

Opening Statement of Senator Tom Coburn

Hearing of the
U.S. Senate Permanent Subcommittee on Investigations
“U.S. Vulnerabilities to Money Laundering, Drugs, and Terrorist Financing:
HSBC Case History”
July 17, 2012

I would like to thank Chairman Levin for holding this important hearing and for his tireless work to raise the issue of safety and soundness within the banking industry.

I would also like to thank both the Office of the Comptroller of the Currency and HSBC Bank for their full cooperation in this investigation. The OCC provided a number of people for interviews as well as essential documents about the regulatory process. HSBC Bank officials likewise sat for dozens of interviews and handed over millions of pages in documents. Some of today’s witnesses were flown in from posts around the world.

As Chairman Levin laid out in his statement, the Subcommittee’s investigation into anti-money laundering and anti-terror finance efforts at HSBC has covered quite a bit of ground. PSI examined in detail the types of vulnerabilities our nation faces from criminals and terrorists who want to take advantage and abuse our banking system and take away our freedoms. What we learned is that the United States faces unique risks, both because of our post-9/11 security needs and because of the strength of our financial system, which attracts worldwide attention.

Every day, countless transactions denominated in U.S. dollars occur around the world. This is good for our economy, which benefits from a strengthened currency and increased economic activity. But, criminals around the globe are also drawn to U.S. banks, which offer the attractive option of making their illicit funds look legitimate. If they can pass criminal proceeds through a U.S. bank unnoticed and untouched, the funds are unlikely ever to be stopped or recovered.

This hearing raises big and important questions. Banks want to obey the law, but also grow their businesses – what happens when the two conflict? Banks want to know their customers, but some customers want privacy – how do we resolve this? As we write AML policy, we should look for ways to get all boats rowing in the same direction, letting banks and government each do what they do best as we all work to combat crime and terror.

At HSBC, we uncovered a number of troubling examples in which weak AML systems may have let criminal or terrorist funds pass through. In Mexico, for example, billions of U.S. dollars flowed from the HSBC affiliate in Mexico. The Mexico affiliate was the single largest exporter of U.S. dollars in Mexico to HBUS. U.S. Law enforcement and the

regulatory entities have concluded that because of the volume of money, it likely came from proceeds of the illegal drug trade.

In another case, an Iranian bank was allowed to initiate U.S. dollar transactions that HSBC would process through the U.S. without explaining where they came from. At the time, however, there were severe legal restrictions on any payments come from or going to Iran, most often meaning they would be manually inspected. HSBC's affiliate in London coached the Iranian bank how to get the payments through the U.S. without inspection, and simply requested the bank send transactions that would not violate U.S. law. In effect, it relied exclusively on an Iranian bank to comply with a law intended to catch payments from Iranian banks. The bank or the officials that made that decision were either naïve or willfully blind.

This is why tough anti-money laundering laws are important, if illicit funds can be tracked and stopped, there are fewer places for criminals and terrorists to hide. And while our focus has been on the problems we found at HSBC Bank, we also have to emphasize that similar problems exist at other banks. For example, Citbank, Bank of America, Wachovia, Western Union and others have come under scrutiny for laundering drug cartels profits

The purpose of this hearing, then, is not just to make an example of HSBC, as if it were an anomaly. Rather, this hearing is to help Congress understand just what kind of risks this nation faces, and what we should do to reduce them. If we can get a better handle on the risks by looking closely at the operations of a single bank, we can write better laws and achieve our true goals: stopping crime and preventing terror.

With that in mind, I believe there are several lessons we can learn from the problems we uncovered at HSBC Bank.

First, banks around the world operate under different laws, creating different sensitivities to money laundering. While this seems apparent, it was not clear how much this would affect a bank with worldwide affiliates until we took a closer look. In the case of HSBC, its bank in the U.S. operated differently even than its own affiliates in London, Mexico and Middle East. Failure to recognize this can lull us into thinking we can rely on foreign banks to carry out U.S. law.

Second, bank regulators are sometimes better at identifying money laundering vulnerabilities than knowing how to fix them. Throughout this inquiry, it became clear the Office of the Comptroller of the Currency (OCC) was aware of many of HSBC's AML weaknesses, which it frequently pointed out. It was often at a loss, however, to prescribe how HSBC could eliminate the weaknesses. And so its record of enforcement at HSBC resembles a lapdog rather a watchdog that we sorely need.

We have also learned recently that investigators from Treasury's own Office of Inspector General have cited OCC personnel for unethical practices. The IG found an OCC examiner-in-charge accepted gifts, meals and even golf fees from executives at banks he was actively overseeing. This unfortunately was not an isolated incident, but other OCC employees were involved in other ethical violations. Taken together with our Subcommittee's findings in this investigation, these conflicts are startling and suggest Congress should give closer scrutiny to the OCC's actions.

That purpose here is to stop criminals from hiding their illicit funds and preventing terrorists from having the freedom to plot and plan. The metrics we use to measure a bank's AML compliance need to focus less on form and more on substance – how well are we achieving this goal?

This committee has shown the kinds of vulnerabilities we face. Too often what we found left us troubled, both for the risks to our nation and for the level of effort we saw to eliminate them. HSBC made its share of mistakes, and for which it is now being held accountable.

But we must all remember that money laundering always begins with a crime, and this ultimately is what we mean to fight. To the extent that this hearing results in criminals and terrorists having fewer options to rob and harm the American public, we will count it a success.

It may be impossible to stop all money laundering. Most of what we call money laundering in a certain context is a benign transaction in another. Buying travelers checks is innocent behavior for the tourist, but suspicious behavior when they are purchased in bulk by terrorists or drug lords. This does not mean we should not try to stop criminals from laundering their money through U.S. banks, but rather we need to do so wisely.

I appreciate the efforts made at HSBC to improve their AML systems, and sincerely hope that they stick. I look forward to hearing from their witnesses, as well as those from the OCC, and appreciate their appearance before us today.