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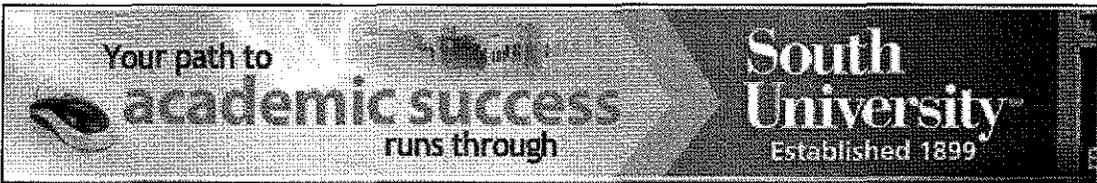
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Tax shelter inquiry goes beyond KPMG

By Lynnley Browning
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NEW YORK — Ever since the accounting firm KPMG reached a \$456 million settlement of a U.S. investigation into abusive tax shelters nearly three weeks ago, the question has been who may be next.

Federal prosecutors have said that their criminal investigation is widening, and attention is increasingly turning to the role played by banks, financial advisers and law firms that worked with KPMG and other accounting firms to create and sell such shelters.

Among those companies, Deutsche Bank in particular has been a target of lawsuits from wealthy investors who sought to shield millions of dollars from taxes and bought shelters that did not pass muster with the U.S. Internal Revenue Service.

Investigators in the U.S. Senate have previously criticized the role of Deutsche Bank and other banks in making the loans and handling the currency trades and other transactions that made up the abusive shelters, saying that senior executives and managers at the banks knew the shelters were improper. Now, a barely noticed lawsuit indicates that Deutsche Bank had a much deeper involvement in creating and helping to sell a questionable tax shelter known as Cobra, which stood for "currency options bring reward alternatives."

The lawsuit, filed by 12 wealthy investors in a Texas state court in Fort Worth, contends that in late 1999 at least one Deutsche Bank employee contacted the law firm of Jenkens & Gilchrist about creating a highly aggressive tax shelter using options on foreign currencies.

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The shelter, which later acquired the Cobra name, was never considered valid for deductions by the IRS, which issued several warnings to investors in 1999 as it became aware of its use. The agency formally banned it in fall 2000.

Many accounting firms sold similar questionable shelters in the late 1990s and early 2000. The Cobra at the heart of the Texas state lawsuit was sold by the accounting firm Ernst & Young, which had already been developing a similar shelter through an internal unit called Viper, for "value ideas produce extraordinary results." Viper was responsible for marketing aggressive tax shelters, including Cobra, to wealthy individuals who were clients of Ernst & Young, the complaint says.

Ernst & Young declined to comment on the lawsuit but said that Viper was not dissolved until early 2003. Last year, the firm said that U.S. prosecutors were investigating tax shelters it had promoted and that it was cooperating with the inquiry. In 2003, Ernst & Young reached a \$15 million settlement with the IRS over its shelters. It says that it has stopped selling the shelters that the IRS considers abusive.

About 1,200 investors who bought Cobra and similar shelters have come forward under a settlement offer with the IRS and paid more than \$3.7 billion in back taxes, interest and penalties.

The lead plaintiff in the Texas lawsuit, which names Deutsche Bank as a defendant, is Henry Camferdam Jr., an Indiana businessman who has been a vocal critic of the accounting, law and financial firms that he contends created and knowingly sold him a bogus shelter in 1999.

There is no public indication that Deutsche Bank is a subject of the federal investigation. But prosecutors have told defense lawyers for eight former KPMG partners and a lawyer who have all been indicted that they have gathered about 300 boxes of documents from different firms, including Deutsche Bank, in the course of their investigation.

In connection with two other KPMG tax shelters, Opis and Blips, Deutsche Bank has said it did nothing improper and only carried out ordinary and routine, if complex and arcane, financial transactions for investors in those shelters. Blips and Opis are similar to the Cobra shelter at the heart of the Texas lawsuit.

But **David Deary**, a lawyer in Dallas who filed the complaint on behalf of Camferdam, said that those and other roles played by the bank, including setting up trading accounts, meant that "Deutsche Bank was extremely involved in every aspect of designing and implementing this tax shelter."

A spokeswoman for Deutsche Bank declined to comment on Thursday on the allegations in the Texas lawsuit or on the wider investigation.

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