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HSBC had 'Madoff warnings in 2001'

By Brooke Masters
in London

HSBC continued to act for funds that fed money into Bernard Madoff's Ponzi scheme in spite of repeated warning from the bank's own executives and outside auditors about the "baffling" and potentially fraudulent structure of the fund, according to a US lawsuit launched against the global bank.

In the \$9bn claim against HSBC and other European institutions, the trustee charged with recovering money for Mr Madoff's victims alleged the warnings began as early as 2001, seven years before the scheme collapsed, revealing one of the biggest frauds in history.

The HSBC complaint was made public on Monday as Irving Picard, the trustee, announced his largest settlement to date with a bank-sponsored feeder fund that sent money to Mr Madoff.

He said that Union Bancaire Privée, the Swiss private bank, had agreed to pay up to \$500m into a restitution fund for Mr Madoff's victims. The US bankruptcy court is due to consider the deal on Thursday.

The settlement is expected to head off a \$1bn lawsuit. UBP had already offered partial compensation to its own clients who lost an estimated \$700m if they agreed not to sue.

"We believe the agreement and the settlement payment represents a . . . reasonable compromise among the parties involved and, importantly, adds a guaranteed half-billion dollars to the [Madoff] Customer Fund," said David J. Sheehan, a lawyer for Mr Picard.

The HSBC lawsuit, on the other hand appears destined for a protracted court fight. It alleges that Mr Madoff sent HSBC-connected funds account statements that included extraordinary discrepancies, yet the bank's subsidiaries continued to serve as administrators, custodians and marketers for feeder funds that sent money to the \$65bn scheme.

Among other things, the statements included claims that Mr Madoff was parking investors' cash in a money-market fund that ceased to exist in 2005, that trades had settled on non-working days, and at prices outside the reported daily range.

The lawsuit filed in New York seeks \$6.6bn from HSBC subsidiaries and demands more than \$2bn from UniCredit's Bank Austria and Bank Medici and a series of feeder funds and individual executives.

The HSBC claim is the largest in a flurry of huge lawsuits that Irving Picard, the trustee, has filed against US and European institutions as a two-year deadline for filing claims looms.

Mr Picard has also filed separate lawsuits seeking \$2bn from UBS and \$6.4bn from JPMorgan, as well as money from Madoff relatives and friends, and US feeder funds.

The HSBC claims offer some of the most detailed information about a big bank's relationship with Mr Madoff, who was arrested in December 2008 and is serving a 150-year sentence for fraud.

One-third of the money that went to the scheme came through HSBC-related funds, the complaint said.

"The fees they received for their various roles were nothing more than kickbacks paid for looking the other way," it alleges.

HSBC said it "believes that the US court-appointed trustees' claims of wrongdoing are unfounded and it will defend itself vigorously against these claims". The bank is already fighting investor lawsuits in the US, France and Ireland.

UniCredit said: "We intend to defend ourselves vigorously."

Mr Picard's complaint says HSBC twice hired KPMG to look at Mr Madoff's operation and received detailed warnings about the potential for fraud in 2006 and 2008 but the bank continued to work with the broker.

\$9bn claim

- Thousands of trades reportedly occurred at prices outside the official daily range
- Madoff claimed that investors money was being put in the Spartan US Treasury Money Market Fund for three years after that fund changed its name
- Trades settled on Saturdays and other non-work days
- Madoff said he made thousands of interest-free loans to HSBC-administered funds