

The Myth of Prime Bank Investment Scams

Third Edition

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II. Governmental, Regulatory, and Organizational Warnings

Some of the most prominent major national and international organizations and governmental agencies that have issued warnings regarding Prime Bank Investment Schemes are featured here.

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SEC Press Release – Division of Enforcement Warns of Possible Prime Bank Fraud in Connection with Banka Bohemia Securities	80
U.S. Secret Service – Public Awareness Advisory Regarding “4-1-9” or “Advance Fee Fraud” Schemes	81
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III. Scam Examples: Paperwork and Literature

The following materials drawn from actual Prime Bank Scams exemplify the type of materials frequently used in these scams.

Trading of Bank Credit Instruments	110
An Introduction To The International Chamber of Commerce (Publication 500) and Bank Debenture Trading Programs	116
Synopsis of Funding Program	136
Bank Instrument Purchase Program	146
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ICC Form 3039	202

IV. Scam Summaries

These summaries of scams are based on the various sources indicated, including newspaper articles and court reports. They are not exhaustive, nor can they possibly cover all reported Prime Bank Scams. They are interrelated to provide insight into some of the more notorious schemes and artifices used. They are organized loosely and eclectically according to five categories: Permutations of the Scheme; Ponzi Schemes; High-Profile Plaintiffs; Fraudulent Attorney Involvement; and Scams That Use Real Banks and Instruments.

A. Permutations of the Scheme

Variations on the traditional Prime Bank Instrument. In an attempt to avoid scrutiny, fraudsters frequently run the same type of schemes using different false instruments. These include: Prime Bank Notes; Letters of Credit; Medium-term Notes; and U.S. Treasuries.

Asian Pacific Bank	203
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Meridien International Bank	211
Myco Investment Group	211
Vanuatu	212

B. Ponzi Schemes

One way to keep investors interested is to pay older investors money from new investors couched as dividends. Frequently, the fraudsters use the old investors as bait to entice new investors.

Andrews	213
Bankers Alliance	214
Bankhall Investment	214
Creative Income Systems	215
D’Acquisto	216
Oyler	217
Prime One	218

C. High-Profile Plaintiffs

As outlandish as the promised returns seem in these cases, even some well-known organizations have been duped by them.

Chicago Housing Authority	218
KACO	220
Kissimmee	221
Malaysian Syndicate	221
National Council of Churches of Christ	222
Salvation Army	224
Teamsters	225

D. Attorney Faciliation of Fraud

One sad feature of many of these schemes is that professionals, including attorneys sometimes promote them.

Nauru	226
Pitts	227
Rausch	227

E. Real Banks and Instruments

The danger for institutions is that frequently the fraudsters manage to gain their involvement or approval unwittingly. In some cases actual banks are fraudulently induced to Advance Fees or issue Letters of Credit. Other cases involve forgeries of original documents or corrupt bank officials.

Agricultural Bank of China	228
Banka Bohemia	229

Bapindo	230
Bayshore Bank	231
Caresena	231
Colour Touch	232
Ernst & Young Carribbean Region, Ltd.	233
Kwang	233
National City Bank of Michigan/Illinois	234
Orientech	235

V. Scam Case Abstracts

These abstracts of reported judicial opinions represent a cross-section of the different forms of Prime Bank Scams. They comprise cases that include large investment pools and judicially significant decisions. The cases chosen represent: Classic Prime Bank Instrument Schemes; Cases Ignoring or Reinforcing Fraudulent Instruments and Language; Cases in Support of Regulatory Prosecution; and Cases in Which Plaintiffs Go after Real Banks/Brokerage Houses.

A. Classic Prime Bank Instrument Schemes

These are several prime examples of classic Prime Bank Schemes. They contain the standard elements of these frauds. They utilize the same type of language and instruments. They also sometimes use religion or charity as a means to attract potential investors.

BCSC v. Tri-West (In re: Tri-West Inv. Club)	236
SEC v. Deyon	238
SEC v. Pinckney	239

B. Cases Ignoring or Reinforcing False Instruments and Language

Occasionally courts refuse to even acknowledge the instruments and focus only on the breach of contract or fiduciary duty at hand. One judge even treats some of the fictitious procedures described by the fraudsters as having real merit.

Crowder v. Meyer	241
Kerrigan v. Villei	243
Piedmont Resolution, LLC v. Johnston, Rivlin & Foley, LLC et al	246
SEC v. Norton	248

C. Cases in Support of Regulatory Prosecution

These cases were chosen for the relevance to the policing community involved with these Prime Bank Schemes. The cases involve legal issues of scienter and jurisdiction.

Jinro America, Inc. v. Secure Investments, Inc.	249
SEC v. Bremont	250
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<i>SEC v. Reese</i>	255
<i>Smoot v. Metsons</i>	258
<i>Sterne v. Pompili</i>	259
<i>U.S. v. Robinson</i>	260

D. Cases in Which Plaintiffs Go after Real Banks/Brokerage Houses

The defendants in these cases are frequently considered to be “judgment proof”. Although a civil action may award damages to the plaintiff, such defendants have no money to pay damages. Often in these cases, the plaintiffs then go after the “deep pockets” of the bank or brokerage house that unwittingly was used as a pass-through or holding account for funds.

<i>Local 875 Pension Fund v. Pollack</i>	261
<i>Klaus Renner v. Chase Manhattan Bank</i>	262

VI. Full Text: SEC v. Lauer 266

This appellate decision usefully indicates that Prime Bank Instruments are securities for purposes of applicable anti-fraud provisions in the securities laws, even though the instruments do not exist. This decision has aided regulatory agencies in their war on Prime Bank scamsters.

VII. SEC Litigation Releases

The Securities and Exchange Commission has been active in pursuing Prime Bank Investment Scams. Using the broad mandate in the Securities Act of 1933 and Securities & Exchange Act of 1934, the Commission has sought and obtained civil injunctions in a number of these cases. The following are litigation releases deciding silent SEC actions. They include litigation samples from some scam case abstracts and some new internet-related scams.

<i>SEC v. Cheal</i>	271
<i>SEC v. Cook</i>	275
<i>SEC v. Elfindegan</i>	277
<i>SEC v. Koontz</i>	280

VIII. Testimony Regarding S. 1009

In considering additional legislation to combat financial investment scams, the U.S. Senate Committee on Banking, Housing & Urban Affairs held hearings that considered the pervasiveness of these schemes. The following statements were given to the Committee in the hearing.

William R. McLucas, SEC	281
Donald Bell & Larry Bosh, The Salvation Army	287
Albert M. Pennybacker, NCCC	291

Bibliography

About the Author

About the Institute of International Banking Law & Practice