

## **Standard Bank/ Enterprise Growth Market Advisors / Tanzania Sovereign Note Private Placement**

**Case ID:**

ARW-244

**Jurisdiction of Origin of Public Official or Entity Allegedly Involved:**

Tanzania

**Position of Public Official(s) (yrs in office):**

Harry Kitilya, Commissioner of the Tanzanian Revenue Authority (resigned December 2013);  
Fratern Mboya, CEO of Tanzania Capital Markets and Securities Authority (1995-2011)

**Jurisdiction of Asset Recovery:**

United Kingdom

**Jurisdiction of Asset Recovery ? Description:**

Undertaking Recovery Effort; Location of Recovery Effort

**Asset Recovery Start:**

2013

**Asset Recovery End:**

2016

**UNCAC Offenses Implicated:**

Art.16

Art.18

Art.19

**Legal Basis for Asset Recovery:**

Deferred Prosecution Agreement/Settlement

**Contributing Factors in Asset Recovery:**

The case was triggered by a self disclosure by Standard Bank. The UK SFO also acknowledged working with the US Department of Justice and Securities and Exchange Commission, the UK Foreign and Commonwealth Office and the Financial Conduct Authority. (Source: UK SFO Press Release, " SFO agrees first UK DPA with Standard Bank," November 30, 2015)

**Status of Asset Recovery :**

Ongoing

**Stage in Asset Recovery Chain:**

Assets Returned to Victim or Requesting Jurisdiction

**Assets Returned (USD) - Description:**

\$7,000,000

**Agreement for Returned Assets:**

Unknown

**Agreement for Returned Assets - Description:**

According to the UK Serious Fraud Office, "The money due to the Government of Tanzania will be returned in line with advice being received from the Department for International Development." (Source: SFO Press Release, "SFO agrees first UK DPA with Standard Bank," November 30, 2015)

**Case Summary:**

According to a news article by the British High Commission Dar es Salaam, "The UK has recently transferred to the Tanzanian Government the \$7m fine that Standard Bank paid as a result of its failure to prevent bribery." (Source: British High Commission Dar es Salaam, "UK, Tanzania close partners in fighting corruption scourge," May 17, 2016.)

According to the UK Serious Fraud Office and the Statement of Facts in the case, in 2012-2013, Standard Bank and its Tanzanian subsidiary Stanbic Bank were involved in a US\$600 million sovereign note private placement for the Government of Tanzania, which was seeking to raise funds in support of its "Five Year Development Plan" to finance various infrastructure projects. As part of the deal, the fees to be paid to the bank was increased to 2.4%, with the "local partner" Enterprise Growth Market Advisors receiving a consulting fee of 1% although according to the Statement of Facts, there was "no evidence of payment represented reasonable consideration for services rendered on this transaction." (Source: Statement of Facts, para 28; See also Final Judgment, paras 6 and 7). The chairman of Enterprise Growth Market Advisors (EGMA) was Mr. Harry Kitilya, who was also one of its three directors and shareholders, and at the same time serving as the Commission of the Tanzanian Revenue Authority. EGMA's Managing Director was Dr. Fratern Mboya, who had been the Chief Executive Officer of the Tanzanian Capital Markets and Securities Authority (a government agency), 1995-2011. The Statement of Facts in the case also lists (in paras 56-57) the involvement of other Tanzanian government officials in the deal, including two successive Ministers of Finance.

The case was triggered by a disclosure to the SFO by Standard Bank's legal counsel. The SFO noted that despite "obvious red flags for bribery" Standard Bank and Stanbic Bank "team not appears to have recognized possibility of the arrangement being corrupt." (Source: Statement of Facts, paras 153-154). The Statement of Facts notes that within days and weeks of being paid \$6 million into an account opened specifically to receive the fees, Dr. Mboya of EGMA made four withdrawals in cash of nearly all of the amounts paid, with the assistance of bank personnel. The Statement of Facts noted that "The cash withdrawals prevents any further tracing of the US\$6 million." (Statement of Facts, paras 178-185, 30).

As part of the Deferred Prosecution Agreement, Standard Bank will pay \$25.2 million in total financial penalty, consisting of \$16.8 million financial penalty, \$8.4 million disgorgement of profits.

### **Disposition of Criminal Case(s):**

According to the UK Serious Fraud Office, in November 2015, the Southwark Crown Court approved the SFO's first Deferred Prosecution Agreement with the Standard Bank, which was the subject of an indictment alleging failure to prevent bribery contrary to section 7 of the Bribery Act 2010. As a result of the Deferred Prosecution Agreement, the charge against Standard Bank has been suspended for three years. (Sources: UK SFO Press Release,

"SFO agrees first UK DPA with Standard Bank," November 30, 2015; Deferred Prosecution Agreement, November 2015; Between Serious Fraud Office and Standard Bank, Case U20150854, Approved Judgment, November 30, 2015)

**Jurisdiction of Asset Recovery: Investigative Agency:**

Serious Fraud Office







**Jurisdiction of Asset Recovery: Prosecuting Authority/Civil Attorney(s):**

Serious Fraud Office

**Jurisdiction of Asset Recovery: Courts Involved:**

Southwark Crown Court

**Documents:**

<b>Attachment</b>	<b>Size</b>
 UK SFO agrees first UK DPA with Standard Bank _ Nov302015.pdf	124.19 KB
 deferred prosecution agreement - standard bank_Nov2015.pdf	98.5 KB
 sfo v icbc sb plc - statement of facts_Nov2015.pdf	425.01 KB
 sfo-v-standard-bank_Preliminary_judgment_Nov2015.pdf	76.75 KB
 sfo-v-standard-bank_Final judgment_Nov2015.pdf	42.27 KB
 Standard Bank_UK, Tanzania close partners in fighting corruption scourge_May2016.pdf	137.39 KB

**Other Sources:**

UK Serious Fraud Office Press Release, " SFO agrees first UK DPA with Standard Bank," November 30, 2015, at <http://www.sfo.gov.uk/press-room/latest-press-releases/press-releases-20...> (which also provides links to the Deferred Prosecution Agreement, Statement of Facts, Preliminary Judgment and Final Judgment); British High Commission Dar es Salaam, "UK, Tanzania close partners in fighting corruption scourge," May 17, 2016, at <https://www.gov.uk/government/world-location-news/uk-tanzania-close-part...>