG, on whose behalf and for whose benefit this action has been filed, is a corporation created and organized under the German Stock Corporation Act, headquartered in Frankfurt, Germany with its head U.S. office and trading floor at 60 Wall Street in New York City and many other offices and thousands of shareholders in New York and throughout the United States. Deutsche Bank AG operates in the United States through DB USA Corporation. DB USA Corporation is a Delaware corporation headquartered in New York, New York. DB USA Corporation is named as defendant because it was an instrumentality through which Defendants engaged in illegal conduct and breached their duties owed to Deutsche Bank in the United States. No damages are sought from DB USA Corporation. Deutsche Bank AG's agent in the US is DB USA Corporation, c/o Office of the Secretary, 60 Wall Street, New York, 10005. Deutsche Bank is regulated with and licensed to do business in New York by the New York Banking Law. In 1998, to expand its U.S. and New York operations and become an international investment bank, Deutsche Bank acquired New York City-based Bankers Trust for \$10 billion. The current Deutsche Bank Building in lower Manhattan was formerly Bankers Trust Plaza. Deutsche Bank's equity and other securities are listed on and trade on the New York Stock Exchange.

43. Deutsche Bank has always been the most important bank in Germany. After Adolf Hitler and the Nazis came to power instituting the Third Reich, Deutsche Bank dismissed its three Jewish board members. Deutsche Bank then took part in the confiscation of 363 Jewish-owned businesses — by November 1938. During the war, Deutsche Bank incorporated other banks that fell into German hands during the occupation of Eastern Europe, helping appropriate the

assets of those financial institutions. Deutsche Bank provided banking facilities for the Gestapo and loaned the funds used to build the Auschwitz concentration/extermination camp and the nearby IG Farben facilities. Following Germany's defeat, the Allied authorities ordered Deutsche Bank's break-up into regional banks. These regional banks were later consolidated into three major banks which then merged to form Deutsche Bank AG. In December 1999 Deutsche Bank, along with other major German companies, contributed to a \$5.2 billion compensation fund to settle lawsuits by Holocaust survivors against German companies for violation of international law, filed, prosecuted and settled here in the courts in the United States, including courts in New York.

**C. The Supervisor and Manager Defendants**

44. Defendant Paul Achleitner has been the Chair of Deutsche Bank's Supervisory Board since May 2012. Achleitner was a partner in Goldman Sachs's New York, London and Frankfurt offices when Deutsche Bank, advised and urged on by Goldman, acquired scandal ridden Bankers Trust in New York City. Achleitner sits atop the German corporate aristocracy. He serves or has served on the following:

- Daimler, Member of the Supervisory Board (since 2010);
- Bayer AG, Member of the Supervisory Board (since 2002);
- Henkel AG & Sons, Member of the Shareholders' Committee (since 2001), Member of the Finance Subcommittee; and
- RWE AG, Member of the Supervisory Board (2000-2013).

Achleitner is also a member of the German Federal Commission for the German Corporate Governance Code. According to surveys, Achleitner has been the ***highest paid supervisory board head at Germany's 30 biggest listed companies that make up the benchmark DAX index***. In addition to his work at Goldman Sachs's New York office, Achleitner has lived and worked in the

United States in other capacities. He attended Harvard Business School and graduated with a master's degree in business administration. He was employed at Bain & Co. in Boston and served as a trustee of the Washington, D.C.-based Brookings Institution. He is a citizen of Austria.

45. Achleitner controls the Deutsche Bank Supervisory Board. He exercises his power and has that control in part through the Board's Committee structure. Achleitner hand picks the members of the all-powerful "Chairman Committee" which basically runs the Bank (including hiring/firing executives and managers). Achleitner also chairs and selects the members of the Nomination Committee and the Compensation Control Committee, Board Committees, and the Mediation Committee. He thus determines who will serve or be Chair of the Integrity Committee, determines who gets hired and fired, who gets nominated to or stays on the Supervisory Board, who gets paid what, how Board disputes get settled and who gets sued and for what. Achleitner has hired and fired four Deutsche Bank CEOs during his tenure. He operates as the "*de facto*" CEO of the Bank. In the past when he was CFO of Allianz, he presided over Allianz's disastrous acquisition of Dresdner Bank — which caused Allianz a \$10 billion loss. When he was a Goldman Sachs partner years ago, he pushed for and helped arrange Deutsche Bank's acquisition of the scandal-ridden failing Bankers Trust — a disastrous acquisition resulting in billions of losses to Deutsche Bank. His presence on the Deutsche Bank board and insider role at the Bank after his record of corporate failures, embodies much that is wrong with German corporate governance, highlighted by the long record of governance failures involving large German enterprises he has had a hand in. He participated in and was a direct beneficiary of the bogus cover-up/investigation.

46. Defendant Josef Ackermann is a former Chair and CEO of Deutsche Bank. Ackermann joined Deutsche Bank in 1996. He served as Chairman of the



Management Board, *i.e.* CEO, from 2002 to 2012–2013. Ackermann was criminally indicted in connection with the Mannesmann Group executive bonus scandal and accused of wrongdoing in connection with the payments of millions in improper bonuses to Management executives. The criminal charges were dropped in return for his “non-penal penalty” payment of about \$4 million. While he was CEO, Ackermann was paid \$9.4 million in 2009 and \$8.8 million in 2010. His included bonus was \$8.2 million in 2009 and \$7.1 million in 2010. Other positions Ackermann holds or has held are:

- Second Deputy Chairman of Siemens AG;
- Non-Executive Director of Vodafone from 2000–2002; and
- Non-executive director of Shell.

He is a member of the Washington, D.C.-based Group of Thirty. He is a citizen of Switzerland, but has maintained residence in New York. He participated in and was a direct beneficiary of the bogus cover-up/investigation.

47. Defendant Clemens Börsig was Chairman of the Supervisory Board from May 2006 until May 2012. He joined Deutsche Bank in 1999 as Executive Vice President and Chief Financial Officer. In 2001, he became a Member of the Deutsche Bank Management Board and in 2002 became Chief Risk Officer. Prior to his career at Deutsche Bank, Börsig spent almost three years at RWE AG, Essen, where he was a Member of the Management Board and Chief Financial Officer. Börsig is or has been a member of the following supervisory boards:

- Bayer AG;
- Linde AG;
- Linde Intermediate Holding AG;
- Linde plc (listed);
- Emerson Electric Co. (a Fortune 500 company headquartered in Ferguson, Missouri and listed on the New York Stock Exchange and the Chicago Stock Exchange); and

- Daimler Truck AG and Daimler AG.

Börsig is a citizen of Germany.

48. Defendant Anshu Jain ran Deutsche Bank's corporate/investment banking operations in New York and London for years. In 1995, Jain joined Deutsche Bank. Since 2002, he had been in the Deutsche Bank Group Executive Committee (GEC) and was formerly head of Global Markets and joint head of the corporate and investment operations. Jain was globally responsible for Deutsche Bank's corporate finance, sales and trading. He then served as the Co-CEO of Deutsche Bank with Jürgen Fitschen from 2012 until June 2015, when he was fired shortly after Deutsche was fined a record \$2.5 billion for rigging Libor and ordered to fire seven employees. He and others were accused of being obstructive towards regulators in their investigations. The penalties on Deutsche Bank also involved a guilty plea to the U.S. Department of Justice and a deferred prosecution agreement. Jain headed Deutsche's investment bank while Libor was rigged. In November 2012, Jain purchased a two-bedroom apartment in Manhattan for \$7.2 million. He holds a U.S. "Green Card" (lawfully admitted for permanent residence) and is domiciled in New York. He participated in and was a direct beneficiary of the bogus cover-up/investigation.

49. Defendant Jürgen Fitschen served as Co-CEO of Deutsche Bank with Jain from 2012 to 2016, when he was fired. In 2001, he was appointed to Deutsche Bank's Group Board of Managing Directors where he was responsible for the Corporate and Investment divisions of the bank. Fitschen has been a member of Deutsche Bank's Group Executive Committee since 2002. In 2005, he was appointed CEO Germany and Chairman of the Management Committee Germany. Fitschen is also a member of the Board of Directors of Kuehne + Nagel International AG, a member of the Supervisory Board of Metro AG and a member of the Supervisory Board of Schott AG. He was president of the Association of

German Banks from 2013 to 2016. He is a citizen of Germany. He participated in and was a direct beneficiary of the bogus cover-up/investigation.

50. Defendant John Cryan was appointed Co-CEO of Deutsche Bank in June 2015, a position he shared with Fitschen until May 2016, when he became sole CEO. In April 2018 he was fired by Achleitner and his allies. Cryan had been group chief financial officer at UBS AG. He is a subject of Great Britain, with homes in both London, England and Annapolis, Maryland. When he was pushed out/fired by Achleitner and his allies in 2018, Cryan was given a multi-million dollar “face saving” exit payment.

51. Defendant Christian Sewing became a member of Deutsche Bank’s Management Board on January 1, 2015, and was President from March 2017 to April 2018. He was appointed Chairman of the Management Board — CEO — in April 2018, and continues to hold that position. From September 2017 to April 2018, he was Co-Head of Private & Commercial Bank. Prior to assuming his role on the Management Board, Mr. Sewing was Global Head of Group Audit and held a number of positions before that in Risk, including Deputy Chief Risk Officer (from 2012 to 2013) and Chief Credit Officer (from 2010 to 2012). He is a citizen of Germany.

52. Defendant Henry Ritchotte was a Deutsche Bank executive for over 20 years. He became a member of the Deutsche Bank Management Board in 2012 as Deutsche Bank Chief Operating Officer for the corporate/investment banking operations and served in that role until 2015, staying with the Bank until 2017. From 2008-2010, he was operations chief of the Bank Global Markets division. According to Deutsche Bank, “Henry played a decisive role in strategic recalibration and further integration of the corporate/investment bank.” He graduated from the University of Chicago with a master’s degree in business administration and worked at Merrill Lynch in New York. He is a citizen of the

United States and Ireland. He resides in the District of Columbia. He participated in and was a direct beneficiary of the bogus cover-up/investigation.

53. Defendant Garth Ritchie became a member of the Deutsche Bank Management Board on January 1, 2016, and was appointed President of the Bank as of April 8, 2018. Ritchie joined Deutsche Bank in 1996 and became Head of Equities in the corporate/investment bank operations in 2009-2010. He held various positions in trading and derivatives for over two decades. He was co-head of the corporate/investment bank and became Head of Deutsche Bank's corporate/investment Bank in 2017. He is a subject of Great Britain. He was pushed out/fired in 2019 with a multi-million dollar "face saving" payment.

54. Defendant Marcus Schenck was a Deutsche Bank executive. He joined Deutsche Bank in 2014 and became a member of the Management Board and was Co-CEO of the corporate/investment bank with Ritchie. Subsequently, he was Deutsche Bank's deputy chief executive officer, and then head or co-head of its corporate/investment bank. He left the Bank in November 2018. He was also Deutsche Bank's Deputy Chief Executive Officer through mid-2018. He was pushed out with a multi-million dollar "face saving" exit payment. Before joining Deutsche Bank, Schenck worked at Goldman Sachs. After leaving Deutsche Bank, he joined Perella Weinberg Partners. He is a citizen of Germany.

55. Defendant Stefan Krause was Deutsche Bank's Chief Financial Officer and member of the Management Board from 2008 to 2015. Krause was pushed out after *The Wall Street Journal* reported on July 23, 2014:

**Deutsch Bank Finance Chief Faces Heat After Financial-Reporting Exposure**

***An examination by the Federal Reserve Bank of New York last year found that Deutsche Bank's giant U.S. operations suffer from a variety of serious financial-reporting problems that the lender has been aware of for***

***years but hasn't fixed, according to documents reviewed by the Wall Street Journal ...***

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Daniel Muccia, New York Fed senior vice president responsible for supervising Deutsche Bank's U.S. operations, criticized the lender's attempts to address the weakness in its regulatory reporting process [and] ***said in the letter that efforts to improve the quality of data had failed.***

Eyk Henning and Madeleine Nissen, *Deutsche Bank Finance Chief Faces Heat After Financial-Reporting Exposure*, THE WALL STREET JOURNAL, July 23, 2014.

He is the Chairman of Canoo, a Los Angeles, California-based automotive company. He is a citizen of Germany. He resides in California. He participated in and was a direct beneficiary of the bogus cover-up/investigation.

56. Defendant Karl von Rohr became a member of the Deutsche Bank Management Board on November 1, 2015 and was appointed Deputy Chair President as of April 8, 2018. He was Regional CEO for Germany since May 2018. He is a citizen of Germany. He attended Cornell University in New York. He joined Deutsche Bank in 1997. From 2013 to 2015 he was Global Chief Operating Officer.

57. Defendant Stuart Lewis became a member of the Deutsche Bank Management Board on June 1, 2012. He is Chief Risk Officer and responsible for, among other things, managing Credit Risk, Non-Financial Risk, Market Risk and Liquidity Risk, as well as for further Risk-Infrastructure units. Lewis joined Deutsche Bank in 1996. Lewis was Deputy Chief Risk Officer and subsequently Chief Risk Officer of the corporate/investment Bank from 2010 to 2012. Between 2006 and 2010 he was Chief Credit Officer. He is a subject of Great Britain. He participated in and was a direct beneficiary of the bogus cover-up/investigation.

58. Defendant Sylvie Matherat became a member of the Deutsche Bank Management Board on November 1, 2015, serving as Chief Regulatory Officer — responsible for the Compliance, Anti-Financial Crime (AFC) as well as

Government and regulatory affairs. She was pushed out in July 2019 with a multi-million-dollar payment. She is a citizen of France.

59. Defendant Kimberly L. Hammonds joined Deutsche Bank in 2013 as Global Head of Operations and was in charge of IT systems. In August 2016, she became chief operating officer and a member of the Management Board. She was previously an executive at Boeing. She attended the University of Michigan and Western Michigan University. She serves as an Executive in Residence at the University of Miami. She currently sits on the boards of several U.S.-based companies, including Zoom Video Communications, Inc., Box, Inc. and Tenable, Inc. She said Deutsche Bank was “the most dysfunctional company” she ever worked for. She is a U.S. citizen domiciled in Florida. She was pushed out in May 2018 with a multi-million dollar “face saving” payment.

60. Defendant James von Moltke became a member of the Deutsche Bank Management Board on July 1, 2017. He was Deutsche Bank’s Chief Financial Officer and has been a member of the following Supervisory Boards: BVV Versicherungsverein des Bankgewerbes a.G. and BVV Versorgungskasse des Bankgewerbes e.V. Before joining Deutsche Bank, he worked as a Treasurer at Citigroup Global Markets, Inc. He is a citizen of Germany. He maintains a residence in Vermont.

61. Defendant Christiana Riley is a member of the Deutsche Bank Management Board in charge of Deutsche Bank’s operations in the Americas. Riley, who was born in the United States, joined the bank in Frankfurt in 2006. Her roles at the bank have included working in the strategy department. Since April 2015 she has been Chief Financial Officer of the corporate/investment bank. She is a citizen of the United States and resides in the New York-Connecticut-New Jersey tri-state area. According to Deutsche Bank, “her appointment as member

of the Management Board underlines the reliance of our footprint in the US market for Deutsche Bank.”

62. Defendant Henning Kagermann joined the Deutsche Bank Supervisory Board in 2000 and served until 2018. He is a citizen of Germany.

63. Defendant Detlef Polaschek joined the Deutsche Bank Supervisory Board in 2018 and serves until 2023. He is Deputy Chairman of the Supervisory Board. He is a citizen of Germany.

64. Defendant Martina Klee joined the Deutsche Bank Supervisory Board in 2008 and serves until 2023. She is a citizen of Germany.

65. Defendant Michele Trogni joined the Deutsche Bank Supervisory Board in 2018 and serves until 2023. She is a subject of Great Britain. She resides in Connecticut.

66. Defendant Henriette Mark joined the Deutsche Bank Supervisory Board in 2003 and serves until 2023. She is also the Employee Representative of Deutsche Bank AG. She is a citizen of Germany.

67. Defendant Gabriele Platscher joined the Deutsche Bank Supervisory Board in 2003 and serves until 2023. She is a citizen of Germany.

68. Defendant Bernd Rose joined the Deutsche Bank Supervisory Board in 2013 and serves until 2023. He has been an Employee Representative at Deutsche Bank since May 2013. He is a citizen of Germany.

69. Defendant Norbert Winkeljohann joined the Deutsche Bank Supervisory Board in 2018 and serves until 2023. He is a citizen of Germany.

70. Defendant Gerd Alexander Schütz joined the Deutsche Bank Supervisory Board in 2017 and serves until 2023. He is a citizen of Austria.

71. Defendant John A. Thain joined the Deutsche Bank Supervisory Board in 2018 and serves until 2023. He is a U.S. citizen domiciled in New York.

72. Defendant Ludwig Blomeyer-Bartenstein joined the Deutsche Bank Supervisory Board in 2018 and serves until 2023. He is a citizen of Germany.

73. Defendant Louise M. Parent is a partner/“of counsel” to Cleary Gottlieb. Parent is a professional corporate director who advances Cleary Gottlieb’s financial interests by sitting on corporate boards and thus getting the law firm lucrative corporate legal fees. She and her firm are overtly pro-director so as to market themselves to CEO’s and Board Chair’s looking for supportive board members and legal counsel. She was appointed to the Supervisory Board in 2014. Achleitner made her head of the Integrity Committee when Achleitner and his allies pushed Thoma off the Board because he was vigorously investigating them. As head of the Integrity Committee she worked closely with Achleitner, his allies and Christof von Dryander, a former Cleary Gottlieb partner and Deutsche Bank’s top legal officer, and managed the whitewash “investigation” by Cleary Gottlieb to clear themselves. She left the Supervisory Board in 2018 and returned to Cleary Gottlieb. She is a U.S. citizen domiciled in New York.

74. Defendant Christof von Dryander became General Counsel of Deutsche Bank for Germany and Central and Eastern Europe and its Asset and Wealth Management business in October 2012. He was based in Frankfurt at corporate headquarters. In 2015 he became the Global General Counsel for Deutsche Bank, its highest-ranking legal officer. Von Dryander started his career at Cleary Gottlieb in 1982. He became partner in 1990. He started Cleary Gottlieb’s Frankfurt office in 1991 to service Deutsche Bank. He became a very senior partner in the firm before leaving Cleary Gottlieb to join Deutsche Bank in 2012. In 2018 he left Deutsche Bank and returned to Cleary Gottlieb’s Frankfurt office as “of counsel” to the firm. He holds an LL.M. degree from Yale Law School and is a member of the District of Columbia Bar. He is a citizen of Germany.



75. Defendant Frank Bsirske joined the Deutsche Bank Supervisory Board in 2013 and serves until 2023. He is a citizen of Germany.

76. Defendant Mayree Carroll Clark joined the Deutsche Supervisory Board in 2018 and serves until 2023. She is U.S. citizen domiciled in New York.

77. Defendant Jan Duscheck joined the Deutsche Bank Supervisory Board in 2017 and serves until 2023. He is a citizen of Germany.

78. Defendant Dr. Gerhard Eschelbeck joined the Deutsche Bank Supervisory Board in 2017 and serves until 2022. He is a U.S. citizen domiciled in California.

79. Defendant Richard Meddings joined the Deutsche Bank Supervisory Board in 2015 and left in 2019. He is a subject of Great Britain.

80. Defendant Katherine Garrett-Cox joined the Deutsche Bank Supervisory Board in 2011 and serves until 2021. She is a subject of Great Britain.

81. Defendant Timo Heider joined the Deutsche Bank Supervisory Board in 2013 and serves until 2023. He is a citizen of Germany.

82. Defendant Sabine Irrgang joined the Deutsche Bank Supervisory Board in 2013 and left in 2018. She is a citizen of Germany.

83. Defendant Dagmar Valcárcel joined the Deutsche Bank Supervisory Board in 2019 and serves until 2023. She is a citizen of Spain and Germany.

84. Defendant Johannes Teyssen joined the Deutsche Bank Supervisory Board in 2008 and left in 2018. He is a citizen of Germany.

85. Defendant Wolfgang Böhr joined the Deutsche Bank Supervisory Board in 2015 and left in 2018. He is a citizen of Germany.

86. Defendant Peter Löscher joined the Deutsche Bank Supervisory Board in 2012 and served through 2017. He attended Harvard Business School and received an honorary degree from Michigan State University. He is a citizen of Austria.

87. Defendant Stephan Szukalski joined the Deutsche Bank Supervisory Board in 2018 and serves until 2023. He is a citizen of Germany.

88. Defendant Dina Dublon joined the Deutsche Bank Supervisory Board in 2013 and left in 2018. She was the CFO of JP Morgan Chase for years. She is a U.S. citizen domiciled in New York.

89. Defendants Ritchie, Cryan, Matherat, Schenck, and Hammonds received millions in the unjustified exit/bonus payments they were not entitled to because they had violated their duties to Deutsche Bank and were in effect, if not in fact, pushed out/fired for cause — “face saving” payments intended to procure their cooperation and silence to protect Achleitner and his allies.

90. Being a member of the Deutsche Bank Management or Supervisory Board is a very prestigious and lucrative position. In accordance with the requirements of the GAS 17, the members of the Management Board collectively received in the 2018 financial year compensation totaling \$52,181,136 (2017: \$37,665,535). Of that, \$25,711,111 (2017: \$29,200,000) was for fixed compensation: \$4,200,000 (2017: \$550,000) for functional allowances. \$2,123,102 (2017: \$2,053,520) for fringe benefits and \$20,146,923 (2017: \$5,862,015) for performance-related components. Former members of the Management Board of Deutsche Bank AG or their surviving dependents received \$22,943,159 and \$27,694,325 for the years ended December 31, 2018 and 2017, respectively. Provisions for pension obligations to former members of the Management Board and their surviving dependents amounted to \$193,452,137 and \$214,514,039 at December 31, 2018 and 2017, respectively. Loans and advances granted and contingent liabilities assumed for members of the Management Board amounted to \$11,180,396 and \$12,337,886, and for members of the Supervisory Board amounted to \$33,425,29 to \$35,210,035 for the years ended December 31, 2018 and 2017, respectively.

91. The members of the Supervisory Board are highly paid as well. They receive fixed annual compensation. The annual base compensation amounts to \$100,000 for each Supervisory Board member. The Supervisory Board Chairman receives twice the amount and the Deputy Chairperson one and a half times that amount. Members and chairs of the committees of the Supervisory Board are paid additional fixed annual compensation. The members of the Supervisory Board received for the financial year 2018 a total remuneration of \$5,766,669, (2017: \$5,150,000). Beyond the economic benefits of being the Supervisory Board members, the status — prestige — connections — that flow from such an important position is admission into German corporate aristocracy. Staying on the Deutsche Bank Board is as lucrative and “cushy” a position as is available in the German corporate world — a premier position in an exclusive club — and for several of them a lifetime long term sinecure.

92. The chart set forth below shows which supervisor defendants served on the Chairman’s, Audit, Compensation Control and Integrity Committees of the Board. These were the most important Board committees and had direct responsibility for key parts of the Bank’s operation in areas involved in this case.

[The remainder of this page is deliberately left blank.]

Deutsche Bank Supervisory Board	2013	2014	2015	2016	2017	2018
<b>Chairman's Committee</b>						
Dr. Paul Achleitner	C	C	C	C	C	C
Alfred Herling						
Frank Bsirske						
Prof. Dr. Henning Kagermann						
Stefan Rudschäfski*						
Prof. Dr. Stefan Simon						
Detlef Polaschek						
Norbert Winkeljohann						
<b>Mediation Committee</b>						
Dr. Paul Achleitner	C	C	C	C	C	C
Alfred Herling						
Prof. Dr. Henning Kagermann						
Stephan Szukalski*						
Wolfgang Böhr*						
Stefan Rudschäfski*						
Detlef Polaschek						
Stephan Szukalski						
Norbert Winkeljohann						
<b>Audit Committee</b>						
Dr. Paul Achleitner						
John Cryan	C	C				
Katherine Garrett-Cox						
Henriette Mark*						
Gabriele Platscher*						
Bernd Rose*						
Prof. Dr. Klaus Rüdiger Trützschler						
Dr. Karl-Gerhard Eick						
Richard Meddings			C	C	C	
Prof. Dr. Stefan Simon						
Detlef Polaschek						
John Alexander Thain						
Norbert Winkeljohann						C
<b>Risk Committee</b>						
Dr. Paul Achleitner	C	C	C			
John Cryan						
Dina Dublon				C	C	
Prof. Dr. Henning Kagermann						
Louise M. Parent						
Wolfgang Böhr*						
Richard Meddings						
Jan Duschek*						
Rudolf Stockem*						
Ludwig Blomeyer-Bartenstein						
Mayree Carol Clark						C
Stephan Szukalski						
Michele Trogni						
Norbert Winkeljohann						
<b>Nomination Committee</b>						
Dr. Paul Achleitner	C	C	C	C	C	C
Alfred Herling						
Frank Bsirske						
Prof. Dr. Henning Kagermann						
Dr. Johannes Teyssen						
Stefan Rudschäfski*						
Gerd Alexander Schütz						
Detlef Polaschek						
<b>Integrity Committee</b>						
Dr. Paul Achleitner						
Alfred Herling						
Timo Heider*						
Sabine Irrgang*						
Martina Klee*						
Peter Löscher						
Louise M. Parent						
Dr. Johannes Teyssen						
Georg F. Thoma	C	C	C	C		
Prof. Dr. Stefan Simon					C	
Ludwig Blomeyer-Bartenstein						
<b>Compensation Control Comm.</b>						
Dr. Paul Achleitner	C	C	C	C	C	C
Alfred Herling						
Frank Bsirske						
Prof. Dr. Henning Kagermann						
Stefan Rudschäfski*						
Detlef Polaschek						

**D. The Law Firm Defendant**

93. Defendant Cleary Gottlieb Steen & Hamilton LLP is a New York-based partnership, a New York citizen, and has partners residing in New York who are citizens of New York. Cleary Gottlieb is a large international law firm with “16 offices in major financial centers around the world” that operates as a “single integrated global partnership.” Cleary Gottlieb has over 1,300 lawyers and revenues exceeding \$1.3 billion per year. The firm also has offices in Paris, Brussels, Frankfurt, Cologne and London with partners in these offices that are residents and citizens of France, Belgium, Germany and Great Britain.

94. Cleary Gottlieb has repeatedly been retained by the Deutsche Bank’s Supervisors and Managers over the years, providing the law firm with many millions in fees and a “prestigious” international bank client. The Bank is one of the firm’s largest and most important clients. The Firm opened its Frankfurt office to serve Deutsche Bank. The relationship between the law firm and Deutsche Bank is very close. Insiders at the Bank knew Cleary Gottlieb and Parent were “reliable” and would protect them, just as Cleary Gottlieb had done in the past, including in 2009 when it conducted an internal investigation into suspected Deutsche Bank executive misconduct — and concluded there was none.

95. Due to its track record of extensive economic intercourse with and loyalty to the top Managers/Supervisors who hired the law firm to represent the Bank, Cleary Gottlieb was conflicted/compromised and could not conduct an independent investigation of those Deutsche Bank’s insiders who had hired them in the past and for the current “investigation” and to whom they were beholden. These compromising circumstances were exacerbated because one of the most senior, powerful and important Cleary Gottlieb partners, Christof von Dryander, was now Deutsche Bank’s Global General Counsel and was in charge of overseeing and thus controlling the investigation. Von Dryander had opened the Cleary

Gottlieb Frankfurt office in 1991 to service Deutsche Bank. Then, after becoming a top Cleary Gottlieb partner, von Dryander left Cleary Gottlieb in August 2012 to join Deutsche Bank at the very top of the Bank's internal legal department, becoming Global General Counsel in 2015. The conduct of Parent, Cleary Gottlieb and von Dryander influenced the Supervisory Board and Management Board to act to the detriment of the Bank and its shareholders. Von Dryander stayed inside the Bank until February 2018, when he left, and he and Parent returned to Cleary Gottlieb — he in Frankfurt — she in New York. Due to his top position as senior legal officer at Deutsche Bank and Parent's position on the Supervisory Board during the period of wrongdoing, neither he, she, nor Cleary Gottlieb should have participated in or overseen the "investigation."

### III. JURISDICTION, NON-REMOVABILITY AND VENUE

96. The Court has jurisdiction over this action under Sections 626 and 1319(a)(2) of the New York Business Corporation Law, Section 200-b of the New York Banking Law and Section 7(a), Article VI of the New York Constitution.

97. Under New York law, an action against a foreign banking corporation may be maintained by a resident. *See* N.Y. BANKING LAW § 200-b(1); *see also id.* § 221-b(2) (an action against a foreign banking corporation may be maintained by a non-resident if: (i) the subject matter of the litigation is situated in New York; (ii) the cause of action arose within the State; (iii) the action is based on a liability for acts done within the State by a foreign banking corporation; or (iv) the defendant is a foreign banking corporation doing business in the State).

98. Venue is permitted and proper in this Court because many of the acts and transactions in connection with the wrongdoing complained of occurred in New York, Plaintiff and several defendants reside in or are citizens of New York, and for the further reasons set forth in Section VIII(E).

99. The substantive claims made are based on German law to be asserted in New York State Court via New York's procedural rules. There are no claims asserted under U.S. federal law. No individual recovery is sought by Plaintiff, who sues solely derivatively on behalf of the corporate entity and true plaintiff — Deutsche Bank.

100. This action is not removable to federal court for many reasons, including:

- a. There is not complete diversity of citizenship because Plaintiff is a resident and citizen of New York as are several Defendants. In any event, removal would be improper under 28 U.S.C. § 1441(b)(2) because certain defendants, including the Defendants Thain, Parent and Cleary Gottlieb, are citizens of New York.
- b. This action is not a class action. It does not seek any relief for Plaintiff individually or collectively as a class. The action is an entirely derivative one for the benefit of Deutsche Bank.
- c. Plaintiff does not assert any claims based on the purchase or sale or issuance of securities or any claims under federal law or regulation, and to the extent any claim or factual assertion herein may be construed as stating a federal claim, Plaintiff disavows that claim.
- d. This is not an action on behalf of any purchasers of Deutsche Bank securities. It is an action on behalf of Deutsche Bank for Defendants' breaches of their duties owed to Deutsche Bank.

101. The Court has personal jurisdiction over each Defendant. The Court has personal jurisdiction over those Defendants not residing in New York, as each meets the statutory definition of a "person," and these claims arise from the actions of each "directly or by an agent" in that each Defendant independent and separately from their Deutsche Bank positions and also through their positions

regularly transacted and/or solicited business in New York and/or derived substantial revenue from goods used or consumed or services rendered in New York and/or contracted to supply goods or services in New York, and/or caused injury by an act or omission in New York, and/or caused injury in New York by an act or omission outside New York.

102. The wrongs complained of are continuing and ongoing. Defendants have actively attempted to conceal or whitewash their own and their allies' wrongdoing and violations of laws for years, including publishing reports and making statements assuring Deutsche Bank's owners/shareholders of their commitment to legal compliance. Achleitner and other key wrongdoers continue to control the Deutsche Bank Supervisory Board and thus Deutsche Bank cannot act for or protect itself. Whatever statute of limitations may have been running was tolled by the squashing of the independent "vigorous" investigation of the Integrity Committee and the subsequent promise of an independent investigation which was really part of a cover up. The statute of limitations cannot run against Deutsche Bank when that entity has been under the control of the wrongdoers — which it has been for the past several years. Achleitner — the Board Chair — is a primary wrongdoer who has orchestrated events to deflect blame and protect himself and his fellow bad actors, ultimately with the help of Deutsche Bank's top legal officer and the Cleary Gottlieb law firm. This action is filed within five years of discovery of the violation of the rights of Deutsche Bank, and the ability to bring this action in New York state court.

#### **IV. THE GERMAN STOCK CORPORATION ACT**

103. In order to protect Deutsche Bank and its shareholders from damage due to the lack of due care or prudence of its Supervisors, Managers and others whose positions allow them to influence Supervisors and Managers and thus Deutsche Bank, the German Stock Corporation Act imposes duties of due care and



prudence on such persons, and provides for joint and several liability on those whose lack of due care and prudence or failure to obtain the necessary information on which to base corporate decisions, damages Deutsche Bank. While the conduct complained of and the facts pleaded constitute gross negligence and recklessness, there is no requirement of reckless or some other type of misconduct beyond lack of due care, especially as to fiduciary and legal/regulatory compliance decisions. Defendants' negligent actions alleged here constitute gross negligence and reckless misconduct such that there is "no business judgment rule" defense available to their conduct or any decision on their part not to bring those claims for Deutsche Bank against themselves and their co-defendants.

104. The German Stock Corporation Act contains both procedural and substantive provisions. The following substantive provisions apply to this litigation and provide the basis of the Defendants' liability to Deutsche Bank. The German Stock Corporation Act provides:

- **Section 76 Leadership of the Stock Corporation**
  - (1) **The management board shall be directly responsible for the management of the company.**
- **Section 77 Management**
  - (1) **... the members of the management board shall manage the company jointly.**
- **Section 91 Organization; Accounting**
  - (1) The management board shall ensure that the requisite books of account are maintained.
  - (2) **The management board shall take suitable measures, in particular surveillance measures, to ensure that developments threatening the continuation of the company are detected early.**
- **Section 93 Duty of Care and Responsibility of Members of the Management Board**

(1) In conducting business, the members of the management board shall employ the care of a diligent and conscientious manager. **They shall not be deemed to have violated the aforementioned duty if, at the time of taking the *entrepreneurial decision*, they had good reason to assume that they were acting on the basis of adequate information for the benefit of the company.**

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(2) Members of the management board who violate their duties shall be jointly and severally liable to the company for any resulting damage. They shall bear the burden of proof in the event of a dispute as to whether or not they have employed the care of a diligent and conscientious manager. If the company takes out an insurance concerning the risks of a member of the managing board ... such insurance shall provide for a deductible ...

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(4) Liability for damages shall not be precluded by the fact that the supervisory board has consented to the act.

- **Section 94 Deputies and Members of the Management Board**

The provisions relating to members of the Management boards all also apply to their deputies.

- **Section 111 Duties and Rights of the Supervisory Board**

(1) The supervisory board shall supervise the management of the company.

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(4) Members of the supervisory board may not confer their responsibilities on other persons.

- **Section 116 Duty of Care and Responsibility of Members of the Supervisory Board**

- **Section 93 on the duty of care and responsibility of members of the management board shall ..., apply accordingly to the duty of care and responsibility of the members of the supervisory board.**

- **Section 117 Exertion of Influence on the Company**

(1) Any person who, by exerting his influence on the company, induces a member of the management board or the supervisory board, to act to the disadvantage of the company or its shareholders shall be liable to the company for any resulting damage insofar as they have suffered damage in addition to any loss incurred as a result of the damage to the company.

(2) In addition to such person, the members of the management board and the supervisory board shall be jointly and severally liable if they have acted in violation of their duties. They shall bear the burden of proof in the event of a dispute as to whether or not they have employed the care of a diligent and conscientious manner ... Liability for damages shall not be precluded by the fact that the supervisory board has consented to the act.

(3) In addition to such person, any person who has willfully caused undue influence to be exerted shall also be jointly and severally liable to the extent that he has obtained an advantage from the detrimental act.

105. The substantive provisions of the German Stock Corporation Act also apply, as the Defendants were required by Section 161 of the Stock Corporation Act to comply with the German Governance Code.

106. The decisions made by Deutsche Bank Supervisors concerning the Bank's IT systems, internal financial/accounting and regulatory/legal compliance controls, responses to criminal investigations and regulatory inquiries and the like were not "***entrepreneurial decisions.***" They were ***fiduciary and legal compliance decisions***, actions mandated by law as to which the Managers and Supervisors had no discretion other than to ensure compliance by Deutsche Bank. Investigations of and decisions as to whether or not to sue the Managers and

Supervisors or others for damages that their misconduct caused Deutsche Bank are not “*entrepreneurial decisions*”, but fiduciary and legal compliance decisions.

**V. DUTIES OF THE SUPERVISORS AND MANAGERS TO  
DEUTSCHE BANK AND THEIR RESPONSIBILITY FOR THE  
DAMAGE TO IT**

107. Each Defendant had a duty to comply with German corporate law, including to act with care and prudence *i.e.*, “the care of diligent and conscientious manager,” and to act with loyalty to Deutsche Bank and its interests, taking or permitting to be taken corporate action only when the Supervisors had “good reason” to believe they had adequate information to protect Deutsche Bank and its interests with respect to any significant corporate action and to refrain from using their influence over the Supervisors or Managers to induce or cause any of them to act to the detriment of Deutsche Bank or with shareholders. Each Defendant violated his, her or its duties as alleged herein.

108. The members of the Supervisory Board of a German corporation have much more “hands-on” involvement in the “management” of the business operations of the corporation they supervise than is typical of directors in a United States domestic corporation. And as Supervisors of a highly regulated financial institution, they are required to exercise the oversight necessary to assure compliance with the laws of regulatory/financial institutions. The current and past members of the Deutsche Bank Supervisory Board named as defendants were each involved in the mismanagement and abuse of Deutsche Bank at critical points. Had they properly discharged their duties, they could have prevented or mitigated the damage caused Deutsche Bank by the events and actions complained of. The details below come from Deutsche Bank’s Annual Reports and confirm the Supervisory Board was involved in all decisions of material importance to the Bank.

109. The Management Board of Deutsche Bank AG is responsible for the management of the company in accordance with law. The members of the Management Board are collectively responsible for managing the Bank's business. The Management Board manages Deutsche Bank Group and exercises control over all Deutsche Bank Group companies.

110. The Management Board is required to ensure compliance with the legal requirements and internal guidelines (compliance). It is also responsible for taking measures necessary to ensure that adequate internal guidelines are developed and implemented. The Management Board's responsibilities include, in particular, the bank's strategic management and direction, the allocation of resources, financial accounting and reporting, control and risk management, as well as a properly functioning business organization and corporate control. The Management Board decides on the appointments to the senior management level below the Management Board.

111. The Management Board works closely together with the Supervisory Board. The Management Board reports to the Supervisory Board on all issues with relevance to the Group concerning strategy, the intended business policy, planning, business development, risk situation, risk management, staff development, reputation and compliance.

112. The Supervisory Board appoints, supervises and advises the Management Board and is directly involved in decisions of fundamental importance to the bank. The Supervisory Board decides on the appointment and dismissal of members of the Management Board. The Supervisory Board determines the total compensation of the individual members of the Management Board and reviews it regularly.

113. The Supervisory Board is responsible for overseeing strategy, intended business policy, planning, business development, risk situation, risk

management, staff development, reputation and compliance. The Supervisory Board and Management Board adopted an Information Regime, which specifies not only the reporting to the Supervisory Board but also rules relating to the Supervisory Board's enquiries and requests for information from employees of the company, as well as the exchange of information in connection with preparations for meetings and between meetings.

114. The Chairman of the Supervisory Board plays a crucial leadership role in the functioning of the Supervisory Board. He can issue internal guidelines and principles concerning the Supervisory Board's internal organization and communications, the coordination of the work within the Supervisory Board and the Supervisory Board's interaction with the Management Board. Between meetings, the Chairman of the Supervisory Board, and, if expedient, the chairpersons of the Supervisory Board committees, maintain regular contact with the Management Board, especially with the Chairman of the Management Board, and deliberate with him regarding issues of Deutsche Bank Group's strategy, planning, the development of its business, risk situation, risk management, governance, compliance, technical-organizational resources and material litigation cases. The Chairman of the Supervisory Board and — within their respective functional responsibilities — the chairpersons of the Supervisory Board committees are informed without delay by the Chairman of the Management Board or by the respectively responsible Management Board member about important events of material significance for the assessment of the situation, development and management of Deutsche Bank. In 2018, a total of 54 meetings of the Supervisory Board and its committees took place. In prior years, the Supervisory Board and its Committees met a similar number of times.

115. In light of its past participation in grotesque violations of German and international law, Deutsche Bank, the corporate entity, has always

acknowledged that it has a special obligation to operate in accordance with the law. Deutsche Bank's website includes a statement of values. The document written in 2013, when Deutsche Bank created a new code of ethics to help it ***“conduct business with the utmost integrity ... states: ‘We enable our clients’ success by constantly seeking suitable solutions to their problems .... We will do what is right — not just what is allowed.”***

116. Deutsche Bank's own **“Corporate Culture and Corporate Values”** adopted and published by Deutsche Bank's Supervisors and Managers in 2013 states:

#### **Corporate Culture and Corporate Values**

***The impact of the economic crisis has made a long-term change of corporate culture in the financial sector absolutely imperative and cultural change is needed. We understand the message: Responsibility has to be the focus of our actions. In 2013, we laid the foundation for long-term change with the release of our new values and beliefs.***

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#### **Responsible governance**

***An effective control and monitoring system is a necessity in order to manage a company with global activities such as Deutsche Bank. We have established sophisticated processes and structures for this purpose.***

Compliance: Conformity with the law and adherence to regulations and standards

***In our view, responsible corporate governance does not only mean adherence to laws, regulations and standards. It requires a stringent compliance system. We have defined strict rules and guidelines for our staff across the entire spectrum of our areas of activity. Through our conformity with the law, we ensure that the company, its***

***shareholders, clients and employees are protected as comprehensively as possible.***

Furthermore, to support our control systems ***we have substantially expanded our “Red Flag” monitoring system. It reports all violations of compliance requirements in specific areas.***

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***Whether in the area of money laundering, corruption or financial crime- the compliance management system of Deutsche Bank is geared to strict conformity with the law.***

117. The Bank’s “Corporate Culture and Corporate Values” also represents:

**Protecting whistleblowers**

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***We maintain an open and supportive environment that encourages employees to raise questions and concerns,*** which can be discussed with supervisors or contacts in the bank, including the Compliance, Anti-Money Laundering, Anti-Bribery and Anti-Corruption, Legal or Human Resources teams. ***We operate an anti-retaliation policy regarding whistleblowers.***

We expect all of the employees of Deutsche Bank to adhere to our compliance standards — ***by conducting themselves honestly, responsibly and ethically.*** Our Code of Ethics describes the values and standards for ethical business conduct and serves as the guiding principle for all our interactions – regardless of whether they are with clients, competitors, business partners, government and regulatory authorities, shareholders or among one another. ***At the same time, it forms the foundation of our compliance principles, which provide our staff with precise guidelines for proper behavior. That is how we strive to ensure conformity with all applicable laws, regulations and standards.***

**Management of reputational risks**

***Our business model is built on public trust, so it is essential that in addition to standard risk***



***inherent to our business, we avoid the risks that can undermine trust.***

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Intensified oversight of ethics

***In 2013, our Supervisory Board intensified its oversight of ethics through the creation of an Integrity Committee.*** The committee advises and monitors the Management Board on its measures to ensure ... the principles of sound, responsible management and corporate governance.

In particular, the committee deals with:

-Monitoring the Management Board's measures to ensure the bank's compliance with legal requirements, authorities' regulations and the company's own in-house policies.

118. These statements and descriptions, which have been available on Deutsche Bank's website and otherwise continuously communicated by Deutsche Bank Supervisors and Managers to the Bank's owners/shareholders ***were lies — a violation of Defendants' duty of candor to the owners of the business they supervise and manage for the owners.***

119. The Supervisors and Managers violated their duties to Deutsche Bank and its shareholders, including their duties of candor and loyalty, and did not act with due care and prudence as "a diligent and conscientious manager," or on the basis of adequate information of and in the best interests of Deutsche Bank when, after the 2008-2010 financial crisis ended and the world's financial markets stabilized and the economy began to recover, they undertook a vast expansion of the Bank, including its corporate/investment banking operation in New York City and London and of the Bank's operations elsewhere. During that time, they:

- Failed to take required steps to assure Deutsche Bank had adequate, effective IT systems and internal financial/accounting and regulatory/legal compliance controls so as to provide assurance that Deutsche Bank's financial statements were accurate and that Deutsche Bank's employees and managers would operate the

business in compliance with the laws and regulations of the nations/states where Deutsche Bank operated-especially laws and regulations relating to financial institutions.

- Failed to obtain and then act on the basis of adequate information after due inquiry so as to discharge their duties and responsibilities of due care and prudence, including failing (even when they possessed the information) to properly oversee and enforce applicable regulatory and legal requirements, including Deutsche Bank's own internal codes of conduct and ethics which ***prohibited all the types of conduct complained of*** and which resulted in billions in fines, penalties and settlements — including two criminal convictions.
- Failed to properly, thoroughly and independently investigate apparent wrongdoing inside Deutsche Bank, including allegations of wrongdoing by powerful executives, Managers and Supervisors, allowed and dissected whistleblowers and others who expressed ethical/legal concerns inside the company to lawyers and compliance personnel to be intimidated and fired, to block any real inquiry into wrongdoing.
- Failed to supervise and/or control Deutsche Bank's top managers, executives and employees in the New York corporate investment bank operations to prevent them from taking reckless, improper and unlawful conduct, encouraged and incentivized them to take improper, overly risky and illegal actions, including money laundering, financial transfer sanction evasion, bribery price fixing and conduct in violating the U.S. Foreign Corrupt Practices Act or making misrepresentations to customers.
- Failed to assure the accuracy of Deutsche Bank's financial statements and permitted them to be falsely inflated from 2012 forward through 2016, by *inter alia* inflating the carrying value of Deutsche Bank's Bankers Trust acquisition by over \$6 billion, helping to conceal the true condition and performance and value of Deutsche Bank's corporate/investment bank operation and its assets.
- Failed to prevent and allowed the payment of billions of dollars of grossly inflated bonuses to executives — especially to executives in the corporate investment banking operation — based on profits generated by illegal activities and improper accounting that inflated profits/assets.
- Failed to take required steps — including proper risk, accounting and compliance controls – to protect against loss and damage, including reputational harm due to the excessively risky, dubious and illegal misconduct of its executives, management and top employees.

- Failed to properly and promptly assure cooperation with investigatory requests, demands and inquiries (as is the corporate norm) so as to protect the corporation and its assets, and permitted implicated insiders to influence the Bank's response to investigations to impede, thwart or block them, and hide evidence.
- Allowed Achleitner and his allies to dominate and control the Supervisory Board to aggrandize his own power, including to improperly block an investigation of himself and other Supervisors and then control and orchestrate a conflicted "whitewash" "investigation" into executive misconduct, and to arrange and approve an illusory "voluntarily" give-up of unjustified compensation to which the executives were not entitled, to try to exculpate them and disadvantage Deutsche Bank's ability to assert legal claims directly or derivatively.
- Failed to properly oversee and adequately control Deutsche Bank's vast expansion into worldwide investment banking, including failing to assure that Bankers Trust had been fully and properly integrated into Deutsche Bank with effective and internal financial/accounting and legal/compliance control systems and that the previous widespread culture of illegal conduct at those institutions did not persist, as Deutsche Bank expanded after the financial crisis.
- Failed to assure that the Bank's employees and inside and outside counsel properly and promptly cooperated with regulatory inquiries or internal investigations into possible misconduct by Deutsche Bank Managers and Supervisors, to assure that the interests of Deutsche Bank were protected and not jeopardized by persons implicated in the alleged wrongdoing to protect themselves at the expense of Deutsche Bank.
- Failed to make proper and necessary investments in Deutsche Bank's IT and internal control systems, and properly oversee and enforce know your customers rules and prohibitions especially in light of the Bank's expansion into Eastern Europe, including doing business in countries — and with customers — with reputations for very dubious conduct, including known criminals in countries known for their lack of regulation and oversight.

## **VI. DEUTSCHE BANK'S IT SYSTEMS AND FINANCIAL/ACCOUNTING AND LEGAL/REGULATORY COMPLIANCE CONTROLS DEBACLE**

### **A. The Post Financial Crisis Expansion of Deutsche Bank's Corporate/Investment Bank Without Adequate Controls**

120. Deutsche Bank established its New York-based corporate/investment banking operation in 1998 when Deutsche Bank acquired

Bankers Trust of New York City for about \$10 billion — an extremely large acquisition at that time. Bankers Trust had a very poor reputation and was known to do business with customers of dubious repute. Bankers Trust had recently suffered irreparable reputational damage when complex derivative transactions caused large losses for major clients under circumstances revealing a corrupt corporate culture. Two clients — Gibson Greetings and Procter & Gamble (P&G) — successfully sued Bankers Trust for millions of dollars asserting that they had been cheated by Bankers Trust. This erupted into a huge scandal when voicemails and other evidence came out showing that the Bankers Trust people were actively dishonest — ***“we set them up.”***

121. Just a few months after the Deutsche Bank acquisition was announced, Bankers Trust ***pleaded guilty to criminal charges*** that millions in unclaimed checks and other credits owed to customers had been diverted by its senior officers to the bank’s own books to enhance its financial results. In short, some of the bank’s senior executives stole this money and credited it as income for the bank. The Bank pleaded guilty to felony crimes and paid a \$63 million fine — including \$3.5 million to New York regulators. A top Bankers Trust official who spearheaded the fraud plead guilty. His subordinates were barred forever from working in the securities markets — unprecedented punishments at the time. With Bankers Trust’s criminal guilty plea, and status as a convicted felon, it became ineligible to transact business with most municipalities and the companies and investors which are prohibited from transacting business with felons. It was upon this fraudulent foundation that Deutsche Bank built its corporate/investment bank in New York City.

122. The Bankers Trust acquisition has gone down as one of the worst in history. According to American Banker, ***“[t]he strategy went sour all too soon. A series of legal probes and the prolonged failure to bring***

***internal controls in line with tightening regulatory standards drew the ire from regulators.*** After carrying billions of the Bankers Trust “goodwill” on its books for years, Deutsche Bank in 2015 wrote off the entire Bankers Trust “asset” down to zero, taking a \$6.6 billion loss. Crain’s New York Business, May 31, 2018, reported:

***Deutsche Bank’s Problems Trace Back to Long-Ago Bankers Trust Merger, ... the worst merger struck that year was Deutsche Bank’s \$10 billion acquisition of Bankers Trust.***

There’s no doubt Deutsche Bank ***bought itself plenty of trouble in buying BT, Wall Street’s bad-boy institution.***

For starters, BT executives routinely pocketed unclaimed customer cash in what prosecutors described as a vast slush fund. In 1999 the bank pleaded guilty to three felony charges and agreed to pay \$63 million as part of a settlement with state and federal authorities.

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BT’s specialty was making loans to businesses other banks shunned and was the only major New York lender to stick with Donald Trump in 1990s.... Deutsche Bank remains the lone big bank to do business with Trump today ...

***In 2015, Deutsche Bank wrote its BT assets down to zero as part of a \$6.6 billion balance-sheet purge. But the stink of this long-ago merger still lingers.***

123. Despite its rotten core and culture, in the bull market/economic expansion of 2002-2008 — Bankers Trust, *i.e.*, Deutsche Bank’s corporate/investment bank, ***appeared*** to prosper along with the rest of the industry. The rising tide lifted all boats. When the great 2008-2009 financial crisis followed, many boats were swamped. However, while Deutsche Bank suffered losses, it seemed to survive better than others — without any government assistance, unlike many other big banks and thus avoided the regulatory invasion

oversight imposed on many banks as a condition of government rescue or discipline imposed by external rescue financiers.

124. According to three whistleblowers, Deutsche Bank's top executives had falsified the investment bank's books at a critical point during the financial crisis to conceal a \$12 billion dollar loss, that if reported would likely have caused a regulatory intervention or take-over that could have "cleansed" the dishonest culture of the legacy corporate/investment bank and imposed effective legal and regulatory compliance controls. But that never happened. Instead, while allowing incenting businesses as usual in the corporate/investment bank to continue, the Supervisors and Managers lied to the Banks' owners/shareholders, assuring them they had imposed a modern, effective, corporate wide system of controls to ensure legal compliance to protect Deutsche Bank's finances and its reputation and its value to shareholders. In reality Deutsche Bank's Supervisors allowed and directed the corporate/investment operation to not only continue its pre-financial crisis methods of doing business, but to undertake a vast worldwide expansion of its operations. After the financial crisis, the Deutsche Bank Supervisors and Managers permitted and encouraged the out of control Bankers Trust operation with its excessive risk taking and culture of legal non-compliance to expand and continue its illegal, unethical and bad behavior.

125. As the *German Times* reported in: ***"The Once-Proud Deutsche Bank is in Dire Straits,"*** after the financial crisis:

***Other banks very quickly recognized that the crisis would permanently transform the financial world. They adapted their business models to the significantly more rigorous regulatory environment.***

Mark Schieritz, *The Once-Proud Deutsche Bank Is in Dire Straits*, THE GERMAN TIMES, Apr. 2019.

126. By the time the post-financial crisis expansion was undertaken, Deutsche Bank's Supervisors and Managers had had over 10 years to fix and integrate the old Bankers Trust non-Deutsche Bank corporate/investment bank operation into Deutsche Bank's over all IT systems and internal financial/accounting and legal/regulatory compliance controls. Yet, they never did so. The promises to the Bank's shareholders in 2013 that said they had done that were false. To undertake the huge expansion of the corporate/investment banking operation under these circumstances was grossly negligent.

127. As they vastly expanded Deutsche Bank corporate/investment banking operations, Deutsche Bank's Supervisors and Managers never maintained control of the investment/banking operations in New York and never established effective IT systems and systems of internal financial accounting and legal and regulatory compliance controls. The consequences were quick. In 2014, *The Wall Street Journal* reported this in a major expose:

An examination by the Federal Reserve Bank of New York last year ***found that Deutsche Bank's giant U.S. operations suffer from a variety of serious financial-reporting problems that the lender has been aware of for years but hasn't fixed, according to documents reviewed by The Wall Street Journal.***

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In a letter to Deutsche Bank executives last December, Daniel Muccia, a New York Fed senior vice president responsible for supervising Deutsche Bank's U.S. operations, criticized the lender's attempts to address the weakness in its regulatory reporting process. ***Mr. Muccia said in the letter that efforts to improve the quality of data had failed.***

Other regulators overseeing Deutsche Bank's more than 8,500 legal entities world-wide have also expressed concerns about the bank's control systems. German bank supervisor BaFin in June launched investigation into internal controls ...

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***“As the bank hasn’t been able to remove shortcomings over such a long period of time ... there need to be consequences for the CFO,”***  
said Dieter Hein, an analyst.

Eyk Henning and Madeleine Nissen, *Deutsche Bank Finance Chief Faces Heat After Financial-Reporting Exposure*, THE WALL STREET JOURNAL, July 23, 2014.

128. The apparent success of the New York/London corporate/investment bank concealed a continuing pattern of illegal behavior.

According to the November 29, 2018 Financial Times:

**Deutsche Bank — 20 years After the Deal that Sealed its Fate, Bankers Trust Acquisition in 1998 was When the German Lender Went All-In at the Casino**

***Yet [the apparent success] was mostly a mirage, paving the way for the turmoil that continues today — police raids, capital calls, management upheaval.***

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It feels like Deutsche and long-suffering shareholders have paid many more times for Bankers Trust — including in multi-billion-dollar penalties for a staggering array of flouted rules.

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Patience and prudence — all of those qualities that used to be associated with German financial behavior — were ignored.

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***... the US deal ... was used to gamble money away. ... its fascination with the dicier parts of investment banking has proved a colossal waste of time, effort and money.***

Tom Braithwaite, *Deutsche Bank — 20 Years After the Deal That Sealed Its Fate*, FINANCIAL TIMES, Nov. 29, 2018.

129. According to Deutsche Bank’s own chief economist, the attempt to create an international investment bank by building upon the fraud-infested failing Bankers Trust led to disaster. As Deutsche Bank attempted to erect an



international bank on the corrupt and decayed Bankers Trust foundation, it became engulfed in an unending string of investigations, fines, penalties and criminal conduct. *Deutsche Welle* reported:

**Punch-Drunk Banking-Imagine Deutsche Bank as a Boxer: Once a Heavy Hitting Champ, Germany's Largest Lender is Now on the Ropes, Bleeding. It's Been a Long Way Down for the Bank**

Back in 1989, Deutsche Bank was regarded as solid and reputable...the financial center of "Deutscheland AG" or "Germany Inc...."

*Back then, the bank's culture was "conservative" ... says David Folkerts-Landau, now its Chief Economist. It might have been old-fashioned but it was, at least for their standards, fairly profitable.*

In London and New York, however, banking had evolved to a whole new level. Here, investment bankers saw themselves as "Masters of the Universe." They traded bonds, hedged their bets, financed hostile takeovers, and raked in gigantic profits ...

***In 1998, Deutsche Bank acquired Bankers Trust, an American investment bank with 20,000 employees.... With the acquisition of Bankers Trust, Deutsche Bank had brought a new culture into the bank. "Zacharias Sautner, professor at the Frankfurt School of Finance and Management, tells DW." From then on, the shots were called in New York and London — by investment bankers who had no connection whatsoever with Frankfurt and Germany.***

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[Deutsche Bank's] chief economist, Folkerts-Landau, ... told the *Hondelsblatt* newspaper ... ***Deutsche's management made "fateful mistakes" and did not grasp what they were getting into, he said. "At the time, few members of the managing and supervisory boards of Deutsche Bank had fully understood the securities trading business."***

And so the reins were left to investment bankers, representatives of an ***“extremely competitive and individualistic business culture [...] in which everything was subject to quick profits,”*** according to Folkerts-Landau.

***... after 2012, Deutsche even expanded this division under Ackermann’s successors Jürgen Fitschen and Anshu Jain. “They wanted to pick up business that was left over by others.” Thomas Mayer, Deutsche’s chief economist until 2012, tells DW. “That was a fatal mistake.”***

Andreas Becker, *Punch-drunk banking*, DEUTSCHE WELLE, June 22, 2018.

130. When Deutsche Bank was finally forced to abandon its corporate investment banking adventure in 2019, Fortune chronicled how the Defendants’ aggressiveness led to disaster. As reported by Fortune (July 12, 2019):

**At Deutsche Bank, How Two Decades of Disarray Culminated in ‘Bloody Sunday’**

***Deutsche’s....descent into unprofitability and scandal for the bank, [started] in the early 1990s set out to make itself into a universal banking powerhouse to rival the behemoths of Wall Street. That pivot represented a major shift for the financial institution ... a domestically-focused commercial lender and retail bank.***

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***[This] saw Deutsche heighten its exposure to an altogether more aggressive brand of banking — departure from its previous reputation as a conservative, Eurocentric, middle-market commercial lender. The Bankers Trust deal, in particular came amid a wave of consolidation within the financial services sector, and involved absorbing an institution that was plagued by fraud investigations.***

...an equity analyst at Bankers Trust around the time of the Deutsche Bank acquisition, described Bankers’

culture as one where ***“traders would have sold their grandmothers three times for a profit.”***

***“It was a very aggressive transaction, and the culture of Deutsche Bank has been so different since...” Expansion brought with it “an increase in operational risk exposure,” as well as a deal-chasing culture in which “internal controls start to loosen” and bankers “cut corners in terms of their due diligence” ...***

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***Symptomatic of such issues has been an endemic series of scandals that have rocked the bank in recent years.***

Rey Mashayekhi, *At Deutsche Bank, How Two Decades of Disarray Culminated in ‘Bloody Sunday’*, FORTUNE, July 12, 2019.

**B. The Repeated Suppression, Squashing and Firing of Internal Whistleblowers**

131. Not only did Deutsche Bank’s Supervisors and Managers not create and implement modern efficient IT systems or an effective system of internal financial/accounting and regulatory/legal compliance controls within the Bank — they permitted in-house counsel and compliance personnel to repeatedly intimidate Deutsche Bank employees who complained about improper conduct and squash their concerns so as ***to protect senior executive wrongdoers at the expense of and to the damage of Deutsche Bank.*** This was completely contrary to Deutsche Bank’s own Code of Conduct and stated procedures and policies. This retaliation resulted in the whistleblowers going to the regulators to tell them what was really going on inside Deutsche Bank and, in time, the Bank being engulfed in costly, protracted, disruptive investigations — that continue to this date.

132. During 2010-2011, several Deutsche Bank employees whose attempts to report improper conduct by higher-ups were blocked and were then fired, became whistleblowers. They went to the U.S. SEC and exposed widespread

accounting irregularities, control failures and other improper/illegal conduct in Deutsche Bank's corporate/investment banking operations in New York, including hiding \$12 billion in losses to cover up the true endangered financial conditions of Deutsche Bank at a critical point during the great financial crisis.

133. One of the whistleblowers, Eric Ben-Artzi, a Deutsche Bank risk analyst, stated — ***“There was cultural criminality ... Deutsche Bank was structurally designed by management to allow corrupt individuals to commit fraud.”*** On November 8, 2017 the *Financial Times* reported:

**How Deutsche Bank's High Stakes Gamble Went Wrong**

“When I joined Deutsche,” he recalls, ***“I thought I was joining a winner, backed by a German notion of disciplined organization.”*** That impression didn't last. ***“Within months I was disillusioned,”*** he says. He ended up as a whistleblower, informing regulators about the way Deutsche valued and risk-assessed a vast portfolio of arcane derivative securities — \$130bn of so-called leveraged super-senior swaps.

***“But it was like a façade. The methodology that was actually implemented came out of thin air.”***

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***“I blew the whistle because I gradually came to realize that this bank was only semi-legal,”*** say Ben-Artzi ... ***This was [one of] the biggest banks in the world and I didn't want to be part of it.”***

What the *Financial Times* has discovered through dozens of interviews with current and former Deutsche Bank employees, investors and rivals, ***is that Ben-Artzi's revelations reflect a broader truth about deep-rooted problems within the bank's systems and corporate culture: issues that can be traced back to the aggressive beginnings of Deutsche's investment banking expansion ...***

Patrick Jenkins and Laura Noonan, *How Deutsche Bank's high-stakes gamble went wrong*, FINANCIAL TIMES, Nov. 8, 2017.

134. Another more recent internal whistleblower, Matthew Simpson, was a ten-year Deutsche Bank employee who made the same complaint Ben-Artzi did about over-valuing the \$12 billion of “leveraged super senior trade,” as well as a **“much larger list of concerns about securities and accounting procedures.”** A third person (who has not revealed his identity) confirmed Simpson’s **“even broader allegations against Deutsche.”** According to the December 5, 2012 Financial Times:

**Deutsche hid up to \$12bn losses, say Staff**

The complaints were made at different times in 2010 and 2011 independently of each other. All of the men spent hours with SEC enforcement attorneys and provided internal bank documents during multiple meetings, people familiar with the matter say.

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**Two of the former Deutsche employees have alleged they were pushed out of the bank as a result of reporting their concerns internally.**

**One of them, Eric Ben-Artzi, a risk manager at Deutsche, was fired three days after submitting his complaint to the SEC.**

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Matthew Simpson, a senior trader at Deutsche, also left the company after submitting his own complaint to the SEC. Deutsche Bank paid Mr. Simpson \$900,000 to settle his anti-retaliation lawsuit.

135. The whistleblowers’ concerns were well-founded and led to investigations both in the United States and in Germany. The U.S. SEC launched a major investigation. On April 3, 2013, the *Financial Times* reported:

The Bundesbank has launched an investigation into claims that Deutsche Bank hid billions of dollars of losses on credit derivatives during the financial crisis ... allegations that misvaluing credit derivatives allowed

Deutsche to hide up to \$12bn in losses, helping it avoid a government bailout.

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The Bundesbank inquiry opens a new front in the investigation. The Securities and Exchange Commission is among the regulators investigating the claims, reported in the Financial Times in December.

Tom Braithwaite, Kara Scannell & Chris Bryant, *Bundesbank Launches Deutsche Probe*, FINANCIAL TIMES, Apr. 3, 2013.

136. In 2015, after an extensive investigation, the SEC fined Deutsche Bank \$55 million for these accounting falsifications by its executives.

The Securities and Exchange Commission said on Tuesday that Deutsche Bank ***made material misstatements about a giant derivatives portfolio, inflating its value at the height of the financial crisis.***

The bank failed to account for a ***“material risk for potential losses estimated to be in the billions of dollars,”*** the SEC said.

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“At the height of the financial crisis, Deutsche Bank’s financial statement did not reflect the significant risk in these large, complex illiquid positions,” said Andrew Ceresney, director of the SEC’s enforcement division. “Deutsche Bank failed to make reasonable judgments when valuing its positions and ***lacked robust internal controls over financial reporting.***”

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***...“the lack of controls surrounding the decision created confusion in reconstructing what decision had been made ... and what rationale was for the decisions” the SEC concluded.***

***During the crisis, when income statements were closely scrutinized by investors for signs of frailty, Deutsche’s income was inflated relative to other banks such as Goldman. “That gave them a very large advantage,” ...“If they had to close the positions out, it would have been monstrous,”*** said one of the ex-employees.

Tom Braithwaite & Kara Scannell, *Deutsche Bank Fined for Misstating Value of Derivatives*, FINANCIAL TIMES, May 26, 2015.

137. On August 18, 2016, Ben-Artzi wrote an Op-ed in the Financial Times explaining that he would not accept a multi-million dollar whistleblower reward he was entitled to because the SEC, working with Deutsche Bank lawyers who had close relationships with the SEC lawyers had agreed to have Deutsche Bank ***pay the large fine for the misconduct of employees — not the employees themselves.***

I just got word the Securities and Exchange Commission that I am to receive half of a \$16.5m whistleblower award. ***But I refuse to take my share.***

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***But Deutsche did not commit this wrongdoing. Deutsche was the victim. To be precise, the bank's shareholders and its rank-and-file employees who are now losing their jobs in droves are the primary victims.***

***Meanwhile, top executives retired with multimillion-dollar bonuses based on the misrepresentation of the bank's balance sheet. It is therefore especially disappointing that in 2015, after a lengthy investigation helped by multiple whistleblowers, the SEC imposed a fine on Deutsche's shareholders instead of the managers responsible.***

***We must protect shareholders from executive wrongdoing, Eric Ben-Artzi, August 18, 2016, Financial Times.***

138. Later, in a 2016 interview, Ben-Artzi presented the details of how his legitimate complaints were squashed — at a high level — and then he was fired:

Within the bank, initially, ***I met with the head of compliance, and regulatory affairs ...***

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... I asked the head of compliance, “What happens next? ... He pretended not to hear me and said, “***I don’t know what this is going to do with your career.***”

I did raise this issue with my superiors. ***I escalated up the chain of command.*** When I didn’t get any answers that were remotely clear or satisfying, I told them that I’m raising my concerns with the SEC.

[Then] I had a series of meetings with the directors and managing directors from the finance department ... ***Those meetings were far from satisfactory, in terms of explanations, but I did get yelled at quite a bit. I was told that this issue came from the top of the bank. I was accused of trying to bring down the bank.***

***Certainly, at no point did I feel that the bank was trying to correct anything. It was more they were trying to either intimidate me or to see what I knew...Eventually I was just fired.***

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What happened at Deutsche Bank in those years when I was there, 2010, 2011, ***was that the legal department there made sure that anybody who raised issues was removed and that the malfeasance went on. We know that some of these things, including these particular accounting violations, went on for years afterwards.***

**Deutsche Bank Whistleblower Eric Ben-Artzi Explains What it Takes to Blow the Whistle on Fraud, December 20, 2016, Pro Market University Chicago School of Business**

139. This sort of intimidation of — and firing of — Deutsche Bank employees who raised legitimate concerns, not only violated the law and Deutsche Bank’s own procedures and policies ***it was a recurring pattern inside the Bank persisting until current times.*** On May 19, 2019, *The New York Times* reported:



## **Deutsche Bank Staff Saw Suspicious Activity in Trump and Kushner Accounts**

Anti-money-laundering specialists at Deutsche Bank recommended in 2016 and 2017 that multiple transactions involving legal entities controlled by Donald J. Trump and his son-in-law, Jared Kushner, be reported to a federal financial-crimes watchdog.

The transactions..., set off alerts in a computer system designed to detect illicit activity, according to five current and former bank employees. Compliance staff members who then reviewed the transactions prepared so-called suspicious activity reports *that they believed should be sent to a unit of the Treasury Department that polices financial crimes.*

But executives at Deutsche Bank, which has lent billions of dollars to the Trump and Kushner companies, rejected their employees' advice. The reports were never filed with the government.

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*... former Deutsche Bank employees said the decision not to report the Trump and Kushner transactions reflected the bank's generally lax approach to money laundering laws. The employees — most of whom spoke on the condition of anonymity to preserve their ability to work in the industry — said it was part of a pattern of the bank's executives rejecting valid reports to protect relationships with lucrative clients.*

*"You present them with everything, and you give them a recommendation, and nothing happens," said Tammy McFadden a former Deutsche Bank anti-money laundering specialist who reviewed some of the transactions. "It's the D.B. way. They are prone to discount everything."*

*Ms. McFadden said she was terminated last year after she raised concerns about the bank's practices.* Since then, she has filed complaints with the Securities and Exchange

Commission and other regulators about the bank's anti-money laundering enforcement.

David Enrich, *Deutsche Bank Staff Saw Suspicious Activity in Trump and Kushner Accounts*, THE NEW YORK TIMES, May 19, 2019.

140. These refusals to comply with anti-money laundering regulations have led to yet another criminal investigation. On June 19, 2019, the *Financial Times* reported:

***Deutsche Bank is under criminal investigation in the US in connection with alleged failures to comply with anti-money laundering laws, a person familiar with the situation has confirmed.***

The investigation, first reported by the *New York Times*, ***is linked to a whistleblower***, Tammy McFadden, a former compliance officer in the bank's Jacksonville, Florida, office. She alleged that in 2016 and 2017 she flagged as potentially suspicious a series of transactions involving entities controlled by President Donald Trump and by his son-in-law Jared Kushner, but her concerns were ignored by the bank, the Times has reported. ***She was subsequently sacked, and has lodged a complaint with the Securities and Exchange Commission.***

***... the investigations were triggered after..., the Treasury secretary, referred the whistleblower's complaints to Financial Crimes Enforcement Network, which then referred the case to the Department of Justice.***

Robert Armstrong & Kiran Stacey, *Deutsche Faces US Money-Laundering Probe*, FINANCIAL TIMES, June 23, 2019.

141. Trump entities had been customers of Bankers Trust when Deutsche Bank acquired Bankers Trust. Many other banks would no longer do business with the Trump entities due to their loan defaults, and suits against lenders. Trump enterprises caused Deutsche Bank large losses on defaulted loans and sued the bank. Nonetheless, over time the Trump entities became very large customers of

Deutsche Bank Trust Company of America (“DBTCA”) headquartered in New York City, with several loans approved in the hundreds of millions of dollars while the Bank provides a range of international banking services to them, including financial and wealth management. Deutsche Bank also does a huge amount of business in Russia. It suffered a \$630 million penalty for its illegal conduct in helping Russian criminals launder over \$10 billion out of Russia.

142. Deutsche Bank also does business with many Russian nationals and state-controlled companies including VTB Bank and Gazprombank. There has long been speculation as to why Deutsche Bank was willing to continue as major lender to the Trump enterprises/family when other banks will not do business with them.

Last month, a whistleblower named Val Broeksmit revealed to Forensic News he told the FBI that VTB underwrote the Trump loans, essentially guaranteeing a valve of money to Trump which DBTCA provided. Documents suggesting that Russian banks may have pumped \$3 billion in DBTCA, which in turn handed \$1 billion back to Russian bank VTB, support Broeksmit's assertion that DBTCA was using Russian cash to finance some of its American operations.

DBTCA loaned Donald Trump a significant portion of the \$2.5 billion total lent to him by Deutsche Bank... In 2012, DBTCA approved a \$125 million loan to purchase the Trump Doral Resort in Florida. Also, in 2012, Trump took out an additional loan on his Chicago property, and in 2015, yet another DBTCA loan, this one worth \$170 million, allowed Trump to purchase a 60-year lease to the Old Post Office Building in Washington, DC.

The subsidiary also had a relationship with Jeffery Epstein, the pedophile and sex trafficker who died under suspicious circumstances after his arrest in July, 2019.

Scott Stedman, Bobby DeNault, Adrienne Cobb and Jess Coleman, *Russian Government Bank Deposited \$500 Million into Deutsche Bank Subsidiary as it Lent to Trump*, FORENSIC NEWS, Jan. 21, 2020.

143. A key — indispensable — part of a bank's regulatory and legal compliance controls is to identify and not do business with disreputable people, criminals, people with checkered financial pasts or who pose a significant risk to the Bank's reputation. Thus, the "know your customer" requirements to help prevent illegal money laundering or terrorist transfers were required prudent practices that Deutsche Bank Managers and Supervisors violated or permitted to be violated for years. Constant violations of the "know your customer" rule is one of the reasons why Deutsche Bank has been involved in investigations of money laundering and sanctions evasion transfers, investigations that are ongoing today in the United States and Europe. One particularly horrible example of the failure of Deutsche Bank lack of controls in this regard is the Bank's extensive involvement with the notorious Jeffrey Epstein, a customer of Deutsche Bank's private wealth division. In July 2019, it was reported:

**Deutsche Bank helped Jeffrey Epstein manage his fortune**

Deutsche Bank helped disgraced financier Jeffrey Epstein manage his fortune for six years after taking over his key private banking relationships from JPMorgan Chase, a person familiar with the situation said.

Details of the embattled German lender's relationship with Mr. Epstein emerged a week after the 66-year-old was denied bail and ordered to remain in custody in New York pending his trial on federal charges that he allegedly trafficked underage girls for sex.

Laura Noonan, *Deutsche Bank Helped Jeffrey Epstein Manage His Fortune*, FINANCIAL TIMES, July 23, 2019.

144. As July-August 2019 unfolded, Deutsche Bank's extensive long-term involvement with Epstein was widely published to the great embarrassment of the Bank, and even further damage was done to its reputation. In July 2019, *The New York Times* reported:

Deutsche Bank executives are still trying to understand the depth and scope of the bank's relationship with Mr. Epstein, who ***has been a client of its private-banking division since at least 2013 — years after his conduct became public in a prostitution case ...***

***... it wasn't until late last year, after The Miami Herald published an investigation into the earlier sexual abuse allegations, that Deutsche Bank decided to sever ties with him.*** The process proved more complicated and time-consuming than executives had initially anticipated because Deutsche Bank's private-banking ***division had opened several dozen accounts for Mr. Epstein and his businesses.***

On a number of occasions, Deutsche Bank executives had thought they had shut down all of Mr. Epstein's accounts only to learn that there were others that they had not previously been aware of, according to one of the people.

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***That relationship has been cause for concern within the bank even before the heightened scrutiny brought by The Herald's reporting.***

***In 2015 and 2016, anti-money laundering compliance officers in Deutsche Bank's offices in New York and Jacksonville, Fla., raised a variety of concerns about the work the bank was doing with Mr. Epstein. The employees were concerned that the bank's reputation could be harmed if it became public that Mr. Epstein was a client... In addition, the compliance officers on at least one occasion noticed potentially illegal activity in one of Mr. Epstein's accounts, including transactions in which money was moving outside the United States .... Despite the***

***compliance officers' misgivings, the bank continued to do extensive business with Mr. Epstein.***

David Enrich & Jo Becker, *Jeffrey Epstein Moved Money Overseas in Transactions His Bank Flagged to U.S.*, THE NEW YORK TIMES, July 23, 2019.

145. After Epstein killed himself (or was murdered) scrutiny of the Deutsche Bank/Epstein relationships intensified. *The New York Times* reported how Deutsche Bank was assisting Epstein to do whatever he was doing.

The money, tens of millions of dollars of it, would flow among Jeffrey Epstein's dozens of bank accounts, shell companies and, at times, charities linked to high-powered friends.

Where was the money going? What was it for? Who was actually sending and receiving?

A convicted pedophile and accused sex trafficker who surrounded himself with an elite network of business and political leaders, Mr. Epstein enjoyed the trappings of great wealth: private jets, mansions, his own island. But much remains unknown about the sources of his wealth.

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Interviews with people briefed on various investigations into Mr. Epstein's wealth, and legal and financial documents in multiple countries, show that tens of millions of dollars coursed through his offshore companies and foundations in sometimes unusual ways.

***Deutsche Bank, where Mr. Epstein was a client from 2013 until June 2019, has been handing over transaction-by-transaction data to federal prosecutors and other authorities ... appeared that Mr. Epstein was using his accounts for sex trafficking and possible other illegal activity. The banker who initiated the relationship with Mr. Epstein left Deutsche Bank last year, around the time that the company decided to begin shutting down Mr. Epstein's accounts, according to one of the people.***

Emily Steel, Matthew Goldstein, Steve Eder & David Enrich, *Jeffrey Epstein's Opaque Finances Could Become Focal Point for Investigators*, THE NEW YORK TIMES, Aug. 11, 2019.

**C. The Repeated Failures to Fix, Update and Modernize Deutsche Bank's Internal Financial/Accounting and Legal/Regulatory Controls**

146. The 2013 assurances by the Deutsche Bank Supervisors and Managers that they had instituted up-to-date modern, effective systems and controls to manage the Bank's worldwide operations and protect the Bank's assets and reputation by stringent legal and regulatory controls were false. Two years after making those promises, in October 2015, the *Financial Times* reported that Deutsche Bank's IT systems were ***so outdated and inadequate that they had to be ripped out and replaced entirely – an unprecedented event for a large international bank***. The *Financial Times* reported on October 26, 2015:

**Deutsche Bank to Rip Out IT Systems Blamed for Problems,  
Cryan decries “Horlicks” of Hundreds of Different Platforms**

***Will ... rip out and replace much of Deutsche Bank's messy and outdated technology as one of his top priorities ...***

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***... he is determined to overhaul the creaking computer systems that he blames for many of its problems...***

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***... he has expressed alarm about the “Horlicks,” or total mess, the bank has made of its technology ...***

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Kim Hammonds, who Deutsche hired from Boeing two years ago as its chief information officer, ***has told colleagues that its IT systems operate by trial and error – an approach akin to her former employee sending aircraft into the sky, watching them crash, and then trying to learn from the mistakes.***

Martin Arnold, *Deutsche Bank to Rip Out IT Systems Blamed for Problems*, FINANCIAL TIMES, Oct. 26, 2015.

147. Another report quoted a memo by Deutsche Bank's CEO which admitted: "Our cost base is swollen **by poor and ineffective processes, antiquated and inadequate technology ... too frequently, unsuccessful investments in our infrastructure.**"

148. In 2019, Defendant Kimberly L. Hammonds — Chief Operating Officer at Deutsche Bank called Deutsche Bank "**the most dysfunctional company she had ever worked for,**" while the official in charge of the Bank's IT systems said they operate by "trial and error" like sending airplanes into the sky, watching them crash and trying to learn from the mistake.

149. The current Deutsche Bank Supervisors and Managers have admitted that **even after all these problems, failures and promises to fix Deutsche Bank's controls**, Deutsche Bank's internal financial/accounting and legal, regulatory compliance controls are still not adequate. CEO Sewing revealed in July 2019 that Deutsche Bank **still has to invest \$13 billion more in its IT and controls infrastructure.** The following statements come from Deutsche Bank's own annual reports to shareholders:

- a. A robust and effective internal control environment and adequate infrastructure (comprising people, policies and procedures, controls testing and IT systems) **are necessary to ensure that we conduct our business in compliance with the laws, regulations, and associated supervisory expectations applicable to us. We have identified the need to strengthen our internal control environment and infrastructure and have embarked on initiatives to accomplish this if these initiatives are not successful or are delayed, our reputation, regulatory position and financial condition may be**



***materially adversely affected, and our ability to achieve our strategic ambitions may be impaired.***

- b. Our businesses are highly dependent on our ability to maintain a robust and effective internal control environment....Such a robust and effective control environment is in turn dependent on the sufficiency of our infrastructure to support that environment. This infrastructure consists broadly of internal policies and procedures, testing protocols, and the IT systems and employees needed to enforce and enable them....They are also critical for regulatory reporting and other data processing and compliance activities.

- c. Both our internal control environment and the infrastructure that underlies it fall short in a number of areas of our standards for competence and comprehensiveness and are not well integrated across the Bank. Our IT infrastructure, in particular is fragmented with numerous district platforms, many of which need significant upgrades, in operation across the Bank.***

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As a result, it is often difficult ... to obtain or provide information ... on a timely basis to comply with regulatory reporting and other compliance requirements or to meet regulatory expectations ... and, in certain cases, to manage our risk comprehensively. ***Furthermore, it often takes intensive efforts to identify, when possible, inappropriate behavior by our staff and attempts by third parties to misuse our services as a conduit for prohibited activities, including those relating to anti-financial crime laws and regulation. Our risk management policies, procedures and methods leave us exposed to unidentified or unanticipated risks, which could lead to material losses.***

150. Deutsche Bank's Report on Form 20-F filed with the U.S. SEC was signed and/or authorized by Deutsche Bank's Supervisors and Managers as of December 31, 2018. It spells out the Bank's current precarious situation.

***We currently expect [litigation, enforcement and similar] costs to be higher than in the most recent years...In particular, these costs could substantially exceed the level of provisions that we established for our litigation, enforcement and similar matters, which can contribute to negative market perceptions about our financial health, costing us business.***

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Guilty pleas by or convictions of us or our affiliates in criminal proceedings may have consequences that have adverse effects on certain of our businesses. ***We and our affiliates have been and are subjects of criminal proceedings or investigations.***

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***We and our subsidiaries are also subjects of other criminal proceedings or investigations.***

Guilty pleas or convictions against us or our affiliates could lead to our ineligibility to use an important trading exemption under ERISA. In particular, such guilty pleas or convictions could cause our asset management affiliates to no longer qualify as "qualified professional asset managers" ("QPAMs") ...

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***The BaFin has ordered us to improve our control and compliance infrastructure relating to anti-money laundering and know your-client processes in CIB, and appointed a special representative to monitor these measures' implementation ... [and] extended the special representative's mandate to cover our internal controls in the correspondent banking business.***

**D. Failure to Assure Cooperation with Government Investigations to Protect Deutsche Bank's Separate Interests**

151. Proper corporate governance — the exercise of due care and prudence and loyalty to the corporation — requires that when investigators or regulators undertake an inquiry into possible corporate wrongdoing, that

procedures exist or steps are taken to assure cooperation to protect the corporate entity. This requires that employees/executives and Managers/Supervisors who may be implicated in the wrongdoing being investigated be isolated from the investigations, and to assure cooperation to protect the corporation's interests. The interests of the corporation — not potential wrongdoing of employees — must be protected. This requires that potential targets of the investigation not be permitted to control or influence the corporation's response or try to hinder the inquiry to protect themselves. The corporate entity should cooperate to assure its interests are paramount.

152. This did not happen at Deutsche Bank. The Supervisors permitted top Managers and implicated Supervisors to respond to, block, hinder, and refuse to cooperate with investigation inquiries. According to various media reports:

[R]egulators blasted the bank for misplacing or destroying evidence and not cooperating sufficiently with investigators.

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One insider says Deutsche's **typical approach to regulatory investigations was to invoke rights such as bank secrecy and data protection to avoid handing over documents.** Often the protections didn't hold up and Deutsche had to disclose the information anyways, **but was viewed as obstructive by investigators.**

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**... Deutsche is getting its comeuppance for having avoided and arrogantly treated the regulators. British and American regulators seem particularly eager to go after the haughty bank from Frankfurt and partly justified the high penalties they levied on the bank by referring to the bank's insufficient cooperation.**

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The FCA had recently increased a penalty against Deutsche Bank for lack of cooperation in the investigation by 100.8 million to a total of 226.8 million. **The US authorities which are**

*demanding a further penalty from Deutsche Bank, have increased it due to a lack of cooperation.*

**VII. DEUTSCHE BANK'S INEXORABLE FALL FROM GRACE DUE TO THE IMPROPER AND ILLEGAL CONDUCT OF ITS MANAGERS AND SUPERVISORS WHICH DAMAGED DEUTSCHE BANK**

**A. 2011–2013**

153. At year-end 2010, it was reported that Deutsche Bank would pay over \$554 million for participating in a massive illegal tax fraud scheme here in the United States, under the auspices of and due to the activities of executives and managers in its New York-based corporate/investment operations. Forbes reported:

**Deutsche Bank Will Pay \$554 Million for Illegal Tax Shelter Activity**

Deutsche Bank ... helped rich Americans report \$29.3 billion in bogus tax benefits, mostly losses, on their tax returns and *evade \$5.9 billion in U.S. individual income taxes, according to a non-prosecution agreement filed in Manhattan's federal court on Tuesday.*

*Deutsche Bank admitted that it committed criminal wrongdoing in helping to construct fraudulent tax shelters known as Flip, Blips, Cards and Cobra, as well as others, and will pay \$554 million in penalties. Deutsche Bank struck a non-prosecution agreement with federal prosecutors in Manhattan to resolve a federal tax shelter fraud investigation.*

Nathan Vardi, *Deutsche Bank Will Pay \$554 Million for Illegal Tax Shelter Activity*, FORBES, Dec. 21, 2010.

154. In the plea agreement entered into with the U.S. Attorney in the New York Federal Court, Deutsche Bank was forced to agree:

***DB unlawfully, willfully and knowingly participated in financial transactions executed in connection with a number of tax shelter transactions...***, assisting tax shelter promoters to structure financial transactions that would be used to generate substantial tax benefits (generally losses), by preparing financial transaction documents that would be used by others to ***mislead the IRS*** regarding the true nature of the transactions, and by executing the transactions for the taxpayer clients of the promoters. ***DB acknowledges that that it was wrong and unlawful to have engaged in these transactions and it regrets having done so.***

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***DB's supervisory and internal controls with respect to these transactions were inadequate.***

155. In August 2011, Korean prosecutors charged Deutsche Bank employees and its corporate/investment bank with manipulating stock prices and making “unfair” profits, causing a one-day stock rout that wiped billions from that nation’s equity market. Deutsche Bank and an employee were later criminally convicted. The Judge condemned defendants’ ***“grave crime against the market [and] investor confidence.”*** The employee got a five-year sentence and Deutsche Bank suffered a six-month suspension of its business (the heaviest penalty Korean officials ever imposed), and was required to pay 1 billion won in fines. According to press reports ***“Deutsche’s Korean business and reputation suffered a major blow from the scandal.”***

156. In September 2011, the FHA sued Deutsche Bank for fraud in selling over \$14 billion in Mortgage Backed Securities (MBS) to government sponsored enterprises. Later during 2011, Deutsche Bank agreed to pay U.S. regulators \$145 million over the collapse of five U.S. credit unions where Bank employees misled them over MBSs.

157. During 2010-2011, at least three internal whistleblowers came forward with allegations of improper conduct by Bank executives in the corporate

investment banking operations in hiding up to \$12 billion in derivative trading losses by failing to mark down their value to market, as required by accounting rules and Deutsche Bank's own internal policies. After an extensive SEC investigation, Deutsche Bank paid \$55 million to the SEC as a result of these improper actions by its employees who had falsified its financial statements at a critical time during the financial crisis.

**B. 2014–2016**

158. Because of the lack of necessary and needed controls in and over the New York corporate/investment banking operations, during 2014, the adverse consequences of the Bank's Managers and Supervisors allowing reckless and illegal conduct in the Bank's business operations continued to create adverse publicity for the Bank, hurting its business and harming its reputation. Alone among all international banks, Deutsche Bank failed the U.S. Federal Reserve's "stress test" and other examinations during 2014-2015-2016-2017 and 2018. ***During 2014 Deutsche Bank was severely criticized by the U.S. Federal Reserve for serious internal financing/accounting and regulatory compliance control failures.*** In the U.K., the Financial Conduct Authority said the Bank's U.K. corporate/investment banking operation had ***"serious antimoney laundering, financing and sanctions failings that were 'systemic in nature.'"***

159. On July 23, 2014, *The Wall Street Journal* reported:

**Deutsche Bank Finance Chief Faces Heat After Financial-Reporting**

***An examination by the Federal Reserve Bank of New York last year found that Deutsche Bank's giant US operations suffer from a variety of serious financial-reporting problems that the lender has been aware of for years but hasn't fixed, according to documents reviewed ...***

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***In a letter to Deutsche Bank executives last December, Daniel Muccia, a New York Fed senior vice president responsible for supervising Deutsche Bank's U.S. operations, criticized the lender's attempts to address the weakness in its regulatory reporting process. Mr. Muccia said in the letter that efforts to improve the quality of data had failed.***

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The publication of the New York Fed letter is ***"horribly embarrassing"*** for Deutsche Bank, said Dan Davies, an analyst at Exane BNP Paribas in London.

Eyk Henning and Madeleine Nissen, *Deutsche Bank Finance Chief Faces Heat After Financial-Reporting Exposure*, THE WALL STREET JOURNAL, July 23, 2014.

160. In early 2014, the US FHA fined ***Deutsche Bank almost \$2 billion dollars because of falsehoods and deceitful practices engaged in by Deutsche Bank executives in selling mortgage-backed securities to Fannie Mac and Freddie Mac. This was the largest penalty of this kind imposed on a European bank by U.S. regulators. It was another huge embarrassment for Deutsche Bank.***

161. In June 2015, it was revealed that top Deutsche Bank executives and managers were under investigation for their role in the worldwide LIBOR price fix — the largest criminal price fix in history. According to the *Financial Times*, the German financial watch dog BaFin had done an extensive report in May 2015 which reached the ***"explosive conclusion"*** that Deutsche's senior management had acted ***"negligently"*** over the fixing of Libor rates, and recommended ***"special supervisory measures"*** be imposed over Deutsche Bank. When Deutsche Bank spokespersons minimized these damaging findings, the regulators struck back:

"I have been astonished to learn [...] that the suggestion is that the audit by BaFin supposedly resulted in

clearing the senior management of DEUTSCHE BANK, ... and that supposedly no banking supervisory measures are expected,” wrote Frauke Menke, head of banking supervision at the German watchdog, in the report, which was not made public. ***“I expressly want to point out that this is not correct.”***

Edward Taylor and Frank Siebelt, *German regulator says Deutsche Bank CEO misled Bundesbank*, REUTERS, June 26, 2015.

162. The Financial Times reported:

***“The assessment ... paints a damning picture of the bank’s failings and raises serious questions about its management and governance.... Several members of Deutsche’s executive committee ... are named in a critical light in the BaFin report.”***

Martin Arnold, Patrick Jenkins & James Shotter, *Deutsche Bank: John Cryan’s Clean-up Job*, FINANCIAL TIMES, June 30, 2015.

163. When Deutsche Bank employees turned out to be at the center of the worldwide LIBOR interest rate price-fixing scandal, Deutsche Bank was once again forced to ***plead guilty to criminal charges***. The criminal investigations revealed that ***over 29 Deutsche Bank employees were involved in this widespread multi-year conspiracy. The US Government forced the firing of several of those employees.*** As a result of Deutsche Bank’s Executives and Managers’ central involvement in this widespread ***criminal conspiracy*** and the way its Supervisors and Managers tried to obstruct and block the inquiry to protect their own personal interests (as opposed to the interests of the Bank), the Bank was ***fined \$2.5 billion dollars with \$2.2 billion of that fine flowing to the US authorities and about \$300 million dollars to the authorities in the United Kingdom.*** One of the lead enforcement personnel later stated that ***“the size of the [LIBOR] fine — (which was a world record breaker) ... was because this case stands out for the seriousness***



*and duration of the breaches by Deutsche Bank — something reflected in the size of today's fine.” According to Spiegel International:*

*... Deutsche is getting its comeuppance for having avoided and arrogantly treated the regulators. British and American regulators seem particularly eager to go after the haughty bank from Frankfurt and partly justified the high penalties they levied on the bank by referring to the bank's insufficient cooperation.*

Von Ullrich Fichtner, Hauke Goos & Martin Hesse, *The Deutsche Bank Downfall: How a Pillar of German Banking Lost Its Way*, SPIEGEL INTERNATIONAL, Oct. 28, 2016.

164. As the LIBOR scandal erupted in June 2015, Jain and Fitschen — who had run the corporate/investment bank operations before they became Deutsche Bank's Co-CEO's in 2012 — were forced to resign. They were replaced by Cryan as sole CEO. On June 7, 2018, *The Wall Street Journal* reported:

**Deutsche Bank Co-CEOs Jain and Fitschen Resign**

The embattled co-chief executives of Deutsche Bank AG announced their resignations on Sunday, *an abrupt move that throws into question the future direction of one of the world's largest banks.*

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The joint resignations follow a series of financial missteps and regulatory penalties at the giant Frankfurt-headquartered bank.

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*Many of the problems emanated from the investment-banking unit Mr. Jain previously ran.*

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*In April, the bank was forced to pay about \$2.5 billion and to plead guilty to resolve accusations that its traders tried to rig benchmark interest rates, including the London interbank offered rate, or Libor;*

***regulators blasted the bank for misplacing or destroying evidence and not cooperating sufficiently with investigators.***

In late May, the U.S. Securities and Exchange Commission fined Deutsche Bank \$55 million for essentially hiding losses during the financial crisis.

Eyk Henning, David Enrich, Jenny Strasburg, *Deutsche Bank Co-CEOs Jain and Fitschen Resign*, THE WALL STREET JOURNAL, June 7, 2015.

165. In July 2015, the new Deutsche Bank CEO Cryan admitted in a letter to employees that Deutsche Bank faced serious difficulties acknowledging that its ***“reputation”*** had been ***“damaged by instances of serious misconduct”*** due to ***ineffective processes, antiquated and inadequate technology ... and unsuccessful investments in our infrastructure.”***

166. In October 2015, Deutsche Bank announced that it had to eliminate its common stock dividend, was laying off 9,000 workers and was going to report an ***astonishing \$6.2 billion loss***. The loss was due to the long overdue write-off of \$6 billion of goodwill from the Bankers Trust acquisition, and \$1.2 billion in litigation costs due to the ever-expanding regulatory investigations of Deutsche Bank.

167. Notwithstanding Deutsche Bank’s Supervisors and Managers’ prior assurances that they had put in place sophisticated and effective financial accounting and legal/compliance controls, in October 2015 Cryan admitted that its controls were “messy” and “outdated.” The Financial Times reported that ***“Deutsche Bank to Rip Out IT Systems Blamed for Problems-Cryan decries ‘Horlicks’ of Hundreds of Different Platforms.”*** According to the Financial Times, Deutsche Bank:

***“will rip out and replace much of [its] messy and outdated technology...”*** [and] overhaul the creaking computer systems ... ***blamed for many of its problems*** ... [the CEO] ***he has expressed***

***alarm about the “Horlicks” or total mess the bank has made of its technologies...***

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It has even been unable to retrieve some of the data requested by regulators — ***which contributed to its failure in this year’s US bank stress testes.***

The German bank’s IT systems were called into question again last week when the Financial Times revealed that its London foreign exchange desk paid \$6bn to a US hedge fund by mistake and only recovered it the next day.

***Kim Hammonds, who Deutsche hired from Boeing two years ago as its chief information officer, has told colleagues that its IT systems operate by trial and error-an approach akin to her former employer sending aircraft into the sky, watching them crash, and then trying to learn from the mistakes.***

Martin Arnold, *Deutsche Bank to Rip Out IT Systems Blamed for Problems*, FINANCIAL TIMES, Oct. 26, 2015.

168. Later in 2015, Deutsche Bank was fined \$258 million for illegal conduct — ***active dishonesty by Bank employees*** – causing Deutsche Bank to violate ***US sanctions and trading restrictions*** prohibiting financial institutions from ***trading with nations such as Syria, Iran, Libya and the Sudan. U.S. Authorities forced the firing of several Bank executives and assessed a fine of \$258 million on Deutsche Bank for these misdeeds with \$200 million flowing to NY bank authorities while the US Fed took the remainder.***

169. The November 4, 2015 edition of the *Financial Times* reported:

**Deutsche Bank Reaches Settlement Over Sanctions Violations**

Deutsche Bank has reached a \$258m settlement with US authorities over allegations that it breached

sanctions aimed at countries including Iran, Libya, Syria and Sudan.

As part of the deal with the New York Department of Financial Services and the Federal Reserve, ***Deutsche will install an independent monitor, fire six staff who were allegedly involved in the breaches, and ban a further three “from any duties involving the firm’s US operations,” the NYDFS said.***

The NYDFS, headed by Anthony Albanese, said that from at least 1999 to 2006, Deutsche used “non-transparent methods and practices,” including wire-stripping and cover payments, to conduct ***“more than 27,200 US dollar clearing transactions valued at over \$10.86bn” on behalf of entities subject to US sanctions.***

***According to the NYDFS, the “non-transparent payment processing” was not “isolated or limited to a specific relationship manager or small group of staff.” “Rather, bank employees in many overseas offices, in different business divisions, and with various levels of seniority were actively involved or knew about it,” the regulator said in a statement.***

James Shotter & Ben McLannahan, *Deutsche Bank Reaches Settlement Over Sanctions Violations*, FINANCIAL TIMES, Nov. 4, 2015.

170. In September 2016, it was reported that the US Justice Department was demanding \$14 billion from Deutsche Bank for its executives’ and managers’ fraud and deceit in selling “Toxic Securities” to investors. *The Wall Street Journal* reported:

**Deutsche Bank is Asked to Pay \$14 Billion to Resolve U.S. Probe Into Mortgage Securities**

The U.S. Justice Department proposed that Deutsche Bank pay \$14 billion to settle a set of high-profile

mortgage-securities probes stemming from the financial crisis, according to people familiar with the matter, a number that would rank among the largest of what other banks have paid to resolve similar claims and is well above what investors have been expecting.

Aruna Viswanatha, Jenny Strasburg, and Eyk Henning, *Deutsche Bank Is Asked to Pay \$14 Billion to Resolve U.S. Probe Into Mortgage Securities*, THE WALL STREET JOURNAL, Sept. 16, 2016

171. In October 2016, *Der Spiegel* published an expose of the misconduct of Deutsche Bank Supervisors and Managers:

**The Deutsche Bank Downfall How a Pillar of German Banking Lost its Way**

For most of its 146 years, Deutsche Bank was the embodiment of German values: reliable and safe. Now, the once-proud institution is facing the abyss.

Greed, provincialism, cowardice, unfocused aggression, mania, egoism, immaturity, mendacity, incompetence, weakness, pride, blundering, decadence, arrogance, a need for admiration, naivete: If you are looking for words that explain the fall of Deutsche Bank, you can choose freely and justifiably from among the above list.

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***The proud institution became a self-serve buffet for a few, who became fantastically rich. The bank's old leaders ... simply watched, lazily and cowardly. And so the work of generations went down the drain. And we are told that no one is to blame.***

Von Ullrich Fichtner, Hauke Goos, and Martin Hesse, *The Deutsche Bank Downfall How a Pillar of German Banking Lost Its Way*, DER SPIEGEL, Oct. 28, 2016.

**C. 2017–2018**

172. In the spring of 2017, Deutsche Bank was forced to pay yet another giant fine to U.S. authorities — ***this time a world-record breaking \$7.2***

*billion — as a result of its executives’ illegal conduct in selling so-called “toxic securities,” securities that were so terrible that Bank personnel described them as “blow,” “crap” and a “Ponzi scheme” at the same time they were pushing them as highly safe investments. The US Attorney General condemned Deutsche Bank for its executives’ widespread unlawful conduct, stating that “**Deutsche Bank did not only misled investors, it contributed to the international financial crisis.**”*

173. In early 2017, Deutsche Bank reported a 2016 loss of \$1.6–1.7 billion — on top of its 2015 loss of \$7.2–7.4 billion. *The New York Times* reported:

**Deutsche Bank Chief Apologizes for Lender’s Past Misconduct**

*The chief executive of Deutsche Bank apologized in especially contrite terms on Thursday for the long list of misdeeds that tarnished the German lender’s reputation and cost it billions of euros in fines and settlements*

...

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Speaking slowly and with a grave demeanor, Mr. Cryan expressed **“deep regret for what happened.”** **“We would like to apologize sincerely,”** he said. **“Serious errors were made.”**

Jack Ewing, *Deutsche Bank Chief Apologizes for Lender’s Past Misconduct*, The NEW YORK TIMES, Feb. 2, 2017.

174. In 2017, Deutsche Bank’s corporate/investment banking operation was exposed as having engaged in a massive **money laundering scheme — illegally transferring billions of dollars out of Russia — for known criminals and other dubious actors by way of sham and offsetting securities trades. Deutsche Bank paid a fine of \$630 million for this illegal conduct of its employees with the US New York banking authorities taking \$425 million of the fine, while the UK authorities**

***kept \$63 million. According to enforcement authorities, Deutsche Bank Supervisors and Managers had “allowed a corrupt group of traders and offshore entities to improperly transfer more than \$10 billion of out Russia.”*** In early 2017, *The Wall Street Journal* reported:

**Deutsche Bank to Pay Nearly \$630 Million to Settle Probes of Russian Trades**

Deutsche Bank AG has agreed to pay \$629 million to end investigations by U.K. and New York regulators into Russian equity trades that transferred \$10 billion out of that country in violation of anti-money laundering laws.

... \$425 million to New York’s Department of Financial Services and \$204 million to the U.K.’s Financial Conduct Authority ...

***... authorities in both countries lambasted what they described as the bank’s lackadaisical oversight, particularly in light of past misdeeds, including behavior tied to interest-rate rigging and sanctions violations.***

***The lender agreed with New York authorities to bring in an independent monitor for up to two years.***

***The U.K. and New York regulators cited repeated shortcomings in Deutsche Bank’s controls to detect suspicious trades or determine clients’ identities and sources of wealth. The lender executed more than 2,400 pairs of so-called mirror trades between April 2012 and October 2014, alone, the U.K. regulator said ... The U.K. authorities called the transfer “highly suggestive of financial crime.”***

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***Both regulators said Deutsche Bank shortchanged its compliance programs ... One compliance officer said he had to “beg, borrow and steal” to get resources ...***

Jenny Strasburg, *Deutsche Bank to Pay Nearly \$630 Million to Settle Probes of Russian Trades*, THE WALL STREET JOURNAL, Jan. 31, 2017.

175. In February 2017, Deutsche Bank's CEO Cryan, in an open letter and in several full-page newspaper placements, admitted:

... our full year results ... were severely impacted by several legal settlements that we agreed with clients and public authorities. Since I became Chief Executive Officer of Deutsche Bank 18 months ago, we have incurred settlement costs totaling approximately five billion euros for incidents that largely occurred many years ago.

***These legacy issues have not only cost us a lot of money; they have also cost us dearly in terms of reputation and trust.***

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***Serious errors were made*** — for example, with regard to our residential mortgage backed securities business in the US between 2005 and 2007, about which we recently reached a settlement with the Department of Justice. In this matter, conduct at that time did not meet our standards and was ***completely unacceptable. Unfortunately, the same also applies in other instances.***

176. In November 2017, the Financial Times published a major expose of the continuing wrongdoing by Deutsche Bank Supervisors and Managers indicating it had been damaged “beyond repair.”

**How Deutsche Bank's high-stakes gamble went wrong**

Over two decades, the institution went from sleepy German lender to the world's largest bank – only to plummet into a downward spiral that some claim has left it '***beyond repair.***'

But for the past few years, despite emerging as an apparent winner from the 2008 financial crisis, Germany's biggest bank has appeared locked in a downward spiral.

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In April 2015, the bank has handed a \$2.5bn penalty as part of the sector-wide probe into the rigging of the Libor interest rate mechanism ... ***Deutsche incurred an extra penalty for being uncooperative.***

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***One insider says Deutsche's typical approach to regulatory investigations was to invoke rights such as bank secrecy and data protection to avoid handing over documents. Often the protections didn't hold up and Deutsch had to disclose the information anyway, but was viewed as obstructive by investigators.***

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***Over the 1995-2016 period, shareholders earned a net 17bn from owning Deutsche, once dividends, share buybacks and increased stock market value are offset by capital increases. That is dwarfed by the 71bn paid in bonuses over the same time period.***

***Bosses in Frankfurt were so blinded by the success of the [corporate/investment bank] that they invested in little else. But they also failed to control it was an effective compliance function or responsive information systems. The result was great success in the boom years and deep problems ever since.***

***"Deutsche always hired mercenaries into the investment bank," recalls one former senior executive. "They didn't care about ethics."***

Patrick Jenkins & Laura Noonan, *How Deutsche Bank's High-Stakes Gamble Went Wrong*, FINANCIAL TIMES, Nov. 8, 2017.

177. The Supervisors and Managers simply allowed the New York investment/corporate bank to run an illegal operation. In January 2018, The Wall Street Journal reported:

**Justice Department Charges Eight Traders  
With Deceptive Futures Market Trading**

Federal prosecutors ... announced charges against traders for deceptive trading practices in the futures markets ... The traders worked for ... Deutsche Bank ...

“Conduct like this poses significant risk of eroding confidence in U.S. markets and creates an uneven playing field for legitimate traders and investors,” acting assistant attorney general John P. Cronan said in a statement.

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***Deutsche Bank agreed to pay \$30 million after the CFTC charged it with engaging in a scheme to manipulate the prices of precious metal futures.***

Gabriel T. Rubin, *Justice Department Charges Eight Traders With Deceptive Futures Market Trading*, THE WALL STREET JOURNAL, Jan. 29, 2018.

178. In February 2018, *The Wall Street Journal* reported that Deutsche Bank executives were involved in yet another illegal price-fixing effort:

**Deutsche Bank Fined for Attempting to Manipulate Interest-Rate Benchmarks**

The Commodity Futures Trading Commission fined Deutsche Bank DB ... ***\$70 million as regulators continue to punish attempted manipulation of interest-rate benchmarks.***

Deutsche Bank “***made false reports and through the acts of multiple traders***” ***deliberately and repeatedly attempted to manipulate common global interest-rate*** products between 2007 and 2012, according to the CFTC’s order.

Gabriel T. Rubin, *Deutsche Bank Fined for Attempting to Manipulate Interest-Rate Benchmarks*, THE WALL STREET JOURNAL, Feb. 1, 2018.

179. Similarly, the *Financial Times* reported:

**Deutsche Bank to Pay \$70m to Settle US Rate-Rigging Probe**

Deutsche Bank will pay \$70m to settle charges from US derivatives regulators that its traders tried to rig a

crucial benchmark in the \$300tn interest-rate swaps market... and represents the latest in a series of US black marks for the German bank.

***Over a period of at least five years to May 2012, “multiple” traders in Deutsche’s securities unit attempted to manipulate the US dollar International Swaps and Derivatives Association Fix (Isdafx), a benchmark referenced in a range of interest-rate products, the CFTC found.***

Ben McLannahan, *Deutsche Bank to Pay \$70m to Settle US Rate-Rigging Probe*, FINANCIAL TIMES, Feb. 1, 2018.

On one occasion, when a Deutsche swaps trader told a broker, “I really have no desire to ever trade equities — it’s just a field day for the feds,” the broker responded: ***“This will be over soon as well and if they ever figured out exactly how pricing happened through [the swaps broker] on a daily basis a lot of people would actually do jail time.”***

180. In early May 2018, the *Financial Times* reported:

**Watchdogs Raised Fears Over Deutsche Bank’s US Activities**

European regulators raised concerns about Deutsche Bank’s US investment banking division for months before Christian Sewing, the new chief executive, decided to cut back its operations.

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***The concerns were partly triggered by Deutsche’s woeful litigation record in the US, which was seen as a source of instability.***

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***US regulators have long had concerns about weaknesses in Deutsche’s controls and technology. A unit of the German bank failed the qualitative part of the Federal Reserve’s annual stress test of big banks twice in a row.***

Olaf Storbeck & Martin Arnold, *Watchdogs Raised Fears Over Deutsche Bank’s US Activities*, FINANCIAL TIMES, May 8, 2018.

181. In May 2018, Deutsche Bank suffered the terrible blow of having its credit rating lowered. On May 31, 2018 the *Financial Times* reported:

**S&P Downgrades Deutsche Bank on Restructuring Plans**

*Deutsche Bank suffered a fresh blow on Friday after Standard & Poor's downgraded its view of the lender*

...

***The downgrade comes a day after a Financial Times report that US banking regulators put the lender's US arm on a federal watchlist as one of the unit weaknesses may be serious enough to threaten its survival.***

The rating agency lowered its long-term issuer credit ratings on Deutsche and its core subsidiaries to BBB+ from A-.

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Analysts at DZ Bank, Germany's second-largest lender, ***see Deutsche trapped in a "downward spiral" that consists of bad news and weak operative performance that was hard to escape.***

Christian Sewing, Deutsche's chief executive, conceded on Friday morning that ***"the news flow is not good."***

Edward White, Katie Martin & Olaf Storbeck, *S&P Downgrades Deutsche Bank on Restructuring Plans*, FINANCIAL TIMES, May 31, 2018.

182. In June 2018, the Financial Times reported:

**Deutsche Bank fined over 'improper' Forex Conduct Germany's Biggest bank to Pay \$205M Penalty Against Probe by New York Regulator**

Deutsche Bank will pay \$205m for violations of New York banking law stemming from its foreign exchange trading business, in the latest rap on the knuckles from US authorities for Germany's biggest bank.

The fine from the ***New York Department of Financial Services*** comes after the regulator found

***“improper, unsafe and unsound conduct”*** in the German bank’s foreign exchange business ...

***“Due to Deutsche Bank’s lax oversight in its foreign exchange business, including in some instances, supervisors engaging in improper activity, certain traders and salespeople **repeatedly abused the trust of their customers and violated New York State law over the course of many years,**” said Maria Vullo, financial services superintendent...***

***US regulators have long had concerns about weaknesses in Deutsche’s controls and technology. Germany’s largest lender has been fined repeatedly in recent years over matters ranging from flawed research reports to a failure to fully comply with the Volcker ban on proprietary trading.***

Kadhim Shubber, Martin Arnold & Olaf Storbeck, *Deutsche Bank Fined Over ‘Improper’ Forex Conduct Germany’s Biggest Bank to Pay \$205M Penalty Against Probe by New York Regulator*, FINANCIAL TIMES, June 20, 2018.

183. In June 2018, Australia’s antitrust regulator took the unusual step of criminally charging Deutsche Bank. It alleged cartel conduct against Deutsche Bank due to the misconduct of “several senior executives.” In June 2018, the *Financial Times* reported:

**Senior Citi and Deutsche Bankers Charged in Australia Cartel Case**

The former heads of Deutsche Bank...in Australia are among several top investment bankers charged with criminal cartel offences in relation to a placement of shares in ANZ conducted almost three years ago.

Australia’s corporate watchdog has laid criminal charges against ... Deutsche, as well as several senior executives ...

“The charges involve alleged cartel arrangements ...”

Jamie Smyth & Edward White, *Senior Citi and Deutsche Bankers Charged in Australia Cartel Case*, FINANCIAL TIMES, June 5, 2018.

184. That month Deutsche Bank's standing and reputation took another terrible blow when it was reported for the ***fourth straight year Deutsche Bank's U.S. operations had failed the Federal Reserve Examination and was designated "troubled."*** The Wall Street Journal reported in June 2018:

**Deutsche Bank U.S. Operations Deemed Troubled by Fed**

The Federal Reserve has designated Deutsche Bank AG's sprawling U.S. business as being in a ***"troubled condition," a rare censure for a major financial institution.***

***The Fed's downgrade, which took place about a year ago, is secret and hadn't been previously made public. The "troubled condition" status — one of the lowest designations employed by the Fed — has influenced the bank's moves to reduce risk-taking in areas including trading and lending to customers.***

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***The punitive actions by the Fed, the bank's primary U.S. regulator, has rippled through Deutsche Bank's relationships with other regulators, including the Federal Deposit Insurance Corp., which has pressured the lender to improve controls and oversight, people familiar with those relationships said.***

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Deutsche Bank's U.S. operations have drawn regulatory ire for years. ***They received a rebuke from the Federal Reserve Bank of New York in 2014 about repeated financial-reporting failures and lack of follow-through on promised fixes.***

***Deutsche Bank U.S. operations failed the Fed's stress tests in 2015 and 2016 and in 2017 were***

***the subject of multiple Fed enforcement actions for perceived lax controls tied to currency trading, money laundering and Volcker-rule trading restrictions. Deutsche Bank has also paid billions of dollars to settle allegations stemming from U.S. Justice Department investigations.***

Jenny Strasburg and Ryan Tracy, *Deutsche Bank's U.S. Operations Deemed Troubled by Fed*, THE WALL STREET JOURNAL, June 1, 2018.

185. Subsequently, *The Wall Street Journal* reported:

**Deutsche Bank Fails Fed's Stress Test - German Lender Was the Only Bank Subject to Second-Round Test that Failed Outright**

U.S. operations of Deutsche Bank failed a regulatory stress test by the Federal Reserve, which cited ***"material weaknesses in capital planning"*** at the German lender.

The results released Thursday were part two of the Fed's annual exams ... ***Deutsche Bank was the only bank subject to the second-round Fed test that failed outright.***

***The Fed said Deutsch Bank had "widespread and critical deficiencies across [its] capital planning practices."***

Jenny Strasburg, *Deutsche Bank Fails Fed's Stress Test*, THE WALL STREET JOURNAL, June 28, 2018.

186. In June 2018, *The Wall Street Journal* reported:

**Deutsche Bank's U.S. Operations Deemed Troubled by Fed**

A downgrade by the Fed has also landed the bank's FDIC-insured subsidiary, Deutsche Bank Trust Company Americas, on the FDIC's ***"Problem Banks"*** list of at-risk institutions ...

Deutsche Bank's U.S. operations have drawn regulatory ire for years. ***They received a rebuke***

***from the Federal Reserve Bank of New York in 2014 about repeated financial-reporting failures and lack of follow-through on promised fixes.***

***Deutsche Bank U.S. operations failed the Fed's stress tests in 2015 and 2016 and in 2017 were the subject of multiple Fed enforcement actions or perceived lax controls tied to currency trading, money laundering and Volcker-rule trading restrictions. Deutsche Bank has also paid billions of dollars to settle allegations stemming from U.S. Justice Department investigations.***

Last year, the Fed repeatedly cited concerns privately to the bank about its controls...The Fed also reupped its criticism of Deutsche Bank's financial documentation.

Jenny Strasburg and Ryan Tracy, *Deutsche Bank's U.S. Operations Deemed Troubled by Fed*, THE WALL STREET JOURNAL, June 1, 2018.

187. In July 2018, it was reported that Deutsche Bank was forced to pay a \$75 million penalty to the U.S. SEC for improper conduct with respect to the handling of certain ADRs. On July 20, 2018 a U.S. Securities and Exchange Commission Press Release stated:

**Deutsche Bank to Pay \$75 Million Penalty for Improper Handling of ADRs**

The Securities and Exchange Commission ... said Deutsche Bank AG's two U.S.-based subsidiaries will pay nearly \$75 million to settle charges of improper handling of "pre-released" American Depositary Receipts (ADRs).

The case stems from a continuing SEC investigation into abuses involving pre-released ADRs. The SEC found that their misconduct allowed pre-released ADRs to be used for abusive practices, including inappropriate short selling and inappropriate profiting around dividend payouts.

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The SEC found that Deutsche Bank's subsidiary improperly provided thousands of pre-released ADRs over a more than five-year period when neither the broker nor its customers had the requisite shares.

188. In late November 2018, the drumbeat of negative disclosures continued. It was reported ***the Bank had been the subject of a massive two-day police search.*** The search was vast and received TV and press coverage all over the world for the truly extraordinary event it was — especially since it was the third such search of Deutsche Bank's offices in the last few years. *The New York Times* reported:

**Deutsche Bank Offices Are Searched in Money Laundering Investigation**

***Deutsche Bank's efforts to escape a history of scandal, wrongdoing and mismanagement suffered a serious setback Thursday after the German police raided its headquarters in Frankfurt as part of an investigation into whether the lender helped criminals launder money through offshore tax havens.***

***Arriving in a fleet of blue-and-white police vans, 170 prosecutors, federal agents, police officers and tax authorities searched the headquarters and five other sites in the area, prosecutors in Frankfurt said. The officers seized paper documents and electronic records related to the case, which involved hundreds of millions of euros ...***

Deutsche Bank employees ... are suspected of guiding customers to establish companies in offshore tax havens and transfer money earned through criminal activity using Deutsche Bank accounts, the prosecutors said.

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The size of the raid and sums of money involved suggest that a yearslong effort to remake the bank's culture and improve compliance has fallen short. ***During the last decade, Deutsche Bank has paid billions of euros of fines for an array of***

***misconduct, including deceiving buyers of mortgage-backed securities, colluding with other banks to rig benchmark interest rates and manipulating foreign exchange trading to the detriment of customers.***

***“This says they are not genuine and sincere about changing this culture of noncompliance and changing this culture of impunity,”*** said Jimmy Gurule, a former United States assistant attorney general who is a professor of criminal law at Notre Dame Law School and has written several books on terrorism financing.

\*\*\*

Deutsche Bank has previously faced scrutiny related to money laundering. Last year, the bank ***paid a \$425 million fine in New York for helping clients of its Moscow office illegally move \$10 billion out of Russia. Also last year, the Federal Reserve fined Deutsche Bank \$41 million for failing to have an effective system for complying with bank secrecy laws and laws to prevent money laundering.***

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Police raids are nothing new at the bank, either. The authorities conducted large-scale searches in 2015 and 2012 in cases involving alleged tax fraud.

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***“Deutsche Bank helped customers found offshore organizations in tax havens by transferring illegally acquired money without alerting authorities to suspected money laundering,”*** prosecutors said.

Jack Ewing, Melissa Eddy & Amie Tsang, *Deutsche Bank Offices Are Searched in Money Laundering Investigation*, The NEW YORK TIMES, Nov. 29, 2018.

189. The November 2018 ***two-day long raids*** by police included searching the offices of all of the ***Deutsche Bank Supervisors and top Managers because of what prosecutors said were “suspected transfers of money from criminal activity, i.e., Russian criminals.”*** According to Deutsche Bank’s CEO, this widely-publicized raid ***“inflicted terrible damage on Deutsche Bank’s reputation”*** — it ***“hit us hard.”*** It

later resulted in another multi-million-dollar fine because of the Bank's employees' misconduct. Deutsche Bank's credit rating was cut again! No wonder The Telegraph reported:

**'The news flow is not good' says Deutsche Bank  
S&P Cuts Credit Rating**

Deutsche Bank chief Christian Sewing has admitted he is **"sick and tired of bad news"** ... after [the Bank] suffered a further blow with a credit downgrade.

Ratings agency Standard & Poor's said it was cutting Deutsche Bank's credit rating to BBB+ from A-.

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The news pushed Deutsche Bank shares to an all-time low yesterday.

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"Let's be straightforward: **the news flow is not good,**" Mr. Sewing wrote in a memo to staff. "My dear colleagues, the last few years were tough. **Many of you are sick and tired of bad news. That's exactly how I feel.**"

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Sewing also said: **"However, the public reaction to the investigations by the public prosecutor's office has once again demonstrated one point clearly: we must further strengthen our controls."**

Iain Withers, *'The newsflow is not good' says Deutsche Bank boss as S&P cuts credit rating*, THE TELEGRAPH, June, 1 2018.

190. In March 2018, it was reported in Barron's that due to the accumulating pattern of misconduct, including criminal convictions, US regulators could eliminate Deutsche Bank's ability to manage billions of dollars of American retirement funds subject to ERISA — a key part of Deutsche Bank's wealth management business which is essential to its survival. While it does not seem possible despite all the prior settlement payments and fines, Deutsche Bank still

faces several large investigations, proceedings and potential penalties, exposure, and damages. As *Barron's* reported:

**Deutsche Bank May Lose Key Power to Run Pension Assets**

Regulators from London to Seoul have sanctioned Deutsche Bank for misdeeds committed over the past decade. ***The accumulation of crimes has now taken on a life of its own, prompting new inquiries based on previous episodes. The U.S. Labor Department... is considering whether the German bank's two recent convictions for fraud in foreign countries should cost it the ability to manage billions of dollars of Americans' retirement funds.***

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***..., the department tentatively denied Deutsche Bank's bid for an exemption from possible money-management restrictions. Because two units in other parts of the bank were convicted of felonies, the money management units have faced curbs on running U.S. pension money. It's unusual for Labor to deny an application for an exemption, even temporarily.***

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The QPAM designation is a kind of government Good Housekeeping seal of approval, giving a money manager license to offer multiple services without having to get repeated approvals. The loss of it would make pension funds, even those whose money isn't at Deutsche Bank, reluctant to enter into a transaction with the bank as a counterparty.

Deutsche Bank's money management units had to seek an exemption because an affiliate was convicted of a felony. Without an exemption, the units would be barred from running certain retirement assets for 10 years.

Jack Willoughby, *Deutsche Bank May Lose Key Power to Run Pension Assets*, BARRON'S, Mar. 5, 2016.

191. Recent disclosures of yet another criminal investigation involving Deutsche Bank's Wealth Management business indicate that the "***pattern***" of misconduct and lack of adequate controls in other parts of Deutsche Bank's business exists in that "beautiful business" as well. In January 2020, the Financial Times reported on this: "***Trouble in a 'beautiful' business***"

**Deutsche Bank Payments to Saudi Royal Adviser Probed**

Deutsche Bank paid \$1.1m to secure the wealth management business of a senior Saudi royal, according to an internal probe that led to two former staff being reported to criminal prosecutors.

The scandal in the wealth management division, which involved payments to the wife of the royal's financial adviser, highlights the legal and reputational risks to a unit that is central to the German bank's turnaround hopes.

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***Some of the pay and perks violated Deutsche's policies on anti-corruption and gifts and entertainment, the probe found.***

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Today, Deutsche's wealth management unit is one of the core pillars of its attempted overhaul, which aims to refocus the lender on such relatively stable areas. Claudio de Sanctis, who has been running the unit since late last year, has described it as a "***beautiful business***".

However, wealth management has been dogged by repeated compliance foul-ups. ***Last year it agreed to pay €15m to German law-enforcement authorities for "shortcomings in its control environment"...***

Olaf Storbeck, Stephen Morris & Arash Massoudi, *Deutsche Bank Payments to Saudi Royal Adviser Probed*, FINANCIAL TIMES, Jan. 26, 2020.

192. At year-end 2018, the Financial Times reported that Deutsche Bank was again caught up in yet another price-fixing scandal.

**Brussels Accuses Four Banks in Bond Trading Cartel Probe Credit Suisse and Deutsche Bank Caught Up in Allegations of Price Rigging**

Brussels has accused four banks including Deutsche Bank ***of price rigging in the market for some types of US dollar-denominated government bonds***, marking an escalation of the bloc's efforts to root out collusion in financial trading.

Rochelle Toplensky & Jim Brunsten, *Brussels Accuses Four Banks in Bond Trading Cartel Probe Credit Suisse and Deutsche Bank Caught Up in Allegations of Price Rigging*, FINANCIAL TIMES, Dec. 20, 2018.

193. At year-end 2018, *The Wall Street Journal* explained just how serious this investigation is for Deutsche Bank.

**Major Banks Suspected of Collusion in Bond-Rigging Probe**

**Deutsche Bank ... could face fines up to 10% of their annual world-wide revenue if found guilty**

The European Commission suspects Deutsche Bank ... of colluding to manipulate a multi-trillion-dollar government-backed bond market, ***escalating a long running probe.***

The European Union's executive arm, which opened the investigation almost three years ago, said in a statement Thursday that banks will now lay out their defenses. ***If found guilty, they could face a fine of up to 10% of their annual world-wide revenue.***

\*\*\*

Authorities in Europe, the U.K. and the U.S. started investigating ***alleged collusion in SSA bonds more than three years ago, in one of a series of alleged market-rigging cases that have sent traders to jail and cost banks billions of dollars in fines.***

Patricia Kowsmann and Margot PatrickMajor, *Banks Suspected of Collusion in Bond-Rigging Probe*, THE WALL STREET JOURNAL, Dec. 20, 2018.

**D. 2019–2020**

194. As Deutsche Bank stumbled into 2019, it staggered under the continuing weight of these scandals, fines, losses, and shrinkage of its business. Despite all the past investigations, fines, and penalties, Deutsche Bank's troubles were far from over. Because the illegal and improper conduct of its employees has continued, Deutsche Bank still faces several ongoing large and potentially damaging investigations, including laundering and sanctions evasion, that may result in further penalties and damage to its reputation.

195. Between 2007 and 2015, Deutsche Bank acted as a correspondent bank for Danske's tiny Estonian branch, which was suspected of laundering €200bn out of former Soviet states. During that time, Deutsche Bank cleared more than €160bn for Danske's tiny Estonian branch. Deutsche Bank is currently engulfed in a money laundering scandal involving Danske Bank's Estonian outpost. In early 2019, the *Financial Times* reported:

***Questions over Deutsche Bank's role in the scandal had prompted police and prosecutors to raid its headquarters in Frankfurt and again rocked investor confidence in Deutsche Bank, sending its shares to a new all-time low.***

The bank is the subject of a ***criminal investigation into suspected money laundering linked to one of its former subsidiaries that was revealed by the Panama Papers data-leak in 2016.***

\*\*\*

[Sewing, Deutsche Bank's CEO since April 2018, admitted:] ***"Since the turn of the millennium, many mistakes have been made [by Deutsche Bank]," he acknowledged ... The bank has paid "high fines" for these mistakes, he said....***

Olaf Storbeck, *Deutsche Bank Launches Second Probe into Danske Scandal*, FINANCIAL TIMES, Jan. 15, 2019.

196. In February 2019, more troubling revelations regarding the Danske Bank/Deutsche Bank money laundering scandal came out when the *Financial Times* reported:

Germany's financial regulator BaFin is putting closer scrutiny on Deutsche Bank's role in Danske Bank Estonia **and has widened the remit of an independent auditor installed in 2018 at Germany's largest lender to look into the case.**

... BaFin said it ordered Deutsche Bank on February 15 to **"review its group-wide risk management processes in the area of correspondence banking and adjust them where necessary" as "a measure to prevent money laundering and terrorist financing".**

The regulator also announced that it had expanded the mandate of the special representative **"in order to monitor the implementation of this measure".**

Danske is being investigated in several countries for handling €200bn of money that flowed through its Estonian unit on behalf of non-resident customers from Russia and other former Soviet states between 2007 and 2015.

BaFin in September ordered Deutsche Bank to take action to prevent money laundering and terrorism financing, **appointing an independent auditor to check the lender's progress for the next three years.**

Olaf Storbeck, *Germany Deepens Probe into Deutsche's Role in Danske Estonia Unit*, FINANCIAL TIMES, Feb. 15, 2019.

197. In September 2019, the head of Danske Bank committed suicide. In total, Deutsche Bank processed four-fifths of the €200bn Danske has identified as flowing through its Estonian branch from clients from Russia and other former Soviet countries. **About one million transactions were processed by**



***Deutsche Bank, and its New York investment/corporate operation are again implicated.***

***The bank has already been asked for information by the US Department of Justice over its role as a correspondent bank for Danske's Estonian branch.***

\*\*\*

Howard Wilkinson, the former Danske executive who warned managers in Copenhagen about the suspicious fund flows in 2013 and 2014, [said] that of the \$230bn of potential dirty money that flowed through its Estonian branch, \$150bn went through the ***“US subsidiary of a European bank”***.

Olaf Storbeck & Caroline Bindham, *Deutsche Bank Processed Additional €31bn of Funds for Danske*, FINANCIAL TIMES, Dec. 6, 2018.

198. After all these years — all these problems with woefully “messy,” “outdated,” and inadequate legal and regulatory compliance controls — the failures in the Bank’s control systems and compliance procedures continue to exist. In June 2019, the *Financial Times* reported:

***Deutsche Bank Finds Serious Failings in Payments Screening, Weakness in Anti-Money Laundering and Sanctions Controls Found by Internal Auditors Deutsche Bank has discovered serious failings in its anti-money laundering and sanctions controls that allowed cheques and high-value electronic payments to be processed without proper screening.***

***The weaknesses lasted years, internal auditors found, in the latest compliance problem for the embattled German lender.***

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Deutsche is also dealing with two “critical” failings in its controls over high-value payments — ***first identified in 2014 and yet to be fully resolved*** ...

Deutsche’s compliance and audit teams classed the

***“critical and significant”*** issues F3 and F4 on German watchdog BaFin’s anti-money laundering deficiency scale, ***the two most severe categories that often lead to regulatory censure and fines*** ...

An F3 finding indicates a ***“grave deficiency”*** with ***“significant consequences”*** for preventing money laundering. F4 is defined as an ***“extremely grave deficiency”*** that ***“significantly impairs or totally eliminates”*** the affected anti-money laundering prevention measure.

\*\*\*

***The latest discoveries add to the litany of compliance woes at Germany’s largest bank. Deutsche has paid hundreds of millions of dollars in fines for breaching money laundering and sanction rules and is still being investigated by authorities around the world for alleged wrongdoing in the area.***

***In 2016, the lender was censured by the UK’s Financial Conduct Authority for “serious” and “systemic” failings in its controls against money laundering, terrorist financing and sanctions and was placed in supervisory “special measures”.***

Stephen Morris & Olaf Storbeck, *Deutsche Bank Finds Serious Failings in Payments Screening*, FINANCIAL TIMES, June 10, 2019.

199. During the past few years, one of the largest international financial scandals to come under investigation in the United States has been the 1Malaysia Development Berhad (“MDB”) scandal. In early July 2019, it was publicly reported that Deutsche Bank was embroiled in that huge scandal and was being investigated by the U.S. Department of Justice for its role in the MDB scandal, involving the Malaysian state pension fund. According to the June 11, 2019 Financial Times:

**US Justice Department Investigates Deutsche Bank over 1MDB Deals, Former Employee said to be focus of probe adding to regulatory issues at German lender**

The US agency is investigating whether Deutsche Bank ***violated foreign corruption or anti-money laundering laws in its work with Malaysia's sovereign wealth fund.***

The Justice Department claims that conspirators misappropriated \$4.5 billion from the 1Malaysia Development Berhad (1MDEUTSCHE BANK) fund to buy jewelry, fine art and real estate, as well as to fund bribes and kickbacks to foreign officials.

The 1MDEUTSCHE BANK fund borrowed \$1.2 billion from a consortium of banks led by Deutsche Bank in 2014. ***More than \$850 million was allegedly diverted by conspirators, according to court documents previously filed by US prosecutors.***

***The justice department's interest in Deutsche Bank ... It adds to a mounting pile of regulatory and legal issues for the German bank ...***

Laura Noonan & Kadhim Shubber, *US Justice Department Investigates Deutsche Bank Over 1MDB Deals, Former Employee said to Be Focus of Probe Adding to Regulatory Issues at German Lender*, FINANCIAL TIMES, June 11, 2019.

200. In an echo of the Bankers Trust derivatives scandal, where those investment bankers “set up” their clients for their own gain, Deutsche Bank's executives continued to do the same. In June 2019, the *Financial Times* reported:

#### **Deutsche Pays 175m to Settle Dutch Bribery Lawsuit**

Deutsche Bank has agreed to pay €175m to settle a lawsuit from a Dutch housing association, which claimed its treasurer was bribed with cash and lavish perks into buying ruinous derivatives.

In 2008 and 2009, the Dutch co-operative was one of the most profitable clients of Deutsche's debt capital markets operations. The derivatives bought from Deutsche and other lenders brought it close to collapse.

By the end of 2011, the Dutch social landlord sat on a derivatives exposure to Deutsche involving a notional

principle of almost €3bn as hedges against rising interest rates, according to court documents. ***According to a Vestia filing, Deutsche Bank “price[d] in enormous profits for Itself” in large and complex deals that generated €114m in profits for the German lender.***

But it was the manner in which they were sold that was the centre of legal proceedings in London that ended with the settlement on Friday.

Vestia said in court filings that Deutsche ***paid €3.5m in commissions to an intermediary, First in Finance Alternatives, which diverted half of the funds to Marcel de Vries, treasurer of the housing association, who was convicted of bribery in the Netherlands last year.***

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In 2008, Deutsche Bank took the Dutch treasurer to a dinner at an exclusive London restaurant, followed by a visit at a bar and Boujis, an exclusive Kensington nightclub ***“where the party got through eight bottles of Dom Pérignon champagne and three bottles of vodka”, according to the filings.***

When Vestia entered into additional interest rate swaps with Deutsche Bank shortly afterwards, an employee of the German lender boasted in an internal email: “let’s ***face it, it was the entertainment programme at [the nightclub],***” according to the court documents.

Olaf Storbeck, *Deutsche Pays 175m to Settle Dutch Bribery Lawsuit*, FINANCIAL TIMES, June 12, 2019.

201. This kind of bribery — forbidden by both law and Deutsche Bank internal rules — was part of an already ongoing pattern of misconduct that continues to the current period. In October 2019, *The New York Times* published an expose regarding Deutsche Bank’s improper and illegal activities in China in making payoffs and bribes to influential people, showing they were wide-ranging and persistent.

## **Inside a Brazen Scheme to Woo China: Gifts, Golf and a \$4,254 Wine**

It was a brazen campaign to win business in China by charming and enriching the country's political elite.

The bank gave a Chinese president a crystal tiger and a Bang & Olufsen sound system, together worth \$18,000. A premier received a \$15,000 crystal horse, his Chinese zodiac animal, and his son got \$10,000 in golf outings and a trip to Las Vegas. A top state banking official, a son of one of China's founding fathers, accepted a \$4,254 bottle of French wine — Château Lafite Rothschild, vintage 1945, the year he was born.

Millions of dollars were paid out to Chinese consultants, including a business partner of the premier's family and a firm that secured a meeting for the bank's chief executive with the president. ***And more than 100 relatives of the Communist Party's ruling elite were hired for jobs at the bank, even though it had deemed many unqualified.***

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The previously undisclosed documents, shared with *The New York Times*, cover a 15-year period and include spreadsheets, emails, internal investigative reports and transcripts of interviews with senior executives.

***The documents show that Deutsche Bank's troubling behavior in China was far more extensive than the authorities in the United States have publicly alleged. And they show that the bank's top leadership was warned about the activity but did not stop it. "This was part of doing business in this country," Mr. Ackermann said. "At the time, this was the way things were done."***

***For years, Deutsche Bank has been a poster child for misconduct in the finance industry. Regulators and prosecutors around the world have imposed billions of dollars in penalties against the bank for its role in a wide range of scandals.***

Michael Forsythe, David Enrich & Alexandra Stevenson, *Inside a Brazen Scheme to Woo China: Gifts, Golf and a \$4,254 Wine*, THE NEW YORK TIMES, Oct. 14, 2019.

202. In November 2019, there were further revelations of serious **ongoing** internal financial/accounting controls and IT infrastructure problems at Deutsche Bank — these in the most traditional historic part of its banking business — payments. On November 10, 2019, the *Financial Times* reported:

**Deutsche Bank Tech Failings Hit Thousands of Payments, Bank Retreats on Letter to BoE that CHAPS improvements were on track**

*Deutsche Bank has been forced to admit to regulators its role in the UK payment system still suffers serious problems, years after it was first placed in remediation, which has led to tens of thousands of transactions for clients ... being held up.*

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*Creaking IT infrastructure and lack of investment in technology have long been issues for Deutsche, blamed for ... numerous compliance blunders.*

*In 2015, former chief executive John Cryan bemoaned “lousy systems” and “very slow processes” and ex-chief operation officer Kim Hammonds last year said the bank was ... the “most dysfunctional” workplace she had ever known.*

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The ... affair is another in a series of compliance and IT mis-steps by Deutsche, which **this year also discovered serious failings in its anti-money laundering and sanctions controls that allowed cheques and high-value electronic payments to be processed without proper screening**, the *Financial Times* reported in June.

*As part of the overhaul, Deutsche said it will invest 13bn in technology over the next four years and has earmarked 4bn to improve its controls.*

Stephen Morris & Caroline Binham, *Deutsche Bank Tech Failings Hit Thousands of Payments, Bank Retreats on Letter to BoE That CHAPS Improvements Were on Track*, FINANCIAL TIMES, Nov. 10, 2019.

**VIII. PLAINTIFF HAS STANDING TO SUE DERIVATIVELY FOR DEUTSCHE BANK; DEMAND ON THE SUPERVISORS TO SUE THEMSELVES AND THEIR CO-ACTORS IS NOT REQUIRED OR IS EXCUSED; NEW YORK IS A PERMITTED, PROPER AND MORE CONVENIENT FORUM THAN FRANKFURT, GERMANY**

**A. Derivative Allegations and Plaintiff's Standing to Sue**

203. This is a derivative action on behalf, and for the benefit, of Deutsche Bank by a Deutsche Bank shareholder against its past and present Supervisors and Managers and others for breaches of duties of due care, prudence, loyalty and candor, including aiding, abetting and participating in concerted action, *i.e.*, a common course of conduct. The action is brought to redress injuries and damages suffered and to be suffered by Deutsche Bank as a result of the breaches of duties and misconduct by Defendants.

204. This lawsuit, brought derivatively by the named Plaintiff, presents a legal dispute between Deutsche Bank and the Supervisors, Managers, lawyers and Law Firm named as Defendants. ***It is not a dispute between Plaintiff and Deutsche Bank, the corporate entity on whose behalf the action has been filed derivatively by Plaintiff.*** Plaintiff, who is a Deutsche Bank shareholder, and Deutsche Bank are on the same side of the suit. While Deutsche Bank is designated as a “defendant,” that designation is a technical formality, *i.e.*, it is a “***nominal*** defendant.” In reality, Deutsche Bank is the true plaintiff in this action, which is on behalf of, not against, Deutsche Bank and brought in order to obtain damages and other relief for it, not from it. The named plaintiff has no dispute with Deutsche Bank, the corporate entity and victim of Defendants’ wrongdoing.

205. Deutsche Bank is named solely in a derivative capacity. This is not a collusive action to confer jurisdiction on this court that it would not otherwise have. Plaintiff is currently a Deutsche Bank shareholder; she was a Deutsche Bank shareholder at the time of the breaches of duties complained of in this complaint, which have continued over the years. Plaintiff will adequately and fairly represent the interests of Deutsche Bank in enforcing and prosecuting its rights.

206. As set forth above, the Supervisory Board conducted a sham investigation and has demonstrated that it cannot objectively or independently weigh as to whether to bring these claims, and will not and cannot bring the claims. The only way these facially meritorious and potentially valuable claims can be fairly and vigorously prosecuted and Defendants held accountable for their misconduct, is by this derivative action prosecuted by experienced, competent, private lawyers on a contingent basis, advancing litigation expenses to assure a vigorous, independent, uncompromised prosecution of these claims here in the courts of New York.

207. Deutsche Bank has suffered damage due to Defendants' misconduct which can be redressed in this derivative action in this court via the recovery of damages. As a shareholder of Deutsche Bank, Plaintiff has standing to assert claims on behalf of Deutsche Bank — the true plaintiff — to effect a recovery that will accrue to Deutsche Bank, because Deutsche Bank's Supervisors have improperly failed and refused to bring an action, or actions, against themselves and the other defendants.

**B. The Procedures of the German Stock Corporation Act for Filing Derivative Claims in the Frankfurt, Germany Regional Court Do Not Control in New York State Court**

208. The procedural provisions of the German Stock Corporation Act — ***“Section 148 Court Procedure for Petitions Seeking Leave to File an Action in Damages”*** — are not applicable to this lawsuit in New York state



court, where New York's pre-suit demand/demand futility procedure, Section 626 of the New York Business Corporation Law, controls. Section 626 applies to all derivative shareholder suits filed in New York on behalf of any “***domestic or foreign corporation.***”

209. To bring a corporate derivative claim under German procedures in a German court, a shareholder must engage in a two-step process. The first procedural step is a “special action admission ***procedure*** conducted by the Regional Court of the Company's seat,” (i.e., the regional court in Deutsche Bank's hometown of Leverkusen), for leave to file the action.<sup>4</sup> When they petition for leave to file the action, the shareholders must meet substantial ***minimum ownership thresholds, produce evidence demonstrating “gross” wrongdoing to survive a pre-filing adversarial hearing on the merits of their claims — without any discovery.***

210. Even if permission to file is granted, that decision can be appealed and delayed for years. If the petition is denied plaintiff must bear the costs of the proceeding — loser pays the fees and costs of the corporation and others even if plaintiff wins, she is in effect limited to one attorney to prosecute the case going forward. This is a procedural thicket designed to snarl and stop even a legitimate shareholder action.

### **Special Action Admission Procedure**

The special action admission procedure as set forth under AktG, section 148 enables shareholders whose shares together represent at least 1 percent of the

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- <sup>4</sup> The German Stock Corporation Act provides:

### **Section 14 Jurisdiction**

Unless otherwise specified, references in this Act to the court shall be references to the court of the company's domicile.

issued share capital or a fractional amount of at least 100,000 Euros to apply to the competent court for admission. At this first stage of the process, AktG, section 148 provides for a summary procedure for the consideration by the court of the admission application.

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In the first instance, the court will consider the application on the basis of the written evidence filed by the applicants. In any event, however, before the court takes its decision the respondents must be given the opportunity to comment on the application.

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Further, and eventually reflecting the fact that the rights to be enforced are those of the company, the shareholders must **prove** that the company has failed to bring proceedings itself within a reasonable period of time after being called to bring proceedings itself within a reasonable period of time after being called to do so by shareholders in quorum size... in a summary procedure the court will also have to consider the facts of the case before it. To be admitted, the shareholders have to **prove the facts justify the suspicion that the company has suffered damage by dishonesty or gross violation of the law or the company's articles.**

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If the aforementioned pre-conditions are fulfilled, the court will basically be prepared to admit the action. However ... the court must refuse the application if there are **overriding interests of the company that prevent the enforcement of the claim....**

Carsten A. Paul, *Derivative Actions under English and German Corporate Law Shareholder Participation Between the Tension Filled Areas of Corporate Governance and Malicious Shareholder Interference*, EUROPEAN CO. & FIN. L. REV. Vol. 7, Issue 1, 81–115 (Mar. 2010). Plaintiff is unaware of any derivative action involving a public German corporation being successfully prosecuted under these procedures.

211. No such accelerated, convoluted, pre-discovery, fact weighing semi-summary judgment, merits review requiring “proof” of “gross” misconduct exists

under New York law. *See* N.Y. BUS. CORP. LAW § 626(c). Thus, the procedural requirements of § 148 of the German Stock Corporation Act do not apply to this action. *See Davis v. Scottish Re Grp. Ltd.*, 30 N.Y.3d 247, 256–57 (2017); *Mason-Mahon v. Flint*, 87 N.Y.S.3d 556, 757 (N.Y. App. Div. 2d Dep’t 2018). New York’s procedural rules control.

**C. Demand on the Deutsche Bank Supervisors to Sue Themselves, the Managers and the Law Firm Is Futile**

**1. The Supervisory Board Has Failed to Objectively Evaluate or Properly Pursue Deutsche Bank’s Valid Claims for Damages**

212. Plaintiff has not made a demand on the Deutsche Bank Supervisors to bring suit asserting the claims set forth herein because pre-suit demand on them is not required under these circumstances. In the face of obvious and enormous damage to Deutsche Bank and widespread shareholder complaints and criticism from the financial press, they have not only neglected to bring these facially meritorious negligence and other claims despite adequate opportunity to do so, in fact they have taken steps to try to prevent or hinder the assertions of such claims. If demand were required, it is excused, as it would be a futile act.

213. Despite — or perhaps because of — the disastrous results of their failed oversight and severe criticism of their stewardship, the Supervisors have refused to objectively and honestly evaluate what happened or whether Deutsche Bank had valid legal claims to recover the damages caused by the conduct of Deutsche Bank Supervisors and Managers and others. Instead, they arranged for a sham non-independent and conflicted investigation, and have been acting preemptively and improperly to try to erect defenses to protect themselves from or discouraged the assertion of such claims.

214. A corporate legal claim for damages, especially if the defendant(s) has assets or insurance to cover the claim, is an asset of the corporation and

properly protected and developed, can be a very large asset. Like any other significant asset of a corporation, the Supervisors and Managers have a duty to use due care and prudence to protect that asset and to ***maximize its value. Many of the potential defendants pocketed millions and millions in bonuses due to their conduct that damaged Deutsche Bank and are very wealthy. The Supervisors and Managers are covered by a multi-hundred-million-dollar D&O insurance policy purchased and paid for with Deutsche Bank's corporate funds — not their funds.***<sup>5</sup> ***The policy belongs to Deutsche Bank, not them.*** That policy is a corporate asset that can and ought to be realized upon (to help compensate Deutsche Bank for the damage they caused it due to their wrongdoing and lack of due care and prudence).

215. Large directors and officers liability insurance policies customarily include what is called an “insured versus insured” exclusion, intended to exclude from the insurance coverage claims by one insured, *i.e.*, the corporation, against another insured, *i.e.*, a corporate supervisor or manager or employee. Thus, were the company insured under such a policy, to bring the claims asserted herein, the insurance company would, based on this exclusion, decline coverage to pay the damages to the company. Purchasing this type of insurance where the premiums measure in the millions and are paid by the company is, in itself, a breach of the supervisors and managers’ duties of due care and prudence as policies without those exclusions are available and could have been purchased. The presence of “insured versus insured” exclusions in the directors & officers liability policies means that this derivative lawsuit — which does not fall within any such exclusion

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<sup>5</sup> According to Deutsche Bank’s 2018 Annual Report: “In the interest of the company, the members of the Supervisory Board will be included in an appropriate amount, with a deductible, in any financial liability insurance policy held by the company. The premiums for this are paid by the company.”

— is the best available legal vehicle to realize on this corporate asset, for the benefit of the corporation, which has after all paid 100% of the premiums.

216. Yet, the Supervisors have never retained independent outside counsel with the expertise in evaluating or prosecuting such claims against the wrongdoers to evaluate the factual and legal bases to pursue such claims and then, if valid grounds exist to do so, to pursue them. They have continued to use, involve and rely upon lawyers who are themselves conflicted. This is because they do not want to pursue the claims or see them pursued by others, despite the huge size of the directors & officers liability insurance policy.

217. At the time of the commencement of this action (March 2020), Deutsche Bank's Supervisory Board consists of 19 members: Defendants Achleitner, Polaschek, Blomeyer-Bartenstein, Bsirske, Clark, Duscheck, Eschelbeck, Garrett-Cox, Heider, Klee, Mark, Platscher, Rose, Schütz, Szukalski, Thain, Trogni, Valcárcel and Winkeljohann.

218. All or a majority of the current Deutsche Bank Supervisors suffer from disabling conflicts of interest and divided loyalties that preclude them from exercising independent good faith judgment required to commence, oversee, and pursue this type of expensive and contentious litigation. A clear majority of the current Supervisors participated in, approved of, and/or permitted some or all of the wrongs alleged herein — which have continued to the current date — as the Supervisors and Managers have tried to conceal, disguise, or excuse their wrongs. There is a substantial likelihood that a majority of the current Supervisors could be found liable in this action. Any objective, independent investigation resulting in a suit against them would jeopardize — potentially exhaust — their individual assets and they will not risk that.

219. Achleitner controls the Deutsche Bank Supervisory Board. He exercises his power and has that control in part through the Board's Committee

structure. Achleitner hand picks the members of the all-powerful “Chairman Committee” which basically runs the Bank (including hiring/firing executives and managers). Achleitner also chairs and picks the members of the Nomination Committee and the Compensation Control Committee, Board Committees, and the Mediation Committee. He thus determines who will serve or be Chair of the Integrity Committee, determines who gets hired and fired, who gets nominated to or stays on the Supervisory Board, who gets paid what, how Board disputes get settled and who gets sued and for what. Achleitner has hired and fired four Deutsche Bank CEOs during his tenure. He operates as the “*de facto*” CEO of the Bank. In the past when he was CFO of Allianz, he presided over Allianz’s disastrous acquisition of Dresdner Bank — which caused Allianz a \$10 billion loss. When he was a Goldman Sachs partner years ago, he pushed for and helped arrange Deutsche Bank’s acquisition of the scandal-ridden, failing Bankers Trust — a disastrous acquisition resulting in billions of dollars of losses to Deutsche Bank. His presence on the Bank’s Supervisory Board and his insider role at the Bank after his record of corporate failures embody what is wrong with German corporate governance, highlighted by the long record of governance failures, involving large German enterprises he has had a hand in. He participated in and was a direct beneficiary of the bogus cover-up/investigation.

220. Achleitner sits on the Supervisory Boards of Daimler AG and Bayer AG and is one of the most powerful members of German corporate aristocracy. No other member of the Deutsche Bank Supervisory Board would ever authorize a lawsuit against him. In addition, many of the current Supervisors have been on the Supervisory Board for very long periods of time and permitted and participated in the wrongdoing. They will never sue Achleitner or themselves or present or past Supervisors or the Managers they served with.

**2. The Supervisory Board Has Suppressed and Rejected Prior Complaints of Wrongdoing**

221. As set forth above, there is no reason to believe the Supervisory Board could or would ever sue its members or others responsible for damaging Deutsche Bank. In fact, they have a long track record of suppressing efforts to hold wrongdoers inside Deutsche Bank accountable for their conduct.

222. There has been a clear “**pattern**” of suppression of people inside the Bank who tried to investigate and/or bring wrongdoing to light and stop or remedy it. They have been intimidated, suppressed, fired and even kicked off the Supervisory Board. Over the years several whistleblowers were blocked, punished and fired as the Supervisors and Managers and the Bank’s legal counsel either obstructed or permitted the obstruction of criminal/regulatory and internal investigations of Deutsche Bank personnel implicated in the wrongdoing. This demonstrates embedded hostility to holding wrongdoers at Deutsche Bank personally accountable.

223. In addition to the Supervisors’ record of hostility with regard to discovering or hearing the truth, suppression of truth tellers and protection of wrongdoers, the Supervisors have used ***their corporate positions of power and corporate resources to defeat efforts by shareholders — the owners of Deutsche Bank — to call them to account even when these efforts were endorsed by the two most respected proxy advisory services in the world.***

224. ISS and Glass Lewis are two highly-respected proxy advisory services that advised large sophisticated investors who are shareholders in companies regarding how to vote in 2019 on shareholder matters. With respect to the non-binding annual vote regarding the Deutsche Bank Supervisors and Managers — they recommended a vote to disapprove:

***“At a certain point, shareholders should make their concerns heard,” it said, singling out lax money laundering controls and the group’s “precarious” low share price, which it said threatened “Deutsche Bank’s very existence.”***

***“It is time for shareholders to hold the bank personally responsible,” ISS said, adding that “underlying patterns of leadership and the culture of risk” had not improved despite many promises to do so.***

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***A second advisory group, Glass Lewis, has also urged investors not to endorse management’s work, citing a substantial loss of shareholder value and performance concerns.***

The Supervisors and Managers spent millions of dollars in consulting, legal and other fees and costs to barely defeat the resolution, a waste of corporate assets.

**3. The Supervisory Board Has Rejected a Recommendation to Oust Achleitner**

225. By 2018, Deutsche Bank had become so disorganized and consumed with poisonous infighting that its Supervisors and Managers were not able to effectively operate and manage the company without outside help. Soon-to-be-fired CEO Cryan and his soon-to-be successor Sewing undertook to hire Cerberus Capital, a private equity investor that owned 3% of Deutsche Bank, to come into the Bank as an “advisor” to management. When Cryan was fired, the new management team officially hired Cerberus in July 2018 — stressing its ***“acknowledged expertise.”*** Over the next several months, Deutsche Bank paid Cerberus millions of dollars while it conducted an extensive review of its operations and its current management structure. *The Wall Street Journal* published an article explaining the Cerberus Advisory work for Deutsche Bank:

**The American With the Toughest Job in Finance: Saving Deutsche Bank**



Matt Zames made a name as a Wall Street fix-it man. He helped steer JPMorgan Chase & Co. through the “London White” trading debacle and was considered a possible successor to its chief, James Dimon ... ***He now had another colossal mess to help clean up — if he doesn’t run out of time ....*** Mr. Zames is president of private-equity giant Cerberus Capital Management LP, which is today a paid advisor to Deutsche Bank AG, Germany’s biggest bank and one of the global banking industry’s biggest basket cases.

Jenny Strasburg, *The American With the Toughest Job in Finance: Saving Deutsche Bank*, THE WALL STREET JOURNAL, Mar. 5, 2019.

226. In November 2019, the *Financial Times* reported that after a year on the job — ***inside Deutsche Bank — Cerberus was recommending that Achleitner be ousted:***

***Cerberus, the US private equity group named after the hell hound, is calling for [Paul Achleitner] to be replaced.***

It is the role of US funds to say what other investors in European business think privately. Since May 2012, Deutsche Bank has had four chief executives and one chairman. ***It is pertinent of Cerberus to ask whether Mr. Achleitner bears as much blame for the bank’s problems as the CEOs he has hired and fired.***

***Mr. Achleitner, whose term expires in 2022, is well-connected in the upper echelon of German public life. But he has presided over Germany’s national banking champion during a period of calamitous decline. The lender has lost many billions. Its share price has more than halved to one-fifth of book value ... Mr. Achleitner, a peppery former Goldmanite, is responsible for this loss of trust.***

*Deutsche Bank/Paul Achleitner: Harping On*, FINANCIAL TIMES, Lex Column, Nov. 11, 2019.

227. The *Financial Times* further reported:

***Cerberus has lost faith in Deutsche Bank's chairman Paul Achleitner and is pushing for him to be replaced ...***

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Since Mr. Achleitner became chairman of Deutsche Bank in 2012, ***the bank has accrued losses of more than 10bn, fired three chief executives and paid out 83m in severance pay to 17 executives who left the bank early. It also embarked on five new strategies and raised 20bn in fresh equity while its share price collapsed by three quarters.***

Olaf Storbeck & Laura Noonan, *Cerberus Pushes for Paul Achleitner to Leave Deutsche Bank*, FINANCIAL TIMES, Nov. 11, 2019.

228. Shortly after this became public, it was reported that Deutsche Bank (Achleitner) had ended the Cerberus Advisory Agreement. This is another example of how the Supervisory Board is dominated and controlled by Achleitner and his allies, and would never sue him or his allies.

**4. The Phony “Investigation” and Cover-Up to Protect Achleitner and His Allies**

229. During 2014–2015, Georg F. Thoma — the Chair of the Integrity Committee — on behalf of the Committee and with the presence of the Bank's CEO, was investigating who could be held liable to Deutsche Bank for the clearly evident damage caused by the obvious misconduct of Deutsche Bank's stewards. This misconduct involved the LIBOR price-fixing conspiracy, which resulted in a \$2.5 billion fine on Deutsche Bank due to its insiders' misconduct, and which caused serious reputational harm to Deutsche Bank. That illegal conduct reached to the highest level of Deutsche Bank and involved the top Managers and Supervisors, past and present, including Achleitner and his allies. It involved, *inter alia*, hindering and blocking investigations to protect themselves at the expense of Deutsche Bank. When an attempt was made by an honest board member and head of the Board's Integrity Committee, with the approval of Deutsche Bank's then

CEO Cryan, to investigate whether these top people could be sued and held liable for damages to the Bank — he was ousted from the Board by Achleitner and his allies on the Board. Cryan was later fired.

230. According to *The New Yorker*:

In March, the Financial Conduct Authority of the U.K. sent a letter to Deutsche Bank, saying that the company's U.K. branch had ***“serious A.M.L. (anti-money laundering), terrorist financing and sanctions failings which were systemic in nature.”*** A month later, Georg Thoma, a lawyer who sat on Deutsche Bank's integrity committee, and who was brought to the bank specifically to improve controls and analyze the bank's former misconduct, was forced out. He had just argued with executives at a board meeting. The deputy chairman of the board, Alfred Herling, told the Frankfurter Allgemeine Sonntagsszeitung that Thoma had been ***“overzealous” in probing links.***

Ed Caesar, *Deutsche Bank's \$10-Billion Scandal*, THE NEW YORKER, Aug. 22, 2016.

231. In April 2016, *Handelsblatt Today* reported details behind why ***Thoma — who was loyal to Deutsche Bank*** and acting on behalf of the Integrity Committee — was being forced out:

#### **Georg Thoma: The Unexpected Prosecutor**

***The senior-most overseer at Deutsche Bank is Paul Achleitner. He chairs the supervisory board, the panel that sets major policy and hires and fires top managers.*** But one his colleagues has been making waves for asking the really tough questions: ***Georg Thoma, who heads the supervisory board's “integrity” committee, which is responsible for internal investigations into the bank's long list of scandals.***

***But instead of clearing the air at Deutsche Bank, Mr. Thoma's relentless legal questioning — especially of Mr. Achleitner's role in the handling of an investigation into an***

***interest rate manipulations scandal that eventually cost the bank \$2.5 billion — has set off a bitter dispute at Germany’s largest bank. Several board members have attacked Mr. Thoma in public statements and in internal emails, which Handelsblatt has seen in excerpted form.***

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***Some supervisory board members have had enough of Mr. Thoma’s energetic inquiries — especially his investigation into what role, if any, Mr. Achleitner played in the bank’s posture towards the American and British regulators looking into the Libor affair.***

***Allies of Mr. Achleitner want to close the book on the past and move on.***

... Martina Klee, a member of the bank’s supervisory board ... ***refused to accept proposed new cost estimates for the committee.... Mr. Thoma insisted that investigating the past is not a “hobby ...” The supervisory board has a duty to rigorously investigate, he wrote.***

Deutsche Bank certainly knew it was getting a meticulous overseer with a reputation for rectitude when in 2013 it appointed Mr. Thoma, a Frankfurt-based partner at U.S. law firm Shearman & Sterling LLP and one of Germany’s top corporate mergers & acquisitions lawyers, to its supervisory board.

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At Deutsche Bank, which has been mired for years in scandal, ***Mr. Thoma is now apparently making enemies by doing exactly what Mr. Achleitner appointed him to do when he asked him to chair its “integrity” committee, a panel that was supposed to shed light on the bank’s dark, costly dealings.***

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***“He is going too far in demanding wider and wider investigations, and deploying more and more lawyers,”*** Mr. Herling told the Frankfurter Allgemeine Sonntagszeitung, the Sunday newspaper. ***Several top managers have made similar statements.***

***But it may not be easy for the influential corporate titans to silence Deutsche Bank's internal watchdog....The atmosphere among members, according to insiders who declined to be named, is poisonous.***

Daniel Schäfer, Michael Brächer & Laura de la Motte, *Georg Thoma: The Unexpected Prosecutor*, HANDELSBLATT TODAY, Apr. 25, 2016.

232. But the Deutsche Bank “**corporate titans**,” i.e., Achleitner working with Parent and Deutsche Bank’s General Counsel (von Dryander) — its highest-ranking legal officer — were able to use their power and control over the Supervisory Board to “**silence**” the Bank’s “**internal watchdog**.” A *Bloomberg* article provided details as to how Thoma’s attempt to assure the pursuit of an independent investigation of top Deutsche Bank officials was blocked.

**Deutsche Bank Board Uproar Pits Lonely Lawyer Against Chairman**

But now, the 71 -year-old attorney has turned on [Achleitner]. The conflict has burst into the open, deepening the troubles at the country’s dominant financial institution. ***Thoma’s intensive inquiries into Achleitner and Deutsche Bank executives have left him isolated, according to at least two board members who have spoken out against him in public....***

***The tensions date as far back as 2014, when Thoma’s probes were fraying his relationships on the board. Then, last year sought co-Chief Executive Officer John Cryan’s approval for a probe — now under way — into Achleitner’s role in how the bank responded to a U.K. investigation of the firm’s Libor-setting practices ...***

Nicholas Comfort & Ambereen Choudhury, *Deutsche Bank Board Uproar Pits Lonely Lawyer Against Chairman*, BLOOMBERG, Apr. 26, 2016.

233. Shortly thereafter, *Bloomberg* reported that Thoma was being forced out by Achleitner and his allies:

## **Deutsche Bank's Thoma to Step Down in Wake of Board Clash**

Deutsche Bank AG supervisory board member Georg Thoma is stepping down two years before his contract ends....***after criticism that he went too far in probing potential wrongdoing within its ranks...He's resigning from the board's integrity committee with immediate effect***, the bank said.

Thoma, a Shearman & Sterling LLP lawyer, was left isolated ***after pushing to investigate Chairman Paul Achleitner and mounting intensive inquiries into Deutsche Bank executives, people familiar with the matter have said. Friction arose as Thoma sought to examine potential links between individual board members and legal cases starting in 2014, one of the people said.***

***That conflict burst into the open this week when at least two board members spoke out against him in public. Deputy Chairman Alfred Herling criticized him for being "overzealous" and spending too much in probing potential wrongdoing.***

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***Thoma was brought on to help improve controls and work through the bank's numerous cases of misconduct.***

Nicholas Comfort, *Deutsche Bank's Thoma to Step Down in Wake of Board Clash*, BLOOMBERG, Apr. 28, 2016.

234. The efforts by Achleitner, his allies, and the controlling forces inside Deutsche Bank to protect themselves and their co-actors at the expense of Deutsche Bank reached their zenith when Thoma was kicked out and they arranged for a more compliant, amenable replacement for the head of the Integrity Committee — who would help shut down any real investigation targeting the top wrongdoers. Defendant Louise M. Parent, a professional corporate director affiliated with the New York law firm Cleary Gottlieb was picked by Achleitner and

his allies to replace the “overzealous” Thoma as head of the Deutsche Bank Integrity Committee. Achleitner had picked Parent for the Board 3 or 4 years earlier and she had proved to be a reliable, agreeable and supportable ally of Achleitner, perfect for implementing the cover up.

235. In April 2016, this “musical chairs” was reported by *Bloomberg Law* — along with Achleitner’s assurance the Board would continue its work to investigate possible misconduct:

**Shearman Out, Cleary In on Deutsche Bank’s Integrity Committee**

... last night news emanated from Germany, that Cleary Gottlieb’s Louise Parent will replace Thoma ...

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As for the probes that started on Thoma’s watch?

***“The supervisory board is determined to continue its work of investigating possible misconduct and to draw lessons for the future,”*** [Achleitner] said in a statement...

Gabe Friedman, *Shearman out, Cleary in on Deutsche Bank’s Integrity Committee*, BLOOMBERG LAW, Apr. 29, 2016.

236. Achleitner’s promise of a continued investigation of possible misconduct was a lie. The ouster of Thoma and empowerment of Parent and her law firm Cleary Gottlieb to work with von Dryander — the former top Cleary Gottlieb partner who was now Deutsche Bank’s General Counsel — to conduct a “whitewash” investigation were part of an effort by Achleitner and his allies to cover up and protect themselves from being ***held accountable for the damage their misconduct had caused Deutsche Bank.***

237. After ridding themselves of Thoma, the Supervisors and Achleitner arranged for Cleary Gottlieb to undertake a purported “investigation” of the past conduct of certain executives (Achleitner and his allies excluded) to determine if

Deutsche Bank had viable damage claims against managers for prior breaches of duty. A former top Cleary Gottlieb partner — von Dryander — now serving as Deutsche Bank’s General Counsel — had along with Achleitner, Parent and Achleitner’s other allies ousted Thoma from the Board, and placed the “investigation” in trusted hands — Parent, Cleary Gottlieb and von Dryander. Since Parent had been a Supervisor during the period of wrongdoing and former Cleary Gottlieb partner von Dryander had been a top legal officer of the Board during the same period, this meant Cleary Gottlieb was conflicted and could never vigorously and independently investigate their mistakes. These relationships deprived the law firm of the ability to independently represent Deutsche Bank — and only Deutsche Bank’s interests in the investigations. With Achleitner, who had been the target of the Thoma investigation now in charge of the new “investigation”, the inquiry turned into a public relations effort to clear the insiders and prevent or hinder the assertion of valid legal claims against the Supervisors and Managers.

238. Achleitner, Parent, von Dryander and the Supervisory Board made it look as if substantial **damage claims** were going to be pursued, and promised a “**substantial financial recovery**” would be achieved. In May 2017, Reuters reported:

**Deutsche Bank Wants Former Bosses to Share Past Misconduct Costs**

Deutsche Bank expects former board members to contribute substantial sums toward ***the costs of its past misconduct as Germany’s biggest lender seeks to rebuild its reputation, its chairman Paul Achleitner said.***

Achleitner told shareholders at Deutsche Bank’s annual general meeting on Thursday that its supervisory board and two committees were discussing the need for ***personal and collective***



*responsibility and the bank had sought external legal advice.*

*“The supervisory board expects that in the coming months, there will be an arrangement which ensures that the individuals involved make a substantial financial contribution,” he said ...*

Arno Schuetze & Tom Sims, *Deutsche Bank wants former bosses to share past misconduct costs*, REUTERS, May 18, 2017.

239. On July 27, 2017, Deutsche Bank issued the following release concerning the “voluntary” actions of previously ousted Deutsche Bank Managers:

**Management Board members voluntarily waive 38.4 million Euro in outstanding bonus payments — Supervisory Board welcomes act of solidarity with the bank**

Eleven members of the Management Board of Deutsche Bank who served during financial crisis and thereafter have **voluntarily** waived a large part of their **unpaid remuneration**. In the course of an agreement with the Supervisory Board of the bank, they agreed that of the 69.8 million Euro still owed to them by the bank, only 31.4 million Euro would be paid out.

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The Supervisory Board, on the basis of **extensive investigations by several leading law firms and forensic advisors, ... has decided not to hold the Management Board members personally liable. According to the findings of these investigations, there is insufficient factual and legal basis for actionable damages claims against the officiating Management Board members of that time.**

Despite the fact that the Management Board members are of the opinion that they always administered their office with due care and that they cannot be accused of any breach of duty, **they have nonetheless voluntarily waived their entitlement to a total of 38.4 million Euro as an act of solidarity with Deutsche Bank.**

***Deutsche Bank acknowledges this voluntary act of the Management Board members ...***

“The Supervisory Board appreciates the fact that with the additional waiver of bonuses, the Management Board members in office at that time are making a further personal contribution ***to closing this chapter,***” said the Chairman of the Supervisory Board Paul Achleitner.

240. The purported investigation/reports were never made public, nor were the names of the executives or managers.

241. However, there was never any intent to try to recover ***damages*** from the wrongdoers even though they were covered by a huge insurance policy and several of them had already pocketed millions of dollars in bonuses. Much earlier, Achleitner had admitted as much:

The bank’s supervisory board has now asked a law firm to look into whether it can make former executives ***forfeit both frozen and unwarranted bonus awards from previous years in light of the bank’s vast litigation costs that stem from their time in charge.***

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***Speaking at an event in Berlin, Mr. Achleitner said there had been no talk of bonuses that had already been paid being given back, only of whether outstanding bonuses would “voluntarily be left with the bank,” according to Reuters.***

James Shotter & Martin Arnold, *Deutsche Bank Eyes Bonus Clawback for Former Bosses: Lender Seeks Legal Advice on Awards to Past Executives, Including Jain and Ackermann*, FINANCIAL TIMES, Nov. 17, 2016.

242. The several leading “law firms” that conducted the purported “investigation” included Cleary Gottlieb, Gibson Dunn and Allen & Overy. Cleary Gottlieb was in charge and subsumed the other investigations of the two other law firms, Gibson Dunn and Allen & Overy. Both of these firms had long-term

relationships with Achleitner and his allies. Because the law firms were operating collectively to jointly produce a prearranged result, they were all disqualified by Cleary Gottlieb's (and their own) disabling conflicts of interest and compromising circumstances that prevented any of them from properly representing Deutsche Bank — the corporate entity.

243. This was all a prearranged sham — a cover up/white-wash intended to discourage assertion of valid damages claims. This investigation was never intended to honestly evaluate whether to pursue the billion-dollar damage claim. There was no claw back of monies. There was no recovery of damages. There was no “substantial financial contribution.” The unnamed wrongdoers simply “waived” future payments they had no legal entitlement to and were allowed to keep millions of dollars in future payments they were not entitled to either. There was more than sufficient evidence to pursue these wrongdoers, who bore the burden of proof of compliance with their duties **and** who were covered by a multi hundred-million-dollar policy. The law firm who gave this advice violated the German Stock Corporation Act by causing, encouraging and facilitating acts by the Supervisory Board to cover up and conceal what really happened to protect current and past Deutsche Bank Supervisors and Managers at the expense of Deutsche Bank to which it owed a fiduciary duty of loyalty, as well as due care.

244. The purported investigation, never released to the public, “decided not to hold the Management Board members personally liable ... there is insufficient factual and legal basis for damage claims.” However, the inquiry ignored that under German law the accused Managers are “**jointly**” responsible for managing the company, owe duties of due care and prudence, *i.e.*, the duties of a diligent and conscientious manager, and managers who violate their duties shall be jointly and severally liable to the company for any resulting damage. In addition, they **bear the burden of proving** that they complied with their duties.

The Managers are liable for negligence, and with no need of intent or reckless misconduct to be proven with respect to non-entrepreneurial decisions. They were covered by huge Directors' and Officers' liability policies purchased with Deutsche Bank funds for the express purpose of protecting Deutsche Bank from the negligence of its Supervisors and Managers.

245. During the 2015–2016 period when Thoma was ousted and this sham “investigation” was conducted, sitting on the Supervisory Board were 17 Defendants, including Achleitner, Bsirske, Garrett-Cox, Heider, Klee, Mark, Platscher, Rose, Szukalski, Böhr, Dublon, Irrgang, Kagermann, Löscher, Meddings, Simon and Teyssen. Nine of these defendants remain on the Supervisory Board today: Achleitner, Bsirske, Garrett-Cox, Heider, Klee, Mark, Platscher, Rose and Szukalski.

**D. Subsequent Payoffs to Executives Who Were Discharged Show the Current Board Will Not Hold Wrongdoers Accountable**

246. After Achleitner and the other potential wrongdoers pronounced the “**chapter closed**” based on the “**investigation**,” they promptly handed out millions and millions more in unjustified bonuses to Managers who had been involved in the wrongdoing and were being pushed out. These payments called “**face saving**” in fact were hush money intended to buy the silence and cooperation of these Managers to protect Achleitner and his allies. It was a breach of duties and waste of corporate assets to pay them this money.

247. At year-end 2017, even though Deutsche Bank reported its third consecutive annual loss, it paid out some \$2 billion in bonuses. In 2018, *The Telegraph* reported:

**Deutsche Bank Bonuses Balloon to Nearly 2bn  
Despite Third Annual Loss**

Bonuses for staff at Deutsche Bank have more than quadrupled to 2.2bn (1.9bn), despite the banking giant racking up its third consecutive loss in 2017.

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Mr. Cryan told reporters in February that 2017's more generous bonuses were a necessary "one-off investment."

He added: ***"in the coming years, these kind of bonus payments will only be justified if the bank performs correspondingly."***

Iain Withers, *Deutsche Bank Bonuses Balloon to Nearly 2bn Despite Third Annual Loss*, THE TELEGRAPH, Mar. 16, 2018.

248. Despite the disastrous financial results in the following years — billions in write-offs, losses and elimination of Deutsche Bank's common stock dividend — millions and millions of dollars have been given to Managers/Executives who were — or should have been — fired for cause and deserved nothing.

249. For instance, even though Achleitner and the Supervisors knew that Garth Ritchie — and the Bank — were under investigation for a tax evasion scheme, in December 2018 they renewed Ritchie's contract for five years at several million dollars per year. They then supplemented Ritchie's pay by almost \$3 million a year as a "functional allowance" to do that which he was already doing. In September 2018, *The Wall Street Journal* reported:

**Deutsche Bank Renews Investment Bank-Chief's Contract**

Deutsche Bank renewed the contract of the head of its investment bank, Garth Ritchie, during a supervisory-board meeting Friday, according to a person familiar with the matter.

Mr. Ritchie ***was named sole head of the investment bank earlier this year, after serving as head of global markets and co-head of investment banking.***

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Mr. Ritchie's current management-board term expires at the end of this year. The supervisory board renewed his contract ***for five years in a unanimous vote at a meeting in Hamburg on Friday, the person said.*** Mr. Ritchie has worked at Deutsche Bank ***since 1996*** and has served on the management board since January ***2016.***

Jenny Strasburg, *Deutsche Bank Renews Investment Bank Chief's Contract*, THE WALL STREET JOURNAL, Sept. 14, 2018.

250. In June 2019, a few months after Achleitner and his allies gave Ritchie the huge new contract — ***knowing that he and the Bank were under criminal investigation because of his prior conduct*** — the *Financial Times* reported:

**Deutsche Bank Investment Banking Boss Targeted in Tax Probe**

***Cologne prosecutors have launched a criminal investigation into Garth Ritchie, Deutsche Bank's investment banking boss, and other current and former employees over their potential involvement in allegedly illicit tax transactions.***

In a statement on Thursday night, Deutsche Bank said that ***"former and current employees and management board members"*** are now in the investigators' crosshairs for their potential links to so called cum-ex transactions.

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***People familiar with the matter said one current executive board member was targeted by the investigation — Mr. Ritchie, who is also a deputy of Christian Sewing, the chief executive.***

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***An internal investigation by Deutsche Bank revealed that Mr. Ritchie in 2007 received an email discussing a design flaw in Germany's tax code which allowed clients to illicitly claim refunds of dividend tax that was never actually paid.***

Olaf Storbeck, *Deutsche Bank Investment Banking Boss Targeted in Tax Probe*, FINANCIAL TIMES, June 6, 2019.

251. In July 2019, the *Financial Times* reported Ritchie was out:

Deutsche said Mr. Ritchie, its highest-paid executive, was leaving by mutual consent after more than 20 years at the bank. The 51-year-old South African is expected to depart with a payoff of more than 11m after signing a new five-year contract only nine months ago ... ***He has been paid about 36m since his appointment to the executive board three years ago.***

Olaf Storbeck, Stephen Morris & Phillip Georgiadis, *Deutsche Bank Braced for Severe Cull as Investment Bank Head Quits*, FINANCIAL TIMES, July 5, 2019. The *Financial Times* further reported:

***Yet Mr. Ritchie can expect a pay-off of at least €11 million. He would have left by the end of 2018 without any golden handshake had the supervisory board not given him a new five-year contract last September.***

Olaf Storbeck, *Critics Round on Deutsche Bank for Generous Golden Parachutes*, FINANCIAL TIMES, July 9, 2019.

252. This continuing plunder of the Bank by the insiders has provoked outrage. In December 2019, the *Deutsche Welle* noted ***“Deutsche Bank’s singular level of failure, combined with the eye-watering sums it has doled out to those who facilitated that failure”***:

If you had invested \$1000 (€887) in Deutsche Bank shares four years ago, not only would you have not made any money from the investment, you'd have lost more than 75% of it.

... The past 18 months has surely been the worst period of its 149-year history.

The last week has been particularly brutal for many of the bank's rank-and-file workers — 18,000 job losses were announced amid a major restructuring. ***As the***

*waters have risen around Deutsche over the last year, many underperforming executives have understandably departed. Less understandable is the amount of money they have received on leaving.*

*John Cryan, who presided over some of the bank's biggest failings as CEO from 2015-2018, received \$12.2 million when he was forced out in April 2018.*

*That was just the beginning of the payoff splurge. According to research by the Financial Times, six more senior executives who departed between May 2018 and July 2019 — Marcus Schenck, Kim Hammonds, Nicolas Moreau, Garth Ritchie, Frank Strauss and Sylvie Matherat — received \$46 million between them.*

Arthur Sullivan, *Deutsche Bank, Massive Payoffs and Being Rewarded for Failure*, DEUTSCHE WELLE, Dec. 7, 2019.

253. In July 2019, the *Financial Times* reported:

**Critics Round on Deutsche Bank for Generous Golden Parachutes**

Deutsche Bank is coming under fire for the lavish golden parachutes it has paid out to top executives who left during a period of management turmoil over the past year.

*Germany's biggest bank has spent more than €52m on severance pay for senior executives who were fired or left voluntarily over the past 14 months, almost matching the lender's annual pay for the entire management board, which in 2018 stood at €55.7m.*

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*Big severance packages for sacked managers are mad," said Frankfurt-based headhunter Christine Kuhl, a partner at Odgers Berndtson, adding that this rewards executives "who did a terrible job".*

Garth Ritchie, the former head of Deutsche's



investment bank whose departure was announced on Friday, has overseen three years of falling revenue at the division which has been lossmaking for the past two quarters and will be shrunk dramatically after his departure.

Yet Mr. Ritchie can expect a pay-off of at least €11m. He would have left by the end of 2018 without any golden handshake had the supervisory board not given him a new five-year contract last September.

***Christian Sewing, Deutsche's chief executive, on Monday harshly criticised the investment bank's former top echelon, accusing it of trying to "generate revenues wherever they happened to pop up", operating in areas where the bank was uncompetitive and nurturing a culture of "poor capital allocation".***

Chief regulatory officer Sylvie Matherat has been under pressure for years after the bank was hit by a string of money-laundering scandals. ***Yet Ms. Matherat can expect at least €9m in severance pay. Frank Strauss, Deutsche's former head of retail banking, is entitled to at least €6m.***

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***A person close to Paul Achleitner said the chairman always sought an amicable solution for underperforming managers and tried to offer them "a face-saving exit."***

***Since Mr. Achleitner became chairman in 2012, a total of 17 executives departed early. In total, Deutsche paid them €83 million for leaving.***

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Mr. Schick at Finance Watch Germany is calling for the chairman's head. ***"As far as I'm concerned, Paul Achleitner is the first one who should leave," he said, arguing he is associated with the collapse in the share price and the fact "that these days, we really have to worry about Deutsche".***

Olaf Storbeck, *Critics Round on Deutsche Bank for Generous Golden Parachutes*, FINANCIAL TIMES, July 9, 2019.

**E. Jurisdiction and Venue Are Permitted and Proper in New York and Proceeding Here Is as or More Convenient Than in Frankfurt, Germany**

254. New York is the greatest, largest and most important financial, commercial and legal center in the world. It is the heart of the U.S. and World financial markets. Its civil court system is sophisticated, efficient and experienced in complex legal disputes involving citizens of different countries and the application of foreign law. The Deutsche Bank corporate enterprise, which its shareholders own, and the Supervisors and Managers oversee and operate on their behalf, has overwhelming contacts with the United States — economically and legally, both with respect to its business operations and the investigations, litigations, penalties and fines imposed on it, in large part due to the misconduct of Deutsche Bank managers/executives in its corporate/investment bank which operated largely out of Deutsche Bank's Wall Street tower.

255. Deutsche Bank and its U.S. subsidiaries are subject to U.S. banking law, and regulated by the U.S. Federal Reserve and New York State Banking regulators, the Securities and Exchange Commission and the Federal Deposit Insurance Corporation. Deutsche Bank AG's agent in the United States is DB USA Corporation, located at 60 Wall Street, New York, New York 10005.

256. Under Section 200-b(1) of the New York Banking Law, an action against a foreign banking corporation may be maintained by a resident. *See* N.Y. BANKING LAW § 200-b(1); *see also id.* § 200-b(2)(b)–(e) (an action against a foreign banking corporation may also be maintained by a non-resident if: (i) the subject matter of the litigation is situated in New York; (ii) the cause of action arose within the State; (iii) the action is based on a liability for acts done within the State by a foreign banking corporation; or (iv) the defendant is a foreign banking corporation

doing business in the State); *see also id.* § 221-c (allowing jurisdiction to be applied because foreign persons must assign an agent for service of process to have the “same force and effect as if it were a domestic corporation and had been lawfully served with process in this state”).

257. Deutsche Bank has vast operations here in the United States. It has multiple offices in New York City, including its “head office,” DB USA Corporation, for its U.S. operations in an enormous office building at 60 Wall Street, which oversees other Deutsche Bank offices/operations throughout the United States:

State	Address	City
California	535 Anton Boulevard, MetroCenter at South Coast	Costa Mesa
	2000 Avenue of the Stars, North Tower	Los Angeles
	2400 Sand Hill Road	Menlo Park
	2650 Birch Street	Palo Alto
	101 California Street	San Francisco
	1801 E. St. Andrews Place	Santa Ana
Connecticut	One Pickwick Plaza, Putnam and Mason Streets, Building 1	Greenwich
Delaware	1011 Centre Road, Montgomery Building of E.A. Delie Donne Corporate Center	Wilmington
District of Columbia	801 17th Street, N.W.	Washington
Florida	5022 Gate Parkway	Jacksonville
	5201 Gate Parkway	Jacksonville
	600 Brickell Avenue Suite 2050	Miami
Georgia	3414 Peachtree Road N.E., Monarch Plaza	Atlanta
	6 Concourse Parkway, Suite 2135	Atlanta
Illinois	222 South Riverside Plaza, Riverside Plaza	Chicago
Maryland	One South Street, Commerce Place	Baltimore

Massachusetts	One Beacon Street, Pemberton Square	Boston
	321 Summer Street, Suite 405	Boston
New Jersey	100 Plaza One, Harborside Financial Center	Jersey City
	2 Gatehall Drive	Parsippany
	40 Kingsbridge Road	Piscataway
New York	345 Park Avenue	New York
	60 Wall Street	New York
	4 Metrotech Center 8th Floor	Brooklyn
North Carolina	1000 CentreGreen Way	Cary
	3000 CentreGreen Way, CentreGreen Four	Cary
	4000 CentreGreen Way, CentreGreen Four	Cary
	200 South Tryon Street	Charlotte
Texas	200 Crescent Court, The Crescent	Dallas
	700 Louisiana Street, Bank of America Center (Block84)	Houston
Washington	701 Pike Street, One Convention Place	Seattle

258. Deutsche Bank is committed to operating in New York and the United States in the future. In May 2018, the *Financial Times* reported:

Deutsche Bank told staff on Friday that it would begin relocating from the bank's offices at 60 Wall Street to new space at 1 Columbus Circle, on the south-west corner of Central Park, from the third quarter of 2021.

Deutsche will be taking 1.1m square feet of space in its new midtown digs ...

"The relocation is an investment in our clients, in our employees and ***in our future long-term presence in the US***" [said Deutsche Bank]... "Importantly, the lease is evidence of ***our commitment to the US and our intent to remain very active in New York.***"

Ben McLannahan, *Deutsche Bank to Depart Wall Street for New Midtown Digs*, FINANCIAL TIMES, May 4, 2018.

259. Deutsche Bank has retail offices throughout New York City and during the relevant time period had over 9,000 employees in the United States and generated over \$5 billion in revenues here annually. Deutsche Bank's common stock has been listed and traded on the New York Stock Exchange since 2001, as are several other of its publicly traded securities. It has sold millions of shares of common stock in the past few years to U.S. residents via "rights offerings" to its existing shareholders. Approximately 25% of Deutsche Bank common stock shareholders are in the United States.

260. Deutsche Bank files periodic reports with the U.S. Securities and Exchange Commission, and has the following securities registered with the SEC and traded here in the United States:

<b>Title of each class</b>	<b>Name of each exchange on which registered</b>
Ordinary shares, no par value	New York Stock Exchange
6.55% Trust Preferred Securities of Deutsche Bank Contingent Capital Trust II 6.55% Company Preferred Securities of Deutsche Bank Contingent Capital LLC II Subordinated Guarantees of Deutsche Bank AG in connection with Capital Securities	New York Stock Exchange
8.05% Trust Preferred Securities of Deutsche Bank Contingent Capital Trust V 8.05% Company Preferred Securities for Deutsche Bank Contingent Capital LLC V Subordinated Guarantees of Deutsche Bank AG in connection with Capital Securities	New York Stock Exchange
Fixed to Fixed Reset Subordinated Tier 2 Notes Due 2028	New York Stock Exchange
4.50% Fixed Rate Subordinated Tier 2 Notes Due 2025	New York Stock Exchange
DB Agriculture Long Exchange Traded Notes due April 1, 2035	NYSE Arca
DB Agriculture Double Long Exchange Traded Notes due April 1, 2038	NYSE Arca

DB Base Metals Short Exchange Traded Notes due June 1, 2038	NYSE Arca
DB Base Metals Double Short Exchange Traded Notes due June 1, 2038	NYSE Arca
DB Base Metals Double Long Exchange Traded Notes due June 1, 2038	NYSE Arca
DB Commodity Short Exchange Traded Notes due April 1, 2038	NYSE Arca
DB Commodity Double Long Exchange Traded Notes due April 1, 2038	NYSE Arca
DB Crude Oil Short Exchange Traded Notes due June 1, 2038	NYSE Arca
DB Crude Oil Long Exchange Traded Notes due June 1, 2038	NYSE Arca
DB Crude Oil Double Short Exchange Traded Notes due June 1, 2038	NYSE Arca
DB Gold Double Long Exchange Traded Notes due February 15, 2038	NYSE Arca
DB Gold Double Short Exchange Traded Notes due February 15, 2038	NYSE Arca
DB Gold Short Exchange Traded Notes due February 15, 2038	NYSE Arca

261. Key aspects of the alleged violations of Defendants' duties of due care and prudence occurred in New York City, where the investment bank which was at the center of much of the illegal conduct that resulted in the damage to Deutsche Bank is headquartered. Bankers Trust — with its imbedded culture of dishonesty and lack of controls and procedures was located here. The bulk of the \$18 billion in fines/penalties and settlements have been paid to U.S. and New York regulatory authorities and there are ongoing investigations of wrongdoing inside Deutsche Bank being conducted by these authorities. Many of the key witnesses and much of the evidence relevant to Plaintiff's claims are located here in New York.

262. The illegal misconduct of Deutsche Bank employees/executives is a matter of significant public interest here in the United States. In addition to actions by U.S. regulators and prosecutors, the U.S. Congress is involved in

examining Deutsche Bank and conducting hearings into the long course of misconduct. *Bloomberg* in January 2019 reported:

**Deutsche Bank Faces Growing U.S. Scrutiny Over Money Laundering**

Deutsche Bank AG is facing broadening U.S. scrutiny as a leading Republican lawmaker joined Democratic colleagues in questioning the company's steps to combat money-laundering amid reports that its U.S. unit may have been a key conduit for dirty cash.

***Representative Patrick McHenry, the top Republican on the House Financial Services Committee, sent a letter Thursday to CEO Christian Sewing, seeking documents that outline what internal and independent reviews have turned up about how the bank shields against illicit transactions.*** The North Carolina lawmaker's move comes as the bank acknowledged that it has received an inquiry from House Democrats who are coordinating efforts to probe the Frankfurt-based lender and as the Federal Reserve looks into the company's involvement with a scandal-plagued Danish bank.

***"It is critically important for the American public to have confidence Deutsche Bank is adequately addressing the vulnerabilities that allowed billions of dollars tied to criminal activities to move through the international banking system," McHenry said ...***

McHenry highlighted Deutsche Bank's involvement in scandals ranging from "mirror trading" to how its U.S. unit handled billions of dollars in tainted transactions from Danske Bank A/S. *Bloomberg* reported Wednesday that the Fed is looking into the Danske transactions, adding to the international authorities, including the U.S. Department of Justice, pursuing investigations on those interactions.

Jesse Hamilton and Elizabeth Dexheimer, *Deutsche Bank Faces Growing U.S. Scrutiny Over Money Laundering*, BLOOMBERG, Jan. 24, 2019.

263. In 2017, two former Deutsche Bank employees were found guilty in the Southern District of New York for their role in the LIBOR price fix. Deutsche Bank is constantly involved in thousands of litigations in the United States and in New York both as defendant and plaintiff. Deutsche Bank's Supervisors and Managers have been involved in defending hundreds of litigations in the United States, including individual and class action suits. Over the years, on more than one occasion, Deutsche Bank has been sued in the Southern District of New York by U.S. and foreign investors for violations of the securities laws involving alleged fraud in connection with the trading of those securities in the United States and elsewhere. It has defended those suits here in New York.

264. Individual shareholders do not have the means to hire lawyers on a non-contingent fee basis, or to pay the costs of such complex litigation and cannot take the financial risk of the fee-shifting provision of Germany's Section 148. Most large institutional investors are fiduciaries to their clients/investors and they cannot rationally take the large economic risk of the fee-shifting provisions of Section 148 which would inflict costs and fees on them if they pursued a Section 148 procedural petition and lost. Upon information and belief, no shareholder in a listed public company subject to the German Corporation Code has ever successfully pursued a derivative action under Section 148.

265. Litigating this "dispute" in a "trial" of these claims in Frankfurt, Germany would be gravely difficult — a practical impossibility that would deprive the named Plaintiff of her rights as U.S./New York citizens, to access civil justice in the U.S. legal system with the procedural rules and remedies applied in legal proceedings in the United States.

266. There are no jury trials in civil cases in Germany as in New York. As a citizen of New York and of the United States, Plaintiff has a constitutional right to a jury trial. In New York, plaintiff in a derivative suit is entitled to a jury trial.



267. There is no possible recovery of punitive damages in a Frankfurt “trial,” as such damages do not exist in Germany. Punitive damages are permitted under New York law, prayed for in this complaint and clearly justified due to the conflicts of interest and the reckless, willful violations of the diligence and other failures alleged.

268. Many of the documents relating to the matters complained of are located in New York. There is very limited pretrial discovery under German Civil Procedure. Plaintiff will likely not be able to force the production of documents from Deutsche Bank, the Supervisors, Managers or third parties, as effectively and efficiently as will be the case with a New York forum. As to how to conduct needed third-party discovery in an action like this against a New York-based law firm and U.S.-based executives or witnesses via a case pending in Frankfurt regional court is anybody’s guess.

269. Plaintiff is a descendant of Holocaust victims and survivors. She has a strong emotional aversion to Germany and the German enterprises who, like Deutsche Bank, actively participated in and abetted the Holocaust. Financially, she cannot stand the cost and emotionally, she cannot stand the strain/upset of traveling to Germany to litigate these claims. This court is the only avenue she has to seek civil justice in a state in the United States, where she resides, and in which she is a citizen. Plaintiff cannot hire German lawyers to prosecute the claims asserted in Germany on a contingency fee basis, advancing the costs of the suit without recourse to the named plaintiff as is necessary for any vigorous full prosecution of a case like this to be forcefully prosecuted by experienced, expert independent counsel. However, contingent representation and expense advancement is permissible in New York — and is viewed as indispensable to assure access to the courts for the presentation of meritorious claims.

**IX. CAUSES OF ACTION****COUNT I****AGAINST THE DEUTSCHE BANK SUPERVISORS AND MANAGERS  
FOR BREACHES OF DUTIES TO DEUTSCHE BANK**

270. Plaintiff incorporates by reference the allegations set forth above.

271. The Supervisors and Managers sued due to the actions and inactions alleged herein did not employ the care of a diligent and conscientious manager, failed to obtain adequate information regarding decisions made with respect to the matters in controversy and breached their duties to Deutsche Bank and its shareholders, including their duties of due care, loyalty, candor and truthful communications.

272. Deutsche Bank has been badly damaged by the Defendants' misconduct and breaching of their duties of due care, prudence and loyalty, including but not limited to:

- a. the fees and costs of responding to and defending the investigations, suits, proceedings and regulatory and enforcement actions, as well as the huge fines, penalties and settlements paid to resolve the matters;
- b. the increased borrowing/funding costs due to Deutsche Bank's credit downgrades;
- c. the loss of Deutsche Bank common stock market cap due to the Defendants' actions;
- d. the damage/harm to Deutsche Bank's corporate reputation;
- e. fees paid to consulting firms who had to be brought in to actually run/manage the Bank during 2018-2019 due to the inability of the Deutsche Bank managers to do so; and

- f. the excessive and unjustified “exit payments” compensation and other bonuses paid out by the Managers based on falsified results that were inflated by improper and illegal conduct.

273. These Defendants’ actions and failures to act were substantial factors in causing the damages alleged, both those that have occurred and will in the future.

274. As a result of the conduct alleged, these Defendants are jointly and severally liable to Deutsche Bank for damages in an amount to be proven at trial.

275. The damages alleged in this Count are applicable to each of COUNTS I, II, III, and IV, and consist of any and all provable damages to Deutsche Bank.

## **COUNT II**

### **AGAINST THE DEUTSCHE BANK SUPERVISORS AND MANAGERS AND LAW FIRM FOR BREACHES OF DUTIES TO DEUTSCHE BANK**

276. Plaintiff incorporates by reference the allegations set forth above.

277. Under applicable law, and also (i) because their roles gave them constant access to non-public information of Deutsche Bank, (ii) because they held themselves out to be very sophisticated, highly qualified experts with extensive experience and expertise in their respective fields, (iii) because they knew the Deutsche Bank Supervisors would be unusually dependent upon their professed, superior experience, expertise, and sophistication in their respective areas of expertise, and (iv) because they were also acting as legal counsel, the Law Firm was a fiduciary to Deutsche Bank and its shareholders.

278. The Law Firm by its actions and inactions, as alleged herein influenced the Supervisors and Managers to act to the disadvantage, detriment and damage of Deutsche Bank, and acted in a negligent manner, failed to exercise due care and failed to fulfill their duty of loyalty to Deutsche Bank.

279. In addition to and as an alternative of Plaintiff's claim for compensatory damages, Plaintiff asserts a claim for punitive damages against the Cleary Gottlieb Law Firm — whose wrongdoing was intentional or deliberate, has circumstances of aggravation or outrage, and is in such conscious disregard of the rights of another that it is deemed willful and wanton.

280. Specifically, the Cleary Gottlieb firm committed intentional wrongdoing or conscious acts that willfully and wantonly disregarded the rights of Deutsche Bank and its fiduciary duties and duties of loyalty to Deutsche Bank and its owner/shareholders under aggravating and outrageous circumstances.

281. The Cleary Gottlieb firm had actual knowledge of the existence of each other Defendants' duties to Deutsche Bank, acted with extreme recklessness with malice in callous disregard of Deutsche Bank's rights and their own obligations to Deutsche Bank, acting with intent and actual knowledge that their actions would harm Deutsche Bank. As a result, Deutsche Bank has been damaged and Deutsche Bank is entitled to compensatory and punitive damages from the firm.

282. Deutsche Bank has sustained and will continue to sustain significant damages, as alleged in COUNT I.

283. Cleary Gottlieb's actions and failures to act were substantial factors in causing a significant part of the damages alleged herein. The firm is jointly and severally liable for all damages.

284. As a result of the conduct alleged herein, the Defendants are jointly and severally liable to Deutsche Bank for damages in an amount to be proven at trial.

**COUNT III****AGAINST ALL DEFENDANTS FOR PARTICIPATING IN A COMMON  
COURSE OF CONDUCT AND CONCERTED ACTION DAMAGING  
DEUTSCHE BANK**

285. Plaintiff incorporates by reference the allegations set forth above.

286. Each Defendant played an important and indispensable part in a concerted, common course of conduct, for their own, and their joint, economic gain, to the damage of Deutsche Bank. Defendants worked together, knowing the roles of the others and each taking the specific overt acts alleged herein within their special areas of expertise and knowledge to further the civil conspiracy. Each Defendant profited from participation in the scheme. In order for the scheme to develop into the course of conduct as it did, it required the continuing mutually supportive and overt acts of each Defendant. Had any one of them complied with their duties to Deutsche Bank, the damages could have been mitigated or avoided.

287. Deutsche Bank has sustained and will continue to sustain significant damages, as alleged in COUNT I.

288. Defendants' actions and failures to act made with knowledge of the facts, and Defendants' negligent actions and failures to act, were all substantial factors in causing the damages alleged herein.

289. As a result of the misconduct alleged herein, the Defendants are jointly and severally liable to Deutsche Bank for damages in an amount to be proven at trial.

**COUNT IV****AGAINST ALL DEFENDANTS FOR AIDING AND ABETTING  
BREACHES OF ONE ANOTHER'S DUTIES TO DEUTSCHE BANK**

290. Plaintiff incorporates by reference the allegations set forth above.

291. Each of the Supervisors, Managers, and the Law Firm knew that they all owed obligations to Deutsche Bank.

292. Each of the Defendants knew that the other Defendants' conduct as alleged in this Complaint breached those duties to Deutsche Bank.

293. Each of the Supervisors, Managers, and the Law Firm gave substantial assistance or encouragement in effectuating such other Defendants' breach of duties, by the actions or failures to act as alleged in this Complaint.

294. Defendants named in this Count had actual knowledge of the existence of each of the other Defendants' duties to Deutsche Bank, and knowingly provided substantial assistance to these Defendants in the breach of their duties to Deutsche Bank.

295. As a direct and proximate result of the breaches of duties aided and abetted by the Defendants named in this Count, Deutsche Bank has been damaged.

296. Deutsche Bank has sustained and will continue to sustain significant damages, as alleged in COUNT I.

297. As a result of the misconduct alleged herein, these Defendants are liable to Deutsche Bank for damages in an amount to be proven at trial.

#### **X. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, on behalf of and derivatively for Deutsche Bank, demands judgment as follows:

A. Declaring that Plaintiff may maintain this action on behalf of Deutsche Bank and that Plaintiff is an adequate representative for Deutsche Bank;

B. Declaring that Defendants have breached their respective duties to Deutsche Bank;

C. Determining and awarding to Deutsche Bank the damages sustained by it as a result of the violations set forth above from each of the Defendants, individually, jointly and severally, together with interest thereon, as appropriate under the law;

D. Awarding to Deutsche Bank punitive damages against Cleary Gottlieb;

E. Ordering a full and complete accounting of fees or other payments made to any person in connection with the wrongdoing;

F. Imposing a constructive trust upon and/or ordering disgorgement of all fees or compensation paid to or profits earned by the Law Firm and all compensation paid to the Supervisors and Managers;

G. Awarding Plaintiff's Counsel reasonable fees and expenses, honoring the fee agreement with the named Plaintiff who has brought this action on behalf of and for the benefit of Deutsche Bank;

H. Awarding the named Plaintiff an appropriate incentive award for having the courage and initiative to bring the action to benefit Deutsche Bank, to be paid out of the recovery;

I. Using the court's equity power to fashion such relief as is justified and necessary to benefit Deutsche Bank and to which it is entitled, while ensuring that wrongdoers do not benefit; and

J. Awarding such other legal and equitable relief as the Court deems appropriate.

#### **DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury on all issues so triable.

Dated: March 9, 2020

Respectfully submitted,

\_\_\_\_\_  
s/ Clifford S. Robert  
Clifford S. Robert

ROBERT & ROBERT, PLLC  
Clifford S. Robert  
Michael Farina  
767 Third Avenue, 26th Floor  
New York, New York 10017  
Telephone: (212) 858-9270

Facsimile: (516) 832-7080  
crobert@robertlaw.com  
mfarina@robertlaw.com

BRAFMAN & ASSOCIATES, P.C.  
Benjamin Brafman  
767 Third Avenue, 26th Floor  
New York, New York 10017  
Telephone: (212) 750-7800  
Facsimile: (212) 750-3906  
bbrafman@brafmanlaw.com

BOTTINI & BOTTINI, INC.  
Francis A. Bottini, Jr. (*pro hac vice*)  
Michelle C. Lerach (*pro hac vice*)  
James D. Baskin (*pro hac vice*)  
Albert Y. Chang  
Yury A. Kolesnikov (*pro hac vice*)  
7817 Ivanhoe Avenue, Suite 102  
La Jolla, California 92037  
Telephone: (858) 914-2001  
Facsimile: (858) 914-2002  
fbottini@bottinilaw.com  
mlerach@bottinilaw.com  
jbaskin@bottinilaw.com  
achang@bottinilaw.com  
ykolesnikov@bottinilaw.com

WEISS LAW LLP  
Joseph H. Weiss  
David C. Katz  
Joshua M. Rubin  
1500 Broadway, 16th Floor  
New York, New York 10036  
Telephone: (212) 682-3025  
Facsimile: (212) 682-3010  
jweiss@weisslawllp.com  
dkatz@weisslawllp.com  
jrubin@weisslawllp.com

THEMIS PLLC  
John P. Pierce (*pro hac vice*)  
2305 Calvert Street, NW  
Washington, District of Columbia 20008  
Telephone: (202) 567-2050  
jpierce@themis.us.com

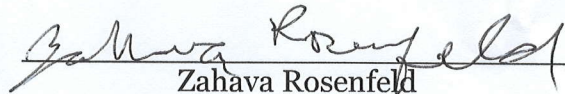
*Counsel for Plaintiff*



**VERIFICATION**

I, Zahava Rosenfeld, state as follows:

1. I am a shareholder of Deutsche Bank AG. I have continuously held shares of Deutsche Bank AG common stock and Deutsche Bank AG American Depositary Receipts since 2000.
2. I have reviewed the allegations made in this verified derivative complaint (the "Complaint").
3. As to the allegations in the Complaint of which I have personal knowledge, I believe them to be true. As to those allegations of which I do not have personal knowledge, I rely upon my counsel and their investigation and believe them to be true.
4. Having received a copy of this Complaint, having reviewed it with my counsel, I authorize its filing.
5. I affirm under the penalties of perjury under the laws of New York that the foregoing is true and correct, and that this document may be filed in an action or proceeding in a court of law. Executed on March 9, 2020.

  
Zahava Rosenfeld