REPORT FOLLOWS
TABLE OF CONTENTS
AND EXHIBIT LIST

S. Hrg. 108–633

MONEY LAUNDERING AND FOREIGN CORRUPTION: ENFORCEMENT AND EFFECTIVENESS OF THE PATRIOT ACT

HEARING

BEFORE THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

JULY 15, 2004

Printed for the use of the Committee on Governmental Affairs

COMMITTEE ON GOVERNMENTAL AFFAIRS

SUSAN M. COLLINS, Maine, *Chairman*

TED STEVENS, Alaska	JOSEPH I. LIEBERMAN, Connecticut
GEORGE V. VOINOVICH, Ohio	CARL LEVIN, Michigan
NORM COLEMAN, Minnesota	DANIEL K. AKAKA, Hawaii
ARLEN SPECTER, Pennsylvania	RICHARD J. DURBIN, Illinois
ROBERT F. BENNETT, Utah	THOMAS R. CARPER, Delaware
PETER G. FITZGERALD, Illinois	MARK DAYTON, Minnesota
JOHN E. SUNUNU, New Hampshire	FRANK LAUTENBERG, New Jersey
RICHARD C. SHELBY, Alabama	MARK PRYOR, Arkansas

MICHAEL D. BOPP, *Staff Director and Chief Counsel*
JOYCE A. RECHTSCHAFFEN, *Minority Staff Director and Counsel*
AMY B. NEWHOUSE, *Chief Clerk*

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

NORM COLEMAN, Minnesota, *Chairman*

TED STEVENS, Alaska	CARL LEVIN, Michigan
GEORGE V. VOINOVICH, Ohio	DANIEL K. AKAKA, Hawaii
ARLEN SPECTER, Pennsylvania	RICHARD J. DURBIN, Illinois
ROBERT F. BENNETT, Utah	THOMAS R. CARPER, Delaware
PETER G. FITZGERALD, Illinois	MARK DAYTON, Minnesota
JOHN E. SUNUNU, New Hampshire	FRANK LAUTENBERG, New Jersey
RICHARD C. SHELBY, Alabama	MARK PRYOR, Arkansas

RAYMOND V. SHEPHERD, III, *Staff Director and Chief Counsel*
LELAND B. ERICKSON, *Counsel*
ELISE J. BEAN, *Minority Staff Director and Chief Counsel*
ROBERT L. ROACH, *Minority Counsel and Chief Investigator*
MARY D. ROBERTSON, *Chief Clerk*

CONTENTS

WITNESSES

THURSDAY, JULY 15, 2004

ALPHABETICAL LIST OF WITNESSES

REPORT ATTACHED BELOW

Page

United States Senate
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
Committee on Governmental Affairs

Norm Coleman, Chairman
Carl Levin, Ranking Minority Member

MONEY LAUNDERING AND FOREIGN CORRUPTION: ENFORCEMENT AND EFFECTIVENESS OF THE PATRIOT ACT

CASE STUDY INVOLVING RIGGS BANK

REPORT

PREPARED BY THE

MINORITY STAFF
OF THE
PERMANENT SUBCOMMITTEE
ON INVESTIGATIONS

RELEASED IN CONJUNCTION WITH THE
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS' HEARING
ON JULY 15, 2004

TABLE OF CONTENTS

✧ ✧ ✧

MONEY LAUNDERING AND FOREIGN CORRUPTION: ENFORCEMENT AND EFFECTIVENESS OF THE PATRIOT ACT

CASE STUDY INVOLVING RIGGS BANK

July 14, 2004

I. Introduction

From 1999 to 2001, the U.S. Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, at the request of Senator Carl Levin, Ranking Minority Member, conducted a detailed investigation into money laundering activities in the U.S. financial services sector, including in-depth examinations of money laundering activities in private banking, correspondent banking, and the securities industry. Two Minority staff reports were issued, and Subcommittee hearings were held in November 1999 and March 2001.[1] This investigative work provided the foundation for many of the anti-money laundering provisions in Title III of the USA Patriot Act enacted in October 2001. Among other key provisions, the Patriot Act obligated U.S. financial institutions to exercise due diligence when opening and administering accounts for foreign political figures, and deemed corrupt acts by foreign officials as an allowable basis for U.S. money laundering prosecutions.

In 2003, again at Senator Levin's request, the Subcommittee initiated a followup investigation to evaluate the enforcement and effectiveness of key anti-money laundering provisions in the Patriot Act, using Riggs Bank as a case history. The information in this Minority Staff Report is based upon the ensuing joint investigation by the Subcommittee's Democratic and Republican staffs.

During the course of this investigation, the Subcommittee issued numerous subpoenas and document requests. The Subcommittee staff reviewed over 100 boxes, folders, and electronic compact disks containing hundreds of thousands of pages of documents, including bank statements, account opening materials, wire transfers, correspondence, electronic mail, contracts, board minutes, materials related to specific bank accounts and transactions, bank examination materials, audit reports, legislative materials, and legal pleadings. The Subcommittee staff also conducted numerous interviews with representatives from financial institutions, the Office of the Comptroller of the Currency (OCC), the Federal Reserve, oil companies, various experts, and other persons with relevant information.

II. Executive Summary

The evidence reviewed by the Subcommittee staff establishes that, since at least 1997, Riggs has disregarded its anti-money laundering (AML) obligations, maintained a dysfunctional AML program despite frequent warnings from OCC regulators, and allowed or, at times, actively facilitated suspicious financial activity.

The evidence also shows that federal regulators did a poor job of compelling Riggs Bank to comply with statutory and regulatory anti-money laundering requirements. They were tolerant of the bank's weak AML program, too slow in reacting to repeat deficiencies, and failed to make prompt use of available enforcement tools.

---

[1] See "Private Banking and Money Laundering: A Case Study of Opportunities and Vulnerabilities," S. Hrg.106-428 (November 9 and 10, 1999), Minority staff report at 872 (hereinafter "1999 Subcommittee Private Banking Hearings"); "Role of U.S. Correspondent Banking in International Money Laundering," S. Hrg.107-84 (March 1, 2, and 6, 2001), Minority staff report at 273.

Two sets of Riggs accounts, one involving Augusto Pinochet and the other involving Equatorial Guinea, illustrate the bank's poor AML compliance.[2] They also illustrate the failure of federal bank regulators to exercise meaningful oversight of a bank with numerous high risk accounts and fundamental, long-standing AML deficiencies. This regulatory failure is especially troubling for the ongoing battles against terrorism and corruption, since it makes it more difficult for the United States to stop terrorists, corrupt leaders, and other criminals from misusing our financial system. Federal regulators must do more to meet their legal obligation to protect the United States from money laundering, terrorist financing, and foreign corruption.

Assisting Pinochet. The evidence obtained by the Subcommittee staff shows that, from 1994 until 2002, Riggs Bank (Riggs) opened at least six accounts and issued several certificates of deposit (CDs) for Augusto Pinochet, former President of Chile, while he was under house arrest in the United Kingdom and his assets were the subject of court proceedings. The aggregate deposits in the Pinochet accounts at Riggs ranged from $4 to $8 million at a time. The Subcommittee investigation has determined that the bank's leadership directly solicited the accounts from Mr. Pinochet, and Riggs account managers took actions consistent with helping Mr. Pinochet to evade legal proceedings seeking to discover and attach his bank accounts. The Subcommittee investigation found that Riggs opened multiple accounts and accepted millions of dollars in deposits from Mr. Pinochet with no serious inquiry into questions regarding the source of his wealth; helped him set up offshore shell corporations and open accounts in the names of those corporations to disguise his control of the accounts; altered the names of his personal accounts to disguise their ownership; transferred $1.6 million from London to the United States while Mr. Pinochet was in detention and the subject of a court order to attach his bank accounts; conducted transactions through Riggs' own accounts to hide Mr. Pinochet's involvement in some cash transactions; and delivered over $1.9 million in cashiers checks to Mr. Pinochet in Chile to enable him to obtain substantial cash payments from banks in that country.

The Subcommittee investigation also determined that Riggs concealed the existence of the Pinochet accounts from OCC bank examiners for two years, initially resisted OCC requests for information, and closed the accounts only after a targeted OCC examination in 2002. Despite Riggs' track record of repeat AML deficiencies, the OCC's concern about the Pinochet accounts, and Riggs' concealment of them from the agency, the OCC took no enforcement action against the bank after it learned of those actions in 2002. Moreover, in July 2002, the OCC Examiner-in-Charge at Riggs instructed the examiners who had investigated the Pinochet accounts not to include their examination memorandum or supporting workpapers in the OCC's electronic files for Riggs Bank. The Subcommittee learned that such an instruction was highly unusual and contrary to OCC procedure and practice. About a month later, the OCC Examiner-in-Charge accepted a job at Riggs Bank.

Equatorial Guinea Accounts. The Subcommittee investigation also determined that, from1995 until 2004, Riggs Bank administered more than 60 accounts and CDs for the government of Equatorial Guinea (E.G.), E.G. government officials, or their family members. By 2003, the E.G. accounts represented the largest relationship at Riggs Bank, with aggregate deposits ranging from $400 to $700 million at a time. The Subcommittee investigation has determined that Riggs Bank serviced the E.G. accounts with little or no attention to the bank's anti-money laundering obligations, turned a blind eye to evidence suggesting the bank was handling the proceeds of foreign corruption, and allowed numerous suspicious transactions to take place without notifying law enforcement. The Subcommittee investigation found, for example, that Riggs opened multiple personal accounts for the President of Equatorial Guinea, his wife, and other relatives; helped establish shell offshore corporations for the E.G. President and his sons; and over a three-year period, from 2000 to 2002, facilitated nearly $13 million in cash deposits into Riggs accounts controlled by the E.G. President and his wife. On two of those occasions, Riggs accepted without due diligence $3 million in cash deposits for an account opened in the name of the E.G. President's offshore shell corporation, Otong, S.A.

---

[2] Other accounts at Riggs present equally troubling facts, most notably the more than 150 accounts associated with Saudi Arabia. These Saudi accounts are the subject of an ongoing investigation by the full Committee on Governmental Affairs.

In addition, Riggs opened an account for the E.G. government to receive funds from oil companies doing business in Equatorial Guinea, under terms allowing withdrawals with two signatures, one from the E.G. President and the other from either his son, the E.G. Minister of Mines, or his nephew, the E.G. Secretary of State for Treasury and Budget. Riggs subsequently allowed wire transfers withdrawing more than $35 million from the E.G. government account, wiring the funds to two companies which were unknown to the bank and had accounts in jurisdictions with bank secrecy laws. The Subcommittee has reason to believe that at least one of these recipient companies is controlled in whole or in part by the E.G. President. When, in 2004, the bank requested more information about the two companies from the E.G. President, he declined to provide it, except to say the wire transfers to them had been authorized.

The senior leadership at Riggs Bank were well aware of the E.G. accounts and met on several occasions with the E.G. President and other E.G. officials. The bank leadership permitted the account manager handling the E.G. relationship to become closely involved with E.G. officials and business activities, including advising the E.G. government on financial matters and becoming the sole signatory on an E.G. account holding substantial funds. The bank exercised such lax oversight of the account manager's activities that, among other misconduct, the account manager was able to wire transfer more than $1 million from the E.G. oil account at Riggs to another bank for an account opened in the name of Jadini Holdings, an offshore corporation controlled by the account manager's wife.

In response to a Subcommittee subpoena, Riggs Bank initially failed to identify a number of E.G. accounts at the bank. The Subcommittee later learned that the bank had failed to designate any of the E.G. accounts as high risk accounts until October 2003, and did not subject them to additional scrutiny despite obvious warning signs, such as the involvement of foreign political figures, a country with a culture of corruption, and frequent high dollar transactions. The bank also failed to monitor or report suspicious activity in the E.G. accounts. The bank closed these accounts in recent weeks.

Riggs' Dysfunctional AML Program. The evidence demonstrates that the Pinochet and E.G. accounts were not treated in an unusual manner, but were the product of a dysfunctional AML program with long-standing, major deficiencies. These deficiencies included the inability readily to identify all of the accounts associated with a particular client, the absence of any risk assessment system to identify high risk accounts, inadequate client information, the lack of an established policy for handling accounts associated with foreign political figures, the failure to provide enhanced monitoring of high risk accounts, the failure to monitor wire transfer activity, the failure to detect and report suspicious activity, untimely and incomplete internal audits, and inadequate AML training. These flaws were repeatedly identified in regulatory examinations and internal audits, and Riggs repeatedly promised to correct them, but failed to do so.

Regulatory Failure. Given the fundamental, long-standing deficiencies in Riggs' AML program, it is difficult to understand why federal regulators failed to act sooner to require the bank to correct them. The OCC recently acknowledged: "there was a failure of supervision" at Riggs, and "[w]e gave the bank too much time." The evidence shows that, since 1997, OCC examiners repeatedly identified major AML deficiencies at Riggs Bank, but more senior OCC personnel allowed these AML deficiencies to continue year after year without forceful action to stop them.

In the case of Riggs, the evidence also indicates that the OCC's Examiner-in-Charge (EIC) appeared to have become more of an advocate for the bank than an arms-length regulator. In 2001, for example, he advised more senior OCC personnel against taking a formal enforcement action against Riggs, because the bank had promised to correct identified AML deficiencies. In 2002, he ordered examiners not to include a memorandum or workpapers on the Pinochet examination in the OCC's electronic database. About a month after giving this order, that same examiner was hired by Riggs, creating an appearance of a conflict of interest. During his tenure at the bank, he attended a number of meetings with OCC personnel related to Riggs' AML problems. Federal law bars former federal employees from appearing before their former agencies on certain matters, and OCC rules bar former OCC employees from even attending meetings with the agency for two years, unless the OCC ethics office approves the contact.

Despite these post-employment restrictions, the former Riggs examiner failed to obtain clearance from the OCC ethics office prior to attending the meetings with OCC personnel. These actions – advising against a formal enforcement action, suppressing the Pinochet examination materials, accepting a job offer at the bank he regulated, and ignoring post-employment restrictions on OCC contact – suggest this Examiner had become much too close to Riggs during the years he was responsible for overseeing it.

In addition, the facts demonstrate that his supervisors were too slow in reacting to repeat deficiencies at the bank and were too reluctant to make use of available enforcement tools to compel AML compliance. In 2001, for example, when presented with three examination reports outlining AML deficiencies at Riggs, OCC enforcement personnel went along with the EIC's recommendation against taking any enforcement action. In 2002, after learning that Riggs had hid the Pinochet accounts from the agency for two years and facilitated suspicious transactions, OCC supervisors, again, failed to take any enforcement action. The OCC failed even to issue a final examination report on the Pinochet matter. In 2003, after uncovering extremely troubling information in connection with accounts associated with Saudi Arabia, the OCC took its first enforcement action against the bank, issuing a cease and desist order requiring it to revamp its AML program. This order was more comprehensive and capable of enforcement in court than directives in prior examination reports, but included no punitive measures at the time such as a civil fine. It was only in 2004, six years after the OCC began citing Riggs for AML deficiencies, that federal regulators imposed their first civil fine on the bank.

The key OCC enforcement actions against Riggs Bank also took place after negative press reports began raising public questions about Riggs' AML safeguards. For example, the OCC's in-depth review of the Saudi accounts followed press articles that began appearing in November 2002, suggesting links between certain Riggs accounts and the 9-11 terrorist attack. This examination resulted in the OCC's identifying the same deficiencies as in earlier years, but in contrast to the agency's prior willingness to rely on promises by the bank to improve, the OCC issued a public cease and desist order requiring corrective action. The OCC's examination of the E.G. accounts in 2003 and 2004 was, in turn, prompted by a negative press article in January 2003 suggesting these Riggs accounts were being misused by E.G. officials and by the Subcommittee's investigation of these accounts throughout 2003. The OCC has indicated that it was the E.G. examination that opened their eyes to still more bank misconduct and to evidence of the bank's utter failure to implement promised AML reforms, resulting in the decision to impose a civil fine on the bank.

The Subcommittee's investigation indicates that the failure of supervision in the Riggs matter is not an isolated case, but symptomatic of a pattern of uneven and, at times, ineffective AML enforcement by federal regulators. The General Accounting Office has summarized a number of cases in addition to Riggs showing that federal regulators have allowed AML compliance problems to persist for years without correction. These cases indicate that all of the federal financial regulators, not just the OCC, need to strengthen their AML enforcement efforts by requiring prompt correction of identified AML deficiencies, making greater use of formal enforcement tools when financial institutions ignore their AML obligations, and issuing more timely civil fines. Regulators should also consider developing a policy requiring mandatory enforcement action within a specified period of time against any financial institution with major, repeat AML violations.

Federal regulators should take broader actions as well to strengthen AML oversight. First, they should finalize overdue regulations and revise existing AML examination manuals to implement the due diligence provisions in the Patriot Act designed to combat money laundering and foreign corruption. Federal bank regulators should also elevate the importance of AML controls by routinely including AML assessments in the annual Report on Examination given to a bank's Board of Directors, and make these annual AML assessments available to the public, both to increase bank compliance and to alert other financial institutions to banks with inadequate AML controls. Congress should also consider enacting new legislation, modeled after 41 U.S.C. § 423(d) for federal procurement officials, imposing a one-year cooling-off period before an Examiner-in-Charge can take a position with the financial institution he or she oversaw.

An important ancillary issue raised by the Riggs case history involves the ability of U.S. financial institutions with foreign affiliates to get key due diligence information about accounts opened and managed by their foreign affiliates. After questions arose about the $35 million in wire transfers from the E.G. oil account, for example, Riggs sent letters under Section 314 of the Patriot Act to at least two banks, Banco Santander and HSBC USA, asking them voluntarily to share information about the beneficial owners of certain accounts to which the funds had been directed. These accounts included, for example, ones opened in the name of Apexside Trading Ltd. and Kalunga Co. S.A., at least one of which the Subcommittee has reason to believe may be owned in whole or in part by the E.G. President.

Both banks declined to provide the requested information, because the accounts had been opened at their foreign affiliates in Luxembourg or Spain. Both banks took the position that bank secrecy laws in those jurisdictions barred disclosure of client information by their affiliates, not only to third parties, but also to personnel within the same bank if located outside the host country. This bar on disclosure means, in essence, that banks operating in the United States seeing large wire transfers directed to accounts at foreign affiliates of their own bank cannot obtain key information about the beneficial owners of those accounts, even from their own affiliates. In the Riggs matter, HSBC USA and Banco Santander told the Subcommittee that their own affiliates couldn't tell them the name of the individuals who owned the companies receiving the multi-million dollar wire transfers, whether those companies were owned by a political figure, or even whether the accounts were still open or had been closed.

This bar on disclosure across international lines, even within the same financial institution, presents a significant obstacle to effective AML due diligence for banks operating in the United States and a huge impediment to international efforts to stop money laundering, drug trafficking, and terrorism. To overcome this obstacle, the United States should work with the European Union and other international bodies to enable financial institutions with U.S. and foreign affiliates to exchange client information across international lines to safeguard against money laundering and terrorist financing.

Oil Company Payments. During its analysis of large bank transactions involving E.G. accounts at Riggs Bank and other financial institutions, the Subcommittee staff became aware of a number of substantial payments that had been made by oil companies doing business in Equatorial Guinea to individual E.G. officials, their family members, or entities controlled by these officials or family members. For example, these payments, which sometimes exceeded $1 million, paid for E.G. land leases or purchases, E.G. Embassy expenses, in-country security services, or expenses for E.G. students studying abroad. In a few instances, the evidence shows that oil companies entered into business ventures with companies owned in whole or in part by the E.G. President, other E.G. officials, or relatives. For example, in 1998, ExxonMobil established an oil distribution business in Equatorial Guinea of which 85 percent is owned by ExxonMobil and 15 percent by Abayak S.A., a company controlled by the E.G. President.

These types of payments and business ventures, which came to light as a result of the Subcommittee's detailed review of bank transactions involving Equatorial Guinea, are often unknown to the public and raise concerns related to corruption and profiteering. To reduce opportunities for corruption, the oil companies doing business in Equatorial Guinea should adhere to disclosure practices advocated in such international transparency initiatives as the Extractive Industries Transparency Initiative led by U.K. Prime Minister Tony Blair, and the G-8 Anti-Corruption and Transparency Initiative. These initiatives would require the oil companies to make public disclosure of all payments made to E.G. officials, their family members, or entities they control. To further reduce opportunities for corruption, U.S. oil companies should not participate in future business ventures in which individual E.G. officials or their family members have a direct or beneficial interest. Congress should also amend the Foreign Corrupt Practices Act to require U.S. companies to disclose substantial payments to and business ventures entered into with a country's officials, their family members, or entities they control.

III. Findings

Based upon its investigation, the Subcommittee Minority staff makes the following findings of fact.

(1) **Assisting Pinochet.** Riggs Bank assisted Augusto Pinochet, former president of Chile, to evade legal proceedings related to his Riggs bank accounts and resisted OCC oversight of these accounts, despite red flags involving the source of Mr. Pinochet's wealth, pending legal proceedings to freeze his assets, and public allegations of serious wrongdoing by this client.

(2) **Turning a Blind Eye.** Riggs Bank managed more than 60 accounts and certificates of deposit for Equatorial Guinea, its officials, and their family members, with little or no attention to the bank's anti-money laundering obligations, turned a blind eye to evidence suggesting the bank was handling the proceeds of foreign corruption, and allowed numerous suspicious transactions to take place without notifying law enforcement.

(3) **Dysfunctional AML Program.** For many years, Riggs Bank ignored repeated directives by federal bank regulators to improve its anti-money laundering program, instead employing a dysfunctional system that failed to safeguard the bank against money laundering or foreign corruption.

(4) **Regulatory Failure at Riggs.** For many years, OCC examiners accurately and repeatedly identified major anti-money laundering deficiencies at Riggs Bank, but OCC supervisors failed to take strong action to require improvements. OCC regulators were tolerant of the bank's weak anti-money laundering program, too willing to rely on bank promises to correct repeat deficiencies, and failed initially to use available enforcement tools. Federal Reserve regulators were slow and passive.

(5) **Conflicts of Interest.** By taking a job at Riggs in 2002, after the OCC failed to take enforcement action against the bank in 2001 and 2002 for AML deficiencies, the former OCC Examiner-in-Charge at Riggs created, at a minimum, an appearance of a conflict of interest. In addition, despite federal law barring former employees from appearing before their former agencies on certain matters, and OCC rules barring former employees from attending meetings with the agency for two years without prior approval from the OCC ethics office, the former Examiner attended multiple meetings with OCC personnel related to Riggs' AML compliance, without obtaining the required clearance.

(6) **Uneven AML Enforcement.** Current AML enforcement efforts by federal agencies are uneven and, at times, ineffective, as demonstrated by cases in which federal regulators have allowed AML compliance problems to persist at some financial institutions for years, failed after three years to issue final regulations implementing the Patriot Act's due diligence requirements, and failed to issue revised guidelines for bank examiners testing AML compliance with the Patriot Act's due diligence requirements combating money laundering and foreign corruption.

(7) **Unseen Payments.** Oil companies operating in Equatorial Guinea may have contributed to corrupt practices in that country by making substantial payments to, or entering into business ventures with, individual E.G. officials, their family members, or entities they control, with minimal public disclosure of their actions.

IV. Current Law

A. Key Anti-Money Laundering Laws

Money laundering has been defined as "the movement of illicit cash or cash equivalent proceeds into, out of, or through the United States [or] ... United States financial institutions."[3] Anti-money laundering laws also apply to terrorist financing, including any legally obtained funds if intended for use in planning, committing, or concealing a terrorist act.[4] History has shown that financing is key to terrorism, corruption, and other criminal acts. Money launderers want to be able to transfer funds across international lines, move money quickly, and minimize inquiries into their finances and activities. U.S. anti-money laundering laws are designed to prevent terrorists and other criminals from utilizing U.S. financial institutions to commit their crimes.

Three key laws lay out the basic anti-money laundering obligations of U.S. financial institutions, the Bank Secrecy Act (BSA) of 1970, the Money Laundering Control Act of 1986, and the USA Patriot Act of 2002, which amended both prior laws.[5]

The BSA, as amended by the Patriot Act, requires financial institutions operating in the United States to undertake a number of anti-money laundering efforts to ensure they do not become conduits for terrorist financing or criminal proceeds, or facilitators of money laundering. Key provisions include requirements for financial institutions to: (1) establish anti-money laundering programs with explicit policies and procedures, a BSA officer, employee training, and an internal audit function;[6] (2) verify the identity of persons seeking to open and maintain accounts;[7] and (3) exercise appropriate due diligence when opening and administering accounts for foreign financial institutions or wealthy foreign individuals, including senior foreign political figures.[8] In addition, the BSA authorizes the U.S. Department of Treasury to require financial institutions and other businesses to file reports on large currency transactions and suspicious activities to guard against money laundering.[9]

The Money Laundering Control Act, enacted partly in response to hearings held by this Subcommittee in 1985, was the first in the world to make money laundering a crime. It prohibits any person from knowingly engaging in a financial transaction which involves the proceeds of a "specified unlawful activity."[10] The law provides a long list of specified unlawful activities, including, for example, terrorism, drug trafficking, and fraud. Most listed activities are crimes under U.S. law; however, in 2002, the Patriot Act expanded the list to include, among other items, foreign crimes involving corruption such as bribery and misappropriation of funds. The purpose of this addition was to make it illegal for a bank in the United States knowingly to accept funds that were the proceeds of foreign corruption. The addition of foreign corruption crimes to the list of specified unlawful activities was based primarily on the Subcommittee's 1999 private banking hearing which established that senior foreign political figures were using U.S. bank accounts to hide and profit from misappropriated funds looted from their home countries.

---

[3] 31 U.S.C. § 5340(2).

[4] See, e.g.,18 U.S.C. § 981(a)(1)(G) (civil forfeiture laws applicable to laundered proceeds also apply to terrorist assets).

[5] For a more detailed discussion of U.S. anti-money laundering laws, see "Anti-Money Laundering: Issues Concerning Depository Institution Regulator Oversight," (Report No. GAO-04-833T, 6/3/04), testimony provided by the General Accounting Office before the U.S. Senate Committee on Banking, Housing, and Urban Affairs, at 4-6.

[6] 31 U.S.C. § 5318(h).

[7] 31 U.S.C. § 5318(l).

[8] 31 U.S.C. § 5318(i).

[9] See, e.g., 31 U.S.C. §§ 5313 and 5318(g); 31 C.F.R. §§ 103.11 and 103.21 et seq.

[10] 18 U.S.C. §§ 1956-57.

The aim of these laws and other related laws is to enlist U.S. financial institutions in the fight against money laundering. Together, they require financial institutions to refuse to engage in financial transactions involving criminal proceeds, to monitor transactions and report suspicious activity, and to operate active anti-money laundering programs.

B. Anti-Money Laundering Regulation and Oversight

The Secretary of the Treasury is the primary federal regulator charged with enforcing the key federal anti-money laundering laws.[11] Last year, the Secretary established a new internal office, the Executive Office for Terrorist Financing and Financial Crime (EOTF/FC), headed by a Deputy Assistant Secretary. This office oversees the operation of the Financial Crimes Enforcement Network (FinCEN), a Treasury bureau which, among other duties, develops BSA regulations and guidance, analyzes currency transaction reports and suspicious activity reports filed by financial institutions, and interacts with local, state, federal, and international law enforcement as well as other financial intelligence units around the world. The EOTF/FC also oversees the Office of Financial Asset Control (OFAC) which, among other duties, is primarily responsible for identifying countries, terrorists and drug traffickers subject to sanction under U.S. law, and administering the statutory regime for freezing their financial assets and blocking them from using the U.S. financial system.

Also within the Treasury Department is the Office of the Comptroller of the Currency (OCC) which, among other duties, is responsible for overseeing the operation of banks holding a national banking charter. Like other financial regulators, including the Federal Reserve Board, Federal Deposit Insurance Corporation, Office of Thrift Supervision, and National Credit Union Administration, the OCC routinely examines financial institutions under its jurisdiction to ensure their safety and soundness and compliance with all statutes and regulations, including anti-money laundering requirements. For large and mid-size banks within its jurisdiction, the OCC examines their operations on a continual basis, looking at routine issues as well as particular areas of concern. On a roughly annual basis, the OCC presents a Report on Examination to the bank's Board of Directors and meets with the Board to explain its findings and any concerns. The OCC analysis includes an overall safety and soundness rating for the bank using the CAMELS rating system.[12] CAMELS ratings are on a scale of 1 to 5, in which 1 signifies a safe and secure bank with no cause for supervisory concern, 3 signifies an institution with supervisory concerns in one or more areas; and 5 signifies an unsafe and unsound bank with severe supervisory concerns. OCC can also label a bank a "troubled institution" under 12 C.F.R. § 5.51 Subpart (d).

In 1998, federal bank regulators issued revised examination manuals to guide examiners conducting anti-money laundering reviews of financial institutions. Many elements in this guidance were the result of joint consultations among the banking regulators. In September 2000, the OCC issued a revised "Bank Secrecy Act/Anti-Money Laundering Handbook" to provide additional, updated guidance to financial institutions about effective anti-money laundering policies and procedures and areas of concern. Although the Patriot Act made numerous changes in the law in 2002, the AML examination manual used by the OCC has not been fully updated to include, for example, the new due diligence requirements.

Should the OCC determine that a bank is engaging in an unsafe or unsound practice or has violated any law, rule, regulation, or other requirement placed on the bank, the agency can take a variety of informal and formal enforcement actions. Informal actions can include requiring a safety and soundness plan, memorandum of understanding, Board resolution, or commitment

---

[11] See, e.g., 31 U.S.C. §§ 5311 et seq. (Treasury Secretary charged with carrying out key anti-money laundering laws) and § 5341 (Treasury Secretary given lead role in development of national anti-money laundering strategy).

[12] CAMELS is the commonly-used acronym for the Uniform Financial Ratings System employed by the Federal Financial Institutions Examination Council, an interagency body that issues uniform standards for the federal examination of financial institutions. Each letter in CAMELS refers to a key component of financial performance rated by federal examiners. The six key components are referred to as Capital, Asset Quality, Management, Earnings, Liquidity, and Sensitivity to Market Risk. For more information see, e.g., www.obre.state.il.us/CBT/LEGAL/POLICY/ppg2008.htm.

letter pledging to take specific corrective actions by a date certain, or issuing a supervisory letter to the bank listing specific "matters requiring attention." These informal enforcement actions are generally not made public and are not enforceable in court. Formal enforcement actions include issuing a cease and desist order requiring the bank to stop the unsafe practice or violation or take affirmative action to correct identified problems;[13] imposing a civil monetary penalty on the bank;[14] suspending or removing one or more individuals from the bank;[15] or referring misconduct for criminal prosecution.[16] In addition, if the OCC determines that a bank "has failed to establish and maintain" an AML program or "failed to correct" any previously identified AML problems, the law requires the OCC to issue an order directing the bank "to cease and desist from its violation" of federal AML law.[17]

V. Riggs Bank

Riggs Bank failed to comply with its legal obligation to establish and maintain an effective anti-money laundering program. Two examples involving Riggs accounts associated with Augusto Pinochet and Equatorial Guinea illustrate the extent of the bank's AML deficiencies.

A. Riggs National Corporation and Riggs Bank

Riggs Bank N.A. is a well-known and long-standing financial institution which is incorporated in Delaware and operates throughout the Washington, D.C. metropolitan area.[18] Riggs Bank is wholly owned by Riggs National Corporation, a publicly traded bank holding company which is incorporated in Delaware and headquartered in Washington D.C. As of 2003, Riggs National Corporation reported approximately $6.3 billion in assets, about 95% of which were held by Riggs Bank, its principal operating subsidiary.

Riggs Bank operates primarily in the United States, but also maintains several foreign offices. Its foreign banking operations have included Riggs Bank Europe, Ltd. in London and Berlin; The Riggs Bank & Trust Company (Bahamas) Ltd., later reorganized as a Riggs Bank branch office in the Bahamas; Riggs Bank and Trust Company Ltd. on the isle of Jersey; and Riggs & Co. International Ltd. (RCIL) in London. Riggs Bank announced earlier this year that it intends to close down its London and German banks. Riggs Bank has also maintained an Edge Act subsidiary in Miami called Riggs International Banking Corporation (RIBC), but has indicated that it intends to shut down this company as well. Riggs Bank maintains several subsidiaries involved in investment activities, including Riggs Investment Advisors, Inc. (formerly named Riggs Investment Management Corporation (RIMCO)), J. Bush & Co., Inc.; Riggs Capital, Riggs Capital II, Riggs Capital Partners, LLC; and Riggs Capital Partners II, LLC. Riggs has often used a brand name, "Riggs & Co.," to refer to its wealth management companies.

Major Lines of Business. Riggs Bank has several major lines of business, including retail banking and lending services throughout the Washington metropolitan area; corporate and institutional banking services provided to businesses, government agencies, and non-profits; and

---

[13] See, e.g., 12 U.S.C. § 1818(b). A cease and desist order is also often referred to as a consent order if the subject financial institution agrees to its terms.

[14] See, e.g., 12 U.S.C. § 1818(i)(2).

[15] See, e.g., 12 U.S.C. § 1818(e).

[16] See, e.g., 12 U.S.C. § 1818(j).

[17] 12 U.S.C. § 1818(s).

[18] General information about Riggs National Corporation and Riggs Bank is taken from their filings with the U.S. Securities and Exchange Commission (SEC); Reports on Examinations prepared by the OCC from 1997 through 2004; the Riggs website; and a shareholder derivative action, Horgan v. Allbritton, (Civil Action No. 370-N, Delaware Court of Chancery for New Castle County) (complaint filed on 4/7/04).

wealth management services provided to high income individuals through the bank's domestic and international private banking departments.

"Private banking" is a term used to refer to financial services provided exclusively to wealthy individuals.[19] Assigned to each private banking client is a bank employee who acts as a personal liaison between the bank and the client to facilitate the client's use of the bank's financial services. For example, the bank employee, often called a relationship manager, private banker, or account manager, helps clients to open accounts in various countries, complete wire transfers, convert currencies, purchase certificates of deposit, open investment accounts, obtain financial advice and estate planning, and obtain various lines of credit. In many instances, a private banker will set up an offshore shell corporation for a client and open accounts in the name of that shell corporation, in order to disguise the client's ownership of the account or certain assets. All of these services were provided by Riggs to its domestic and international private banking clients.

Riggs has also been a leader in a specialized area known as Embassy Banking, opening and administering accounts to more than 95% of the foreign missions and embassies located throughout the Washington metropolitan area. Until recently, Riggs' guiding principle was to open Embassy Banking accounts for any country or individual holding diplomatic credentials from the U.S. State Department.[20] The Subcommittee's review indicates that many foreign embassies opened multiple accounts at Riggs, not only to facilitate the day-to-day management of the relevant embassy office, but also in some cases to serve the financial needs of its diplomatic personnel, their family members, and, at times, other governmental agencies, officials, and individuals from the relevant country. The Subcommittee found that many of the Embassy Banking accounts it studied had been opened for the personal use of senior foreign political leaders or their family members and functioned in the same manner as private banking accounts.

Embassy Banking has represented a major line of business for Riggs Bank. In recent years, these accounts have produced about 20 percent of Riggs' total revenues in terms of deposits.[21] About 44 percent of the Embassy deposit base came from African and Caribbean countries, 24 percent from the Middle East, and 17 percent from Latin America, Portugal and Spain.[22] According to an OCC analysis, about 7 percent of the Embassy relationships involved jurisdictions designated as non-cooperative with international anti-money laundering efforts.[23] Riggs' two largest Embassy clients were Equatorial Guinea and Saudi Arabia. Only a few other banks, such as Wachovia National Bank and Congressional Bank, are also engaged in Embassy Banking.

Riggs Leadership. Riggs Bank has an 11-person Board of Directors which generally meets quarterly. Three long-time Board members are Joseph L. Allbritton, his wife Barbara B. Allbritton, and their son Robert L. Allbritton, who, together, represent the largest shareholders of Riggs National Corporation. Joseph Allbritton resigned from the Riggs Bank Board in 2001, and from the Riggs National Corporation Board in 2004, while Robert Allbritton now serves as Chairman of both. Ms. Allbritton served as a director of Riggs National Corporation from 1991 to 1996, and served on the Riggs Bank Board until her resignation in 2004.

---

[19] See Section 312(a) of the Patriot Act, codified at 31 U.S.C. § 5318(i)(4)(B), for a more detailed definition of private banking accounts. Among other measures, the definition describes private banking accounts as financial accounts which are opened for one or more individuals with a minimum of $1 million in deposits. For more information about private banking and its vulnerability to money laundering, see the 1999 Subcommittee Private Banking Hearings, Minority staff report at 874-83.

[20] Subcommittee interviews of Ray Lund (2/20/04) and Steven B. Pfeiffer (7/2/04). See also OCC examination materials (1/23/03), OCC 0000028176.

[21] Interview of Ray Lund (2/20/04).

[22] OCC examination materials (4/14/03), OCC 0000028223.

[23] Id.

The Riggs Bank Board of Directors has six committees that assist with overseeing bank operations. Each of these committees at the bank has a parallel committee at Riggs National Corporation, and the two Boards and the parallel committees often meet jointly. The bank's Executive, Risk Management and Budget Committee helps to ensure the overall efficient functioning of the bank. The Audit Committee oversees the bank's financial statements and work performed by its internal and external auditors. The Compensation Committee assists the Board with issues related to compensation and benefits. The Nominating/Corporate Governance Committee recommends Board nominations and monitors corporate governance issues. The International Committee provides a forum for strategic planning for the bank in the international arena, including development of its international private banking and Embassy accounts.[24] In 2004, in response to problems identified by federal regulators, the Riggs Bank and Riggs National Corporation Boards each established a Bank Secrecy Act Compliance Committee to monitor and coordinate the bank's adherence to its anti-money laundering obligations.

The Riggs National Corporation Board directors in 2004 are: Robert L. Allbritton, J. Carter Beese, Charles A. Camalier, Timothy C. Coughlin, Lawrence I. Hebert, Steven B. Pfeiffer, Robert L. Sloan, Jack Valenti, William L. Walton, and Eddie N. Williams.

The membership of the Riggs Bank Board of Directors overlaps that of the Riggs National Corporation Board, but also has other individuals. The Riggs Bank Directors in 2004 are: Ms. Allbritton, Robert Allbritton, Nathan Baxter, Jacqueline C. Duchange, Thomas F. Fitzgerald, Heather Foley, Mr. Hebert, Frederick J. Ryan, Jr., Robert Roane, John A. Sargent, and Stephen J. Trachtenberg.

One of the most senior and prominent members of the Riggs National Corporation Board over the years has been Joseph Allbritton, who served as a bank director for more than 20 years, from 1981 until 2004, when he resigned. For many years, Mr. Allbritton was the Chairman of the Board of both Riggs Bank and Riggs National Corporation. He also served as the Chief Executive Officer (CEO) of both from 1983 until 2001. In February 2001, Robert Allbritton succeeded his father as Chairman of the Board of Riggs Bank. He also became Chairman of the Board and CEO of Riggs National Corporation.

Many of the other Riggs National Corporation Board members have close ties to Riggs. For example, Mr. Hebert, a director since 1981 of Riggs Bank and since 1988 of the bank holding company, became president and CEO of Riggs Bank in 2001, when Joseph Allbritton vacated that post. He is also an officer and director of several other Allbritton businesses, including Perpetual Corp. which owns Allbritton Communications Co. Mr. Coughlin, also a director since 1988, was president of Riggs National Corporation from 1992 until June 2004, when he retired. Prior to 1992, he worked at Riggs Bank and briefly returned to the bank in December 2003, when he assumed responsibility for the E.G. relationship and then, in March 2004, for the Embassy Banking and International Private Banking Departments. Mr. Pfeiffer has been a director since 1989, Chairman of the International Committee, Chairman of the Nominating/Corporate Governance Committee, and a member of the Audit Committee. He is also a senior partner at Fulbright & Jaworski, a law firm that performs legal services for the bank. Mr. Beese, a director since 2001, is also president of two venture capital firms owned by Riggs Bank and, in 2002, received about $2.6 million in management fees from Riggs to administer certain venture capital investment companies. Mr. Camalier, a director since 2001, is managing partner of Wilkes Artis, another law firm that performs legal work for Riggs Bank.

Today, the most senior officer of Riggs Bank is Mr. Hebert, the President and CEO. The chief operating officer is Robert Roane. The general counsel of the bank is Joseph Cahill. The chief financial officer is Steven Tamburo. The chief risk officer is R. Ashley Lee. The head of the International Banking Group was Raymond Lund, who was asked to leave the bank in March 2004. The head of compliance and security was Paul Glenn, who was succeeded in 2003 by David Caruso.

---

[24] Interviews of Joseph Cahill (6/25/04) and Steven B. Pfeiffer (7/2/04).

Anti-Money Laundering Efforts. Despite having large numbers of foreign clients, including clients from countries with high risks of money laundering and foreign corruption, Riggs has repeatedly been cited for having weak anti-money laundering controls.

The elements of an effective anti-money laundering program are well established, and federal bank examiners have been reviewing banks' anti-money laundering efforts for nearly a decade. For example, in 1997, the Federal Reserve published detailed guidance on anti-money laundering safeguards for private banking operations.[25] Among other elements, this guidance urges "senior management's active oversight of private banking activities and the creation of an appropriate corporate culture" to ensure a "sound risk management and control environment." It recommends that banks develop written anti-money laundering procedures, including "know-your-customer" (KYC) policies and procedures.[26] It directs banks to perform careful due diligence reviews before accepting new clients and to compile "basic background information" on each client for whom an account is opened, including the client's name, address, form of identification, business, source of wealth, and the type and volume of transactions expected to be passing through the clients' accounts.[27] At private banks that maintain and manage accounts for clients' offshore corporations, the guidance recommends that the bank keep careful records of the corporation's beneficial owners.

Once accounts are opened, the guidance stresses the importance of management information systems that can compile comprehensive information on all accounts and financial services related to a particular client and can be used to monitor account activity to detect suspicious transactions. The guidance repeatedly stresses the need to monitor account transactions, including wire transfer activity, and report suspicious activity to law enforcement. The guidance also stresses the importance of internal bank supervision of account managers, stating: "Institutions should not rely exclusively on any individual relationship manager or immediate supervisor to, for example, waive documentation required to open an account, approve the client profile, authorize a new client relationship, fully identify (or 'know') the client, and monitor client accounts for unusual transactions." It recommends instead that independent personnel such as compliance officers, risk management officers, or senior management also exercise anti-money laundering oversight. The guidance stresses, in addition, the importance of internal audit reviews to test the effectiveness of a bank's anti-money laundering policies and procedures.

The Federal Reserve guidance is just one of many alternatives that provide extensive information about operating an effective anti-money laundering program. In 2000, for example, the OCC issued a "Comptroller's Handbook on Bank Secrecy Act/Anti-Money Laundering" to provide detailed guidance to financial institutions about effective anti-money laundering policies and procedures. Because OCC regulations have required all nationally chartered banks to have an AML program since 1987, most banks have had years of experience in establishing and operating effective AML controls.[28]

Despite such long-standing guidance, the anti-money laundering program at Riggs Bank was almost completely dysfunctional. Identified deficiencies have included an inability to compile information on all of the accounts related to a specific client, inadequate information on client backgrounds and the source of wealth in client accounts, a failure to identify high risk accounts, inadequate monitoring of client transactions, inadequate systems for reporting suspicious activity to law enforcement, weak supervision of account managers, and weak

---

[25] "Guidance on Sound Risk Management Practices Governing Private Banking Activities," (Federal Reserve Bank of New York, July 1997).

[26] Anti-money laundering programs were made mandatory by the Patriot Act in 2001. See § 352 of the Patriot Act, codified at 31 U.S.C. § 5318(h).

[27] Client recordkeeping requirements and customer verification procedures were also made mandatory by the Patriot Act. See § 326 of the Patriot Act, codified at 31 U.S.C. § 5318(l).

[28] See OCC regulations at 12 C.F.R. § 21.21.

leadership within the bank concerning the importance of anti-money laundering efforts.[29] These deficiencies were identified by the bank's primary regulator, the OCC, and the bank's own auditors, as early as 1997, and repeated in numerous examination and audit reports over the next five years.

In 2002 and 2003, Riggs Bank was the subject of media reports about questionable transactions and accounts involving officials from Saudi Arabia and Equatorial Guinea. In response, the OCC initiated intensive examinations of both sets of accounts. In July 2003, the OCC issued a cease and desist order requiring Riggs to revamp its anti-money laundering programs. Riggs consented to the order and agreed to undertake numerous reforms to strengthen its BSA operations. In May 2004, the OCC and FinCEN fined Riggs Bank $25 million for willfully violating its legal obligations to implement an adequate anti-money laundering program and file currency transaction and suspicious activity reports, and for failing to comply with the consent order. This fine is the largest ever assessed under the Bank Secrecy Act. In addition, in May 2004, the Federal Reserve issued a cease and desist order requiring the Riggs National Corporation to improve its oversight of the bank, internal controls, and risk management.

Beginning in early 2003, the Subcommittee initiated its own investigation of private banking and Embassy accounts at Riggs Bank. The following information on Riggs' handling of accounts for Augusto Pinochet and Equatorial Guinea illustrates the bank's disregard for anti-money laundering requirements and its active facilitation of suspicious activity. Additional information about the bank's deficient anti-money laundering controls and the failure of federal bank regulators to correct them follows.[30]

B. Augusto Pinochet

Finding (1): Assisting Pinochet. Riggs Bank assisted Augusto Pinochet, former president of Chile, to evade legal proceedings related to his Riggs bank accounts and resisted OCC oversight of these accounts, despite red flags involving the source of Mr. Pinochet's wealth, pending legal proceedings to freeze his assets, and public allegations of serious wrongdoing by this client.

Augusto Pinochet Ugarte, former president of Chile, is a controversial political figure whose name is known world wide. After taking power in a 1973 coup, he served as President of Chile until 1990, and as Commander-in-Chief of the Chilean army until 1998. After stepping down from the army, he became a "Senator for life."[31] In court filings, press accounts, and other reports, Mr. Pinochet has been accused of involvement with human rights abuses, torture, assassinations, death squads, drug trafficking, arms sales, and corruption, but never convicted in a court of law.[32] Since 1996, he has been the subject of repeated litigation in Spain,[33] the United

---

[29] For more information, see Section VI(A) of this Report.

[30] The full Committee on Governmental Affairs is conducting an investigation of the accounts opened by Riggs for Saudi officials. Because this review is ongoing under the direction of Committee Chairman Susan Collins, this Report does not present information about the Saudi accounts.

[31] See "Pinochet Extradition Case: Selected Legal Issues," Congressional Research Service (CRS Report No. RL-30117, 3/3/00), at 1-2.

[32] See, e.g., "Chile: Political and Economic Conditions and U.S. Relations," Congressional Research Service (CRS Report No. RL-300035, 8/5/03) at 2; "Crime Without Punishment: Impunity in Latin America," Amnesty International (AMR 1/8/96) at http://web.amnesty.org/ (as of 6/23/04).

[33] See, e.g., complaint filed by the Union of Progressive Prosecutors before Spain's highest criminal court (7/4/96), http://www.derechos.org/nizkor/chile/juicio/denu.html (as of 7/5/04).

Kingdom,[34] Chile,[35] and other countries[36] by persons seeking to hold him accountable for crimes committed during his presidency. In each case to date, he has been found by the presiding court to be unavailable, unfit, or immune to prosecution.[37]

The Subcommittee investigation has determined that Riggs served as a long-standing personal banker for Mr. Pinochet and deliberately assisted him in the concealment and movement of his funds while he was under investigation and the subject of a world-wide court order freezing his assets. The Subcommittee investigation found that, among other actions, Riggs opened multiple accounts for Mr. Pinochet with the knowledge and support of the bank's leadership; accepted millions of dollars in deposits from him with no serious inquiry into the source of his wealth; set up offshore shell corporations and opened accounts in the names of those corporations to disguise Mr. Pinochet's ownership of the account funds; altered the names of his personal account to disguise his ownership; secretly transferred $1.6 million from London to the United States while Mr. Pinochet was in detention and under court order; conducted transactions through Riggs' own concentration accounts to hide Mr. Pinochet's involvement in some cash transactions; and delivered over $1.9 million in four batches of cashiers checks to Mr. Pinochet in Chile to enable him to obtain substantial cash payments in that country. The Subcommittee investigation also determined that Riggs Bank concealed the existence of the Pinochet accounts from OCC bank examiners for two years, resisted OCC requests for information, failed to identify or report suspicious account activity, and closed the accounts only after a detailed OCC examination in 2002.

The Pinochet Relationship. The evidence uncovered by the Subcommittee indicates that Mr. Pinochet was a Riggs customer for at least eight years,[38] with multiple bank accounts, investments, and certificates of deposit (CDs) under his control. His total deposits at Riggs varied over the years from about $4 to $8 million.

The evidence shows that two Riggs employees were primarily responsible for handling the Pinochet accounts on a day-to-day basis. Carol Thompson, senior vice president for Latin America in the Embassy Banking Division, met with Mr. Pinochet twice each year, and spoke directly with him on at least a quarterly basis.[39] Fernando Baqueiro, Managing Director for Latin America in the International Private Banking Department, also handled the accounts but has indicated having much less direct contact with Mr. Pinochet.[40] Both reported to the head of the International Banking Group.

---

[34] See, e.g., Regina v. Bartle, (Lords of Appeal, 3/24/99), http://www.parliament.the-stationery-office.co.uk/pa/ld199899/ldjudgmt/jd990324/pino1.htm (as of 6/24/04); CRS Report on "Pinochet Extradition Case," at 2-12.

[35] For a list of the 66 criminal complaints filed against Mr. Pinochet from 1998 to 2000 in the Santiago Court of Appeals, see http://www.memoriayjusticia.cl/english/en_home.html (as of 6/24/04).

[36] Litigation against Mr. Pinochet has also been filed, for example, in Argentina, Belgium, France, and Switzerland. CRS Report on "Pinochet Extradition Case," at footnote 2.

[37] See, e.g., CRS Report on "Pinochet Extradition Case," at footnote 2 and page 11; "Chilean Supreme Court Upholds Suspension of Legal Proceedings Against Pinochet," http://www.elmostrador.cl/c_pais/pino_casacion.htm (as of 6/24/04). In May 2004, a Chilean appellate court ruled that Mr. Pinochet's immunity to prosecution was no longer valid and he was fit for trial, making a criminal trial still possible. See, e.g., "Pinochet Prosecutions for Human Rights Violations: Latest Developments," Congressional Research Service (CRS Report No. 2004-918, June 2004) at 1.

[38] One KYC document states Mr. Pinochet became a Riggs customer in 1985. "Riggs & Co Know Your Customer Client Profile" for Ashburton Company Ltd. (7/9/98), Bates OCC 0000045887-91, at 45888. The earliest account opening documentation provided by Riggs, however, is for an account opened in December 1994. Riggs monthly statement for Account No. 76-750-393 opened in the name of "Augusto Pinoche Ugarte &/or Lucia Hiriart Rodriguez," (December 1994), Bates RNB 029595. The 1985 reference may derive from dealings between Riggs Bank and Mr. Pinochet in connection with a long-standing Riggs Bank relationship with the Chilean military.

[39] Interview of Carol Thompson (6/23/04).

[40] See, e.g., OCC document, "Targeted Examination: Accounts related to Mr. Augusto Pinochet" (7/9/02), Bates OCC 0000517598.

Evidence obtained by the Subcommittee indicates that senior Riggs officials actively sought the Pinochet accounts. In separate interviews, Riggs personnel interviewed by the Subcommittee all agreed that a delegation of senior Riggs officials visited several Latin American countries, including Chile, met with Mr. Pinochet, and explicitly asked Mr. Pinochet to open an account with Riggs. They disagree, however, as to exactly which Riggs officials went on the trip and who made the actual account solicitation when speaking with Mr. Pinochet.[41]

Establishment of Two Offshore Shell Corporations. In July 1996, about 18 months after Riggs opened a personal account for Mr. Pinochet, a detailed indictment accusing Mr. Pinochet of crimes against humanity was filed in Spain.[42] In 1996, and again in 1998, Riggs helped Mr. Pinochet set up two offshore shell corporations in the Bahamas, Ashburton Company Ltd. and Althorp Investment Co., Ltd. Neither company had any employees or physical offices, but were listed as the nominal owners of Riggs bank accounts and CDs that benefitted Mr. Pinochet and his family.

Riggs Bank & Trust Co. (Bahamas) Ltd., a Riggs subsidiary in the Bahamas with authority to open bank accounts and establish trusts in that country, established the companies.[43] Ashburton was incorporated first, in or around April 1996.[44] The nominal owner of the company was the Ashburton Trust, which Riggs helped establish in the Bahamas in May 1996.[45] The trustee of the Ashburton Trust is Riggs Bank & Trust Co. (Bahamas) Ltd.; the settlors are Mr. and Mrs. Pinochet; and the trust beneficiaries are their five children. Deloitte & Touche personnel were named as the officers and directors of Ashburton, so that Mr. Pinochet's name never appeared on the incorporation papers. Riggs incorporated the second offshore shell corporation, Althorp Investment Co., Ltd., in February 1998, using a similar structure.[46]

Multiple Accounts. From 1994 until 2002, Riggs opened at least three personal accounts for Mr. Pinochet, three more in the names of his offshore shell corporations, Ashburton and Althorp, and issued various certificates of deposit (CDs). Some of these accounts were at Riggs Bank in the United States; others were at Riggs Bank Europe, Ltd. in London, and Riggs produced varying amounts of documentation for each. Much of the documentation provided to the Subcommittee related to the Pinochet accounts in the United States; relatively little related to the accounts in London. According to an OCC analysis, in 2000, the Pinochet accounts were the

---

[41] Riggs personnel have variously identified the trip participants as including then Riggs Bank Chairman Joseph Allbritton, President of Riggs National Corporation Timothy Coughlin, then head of International Banking Paul Cushman, and Embassy account manager Carol Thompson. Persons interviewed disagreed or expressed uncertainty as to whether Mr. Allbritton, Mr. Coughlin, or Mr. Cushman solicited the Pinochet account. Subcommittee interviews of Riggs personnel and OCC examiners. See also OCC document, "Targeted Examination: Accounts related to Mr. Augusto Pinochet" (7/9/02), Bates OCC 0000517598. OCC examination materials, Bates OCC 0000045627 ("Then-Chairman Joe Allbritton, then-Head of International Banking Paul Cushman, and President of [Riggs National Corporation] Tim Coughlin asked Mr. Pinochet for his account.").

[42] See complaint filed by the Union of Progressive Prosecutors before Spain's highest criminal court (7/4/96), at http://www.derechos.org/nizkor/chile/juicio/denu.html (as of 7/5/04).

[43] Riggs Bank & Trust Co. (Bahamas) Ltd. is now closed. When open, it operated as a shell bank – it had no actual employees or offices in the Bahamas. Instead, it was managed by the Bahamas office of Deloitte & Touche, with which Riggs Bank had a long-standing relationship. When Riggs Bank & Trust Co. (Bahamas) Ltd. set up a trust or corporation for a Riggs client, Deloitte personnel actually filled out the paperwork and made the necessary arrangements on behalf of Riggs, including supplying officers and directors for offshore entities. See, e.g., OCC examination materials, undated, Bates OCC 0000045858-59 and OCC 0000045608.

[44] See Riggs document agreeing to manage Ashburton Co. Ltd. (4/26/96), Bates OCC 0000045893-909.

[45] See Riggs document establishing the Ashburton Trust (5/16/96), Bates OCC 0000045893-909.

[46] See Bahamas Certificate of Incorporation of Althorp Investment Co., Ltd. (2/23/98), Bates RNB 030007; Riggs document establishing Althorp Investment Co., Ltd. (undated), Bates OCC 0000045883-86; Riggs document establishing the Althorp Investment Co., Ltd. Trust (4/8/98), Bates OCC 0000045878-80; list of signatories for Althorp account at Riggs Bank (6/12/01), Bates OCC 0000045872.

fourth largest in Riggs' International Private Banking Department.[47] After a targeted examination of these accounts by the OCC in 2002, all of his accounts were closed.

Personal Accounts. The three personal accounts at Riggs opened under the name of Augusto Pinochet Ugarte and his wife were as follows.

(1) Account No. 76-750-393, a personal money market account, was opened at Riggs in the United States in December 1994, and closed on March 25, 1999.[48] Over five years, the account balance fluctuated between about $50,000 and $1.2 million.[49] The Pinochet Embassy account manager told the Subcommittee that the bank closed this account after a Mexican newspaper obtained a monthly bank statement and published the account number.[50] The account was then closed and the funds transferred to a newly opened personal account, described next.

(2) Account No. 76-835-282, a personal money market account, was opened at Riggs in the United States, on March 24, 1999, with funds from the closed account. Over the next three years, the account balance fluctuated between about $20,000 and $550,000.[51] This account was closed in August 2002.

(3) Account No. 25-005-393, a personal checking account, was opened at Riggs in London on an unknown date and, in April 1997, was converted to a personal NOW account, Account No. 74-041-013. The NOW account was closed in May 2000.[52] From 1997 until 2000, the account balance fluctuated between about $40,000 and $1.1 million.[53] In 2000, when the account closed, funds were apparently transferred to a newly opened account at Riggs in the United States under the name of the Pinochet shell corporation, Althorp Investment, Ltd.

Corporate Accounts. Riggs opened several bank and investment accounts in the name of Ashburton and Althorp, and issued numerous 90-day certificates of deposit. Based upon the evidence reviewed by the Subcommittee, the key Riggs accounts opened in the name of Mr. Pinochet's two offshore shell corporations were as follows.

(1) Account No. 02121401, later changed to Account No. 64-0041-01-8, was a corporate investment management account for Ashburton.[54] It was opened at Riggs in the United States on an unknown date in 1996. This account was the largest Pinochet account and, in

---

[47] OCC document entitled, "IPBD 10 Largest Clients," (2/28/01), Bates OCC 0000537037.

[48] Riggs monthly statement for Account No. 76-750-393 opened in the name of "Augusto Pinoche Ugarte &/or Lucia Hiriart Rodriguez," (December 1994), Bates RNB 029595.

[49] Riggs Bank monthly statements for Pinochet personal money market account (1/31/97-3/29/99), Bates RNB 006156-85.

[50] Interview of Carol Thompson (8/23/04).

[51] Riggs Bank monthly statements for Pinochet personal money market account (3/24/99-7/30/02), Bates RNB 006187-6234.

[52] Riggs computer-generated record of transactions for Pinochet personal checking and NOW accounts in London (4/28/97-5/19/00), Bates RNB 029638-43. See also, e.g., OCC examination materials (undated), Bates OCC 0000013831.

[53] Id.

[54] See, e.g., Riggs & Co. monthly statements for Ashburton investment account (July and August 2002), Bates RNB 031129-47 and 030130-36. This investment account was apparently managed originally by Rigg Bank & Trust Co. (Bahamas) Ltd. and later by Riggs' internal broker, the Riggs Investment Management Company. See, e.g., OCC examination materials (undated), OCC 0000013831.

July 2002, contained at least $4.5 million.[55] Riggs actively managed the funds in this account, making numerous securities sales. It was closed in August 2002.

(2) Account No. 76-715-547, a corporate money market account for Ashburton, was opened at Riggs in the United States in May 1996.[56] From 1997 to 2002, the account balance fluctuated between about $4,000 and $1.1 million.[57] Although the Subcommittee was not given specific account closing documentation, other evidence indicates that this account was closed in August 2002.

(3) Account No. 76-835-493 was a corporate money market account that was opened in 2000, in the name of "Ashburton Company, Ltd. #2," but then changed in 2001, to "Althorp Investment Co. Ltd.," Mr. Pinochet's other offshore shell corporation.[58] The account was opened at Riggs in the United States in May 2000, with funds transferred from Mr. Pinochet's personal NOW account at Riggs in London.[59] From 2000 to 2002, the account balance fluctuated between about $200,000 and $950,000.[60] This account closed in August 2002.

(4) Riggs issued seven CDs in the name of Ashburton. Each CD was funded with $1 million, was allowed to mature, and the funds used to buy a new $1 million CD. The first CD was issued in 1997, and the last in 1998, which was then repeatedly renewed.[61] In October 2001, about $500,000 was withdrawn from the then existing CD and credited to the Ashburton money market account, Account No. 76-715-547.[62] This CD matured in August 2002, and the remaining $493,000 plus interest was paid into the Ashburton money market account which closed soon after.[63]

(5) A Riggs CD was also issued in the name of Althorp at Riggs in London in April 1998, for £1 million British pounds.[64] Documents variously refer to it as either Account No. 17-172-204 or Account 74-377-015. The CD was renewed for three 90-day periods. On March 26, 1999, prior to its maturity date, the CD was "broken,"[65] and funds totaling

---

[55] Riggs & Co. monthly statements for Ashburton investment account (July 2002) at Bates RNB 031129. See also Riggs bank listing of Pinochet accounts as of 5/2/01 (In 2001, Account 64-0041-01-8 had $4.79 million), Bates OCC 0000490714.

[56] "Riggs & Co Know Your Customer Client Profile" (7/9/98), Bates OCC 0000045887 and 92.

[57] Riggs Bank monthly statements for Ashburton money market account (1/31/97-5/31/02), Bates RNB 029645-715.

[58] Compare, e.g., Riggs monthly statement for "ASHBURTON CO LTD #2" (August 2001), Bates RNB 028848, with Riggs monthly statement for "ALTHORP INVESTMENT CO LTD" (September 2001), Bates RNB 028849.

[59] See.,e.g., OCC examination materials (undated), Bates OCC 0000013831.

[60] Riggs Bank monthly statements for Althorp money market account (5/15/00-8/1/02), Bates RNB 028832-60.

[61] The first six CDs were 90-day $1 million CDs, beginning with Account No. 81-305-710 issued in May 1997, and ending with Account No. 81-403-302 in August 1998. The final CD, Account No. 81-440-234, was issued in November 1998, for a 90-day period, and repeatedly renewed. See, e.g., OCC examination materials (undated), Bates OCC 0000517594-95.

[62] See, e.g., OCC examination materials (undated), Bates OCC 0000517595-96.

[63] Riggs Certificate of Deposit Receipt (5/9/02), Bates RNB 030156; Riggs IPBD Deal Ticket (5/9/02), Bates RNB 030155.

[64] See, e.g., OCC examination materials (undated), Bates OCC 0000517592-93.

[65] Riggs debit receipt for $1,619,500 (3/26/99), stating: "OPENEW CD#81442002/ALTHORP INV.Co.LTD," Bates RNB 030053; Riggs instruction to "break" £1 million CD (3/26/99), Bates RNB 029894. See also OCC examination materials (undated) (CD "[b]roken 3/26/99 - funds used to open CD#81-442-002 in US"), Bates OCC 0000013831.

$1,619,500 were transferred to a newly issued CD for Althorp at Riggs in the United States, described below.[66]

(6) The U.S. dollar CD for Althorp, Account No. 81-442-002, was issued by Riggs in the United States on March 26, 1999, with funds from the London CD described above. This CD was automatically renewed at 90-day intervals. It was initially funded with $1.6 million, but $500,000 was withdrawn on May 15, 2001, and credited to the Althorp money market account, Account No. 76-835-493. On April 5, 2002, another $500,000 was withdrawn and credited to Mr. Pinochet's personal money market account, Account No. 76-835-282. In June, the CD was renewed for another 90-day period with $619,500.[67] Although the Subcommittee was not given documentation showing when this CD terminated, Riggs has indicated that all Pinochet-related accounts were closed in July or August 2002.[68]

Know Your Customer Documentation. Conducting due diligence reviews of prospective clients is a key safeguard against money laundering. This "know your customer" (KYC) requirement primarily entails compiling and verifying background information on new and existing customers to guard against money laundering. The KYC information compiled by Riggs for the accounts controlled by Mr. Pinochet, however, was clearly deficient.

Over the years, Riggs has issued strong policy statements requiring detailed KYC information for its client accounts. For example, its 2000 BSA Compliance Program states:

> "Riggs Bank will conduct business only with individuals, companies, trusts (beneficial owners) and grantors/power holders of such trusts that we know to be of good reputation and, through proper and thorough due diligence, we know to have accumulated their wealth through legitimate and honorable means. Riggs will not accept as a customer any individual, company or trust relationship whom we have any reason whatsoever to believe has been convicted of any crime involving the misappropriation of funds or the use of trafficking of narcotics, or narcotics related material, or money laundering, or has obtained funds through illegal or illicit means. Riggs requires that thoroughly reviewed and corroborated information be provided to Riggs in order to make the determination of whether to accept an individual as a Riggs customer."[69]

This statement is followed by policies and procedures for compiling KYC information. Riggs also has a detailed KYC compliance manual which states, inter alia, "[W]e will do business only with individuals and organizations we believe to be of sound character and good reputation."[70]

Contrary to its KYC policy, however, Riggs did not conduct "thorough due diligence" to ensure that Mr. Pinochet had accumulated his wealth "through legitimate and honorable means" nor did the bank obtain "thoroughly corroborated information" from him. For example, the earliest Pincohet account known to the Subcommittee is the personal account opened in the United States in December 1994. Riggs did not produce any KYC documentation related to the opening of this account, which had been solicited by the most senior leadership in the bank.

---

[66] Riggs Certificate of Deposit Receipt (3/26/99), Bates RNB 030052.

[67] See, e.g., Riggs Certificate of Deposit Receipt (3/26/99), Bates RNB 030052; OCC examination materials (undated), Bates OCC 0000517592-93.

[68] Some documentation reviewed by the Subcommittee referred to other CDs than the ones in this list. Due to insufficient documentation, the Subcommittee did not include them in this list of Pinochet accounts.

[69] "Bank Secrecy Act Compliance Program for Riggs Bank N.A.," (7/11/00), Bates OCC 0000536606–25 at 608.

[70] Know Your Customer Compliance Policies and Procedures Manual," (1/16/01), Bates OCC 0000537092-121, at 96.

Riggs did produce, however, three KYC client profiles prepared during 1998, 1999, and 2002. The earliest of these KYC documents is a 1998 "Know Your Customer Client Profile" on a "Riggs & Co." form for Ashburton Company Ltd.[71] This form has an elaborate set of questions soliciting information about the client's name, address, OFAC status, related accounts, source of funds, background, existing assets, product needs, expected account activity, references, and status as a "High Profile" client. It also includes a checklist for required KYC documentation. While the KYC form solicits useful information to evaluate a client's money laundering risk, not all questions are answered and the provided information is brief, incomplete, and, at times, misleading.

The 1998 client profile appears to have been prepared for an existing Ashburton money market account opened two years earlier in May 1996. The profile never identifies Mr. Pinochet as Ashburton's beneficial owner, stating instead that the owner's name is "Kept in Vault." The profile states that the owner has been an "[e]xisting [c]ustomer since 1985," has an estimated current annual income of $150,000-$200,000, and an estimated personal net worth of $50 to $100 million. It also states: "Client is a private investment company domiciled in the Bahamas used as a vehicle to manage the investment needs of beneficial owner, now a retired professional, who achieved much success in his career and accumulated wealth during his lifetime for retirement in an orderly way."

The profile provides the following for the source of wealth and source of funds in the account: "High paying position in investment income. Family wealth. ... High paying position in Public Sector for many years. Investment Income." When asked to provide the "source used to verify" this information, the response is: "Position and wealth are a matter of public knowledge."

The profile states at one point that the client has $5.3 million with Riggs, and at another point $6.3 million, with another $1-2 million "expected." The chart requesting a list of "related accounts " is marked "N/A" and no accounts are listed, even though Mr. Pinochet then had three other accounts and two CDs at Riggs.

The form is signed by three Riggs officials, a private banking account officer Fernando Baquiero, a representative of Sean Terry, then head of International Banking, and a third "supervising officer" whose signature is illegible.

The 1998 profile never discloses that the Ashburton owner is a senior foreign political figure and former head of state. It never mentions long-standing and ongoing controversies over the sources of his wealth, including allegations of corruption, drug trafficking, and arms sales. The profile also fails to mention pending legal actions against the account's beneficial owner, including a 1996 indictment filed in Spain alleging his involvement with crimes against humanity.

Riggs also produced a Riggs & Co. "Know Your Customer Client Profile" for Althorp Investment Ltd.[72] This profile was completed in May 1999. Althorp had been incorporated a year earlier, in April 1998, and then had a CD at Riggs in London, worth £1 million.

This 1999 profile never identifies Mr. Pinochet as the owner of Althorp. Instead, it describes him as an "existing client" who "is retired." It states: "He was a senior member of his government and had a long relationship with Riggs in this capacity. This trust was established for grandchildren." The profile describes the source of funds in the account as "Personal Investments" and describes the source of wealth as: "Family and salary." When asked about the source used to verify this information, the response states: "Personal visits."

---

[71] "Riggs & Co Know Your Customer Client Profile" for Ashburton Company Ltd. (7/9/98), Bates OCC 0000045887-91.

[72] "Riggs & Co Know Your Customer Client Profile" for Althorp Investment Ltd. (5/3/99), Bates OCC 00000490702-06.

The profile estimates the owner's current annual income at $100,000, and his net worth at $5 million. The chart requesting a list of "related accounts " is, again, left blank, although the profile states at another point: "Beneficial owner has other investment company with Riggs." The profile is signed by Sean Terry and an illegible signature.

Like the 1998 profile, the 1999 client profile makes no reference to Mr. Pinochet's status as a controversial political figure. Nor does it mention the proliferating litigation pending against him, including a 1998 world-wide attachment order in Spain seeking to freeze his bank accounts. The 1998 and 1999 profiles are the only KYC information produced by Riggs for the accounts held by the two offshore shell corporations.

In 2001, Riggs Bank prepared a list of the accounts related to Mr. Pinochet as of May 2nd, and another list as of September 12th.[73] It is unclear whether these lists were prepared as KYC documents or for another purpose. Both are written in Spanish, and the name "Pinochet" appears in handwriting at the top of the September list.[74] Both lists identify nearly $8 million in assets, including a personal account "in Washington" with about $23,000; three Ashburton accounts (including one CD) with nearly $6 million; and two Althorp accounts (including one CD) with a combined total of about $1.9 million. These listings establish that the bank was aware of the various accounts controlled by Mr. Pinochet.

Finally, Riggs provided a "KYC Profile" prepared by Riggs & Co. in March 2002, for Mr. Pinochet's personal money market account.[75] This profile notes that the account had been opened three years earlier, in March 1999. It marks the client as a "High Profile Customer," and states that a memorandum is attached, although none was provided to the Subcommittee. At a later point, the profile states: "Additional information on file with Group Head." The form also states that a list of all related accounts is held in the "Vault."

The profile states that the Pinochet relationship came to the International Private Banking Department "though Riggs Embassy Division due to our close professional relationship with the Chilean Embassy in the US." It describes Mr. Pinochet as a "retired Army General," and says the source of his initial wealth was "profits & dividends from several business[es] family owned." It states that the source of his current income is "investment income, rental income, and pension fund payments from previous posts." It estimates his annual income at $300,000 to $500,000, and leaves blank his estimated net worth. It predicts wire transfers of up to $250,000, but an average account balance of only $20,000, suggesting an expectation that the account would be used as a quick pass through for large sums.

The form is signed by Fernando Baqueiro in the International Private Banking Department, Sean Terry, then head of International Banking, and Richard Dunbar, Head of Operations for International Private Banking.

As with the earlier profiles, this 2002 profile contains no reference to or acknowledgment of the ongoing controversies and litigation associating Mr. Pinochet with human rights abuses, corruption, arms sales, and drug trafficking. It makes no reference to attachment proceedings that took place the prior year, in which the Bermuda government froze certain assets belonging to Mr. Pinochet pursuant to a Spanish court order – even though, as explained further below, senior Riggs officials obtained a memorandum summarizing those proceedings from outside legal counsel in May 2001.

In 2002, Riggs created for the first time a personal KYC client profile for Mr. Pinochet and attempted to document the sources of his wealth. In an interview, the Embassy Banking account

---

[73] Riggs document entitled, "Resumen," (9/12/01), Bates RNB 029982-85; Riggs document prepared by the International Private Banking Department (5/2/01), Bates RNB 029986–88.

[74] A version of the May 2001 list contained in OCC files states at the bottom: "Riggs - pinochet.max." Riggs document prepared by the International Private Banking Department (5/2/01), Bates OCC 0000490713-15.

[75] "Riggs & Co. KYC Profile," (3/24/02), Bates RNB 029979.

manager who handled the Pinochet accounts told the Subcommittee that while she had reviewed extensive financial documentation in previous meetings with Mr. Pinochet, she did not collect copies of this documentation until 2002, when she assembled a number of materials for the 2002 client profile.[76] These materials included his Chilean tax returns from 1998-2001, indicating an annual income of about $90,000 per year,[77] an unsubstantiated chart summarizing certain travel and commissions allegedly owed to Mr. Pinochet,[78] and two formal statements by Mr. Pinochet, dated 1973 and 1989, in which he attested to his own assets.[79] The Embassy Banking account manager told the Subcommittee staff that Mr. Pinochet had also realized significant gains in the Chilean stock market, but did not substantiate these gains in the 2002 KYC profile.[80] When the OCC reviewed the assembled documentation as part of its 2002 examination of the Pinochet accounts, it determined that the information was insufficient to establish the source of Mr. Pinochet's wealth and noted that Mr. Lund from Riggs had agreed with this assessment.[81]

Evading Detection. In addition to opening multiple accounts for Mr. Pinochet in the United States and London, Riggs took several actions consistent with helping Mr. Pinochet evade a court order attempting to freeze his bank accounts and escape notice by law enforcement.

In October 1998, a Spanish magistrate issued two international arrest warrants for Mr. Pinochet for murder, torture, hostage-taking, and genocide.[82] On October 17, 1998, pursuant to those warrants, Mr. Pinochet was arrested at a London hospital where he was recuperating from back surgery. Months of litigation ensued in both Spanish and British courts.

Among other actions, a Spanish magistrate issued an attachment order in October 1998, against all bank accounts held directly or indirectly by Mr. Pinochet, his family members, or third parties in any country.[83] On November 5, 1998, Spain's highest criminal court, the Audiencia Nacional, affirmed criminal jurisdiction over Mr. Pinochet, and on December 10, 1998, ratified the attachment order against Pinochet bank accounts.[84] In the United Kingdom, on November 25, 1998, the British Law Lords denied Mr. Pinochet's claim of diplomatic immunity to prosecution, then set aside that determination on December 17, 1998.[85] On March 24, 1999, the Law Lords authorized an extradition hearing to determine whether Mr. Pinochet should be transferred to Spain.[86]

---

[76] Interview of Carol Thompson (6/23/04).

[77] "Riggs & Co. KYC Profile," (3/24/02), Bates OCC 0000045842-49.

[78] Id. at Bates OCC 0000045835-36. No proof of these assets is provided.

[79] Id. at Bates OCC 0000045850-52. No proof of these assets is provided.

[80] Interview of Carol Thompson (6/23/04). The International Banking Group head stated that Riggs independently confirmed that, over the relevant time period, the Chilean stock market had increased in value, and it was plausible that an investor could have earned a large profit. However, the bank made no specific inquiry into Mr. Pinochet's claimed profits. Interview of Ray Lund (7/7/04).

[81] OCC document, "Targeted Examination: Accounts related to Mr. Augusto Pinochet" (7/9/02), Bates OCC 0000517600.

[82] See copies of the two international arrest warrants at http://www.derechos.org/nizkor/ chile/juicio/dili.html (as of 6/25/04); and http://www.derechos.org/nizkor/chile/juicio/ recurso6.html (as of 6/25/04).

[83] See attachment order, Auto del Juzgado Central de Instruccion No. 5 (10/19/98); copy of appellate court decision ratifying this attachment order at http://www.derechos.net/doc/pino/ proceso.html (as of 6/25/04); Fulbright & Jaworski memorandum by Andres Rigo to Steven B. Pfeiffer regarding "Attachment of bank accounts: status and background," (5/21/01), Bates OCC 0000045921.

[84] For a copy of the court decisions, see http://www.derechos.org/nizkor/chile/juicio/ audi.html (as of 6/25/04); http://www.derechos.net/doc/pino/proceso.html (as of 6/25/04).

[85] Regina v. Bartle, 37 I.L.M. 1302 (U.K. House of Lords, 11/25/98); In re Pinochet, 237 N.R. 201 (U.K. House of Lords, 12/17/98).

[86] Regina v. Bartle, 38 I.L.M. 581 (U.K. House of Lords, 3/24/99) at 582.

Two days later, on March 26, 1999, Riggs allowed Mr. Pinochet to prematurely terminate the £1 million CD held in the name of Althorp at Riggs in London, and transfer the funds, totaling $1.6 million in U.S. dollars, to a new CD in the United States.[87] Riggs did not file any suspicious activity reports that would have alerted British or U.S. law enforcement to the existence of the Pinochet funds.[88]

In March 2000, the British Home Secretary determined that Mr. Pinochet was unfit to stand trial due to poor health and terminated the pending extradition proceedings.[89] Mr. Pinochet immediately departed for Chile, having spent more than18 months under house arrest. In February and late March, senior Riggs officials and Embassy account manager Carol Thompson made two trips to Chile, one as part of a larger trip to visit Riggs clients in South America, and the other to conduct bank business.[90] It is difficult to believe that Riggs top officials would have been unaware of Mr. Pinochet's recent detention and legal proceedings.

In April 2000, Chilean lawyers filed suit in Chile to remove Mr. Pinochet's immunity to prosecution due to his status as a Senator.[91] In May 2000, as litigation continued in the Chilean courts, Riggs closed the final Pinochet account in London and transferred the remaining funds to a newly-opened Ashburton account at Riggs Bank in the United States.[92] The evidence indicates that senior Riggs officials were informed of and agreed to the transfer of Pinochet funds to the United States.[93] Again, Riggs failed to file any suspicious activity report with any office of law enforcement.

Courts continued to consider legal action against Mr. Pinochet. In August 2000, a Chilean appellate court upheld a lower court decision eliminating his immunity from prosecution, and on December 1, 2000, a Chilean judge indicted Mr. Pinochet for human rights violations.[94]

On December 10, 2000, a British newspaper reported that Mr. Pinochet had over $1 million in a bank account at Riggs in the United States.[95] In late December or early January 2001, Riggs altered the official names on the personal account controlled by Mr. Pinochet in the United

---

[87] Riggs debit receipt for $1,619,500 (3/26/99); Riggs Certificate of Deposit Receipt (3/26/99), Bates RNB 030052-3; Riggs instruction to "break" £1 million CD (3/26/99), Bates RNB 029894.

[88] There is also evidence that Riggs had helped Mr. Pinochet move funds from other banks in Spain to the United Kingdom. See OCC document, "Targeted Examination: Accounts related to Mr. Augusto Pinochet" (7/9/02), Bates OCC 0000517599-600.

[89] See, e.g., "Formally Freed, Pinochet Takes Flight," Financial Times (3/3/00).

[90] Riggs personnel disagree as to which Riggs officials went on which trips to Chile. For example, Riggs employees disagree on which trips to Chile were made by then Riggs Bank Chairman Joseph Allbritton.

[91] See, e.g., "Pinochet Hearings Continue," BBC News (4/28/00).

[92] At some point in 2002, Riggs apparently considered transferring management of the Pinochet trusts from its bank and trust company in the Bahamas (managed by Deloitte & Touche), which was then closing, to a Riggs bank and trust company in Jersey. When approached by Riggs, however, the Jersey Financial Services Authority apparently indicated that the trusts could not be transferred unless the source of wealth and funds in the Pinochet accounts were verified as having derived from wholly legitimate sources. Rather than undertake that exercise, Riggs officials decided to retain the Bahamas office of Deloitte & Touche as the trust manager for the Pinochet trusts. Subcommittee interviews of Timothy Coughlin (7/6/04) and Ray Lund (7/7/04). See also OCC examination materials (6/24/02), Bates OCC 0000045622, and (4/4/02), Bates OCC 0000026623.

[93] Interview of Ray Lund (7/7/04). See also, e.g., Riggs debit receipt for $1,619,500 (3/26/99) signed by Riggs officer Sean Terry, Bates RNB 030053; Riggs memorandum from Sean Terry to Stan Dore (6/21/902), Bates RNB 029064-65.

[94] For a copy of the indictment, see http://docs.tercera.cl/casos/pinochet/documentos/proceso.html (as of 6/28/04). For a copy of the court decision, see http://www.derechos.org/nizkor/chile/juicio/desafuero2.html (as of 6/27/04). See also "Ordered to Trial for Kidnapping," Los Angeles Times (12/2/00).

[95] "Revealed: Pinochet drug smuggling link," The Observer (12/10/00).

States, changing the names from "Augusto Pinochet Ugarte & Lucia Hiriart de Pinochet" to "L.Hiriart &/or A. Ugarte."[96] By changing the official account names in this manner, Riggs ensured that any manual or electronic search for the name "Pinochet" would not identify any accounts at the bank.

On January 29, 2001, Mr. Pinochet was placed under house arrest in Chile.[97] On May 15, 2001, Bermuda officials announced that they had carried out an asset seizure in response to the Spanish attachment order and frozen accounts belonging to Mr. Pinochet in a Bermuda subsidiary of Standard Life Assurance.[98] In response, Pinochet lawyers were quoted in the news media as saying that Pinochet "has no bank accounts outside Chile."[99]

A week later, on May 21, 2001, a lawyer at Fulbright & Jaworski provided a memorandum to Steven Pfeiffer, a senior partner at the law firm, about the international legal efforts to freeze Mr. Pinochet's bank accounts.[100] Mr. Pfeiffer was both a senior partner at Fulbright & Jaworski and a long-time member of the Riggs National Corporation Board of Directors. The memorandum given to him by an associate describes the Spanish attachment order, some of the pending legal actions against Mr. Pinochet, and a pending indictment listing "thousands of people who were assassinated, tortured or disappeared during Mr. Pinochet's tenure as president of Chile." Attached to the memorandum were eleven news articles, from 1998 to 2001, discussing Mr. Pinochet, several of which alleged his involvement with corruption, narcotics, arms sales, and other misconduct. One of the articles quoted a Pinochet attorney denying the existence of Pinochet bank accounts in other countries.[101]

On the same day, Mr. Pfeiffer forwarded the memorandum and news articles to two senior Riggs officials, the general counsel and head of the International Banking Group. He included his own memorandum which began: "As requested by Ray last Friday, over the week-end we reviewed certain online public news sources for articles that address the source of General Augusto Pinochet's wealth and/or attempts to freeze and/or seize General Pinochet's assets."[102] The memorandum stated that, while the searches did not uncover much information on the source of Mr. Pinochet's wealth, they did identify articles discussing "demands by 'leading political figures' in Chile to investigate the source of the Pinochet family's fortune" and efforts by the Spanish judge "to search for assets of Pinochet in the United States, Switzerland and Luxembourg."

Mr. Pfeiffer told the Subcommittee staff that he had been unaware of the Pinochet accounts prior to receiving a request from the bank for this memorandum.[103] He said that he did not raise any concerns with the bank's having these accounts, because he assumed the bank had performed the proper due diligence before accepting Mr. Pinochet as a client. The memoranda he provided the bank demonstrate that senior Riggs officials were fully aware of the Pinochet attachment order and seizure actions taking place in other countries, the questions about the

---

[96] Compare, e.g., Riggs account statement for Account No. 76-835-282 for the period, 12/22/00 through 1/23/01, Bates RNB 006212, with the Riggs account statement for the period, 1/24/01 through 2/22/01, Bates RNB 006213.

[97] See, e.g., "Pinochet Arrest Ordered," BBC News (1/30/2001).

[98] See, e.g., "Pinochet Assets Frozen," BBC News (5/15/2001).

[99] Id.

[100] Fulbright & Jaworski memorandum from Andres Rigo to Steven B. Pfeiffer (5/21/04), with attached media articles, Bates OCC 0000045921-42.

[101] "Lawyers dismiss Pinochet asset freeze report," CNN.com (undated but likely May 15 or 16, 2001) ("'There is no account in the Bermudas or anywhere else,' said Pincohet's defense lawyer, Jose Maria Eyzaguirre.").

[102] Fulbright & Jaworski memorandum from Steven B. Pfeiffer to Joseph Cahill and Raymond Lund (5/21/01), Bates OCC 0000045919-20.

[103] Subcommittee interview of Mr. Pfeiffer (7/2/04).

source of Mr. Pinochet's wealth, and the allegations of his involvement with a variety of crimes. They also suggest that the bank was analyzing its own legal obligations.

Mr. Pfeiffer told the Subcommittee staff that he was asked by Riggs to prepare a second memorandum on the Pinochet accounts a year later, in June 2002.[104] He indicated that the bank was considering closing the accounts and wanted to know whether it could send the funds to Mr. Pinochet directly or, due to the attachment proceedings, had to send the funds to a court or law enforcement entity. Riggs declined to produce a copy of this second memorandum on the ground that it was protected from disclosure by the attorney-client privilege. Riggs ultimately decided to close the accounts and send the funds directly to Mr. Pinochet in 2002. Riggs, again, took no action to disclose the Pinochet accounts to any court or office of law enforcement.

Issuance of Cashiers Checks. In addition to assisting Mr. Pinochet evade legal proceedings to attach his bank accounts, Riggs took questionable actions over a two-year period, 2000 to 2002, to help him utilize the funds in his U.S. bank accounts while in Chile.

On August 18, 2000, using funds from Pinochet accounts in the United States, Riggs issued eight, sequentially numbered cashiers checks payable to Augusto Pinochet, each in the amount of $50,000, for a total of $400,000.[105] According to the OCC, Riggs then paid for the private banker who sometimes handled the Pinochet relationship to travel to Chile, so that he could hand deliver the checks to Mr. Pinochet.[106] Mr. Pinochet cashed these checks, $50,000 at a time, at several banks over the course of several months.[107] By sending him these cashiers checks, Riggs enabled Mr. Pinochet to obtain substantial cash payments while in Chile.

On May 15, 2001, Riggs did it again. It used Pinochet funds to issue ten, sequentially numbered cashiers checks, each in the amount of $50,000, for a total of $500,000.[108] These checks were made payable to Maria Hiriart and/or Augusto P. Ugarte. They were sent by overnight delivery to Chile.[109] Mr. Pinochet, again, cashed the checks at several banks over the course of several months.[110] Unlike the cashiers checks issued in 2000, however, these cashiers checks drew their funds, not from a Pinochet account directly, but from Riggs' own

---

[104] Id.

[105] The Riggs Embassy account manager indicated that she had received telephone instructions from Mr. Pinochet to provide these cashiers checks. Subcommittee interview of Carol Thompson (6/23/04). See also OCC examination materials, Bates OCC 0000045860.

[106] OCC examination materials, Bates OCC 0000045627.

[107] See copies of these cleared checks, Bates OCC 0000045749-62.

[108] Riggs was unable to provide a written request from Mr. Pinochet for these cashiers checks, but did produce a letter of instruction signed by representatives of Ashburton. See OCC examination materials, Bates OCC 0000045860.

[109] Subcommittee interview of Carol Thompson (6/23/04); see also two handwritten notes from Ms. Thompson instructing a Riggs employee to send "10 checks totaling $500,000" to "A.P. Ungarte" in Chile, (5/14/01), Bates RNB 029977-78.

[110] See copies of these cleared checks, Bates OCC 0000045746-47, 45771-88.

concentration account.[111] This action meant that Mr. Pinochet could cash the checks without fear that they could be traced back to one of his accounts at Riggs.

On October 11, 2001, Riggs repeated the action a third time, issuing ten sequentially numbered $50,000 cashiers checks, drawn on Riggs' own concentration account, for a total of $500,000.[112] Made payable to Maria Hiriart and/or Augusto P. Ugarte, these checks were, again, sent by overnight mail to Mr. Pinochet in Chile. Mr. Pinochet, again, cashed them over the course of several months.[113]

On April 8, 2002, Riggs performed the same service one last time, mailing ten sequentially numbered $50,000 cashiers checks to Mr. Pinochet in Chile.[114] These checks were made payable to L. Hiriart and/or A.P. Ugarte, and totaled $500,000. They were drawn directly from the Pinochet accounts rather than from the Riggs concentration account. Mr. Pinochet cashed them over several months.

Altogether, Riggs transferred $1.9 million to Mr. Pinochet in Chile through four sets of cashiers checks. When asked why, on each occasion, it had supplied multiple cashiers checks in identical amounts instead of a single check for the full amount, the key Riggs employee told the Subcommittee that Mr. Pinochet had requested this approach so that he could distribute the checks to his descendants before his death.[115] Analysis of the cleared checks, however, shows that Mr. Pinochet personally signed and cashed them over several months, a pattern equally consistent with his using the funds for his own expenses.

When asked why Riggs didn't simply wire transfer the funds to a Pinochet account in Chile, which would have been faster, less expensive, and more secure than physically transporting checks to Chile, Riggs personnel were unable to provide a satisfactory explanation.[116] When asked why Riggs had debited some of the cashiers checks from its own concentration account instead of directly from Mr. Pinochet's accounts, Riggs personnel apparently told OCC examiners that the bank often handled cashiers checks in this manner to

---

[111] A concentration account, also called a clearing, omnibus, or suspense account, is an account established and used by a bank for administrative purposes. It usually commingles funds from various sources prior to transferring them to specific accounts. Concentration accounts are not designed to be used by clients for their own transactions. In 1997, the Federal Reserve issued this warning to private banks:

> "[I]t is inadvisable from a risk management and control perspective for institutions to allow their clients to direct transactions through the organization's suspense account(s). Such practices effectively prevent association of the clients' names and account numbers with specific account activity, could easily mask unusual transactions and flows, the monitoring of which is essential to sound risk management in private banking, and could easily be abused."

Guidance on Sound Risk Management Practices Governing Private Banking Activities (July 1997). In 1999, this Subcommittee detailed how Citicorp had misused its concentration account to transfer about $67 million from Mexico to New York on behalf of a private banking client, interrupting the audit trail linking these funds to the client. See, e.g., 1999 Subcommittee Private Banking Hearings, Minority staff report at 892-93. In 2002, in response to this and other evidence that banks were misusing their concentration accounts to disguise a client's participation in particular transactions, Congress enacted Section 325 of the Patriot Act authorizing the issuance of regulations to ensure that bank concentration accounts "are not used to prevent association of the identity of an individual customer with the movement of funds of which the customer is the direct or beneficial owner." The Treasury Department has not, however, issued any regulations to date.

[112] Riggs produced a hand-printed letter of instruction signed by Mr. Pinochet requesting these cashiers checks. OCC examination materials, Bates OCC 0000045860.

[113] See copies of these cleared checks, Bates OCC 0000045796-807.

[114] Riggs produced a hand-printed letter of instruction signed by Mr. Pinochet requesting these cashiers checks. OCC examination materials, Bates OCC 0000045860.

[115] Interview of Carol Thompson (6/23/04). See also OCC examination materials, Bates OCC 0000045860 (Pinochet wanted to "start distributing monies to his children and grandchildren before his death.").

[116] OCC examination materials, Bates OCC 0000045861.

protect client "confidentiality."[117] When further pressed by the OCC about this action, Riggs informed the examiners that it "would immediately cease the practice."[118]

Concealment and Resistance to OCC Oversight. Riggs did not, at any time, volunteer information about the Pinochet accounts either to a bank examiner or to law enforcement.

In fact, Riggs appeared to take affirmative steps to hide the Pinochet relationship from bank examiners. In July 2000, for example, when pursuant to a routine anti-money laundering examination the OCC requested from Riggs a list of accounts controlled by foreign political figures, Riggs omitted the Pinochet accounts from that list.[119] In 2001, an OCC bank examiner happened to review the Althorp account as part of a routine sampling of KYC data in 17 accounts at the International Private Banking Department. According to the handwritten notes of the examiner, when the OCC asked about Althorp's beneficial owner, Riggs personnel responded that the owner was "a publicly known figure" in Chile; his Chilean family members "were diplomats," the account came from "Embassy [Banking]," the family members were "landowners" with "vineyards," and the Riggs Chairman of the Board "knows" the beneficial owner.[120] Riggs never disclosed that the beneficial owner was the former head of state, Mr. Pinochet.

The OCC finally discovered the Pinochet accounts in the spring of 2002, during an examination conducted at multiple banks to test existing policies and procedures to detect and report terrorist financing. Riggs was one of more than two dozen banks chosen to undergo this targeted examination. It was during this examination that OCC examiners came across coded references in a Riggs' log of cashiers checks, asked Riggs for an explanation, and learned of the Pinochet accounts.[121]

When OCC examiners met with Riggs personnel to obtain additional information about these accounts, Riggs personnel initially resisted cooperating with OCC requests. For example, according to an OCC summary of the meeting, a representative from the Riggs legal department asked why the OCC "would need copies of documents from the Pinochet accounts," expressed concerns about "the confidentiality of the information," and indicated he "did not believe that [the OCC] needed copies of 'any' information."[122] The Embassy Banking account manager asked the OCC to "guarantee her that no information be provided to any other agency." When she began to hand the OCC a document, the Riggs legal representative prevented her from actually doing so. About a week later, the OCC met with Riggs again and informed the bank that it was undertaking a targeted examination of the Pinochet accounts.[123] At that meeting, Riggs committed to fully cooperating with the OCC and providing all requested information.

OCC examination personnel then raised numerous questions about the Pinochet accounts. One examiner wrote:

> [I] remain puzzled by the entire relationship with someone of this calibre by Riggs. The apparent secrecy is also puzzling. ... Even a casual interpretation of nominal adher[e]nce to any type of KYC [know-your-customer] efforts would leave at a loss why Riggs would put

---

[117] Id.

[118] Id.

[119] See, e.g., OCC examination materials (7/28/00), including list of "Politicians" with accounts in the International Private Banking Department, Bates OCC 0000045669-71; OCC document, "Targeted Examination: Accounts related to Mr. Augusto Pinochet" (7/9/02), Bates OCC 0000517597-603, at 517601.

[120] OCC document entitled, "Sample - IPB," (2/28/01), Bates OCC 0000537063.

[121] See, e.g., OCC email (3/20/03), Bates OCC 0000516987

[122] OCC document entitled, "MEETING RIGGS NATIONAL BANK," (6/18/02), Bates OCC 0000026570.

[123] OCC document entitled, "MEETING RIGGS NATIONAL BANK," (6/24/02), Bates OCC 0000547042.

> themselves at such risk by dealing with him. ... Even if a nominal amount of the allegations of the atrocities, human rights violations, drug and arms trafficking, as well as assas[s]ination stories are true, the risk to the bank would be high ... if Riggs relationship were known. Perhaps this is the reason for the secrecy. ... His total control over the Chilean economy adds more questions as to his source of funds. Coupled with the potential of funds derived from possible terror and personal funds of the thousands of missing people, his role in the dissolution of the economic structure in Chile during his extended term surely opened the door to possible sources of self enrichment and wealth. ... If the general public can access such information on Pinochet, then so could Riggs. ... The threshold for filing a SAR [suspicious activity report] is only 'suspicious activity' and this surely meets the test. ... It is troubling to me that even the nominal facts known by me, would surface many questions that management must also have. The hesitancy to file [a suspicious activity report] is significant and cannot be lightly dismissed."[124]

The OCC directed Riggs to file a Suspicious Activity Report (SAR) about the Pinochet accounts so that law enforcement would be aware of them. Riggs complied in July 2002. The OCC considered the report so deficient, however, that it filed its own SAR soon after.

Role of Board and Officers of Pinochet Accounts. Information reviewed by the Subcommittee indicates that key Riggs Board members and senior officers were well aware of the Pinochet accounts.

Senior bank officials had been instrumental in bringing the first Pinochet account to the bank in late 1994. The account manager said that she sometimes spoke directly to Mr. Allbritton about the Pinochet accounts. In 2000, senior Riggs officials made two trips to Chile to meet with clients and conduct other bank business. In 2001, a Riggs Board member informed senior officials at the bank about the Pinochet attachment order, pending legal actions against Mr. Pinochet, and accusations concerning his involvement with wrongdoing.[125]

In 2002, when the OCC began a targeted examination of the Pinochet accounts, senior Riggs officers who were also Board members attended some meetings with OCC staff. One Riggs officer told an OCC examiner that, "Mr. Pinochet has a relationship with the Chairman of Riggs."[126] During the course of the examination, the head of the International Private Banking Group wrote to Riggs' then top anti-money laundering officer:

> "Riggs Bank Legal Affairs Division and Compliance Division have been aware of all activities relating to these accounts. At no time has the International Group acted on this account without the express consent of both the Legal Affairs and Compliance Divisions."[127]

In mid-2002, a Riggs board member provided a requested legal memorandum to the bank on whether it could forward Mr. Pinochet's funds to him after it closed his accounts, in light of the attachment order issued by a Spanish court.

On October 15, 2002, the OCC discussed the Pinochet accounts with the Riggs Board of Directors. According to OCC personnel present at the meeting, the Board reacted with resentment over how the OCC had handled the matter.[128] According to the OCC, Ms. Allbritton,

---

[124] OCC examination materials, email dated 5/16/02, Bates OCC 0000045705.

[125] Fulbright & Jaworski memorandum from Steven B. Pfeiffer to Joseph Cahill and Raymond Lund (5/21/04), with attached materials, Bates OCC 0000045919-42.

[126] OCC examination materials (4/4/02), Bates OCC 0000026623.

[127] Internal Riggs memorandum dated 6/21/02, from Sean Terry, then head of the International Private Banking Group, to Stan Dore, then BSA Officer, Bates RNB 029064-65.

[128] Interviews with Lester Miller and David Hunter (6/4/04).

a Board member, complained that the agency had effectively forced the bank to close the Pinochet accounts.[129] In July and August 2002, Riggs closed the Pinochet accounts.

C. Equatorial Guinea

Finding (2): Turning a Blind Eye. Riggs Bank managed more than 60 accounts and certificates of deposit for Equatorial Guinea, its officials, and their family members, with little or no attention to the bank's anti-money laundering obligations, turned a blind eye to evidence suggesting the bank was handling the proceeds of foreign corruption, and allowed numerous suspicious transactions to take place without notifying law enforcement.

In 1995, Riggs Bank opened its first Embassy accounts for Equatorial Guinea, a small country on the west coast of Africa. Over the next eight years, the bank opened nearly 50 additional accounts and a dozen certificates of deposit for not only the government of Equatorial Guinea (E.G.), but also a host of E.G. senior government officials and their family members. By 2003, the E.G. account had become the bank's largest single relationship, with balances and outstanding loans that together approached $700 million.[130]

The Subcommittee investigation has determined that Riggs Bank serviced the E.G. accounts with little or no attention to the bank's anti-money laundering obligations, turned a blind eye to evidence suggesting the bank was handling the proceeds of foreign corruption, and allowed numerous suspicious transactions to take place without notifying law enforcement. The Subcommittee investigation found that Riggs opened multiple personal accounts for the President of Equatorial Guinea, his wife and other relatives; helped establish offshore shell corporations for the E.G. president and his sons; accepted $13 million in cash deposits into accounts controlled by the E.G. President and his wife with few questions asked; allowed wire transfers withdrawing more than $35 million from the E.G. account containing oil revenues for transfer to two unknown companies with accounts in bank secrecy jurisdictions; and exercised such lax oversight over the E.G. account manager that, among other misconduct, he was able to wire transfer more than $1 million in E.G. oil revenues to an account he controlled at another bank. Riggs Bank closed the accounts only after numerous questions raised concerns the bank was unable to resolve.

The Country of Equatorial Guinea. Equatorial Guinea is a West African country, composed of a mainland and five inhabited islands, with slightly less landmass than Maryland and a population of about 510,000.[131] Malabo, on the island of Bioko, is the capital and largest city. Spanish and French are the official languages, but Bantu languages are also spoken.

Equatorial Guinea was colonized by the Portugese in the late 1600s, ceded to Spain in 1778, and gained independence in the 1960s.[132] After a referendum and constitutional convention, Francisco Macias Nguema was elected President of Equatorial Guinea in 1968.[133] Macias subsequently abrogated the constitution, established a single-party dictatorship, and declared himself President for life. His rule occasioned the death or exile of about one-third of

---

[129] Id.

[130] See, e.g., OCC examination materials (11/21/03), Bates 001167.

[131] See CIA World Fact Book, www.odci.gov/cia/publications/factbook/print/ek.html (as of 6/10/04).

[132] "Equatorial Guinea At The Crossroads: Report of a Mission to Equatorial Guinea" (International Bar Association Human Rights Institute), at http://www.ibanet.org/pdf/Equatorial_Guinea_Report.pdf (as of 6/10/04), at 11.

[133] "Background Note: Equatorial Guinea," (U.S. Department of State) at www.state.gov/r/pa/ei/bgn/7221.htm (as of 6/10/04).

the country's citizens.[134] In 1979, Macias was overthrown and executed by his nephew, Colonel Teodoro Obiang Nguema Mbasago.

Mr. Obiang declared himself President in his uncle's place. Twenty-five years later, he still holds that position. While a new E.G. constitution was enacted in 1982, and single-party rule was officially ended in 1991, free and fair elections have not followed.[135] In the most recent election in December 2002, in which President Obiang claimed victory with 97% of the vote, the U.S. State Department described the proceedings as "marred by extensive fraud and intimidation."[136] President Obiang is also depicted as dominating the E.G. government. In the words of the U.S. State Department, he "names and dismisses cabinet members and judges, ratifies treaties, leads the armed forces, and ... appoints the governors."[137] A review of top E.G. officials over the past few years shows that many are members of the President's extended family.

The State Department has also been highly critical of the country's human rights abuses, use of torture, and culture of corruption.[138] The IMF has also issued reports critical of the country's lack of transparency and accountability on fiscal matters.[139] Corruption allegations are also commonplace in articles about Equatorial Guinea. For example, one recent U.S. publication wrote: "In 1998, according to the IMF, [the E.G.] government received $130 million in oil revenue, and Obiang simply pocketed $96 million of it. Although three of every four Equatoguineans suffer malnutrition, between 1997 and 2002, Obiang spent just over 1 percent of his budget on health, by far the lowest of the nine African countries the IMF surveyed. According to a 2002 State Department report, there is 'little evidence that the country's oil wealth is being devoted to the public good.'"[140]

Despite its poor record on human rights, civil liberty, and democracy, Equatorial Guinea has experienced rapid economic growth during the last five years due to development of its oil resources. Since 1997, U.S. oil companies, including Amerada Hess, ChevronTexaco, ExxonMobil, and Marathon have made substantial investments in oil fields off the E.G. coast as

---

[134] Id.

[135] Id.

[136] Id.

[137] Id. See also "Equatorial Guinea At The Crossroads," prepared by a delegation from the International Bar Association (October 2003), at 7 (Equatorial Guinea has "little respect for the rule of law), "no viable opposition or political pluralism," "critical lack of free speech, press, association, and no significant development of civil society," experienced "interference by the Executive in the operations of the judiciary," and poorly drafted laws which were "inconsistent with its constitution, outdated, or ad hoc.").

[138] See, e.g., "Background Note: Equatorial Guinea," (U.S. Department of State) at www.state.gov/r/pa/ei/bgn/7221.htm (as of 6/10/04); State Department's 2003 Country Report on Human Right Practices in Equatorial Guinea ("The security forces committed numerous abuses, including torture, beating, and other physical abuse of prisoners and suspects"; they "generally committed abuses with impunity"; and they "used arbitrary arrest, detention, and incommunicado detention."); State Department's 2002 Country Report on Human Right Practices in Equatorial Guinea ("Poor fiscal management and a lack of transparency in public accounting of national finances have undermined the country's economic potential. There is little evidence that the country's oil wealth is being devoted to the public good."). See also U.N. Commission on Human Rights, "Report on the human rights situation in the Republic of Equatorial Guinea" (1/24/02, 58th Session) at 13 (In Equatorial Guinea, "arbitrary detentions, inhuman treatment and torture ... continue as if they were perfectly normal.").

[139] See, e.g., "IMF concludes 2001 Article IV Consultation with Equatorial Guinea," (Public Information Notice No. 01/106, 10/11/01); IMF Report on Equatorial Guinea entitled, "Staff Report for the 2003 Article IV Consultation" (10/28/03).

[140] "Rigged," The New Republic (6/21/04). See also, e.g., "Petroleum: The Curious Bonds of Oil Diplomacy," Africa News (11/6/02), and Parade Magazine (2/22/04), which has twice named President Obiang as one of the "ten worst dictators" in the world.

well as in E.G. methanol and liquified natural gas plants. Equatorial Guinea has also become an important source of oil for the United States.[141]

Diplomatic relations between Equatorial Guinea and the United States have varied over the years. In 1995, the United States closed its embassy in Equatorial Guinea. Eight years later, in 2003, the United States agreed to re-establish this Embassy, reportedly at the urging of U.S. oil companies doing business in Equatorial Guinea. President Obiang professes to be a strong supporter of the United States and frequently travels to this country. His wife and children own real estate in Maryland, California, New York, and elsewhere.

Equatorial Guinea Relationship. The evidence shows that Equatorial Guinea has had a eight-year relationship with Riggs Bank and is associated with more than 60 accounts and CDs at the bank.

Equatorial Guinea opened its first accounts at Riggs Bank in 1995. The evidence indicates that over the following eight years, a single Riggs account manager in the Embassy Banking Division, Simon Kareri, was primarily responsible for the E.G. accounts. Mr. Kareri also handled other Embassy accounts in Africa and the Caribbean. He reported to the head of the International Banking Group, Raymond Lund.

Multiple Accounts. Riggs opened numerous accounts for the E.G. government, its officials, and their family members. After a targeted examination of these accounts by the OCC in 2003 and 2004, it is the Subcommittee's understanding that all have been recently closed. These accounts can be generally categorized as follows.

(1) **E.G. Oil Account.** One of the earliest and largest of the E.G. accounts, Account No. 17-164-642, was opened in January 1996, as a standard business checking account in the name of the "Republica de Guinea Ecuatorial-Tesoreria General." Virtually all of the deposits into this account were payments from oil companies doing business in Equatorial Guinea, primarily ExxonMobil Corporation. Most of the funds were transferred out of this account to the Central Bank of Africa and used to pay E.G. bills. Some funds were transferred directly from the oil account to pay for various E.G. projects. This account often held tens of millions of dollars at a time. The account signatories were E.G. President Obiang; his son, Gabriel M Obiang Lima, E.G. Minister of Mines; and his nephew, Melchor Esono Edjo, E.G. Secretary of State for Treasury and Budget. Two signatures, one of which had to be from the President, were required to withdraw funds from this account.[142]

(2) **E.G. Investment Accounts.** The second largest E.G. account, Account No. 76-952-200, was a standard money market account linked to two Riggs investment accounts, Account Nos. 68-002-6010 and 68-002-6028.[143] Opened in December 2001, these accounts had combined funds in 2003, of more than $300 million and at times as much as $500 million. The money market account had the same three signatories as the E.G. oil account, but any one signature was sufficient to withdraw funds.[144] The two linked investment accounts had only one required signatory, the E.G. President.[145]

---

[141] See, e.g., "Promoting Transparency in the African Oil Sector," report prepared by the Center for Strategic and International Studies Task Force on Rising U.S. Energy Stakes in Africa (March 2004). See also, e.g., "Petroleum: The Curious Bonds of Oil Diplomacy," Africa News (11/6/02).

[142] See, e.g., Riggs Miscellaneous Change Memo (2/15/2003), listing signatories for E.G. Oil Account, Bates RNB 000005.

[143] See, e.g., Riggs analysis of E.G. accounts, Riggs memorandum from the Security & Investigations Department to Raymond Lund, "Equatorial Guinea" (1/20/04), Bates OCC 0000528712-23, at 714.

[144] Riggs document listing signatories for E.G. Investment Account (12/7/01), Bates RNB 000007.

[145] OCC Supervisory Target Letter 2004-X, Bates OCC 0000502621-29, at 26.

(3) **Other E.G. Government Accounts.** Several other Riggs accounts and CDs were also opened in the name of the Republic of Equatorial Guinea. They included a CD for $40 million, Account No. 81-710-0433, issued in May 2002;[146] a CD for $1 million, Account No. 81-763-3375, issued in November 2002;[147] and a CD for $5 million, Account No. 81-217-905, issued in June 1996 and closed in March 1998.[148] Account No. 25-711-327, a checking account, was opened in September 2003, in the name of the EG government, with loan proceeds intended to be used to purchase an airplane for the use of the E.G. President; at the end of 2003, its balance exceeded $9 million.[149] An account related to the E.G. shipping registry, Account No.17-201-044, was opened in 1996, and went inactive in 2001. A checking account, Account No.17-231-999, which was apparently used to pay E.G. debts, was closed in 1999.

(4) **E.G. Embassy Accounts.** Eight accounts were opened at Riggs in the name of the "Embassy of Equatorial Guinea." The earliest of these accounts was opened in 1996, and the latest in 2002. Most of these accounts appear to have been used to pay Embassy bills, including utilities, telephone expenses, payrolls, and at least one land purchase of a $600,000 "chancery site." One account appears to have been set up, but rarely used, to make currency investments in the Euro. Due to limited documentation, the Subcommittee could not determine the purpose of several others, some of which may have contained the proceeds of Riggs loans to the Embassy. The Subcommittee was not given signatory documentation for these accounts, but the signatory may have been Teodoro Biyogo Nsue, E.G. Ambassador to the United States.[150]

(5) **E.G. Student Accounts.** Two accounts were opened in the name of the E.G. government and used to pay the expenses of E.G. students studying in the United States. The first account, Account No. 17-328-504, was opened in the name of "Republica de Guinea Ecuatorial-Cuenta Estudiantes MME." It was a corporate wholesale checking account opened in March 2001. The account signatories were Cristobal Manana Ela, E.G. Minister of Mines & Energy; and a son of the E.G. President, Gabriel Nguema Lima, E.G. Secretary of State Mines & Energy.[151] This account had fluctuating balances that often exceeded $300,000. The second, Account No. 25-380-310, was opened in the name of "Republica de Guinea Ecuatorial-Fondo Especial para Becas." It was a business money market account opened in May 2002, and the only signatory was the Riggs E.G. account manager, Simon Kareri.[152] This account was linked to a Riggs investment account of the

---

[146] Riggs Negotiable CD (5/3/02), Bates RNB 000023.

[147] Riggs Certificate of Deposit Receipt (11/7/02), Bates RNB 000025.

[148] Riggs annual statements on Account No. 81-217-905 (1996-1998), Bates RNB 001303-05.

[149] See Riggs analysis of E.G. accounts, Riggs memorandum from the Security & Investigations Department to Raymond Lund, "Equatorial Guinea" (1/20/04), Bates OCC 0000528712-23, at 714.

[150] In the course of analyzing various transactions in the Riggs accounts, the Subcommittee identified four accounts at another bank, JPMorgan Chase, opened in the name of the "Permanent Mission of Equatorial Guinea." Three were business checking accounts, and one was a business money market account. The earliest was opened in 2000, and the latest in 2003. One account had limited activity, but substantial funds, opening with $5 million and experiencing ten major withdrawals – one nearly $2 million – in less than a year. A second had regular, relatively modest account activity, with frequent deposits of $5,400 from two oil companies doing business in Equatorial Guinea, CMS and Marathon, and a one-time deposit of $5 million that passed through the account in 24 hours. The third account had significant account activity and account balances that fluctuated from about $60 to about $135,000, and appeared to reflect a variety of Embassy expenses. The fourth account had limited account activity and minor balances. Of these accounts, one was closed in 2000, two were closed in July 2004, and the fourth was in the process of being closed by JPMorgan Chase.

[151] Riggs account opening documentation (3/29/01), Bates RNB 000009.

[152] Riggs account opening documentation (5/12/02), Bates RNB 000014. But see Riggs memorandum to the file from Mr. Kareri (8/13/02) and new signature card changing signatory to the E.G. Secretary of State for Treasury, Bates RNB 013621-23.

same name, Account No. 68-002-6036. Both the special account and the investment account had, at times, funds equal to or exceeding $1 million.[153]

(6) **Otong Accounts.** While E.G. President Obiang did not have any personal accounts at Riggs, he was the beneficial owner of one account and two CDs opened in the name of a Bahamian offshore shell corporation, called Otong S.A., which was under his control and had been established on his behalf with the assistance of Riggs. Account No. 76-863-013 was a money market account, which was opened in September 1999, and had fluctuating balances. The first CD was opened in June 2000, as Account No. 81-450-109; the second was opened in June 2002, as Account No. 81-723-162. In December 2002, the first CD had a value exceeding $11.7 million, while the second CD had a value exceeding $4.4 million.[154]

(7) **Constancia Mangue Nsue Accounts.** Five accounts and three CDs were opened in the name of the President's wife, Constancia Mangue Nsue. The earliest was opened in 1997, and the latest in 2002. Account No. 24-383-122 was a personal checking account that received several large cash deposits, as well as a few payments from ExxonMobil oil company totaling about $385,000. From 1998 until 2003, the account balance fluctuated widely between about $3,000 and $2.7 million.[155] Over time, about $2.8 million was withdrawn from this account and transferred to a CD in Ms. Nsue's name, Account No. 81-253-754.[156] Account No. 24-895-363 was a joint checking account with her brother, Teodoro Biyogo Nsue, the E.G. Ambassador to the United States. From 2000 until 2003, this account balance fluctuated widely between $0 to about $670,000, and included some large cash payments and wire transfers.[157] Account No. 25-475-010 was a money market account established in 2002 to receive rental payments of about $5,000 per month on a Maryland property owned by Ms. Nsue. Two money market accounts and two CDs were opened in the name of Ms. Nsue on behalf of her teenage twin sons, Justo and Pastor Obiang. The money market accounts, Account Nos. 76-890-441 and 76-890-433, each had fluctuating balances of between about $600 and $270,000, and each periodically sent large sums for deposit into CDs.[158] Each of the sons' CDs, in Account Nos. 81-585-919 and 81-585-927, had a value at the end of 2002 of about $625,000.[159]

(8) **Teodoro Nguema Obiang Accounts.** While the E.G. President's eldest son, Teodoro Nguema Obiang, the E.G. Ministry of Forestry, did not have any personal accounts at Riggs, he was the beneficial owner of three accounts opened in the name of companies he controlled. Two of these accounts were opened in the name of his California entertainment company, TNO Entertainment LLC. The first, Account No. 76-889-555, was opened in 2000 and closed in 2001, and the funds were transferred to Account 76-923-450, which was opened in 2001 and remained open in early 2004.[160] From 2001 to 2003, the second account had balances that fluctuated between about $17,000 and $11.6 million.[161] The third

---

[153] See, e.g., Riggs account statement for the investment account, (June 2002) Bates RNB 013878 (account balance exceeds $1 million).

[154] See December 2002 account statements, Bates RNB 000333 and 336; Riggs statement of account (4/2/02), Bates RNB 007385-87.

[155] See, e.g., Riggs monthly account statements, RNB 000723-92.

[156] At the end of 2002, this CD had a value of about $2.9 million. Riggs 2002 account statement, Bates RNB 000920.

[157] See, e.g., Riggs monthly account statements, RNB 000793-843.

[158] Riggs monthly account statements, Bates RNB 000862-915.

[159] 2002 Riggs account statements, Bates RNB 000923 and 926.

[160] See, e.g., Riggs statement of account (12/13/03 - 1/15/04), Bates RNB 002398.

[161] See Riggs account statements, Bates RNB 000489-543.

account, Account No. 25-380-038, was opened in the name of Awake Ltd., a Bahamian offshore shell company that Riggs helped to establish. This money market account, opened in 2002, saw virtually no account activity.[162]

(9) **Teodoro Biyogo Nsue and Elena Mensa Accounts.** Four accounts and two CDs were opened in the name of Teodoro Biyogo Nsue, the E.G. Ambassador to the United States, or his wife, Elena Mensa, all with modest balances. A savings account, Account No. 25-595-370 was opened in the name of the Ambassador on behalf of his daughter, Candida Nsue, held minor balances, and showed little account activity. His wife also opened a savings account on behalf of their daughter, Account No. 25-460-310. For herself, Ms. Mensa opened a personal checking account, Account No. 25-356-070, and a money market account, Account No. 65-197-510, that closed in 2002. Ms. Mensa also had two CDs, Account Nos. 81-676-503 and 81-763-965, that were opened in 2001 and 2002.[163]

(10) **Melchor Esono Edjo Accounts.** One account and two CDs were opened in the name of Melchor Esono Edjo, Secretary of State for Treasury and Budget in Equatorial Guinea. Account No. 76-827-522, was a money market account. The two CDs, Account Nos. 81-502-490 and 81-764-159, were opened in 1999 and 2003, and together had an aggregate value of more than $183,000.

(11) **Armengol Ondo Nguema Accounts.** One account and one CD were opened in the name of Armengol Ondo Nguema, the E.G. President's brother and Director of National Security in Equatorial Guinea. Account No. 76-889-504 was a money market account, opened in 2000. From 2000 to 2003, the account balance fluctuated widely between about $3,000 and $775,000.[164] The CD, Account No. 81-657-484, was opened in June 2001, with $700,000 transferred from the money market account. At the end of 2002, it had a value of slightly more than $700,000.[165] Two more accounts were opened in the name of his daughter, Maria Ondo Mangue (also known as Maria Luisa Mangue Ondo), who was studying in the United States. Account No. 25-460-986 was a savings account that was opened in 2002 and closed in July 2003; Account No. 25-125-029 was a checking account opened in 2001, with minor balances.

(12) **Pastor Micha Ondo Bile Accounts.** Two accounts and four CDs were opened in the name of Pastor Micha Ondo Bile, Minister of Foreign Affairs in Equatorial Guinea and one-time E.G. Ambassador to the United States. Account No. 24-203-160, a checking account, and Account No. 76-787-356, a money market account, were both opened in 1995. Of the four CDs, Account Nos. 81-519-794, 81-770-495, 81-815-876, and 81-405-228, one was opened in 1998, and the other three in 2003. The Subcommittee did not obtain information on the aggregate value of these four CDs. One additional account, Account

---

[162] The Subcommittee also identified two other sets of bank accounts associated with the President's son, opened at JPMorgan Chase and Citigroup. At JPMorgan Chase, four accounts and three CDs were opened in the name of the President's son, including a savings account and three checking accounts which together held about $75,000 in 2003. All three CDs had matured in 2002, and at that time had an aggregate value of more than $1.7 million. The saving and checking accounts closed in July 2002. At Citigroup, the Subcommittee identified four accounts that had been opened in the name of the son's company, TNO Entertainment. The earliest of these accounts was opened in 1997, and all four were closed in early 2000. They included a checking account, money market account, Citigold account, and securities investment account. These accounts were apparently dormant at times, but in mid 1999, received deposits in a relatively short period totaling about $11.8 million. After noting suspicious account activity, Citigroup closed these accounts in 2000. Riggs Bank apparently identified at least one additional set of accounts held by the E.G. President's son at City National Bank of Beverly Hills, California. Riggs internal memorandum by the Security & Investigations Department (12/18/03), Bates OCC 0000528401.

[163] The Subcommittee identified two additional accounts opened in the name of the Ambassador at JPMorgan Chase, as well as six at Citigroup. The Chase account was closed in February 2004. At least one of the accounts at Citigroup had fluctuating balances, large cash deposits of up to $50,000, and suspicious wire transfers. Citigroup indicated that all of the Ambassador's accounts were closed in May 2002.

[164] See Riggs account statements (2/3/00-3/5/03), Bates RNB 000544-606.

[165] 2002 Riggs account statement, Bates RNB 000608.

No. 25-731-088, was opened by the Minister's daughter, Sylvia Nachama Ondo, who is also a niece of President Obiang. It was a checking account with minor balances, opened while she was studying in the United States.

(13) **Boriko, Nseng, and Edjo Accounts.** Three separate money market accounts with relatively minor balances were opened in the names of three other E.G. officials. Account No. 75-841-201, opened in 1998 and dormant in 2003, was opened in the name of Miguel Abia Biteo Boriko, former Minister of the Economy. Account No. 76-913-623, was opened in 2000, in the name of Juan Olo Mba Nseng, former Minister of Mining and now Director of Electricity in Equatorial Guinea. Account No. 76-841-236, was opened in 1998 in the name of Baltasar Engongo Edjo, Minister of Economic Affairs and Finance.

(14) **Makina Accounts.** Three accounts with minor balances were opened in the name of Sisinio E Mbana Makina, the former First Secretary of Equatorial Guinea who was employed at the E.G. Embassy. Two were "convenience plus money market accounts"; and one was a savings account that was opened in 2002 and closed in 2003.

(15) **Business Accounts.** Three accounts were opened in the name of E.G. businesses. Ecuato Guineana de Aviacion, the official E.G. airline, opened one money market account at Riggs in 2001, Account No. 76-939-372. GEPetrol, the official E.G. oil company established in June 2002, opened a corporate wholesale checking account and a business money market account, Account Nos. 17-340-829 and 76-812-478, in 2002, but did not use either account.

KYC Information and Offshore Shell Corporations. When asked about the decision to open and maintain the various E.G. accounts, Riggs Board members and senior officers stated as late as 2004, that the bank's policy for Embassy accounts was to accept any country or individual holding diplomatic credentials from the U.S. Department of State, without regard to their "politics." The problem with this approach, however, is that Riggs should have also, but did not, conduct a risk analysis of each potential accountholder's possible involvement in money laundering or foreign corruption in order to safeguard the bank against these risks.

Riggs was clearly aware of the corruption concerns associated with Equatorial Guinea. For example, a Riggs analysis prepared in connection with a 2002 E.G. loan request included these observations about the country:

> "The World Bank and IMF are under pressure to engage with Equatorial Guinea .... Although the government recently announced a program to improve transparency and accountability, any changes are unlikely to meet IMF criteria. With the establishment of a state oil company, GE Petrol, later in 2001, management of the oil sector may even become more opaque, and standards of governance are like to remain poor. ... The government cash-flow situation improved considerably during 1999-2000, reflecting growing oil revenue, but fiscal policy performance continued to weaken, as evidenced by the lack of control over government financial operations. ... The [E.G.] President has at least partly overcome US State Department concerns about human rights abuse and corruption. ... Allegations of human rights abuses following the announcement of the coup in March have been well documented, and have elicited international condemnation. However, any hesitancy on the part of the US or European countries towards Equatorial Guinea will be temporary, due to the rising importance of the oil sector .... Human rights have been an endemic problem in Equatorial Guinea. The UN Human Rights Commission voted to keep Equatorial Guinea under scrutiny however; it is believed that the government's increasing capacity to buy diplomatic influence has caused several African countries to insist on softening the criticism."[166]

This pragmatic description of corruption and human rights abuses in Equatorial Guinea demonstrates that Riggs was fully aware of the corruption risks associated with the E.G.

---

[166] Riggs "Officers' Loan Committee Action" (11/26/02), Bates T 00003089-3101, at 3092-93.

accounts. Despite this knowledge, Riggs failed to designate the E.G. accounts as high risk until October 2003, and failed to exercise enhanced scrutiny of the account activity, even for transactions involving large cash deposits or international wire transfers.

Of the 60 accounts and CDs opened for E.G. clients at Riggs, the evidence indicates that at least half functioned as private banking accounts for senior E.G. officials or their family members. In the case of the E.G. President, the Subcommittee found that, as part of its services, Riggs helped the E.G. President and his sons establish at least two offshore shell corporations and open bank accounts in their names.

In September 1999, Riggs helped the E.G. President establish Otong, S.A., an offshore corporation incorporated in the Bahamas.[167] In September 1999, Riggs opened its first account for Otong, Account No. 76-863-013. The Riggs account opening documentation for Otong states that the beneficial owner of Otong is "Teodoro Mbasogo" and gives his confidential address as "The Presidential Palace, Malabo, Equatorial Guinea."[168] The client profile states: "The President of Equatorial Guinea has been in office for twenty years. He has extensive farming [assets] and is a major partner of the telecommunication (phone system modernization) project in the country with France Telecom." It cites "[c]ocoa farming and businesses" as the client's original source of wealth, verified by "Incountry visits." Under "Additional Comments," it states: "We have known him [the E.G. President] for five years and [he] has been quite consistent with us. The President desires to have a personal relationship with us in order to facilitate his personal and family needs while in the U.S. These needs include health and management of his residence here in the U.S." The client profile does not contain required signatures from bank personnel approving the opening of the account.

Additional account opening documentation was completed for Otong when it opened two CD accounts in June 2000, Account Nos. 81-450-109 and 81-723-162.[169] The 2000 account opening documentation states that the beneficial owner of Otong is "T.Ngui," but then repeats verbatim the language describing the E.G. President in the 1999 client profile.[170] Like the 1999 documentation, the 2000 documentation does not contain required signatures from bank personnel approving the opening of the accounts.

An updated client profile for the Otong accounts was completed in 2002.[171] This profile rated Otong a "high" risk account, stated the owner was a high profile government official, and identified the owner as the E.G. President. An attachment listed all three Otong accounts, while another provided a brief overview of the many E.G. businesses owned by the E.G. President.[172] The profile was signed by a Riggs employee who reported to the E.G. account manager.

---

[167] See Certificate of Incorporation (9/20/99), Bates RNB 007303-04; emails between Riggs and the Bahamas company incorporating Otong (9/20/99), Bates RNB 007287-90 and RNB 007305. Otong is authorized to issue both registered and bearer shares. See Memorandum of Association and Articles of Association of Otong S.A. (9/20/99), Bates RNB 007250-74.

[168] "Riggs & Co Know Your Customer Client Profile" (9/20/99), Bates RNB 007112-16.

[169] "Riggs & Co. Trust Services Account Approval & Opening Memo" (5/30/00), including "Riggs & Co. Know Your Customer Client Profile" (5/30/00), Bates RNB 007089-98.

[170] When asked about this discrepancy, the E.G. account manager apparently indicated T. Ngui and President Obiang were the same person, but provided no explanation for the changed name and no supporting documentation explaining the name switch. The website for the Government of Equatorial Guinea, however, indicates that the name of President Obiang's mother was Mbasogo Ngui. See http://www.ceiba-guinea-ecuatorial.org/guineeangl/ indexbienv1.htm. Whether "Ngui" is, thus, part of President Obiang's name and why the President's full name was not placed on the account opening documentation are issues that remain in question.

[171] Riggs "KYC Profile – Enhanced Due Diligence: Embassy Banking – Individual Accounts," (11/19/02), Bates RNB 000036-40.

[172] Riggs memorandum to the file by Simon Kareri (11/28/01), Bates RNB 000040.

As discussed later in this Report, the E.G. President made more than $11.5 million in cash deposits to the Otong accounts from 2000 to 2002. While Riggs filed the required Currency Transaction Reports (CTR) on each occasion, the OCC later determined that the CTRs had repeatedly mischaracterized Otong, describing it as a timber export company rather than the E.G. President's offshore corporation.[173]

In January 2001, Riggs helped establish Awake Ltd., another offshore corporation in the Bahamas.[174] The beneficial owners of this company are Teodoro Nguema Obiang and Pastor Obiang, both sons of the President. Riggs Bank opened an account for Awake Ltd. in June 2002.[175] The account opening documentation lists Teodoro Nguema Obiang as the president of the company. The account documentation indicates that the account has been dormant since its opening, and it is unclear the extent to which Awake Ltd. became an active corporation.[176]

Riggs was aware that the President and his sons also had a number of E.G. companies under their control. These E.G. companies included the following:

(1) **Abayak.** Abayak, S.A. was and perhaps still is the only construction company in Equatorial Guinea, an importer of construction-related goods, and a participant in real estate deals on behalf of the E.G. President and his wife as described later in this Report. According to a Riggs' analysis and other documentation, Abayak is controlled by the E.G. President who is also identified in Riggs KYC documentation as the company's president.[177] Abayak is a participant in several other entities involving foreign individuals or companies. For example, Abayak has a 15 percent interest in a subsidiary of ExxonMobil called Mobil Oil Equatorial Guinea, an E.G. oil distribution business.[178] It also maintains an interest in Nusiteles, described below.

(2) **Grupo Sofana and Somagui Forestal.** According to a Riggs analysis, Grupo Sofana is a forestry company with exclusive rights of exploiting and exporting timber in Equatorial Guinea, and the President's son is the "sole owner" of this company.[179] After oil, timber exports are a leading source of foreign exchange in Equatorial Guinea. According to Riggs, Somagui Forestal is another timber company which is controlled by the President's son and affiliated with Sofana.[180]

---

[173] See, e.g., In re Riggs Bank, N.A., "Assessment of Civil Money Penalty," prepared by the Financial Crimes Enforcement Network (Case No. 2004-01), at Section III(D).

[174] See Certificate of Incorporation and related paperwork for Awake Ltd. (1/3/01), Bates OCC 0000513849-54. The evidence shows that Trident Corporate Services (Bahamas) Ltd., which has a long-standing working relationship with Riggs Bank, helped incorporate this company. Trident also sent notices about the company's annual licensing fees to Awake Ltd. at the Riggs Bank address in Washington, to the attention of Simon Kareri. See Trident and Riggs documentation, Bates RNB 010157-58 and 010443-44.

[175] See Riggs account opening documentation for Awake Ltd. (6/11/02), Bates RNB 002064-65.

[176] See Riggs account statements for Awake Ltd. (6/11/02 - 12/31/03), Bates RNB 002068-87.

[177] See Riggs memorandum to the file by Simon Kareri (11/28/01), Bates RNB 000040; Riggs "KYC Profile – Enhanced Due Diligence: Embassy Banking – Individual Accounts" for Otong (11/19/02), Bates RNB 000037; Subcommittee interview of Bruce McColm (6/10/04). See also complaint in Foley Hoag LLP v. Republic of Equatorial Guinea, Et al., (U.S. Dist. D.C. 2004), Bates RNB 003359-003367.

[178] Letter from ExxonMobil Corp. to the Subcommittee (6/17/04) at 3.

[179] See Riggs "Credit Approval Memorandum" (7/22/02), Bates RNB 010512, approving a $3.75 million loan to Teodoro Nguema Obiang, the President's son.

[180] See, e.g., Riggs analysis of E.G. accounts, Riggs memorandum from the Security & Investigations Department to Raymond Lund, "Equatorial Guinea" (1/20/04), Bates OCC 0000528712-23, at 716; email from Simon Kareri to the OCC (1/5/04), Bates OCC 0000516892 ("Groupo Sofana & Somagui belongs to Teodoro Nguema 100%.").

(3) **Sonavi.** Sociedad Nacional de Vigilancia (Sonavi) is a company that provides security services within Equatorial Guinea and is controlled by the President's brother who was also, for a time, E.G. Director of National Security. As explained later in this Report, some U.S. oil companies have been told that Sonavi has a monopoly on security services in the country.

(4) **Nusiteles.** Nusiteles, G.E. was established in 2000, as an E.G. telecommunications company intended to establish telephone and computer services within Equatorial Guinea. It is jointly owned by a number of parties, including the E.G. President through Abayak, the E.G. Minister of Foreign Affairs, the E.G. Director of National Security, the E.G. Minister of Justice and Religion, and International Decision Strategies, a Virginia corporation controlled by R. Bruce McColm.[181]

(5) **GEOGAM.** Guinea Equatorial Oil & Gas Marketing Ltd. (GEOGAM) is a state-owned E.G. company that was established in 1996, and may be partially privately held by E.G. officials. In response to Subcommittee questions, Marathon has informed the Subcommittee that, in January 2003, it was told by a GEOGAM representative that GEOGAM is 25 percent owned by the E.G. government and 75 percent owned by Abayak, the company controlled by the E.G. President.[182] GEOGAM is a 20 percent owner of a liquid petroleum gas facility on Bioko Island, and a 10 percent owner of a methanol plant that is also located on Bioko Island.

In November 2001, the Riggs account manager for the E.G. accounts wrote a memorandum to the file which stated in part:

> "During my last trip to Equatorial Guinea, I was able to tour most of the businesses controlled by the President and his family. Due to the significant growth in the country, the businesses have grown exponentially from the sleepy businesses that I used to know to very active interests that are generating significant revenues."[183]

The memorandum went on to observe that Abayak, "has become a significant earner of income for the President." It states: "By far the most lucrative earner for the President is the new gas plant in Malabo of which he controls 25%."[184] It also notes the President's ownership of "the only two supermarkets in the country" and the largest hotels. This memorandum demonstrates that Riggs had a sophisticated understanding of the President's personal stake in much of the economic activity within his country.

Cash Deposits. A key element of an effective anti-money laundering program involves proper handling of large cash transactions, including monitoring these transactions, refraining from cash transactions that appear suspicious, and reporting suspicious activity to law enforcement. With respect to the E.G. accounts, however, Riggs accommodated a number of requests for large cash transactions with few questions asked.

The most dramatic example involves President Obiang's offshore shell corporation, Otong S.A., which was formed in 1999, and opened a money market account at Riggs in September 1999. Large cash deposits into that account began about seven months later.

On six occasions over a two-year period, from 2000 to 2002, Riggs accepted cash deposits of $1 million or more for the Otong account. These cash deposits, which totaled $11.5 million, took place as follows:

---

[181] For more information on Nusiteles, see below in this Section of the Report.

[182] Letter from Marathon Oil Corp. to the Subcommittee (7/13/04), attachment at 1.

[183] Riggs memorandum to the file by Simon Kareri (11/28/01), Bates RNB 000040.

[184] See also Riggs "KYC Profile – Enhanced Due Diligence: Embassy Banking – Individual Accounts" for Otong (11/19/02), Bates RNB 000037.

April 20, 2000	$ 1.0 million cash deposit
March 8, 2001	$ 1.0 million cash deposit
March 20, 2001	$ 1.5 million cash deposit
Sept. 5, 2001	$ 2.0 million cash deposit
Sept. 17, 2001	$ 3.0 million cash deposit
April 12, 2002	$ 3.0 million cash deposit
	$11.5 million

When asked to describe how these large cash deposits were made and processed, one Riggs employee indicated that, on at least two occasions in which he was present, the cash was brought into the bank in suitcases transported by Mr. Kareri who said he had obtained the cash from senior E.G. officials such as the E.G. President or Ambassador.[185] The employee indicated that most of the cash was in unopened, plastic-wrapped bundles which did not have to be counted, while the remaining bills were counted using high-speed machines. Since $1 million in hundred dollar bills weighs nearly 20 pounds, the currency brought into the bank would likely have weighed at least that much on each occasion. On the last two occasions involving $3 million, the bank would've had to accept nearly 60 pounds in currency. The bank employee indicated that the large cash deposits he witnessed were not treated as unusual or requiring additional scrutiny.

Riggs did not decline to complete any of the requested transactions or identify or investigate any of them as suspicious activity. When later asked by the OCC about the source of these cash deposits, the E.G. account manager apparently told the OCC that the E.G. President had closed certain bank accounts in Europe and "maintain[ed] the funds in cash to avoid calls from would-be marketers looking for reinvestment opportunities."[186] An internal Riggs memorandum by the E.G. account manager in September 2001, offers an alternate explanation for the September 17 cash deposit, indicating that the E.G. President had sold "two properties in Spain in the amount of $5 million" and sent the sale proceeds to Riggs.[187] A similar memorandum dated April 12, 2002, states: "We received proceeds from the sale of the properties in France in the amount of $3 million."[188]

For each of the cash deposits, Riggs completed the required Currency Transaction Report (CTR) for cash transactions exceeding $10,000, and filed the report with the federal government. However, these reports incorrectly described Otong as an exporter of timber, rather than an offshore corporation controlled by the E.G. President. The inclusion of this inaccurate information in the CTRs on Otong is cited as one reason for the $25 million civil fine later imposed on Riggs.[189]

Account documentation shows that the cash deposited into the Otong account was combined with other deposits and used to fund two CDs established in the name of Otong in 2000 and 2002. In December 2002, these CDs were valued at $11.7 million and $4.4 million.[190]

Large cash payments were also made to accounts opened in the name of the President's wife, Constancia Nsue. On at least seven occasions over a two-year period, from 2000 to 2001, Riggs accepted cash payments ranging from $20,000 to $150,000, into Ms. Nsue's personal

---

[185] Interview of Michael Parris (6/24/04).

[186] See, e.g., OCC examination materials (12/5/03), Bates OCC 0000517033-34 and (January 2004), Bates OCC 0000502623.

[187] Riggs memorandum by Simon Kareri (9/17/01), Bates RNB 007070.

[188] Riggs memorandum by Simon Kareri (4/12/02), Bates RNB 007071. The cash deposits were not the only suspicious transactions involving the Otong account. For example, on 2/6/02, Riggs accepted for deposit a $3 million check that was made out to Otong and dated 2/4/01, more than one year earlier. See copies of check, Riggs deposit ticket, and entry showing deposit, Bates RNB 007385-87 and 007396.

[189] See, e.g., In re Riggs Bank, N.A. (Case No. 2004-01), prepared by the Financial Crimes Enforcement Network (5/13/04), at section (D).

[190] See December 2002 account statements, Bates RNB 000333 and 336.

checking account, Account No. 24-383-122.[191] These cash deposits, which totaled nearly $500,000 in the aggregate, took place as follows:

Jan. 24, 2000	$150,000.00 cash deposit
Feb. 1, 2000	$ 20,000.00 cash deposit
Sept. 5, 2000	$ 25,000.00 cash deposit
Sept. 13, 2000	$ 50,000.00 cash deposit
March 8, 2001	$ 50,875.00 cash deposit
March 8, 2001	$100,000.00 cash deposit
Sept. 17, 2001	$100,000.00 cash deposit
	$495,875.00

On another ten occasions from 2000 to 2002, Riggs accepted cash payments ranging from $20,000 to $300,000, into a joint checking account, Account No. 24-895-363, that Ms. Nsue held with her brother, Teodoro Biyogo Nsue, the E.G. Ambassador to the United States. Four of these cash payments (on Jan. 24, 2000, Feb. 1, 2000, Sept. 5, 2000, and Sept. 17, 2001) took place on the same days as the cash payments to Ms. Nsue's personal checking account. The cash deposits to the joint account, which exceeded $900,000 in the aggregate, took place as follows:

Jan. 24, 2000	$ 50,000.00 cash deposit
Feb. 1, 2000	$ 70,000.00 cash deposit
Feb. 4, 2000	$ 20,000.00 cash deposit
Sept. 5, 2000	$300,000.00 cash deposit
March 16, 2001	$200,000.00 cash deposit
March 20, 2001	$ 80,000.00 cash deposit
Sept. 17, 2001	$ 20,000.00 cash deposit
Feb. 8, 2002	$100,000.00 cash deposit
Sept. 5, 2002	$ 20,000.00 cash deposit
Dec. 23, 2002	$ 74,209.00 cash deposit
	$934,209.00

Altogether, Riggs allowed Ms. Nsue to deposit over $1.4 million in cash into her accounts with few or no questions asked. When combined with the $11.5 million in cash deposits to the Otong account, Riggs enabled the E.G. President and his wife to make cash deposits of nearly $13 million over a three-year period into their Riggs accounts.

For each of the cash deposits, Riggs filed a currency transaction report. However, at the time of the transactions, the bank failed to file a single suspicious activity report despite the size of the transfers, the fact that the President's wife was depositing hundreds of thousands of dollars in cash into her personal account and the account shared with her brother, or the fact that the E.G. President was depositing millions of dollars in cash into his offshore shell corporation account.

Million-Dollar Wire Transfers. Regular reviews of wire transfer activity to identify suspicious transactions, especially for high risk accounts, is another important element of an effective anti-money laundering program. Riggs, however, did not conduct routine or special

---

[191] This account also had numerous foreign currency transactions which allegedly involved checks written in Euros being converted into U.S. dollars by the bank before depositing the dollars into Ms. Nsue's account. Some of these transactions were marked at the time by bank personnel as "cash deposits." When asked by the OCC for copies of the Euro checks, the bank apparently failed in some cases to produce any copies. These transactions were as follows:

Sept. 20, 1999	$114,134.71	Oct. 1, 2001	$ 223,836.99
Nov. 19, 1999	$201,382.86	Nov. 15, 2001	$ 64,068.46
March 30, 2000	$425,235.12	Jan. 15, 2002	$ 413,337.15
July 11, 2000	$494,811.32	April 6, 2002	$ 58,421.24
Jan. 16, 2001	$156,491.39	April 12, 2002	$ 231,618.22
March 8, 2001	$104,417.33	Aug. 26, 2002	$ 168,066.49
May 8, 2001	$274,762.41	Nov. 13, 2002	$ 139,435.95
July 25, 2001	$ 56,632.56	Total:	$3,126,652.20

reviews of wire transfer activity, even for its high risk accounts. Until recently, the bank conducted no routine or special monitoring of wire transfer activity involving any of the E.G. accounts, despite frequent and sizeable transfers of funds across international lines.

In August 2003, Riggs hired an experienced investigator to conduct an in-depth review of the E.G. accounts and, among other duties, respond to requests for information. Over the next few months, this investigator identified numerous suspicious wire transactions involving the E.G. oil account. These transactions included, for example, wire transfers totaling nearly $35 million from the E.G. oil account to two companies that were unknown to the bank and had bank accounts in jurisdictions with bank secrecy laws; three wire transfers totaling more than $1 million that were sent to Jadini Holdings, an offshore shell corporation owned by the wife of the E.G. account manager at Riggs; and three transfers totaling nearly $500,000 that were sent to the personal bank accounts of a senior E.G. official.

Kalunga Wire Transfers. Over three and one-half years, from June 2000 to December 2003, sixteen wire transfers were sent from the E.G. oil account to Kulunga Company SA, an E.G. corporation, totaling over $26.5 million. These wire transfers included:

June 7, 2000	$ 1,332,044.00 wire transfer
Aug. 10, 2000	$ 1,110,000.00 wire transfer
Sept. 5, 2000	$ 292,200.00 wire transfer
Oct. 16, 2000	$ 1,362,500.00 wire transfer
Jan. 30, 2001	$ 2,698,800.00 wire transfer
April 10, 2001	$ 1,349,400.00 wire transfer
May 9, 2001	$ 1,349,400.00 wire transfer
May 7, 2002	$ 798,000.00 wire transfer
June 26, 2002	$ 167,000.00 wire transfer
Oct. 31, 2002	$ 336,934.57 wire transfer
April 7, 2003	$ 7,425,000.00 wire transfer
July 24, 2003	$ 770,567.00 wire transfer
Sept. 3, 2003	$ 335,137.00 wire transfer
Nov. 21, 2003	$ 4,800,000.00 wire transfer
Dec. 11, 2003	$ 1,637,000.00 wire transfer
Dec. 11, 2003	$ 720,000.00 wire transfer
	$26,483,982.57

All of these wire transfers were sent from Riggs to a Kalunga Company account at Banco Santander in Madrid, Spain.

Apexside Wire Transfers. Ten wire transfers were sent from the E.G. oil account to Apexside Trading Ltd. over a two-year period, from July 2000 to November 2001, totaling $8.1 million. About $2 million of these transfers occurred over a single, 5-week period in the summer of 2001. These wire transfers included:

July 10, 2000	$ 697,400.00 wire transfer
Aug. 28, 2000	$ 1,096,800.00 wire transfer
Oct, 16, 2000	$ 1,561,587.30 wire transfer
Jan. 10, 2001	$ 538,953.00 wire transfer
April 10, 2001	$ 2,127,385.00 wire transfer
May 30, 2001	$ 45,580.00 wire transfer
July 18, 2001	$ 246,707.05 wire transfer
July 25, 2001	$ 167,304.76 wire transfer
Aug. 2, 2001	$ 1,233,835.00 wire transfer
Aug. 22, 2001	$ 389,939.83 wire transfer
	$ 8,105,491.94

Nine of these wire transfers were sent from Riggs to an Apexside account at Credit Commercial de France in Luxembourg; one was sent to an Apexside account at HSBC in Luxembourg.

Jadini Wire Transfers. Three wire transfers were sent over an eight-month period from the E.G. oil account to Jadini Holdings, Ltd. at a bank account in Virginia:

July 5, 2001	$ 700,000.00 wire transfer
July 5, 2001	$ 329,926.00 wire transfer
March 20, 2002	$ 66,751.78 wire transfer
	$1,096,677.78[192]

Edjo Wire Transfers. Three other wire transfers went from the E.G. oil account to personal accounts controlled by the E.G. Secretary of State for Treasury and Budget, Melchor Esono Edjo. These transfers included:

March 13, 1998	$ 122,000.00 wire transfer
May 27, 1998	$ 122,000.00 wire transfer
June 12, 2002	$ 255,000.00 wire transfer
	$ 499,000.00[193]

Riggs failed to flag any of these transactions as suspicious at the time they occurred, and apparently asked few questions about these or any other wire transfers until the Subcommittee began investigating the E.G. accounts in March 2003, and the OCC began its E.G. examination in October 2003. The Riggs investigator hired in August 2003 quickly identified a number of suspicious transactions involving several E.G. accounts, including a $140,000 check that had been written by the President's son for the benefit of the E.G. account manager at Riggs.[194] This check led him to the discovery of Jadini Holdings, Ltd., the offshore shell corporation controlled by the account manager's wife,[195] and the three wire transfers sending more than $1 million from the E.G. oil account to Jadini Holdings.

The investigator also raised questions about the Kalunga and Apexside wire transfers, among others.[196] On February 10, 2004, in an attempt to gather additional information, Riggs sent letters to several banks sponsoring accounts to which questionable wire transfers had been sent from the E.G. oil account. These letters requested information about the accounts under Section 314(b) of the Patriot Act, which allows financial institutions to share client and transaction information to guard against money laundering and terrorist financing. The Riggs letter to Banco Santander, for example, requested information about the identity of the owners or authorized signatories for accounts belonging to Kalunga.[197] A Riggs letter to HSBC Bank USA requested information on the identity of the owners or authorized signatories for the account belonging to Apexside and another company.[198]

---

[192] For additional information about these three wire transfers to Jadini Holdings, see below.

[193] See, e.g., Riggs internal memorandum by Security & Investigations Department (12/18/03), Bates OCC 0000528401-02.

[194] The check was made payable to "Bolly Ba," a friend of the E.G. account manager and his wife. See copy of check (11/28/03), Bates RNB 002234-35. The account manager answered some questions about the check, but then abruptly left the United States and went to Equatorial Guinea in January 2004. During his absence, the bank initially suspended and then fired him in January 2004.

[195] See Certificate of Incorporation in the British Virgin Islands and related paperwork (5/9/01), Bates SUNT 00709-40; SunTrust account opening documentation (7/01), Bates SUNT 00701-08.

[196] The four sets of wire transfers highlighted in this Section of the Report are representative of many other instances of questionable activity in the E.G. accounts. For example, E.G. account records also raise questions about wire transfers sending substantial funds to a company called West Africa Navigator Ltd.; to specific E.G. officials; for luxury cars; and for projects called Proyecto Annobon, Proyecto de El Salvador, and "Asistencia Tecnica y consultoria."

[197] Letter from Riggs Bank to Banco Santander (2/10/04).

[198] Letter from Riggs Bank to HSBC Bank USA (2/10/04).

The New York office of Banco Santander responded with information that the Kalunga account had been opened by its parent bank in Madrid, Spain, but that its parent bank could not disclose the account's beneficial owners due to Spanish statutes barring disclosure of bank information, even in a case of suspected money laundering. In discussions with the Subcommittee, Banco Santander indicated that its parent bank had interpreted Spanish law to mean that it was barred from disclosing this account information not only to any third party, but also to its own subsidiary banks located outside of Spain.

HSCB USA provided a similar response. It confirmed that the Apexside account had been opened by an HSCB bank in Luxembourg and that HSBC USA had forwarded the funds to a U.S. correspondent account for its Luxembourg affiliate, but declined to disclose the identity of the persons behind Apexside due to Luxembourg bank secrecy laws. HSBC USA said that the funds for the second company had been sent to an HSBC bank in Cyprus which also has bank secrecy laws. HSBC USA claimed that Luxembourg and Cyprus laws barred disclosure of client information to both third parties and HSBC's own affiliates outside of the country.

The position taken by Banco Santander and HSBC USA means, in essence, that banks in the United States attempting to do due diligence on large wire transfers to protect against money laundering are unable to find out from their own foreign affiliates key account information. This bar on disclosure across international lines, even within the same financial institution, presents a significant obstacle to U.S. anti-money laundering efforts.[199]

When Banco Santander and HSBC declined to provide the requested information about Kalunga and Apexside, Riggs asked for the same information from the E.G. President and other E.G. officials in a personal meeting on February 23, 2003, in Washington, D.C. The E.G. officials declined to provide any further information about the companies or their owners, except that the wire transfers to these companies had been properly authorized by the account signatories.

Lines of Credit. Riggs also provided E.G. clients with a variety of credit arrangements, addressing governmental and Embassy concerns as well as individual officials' needs.

Riggs arranged, for example, several lines of credit for the E.G. government. It agreed to finance letters of credit for the E.G. government for up to $25 million;[200] extended overdraft credit to the E.G. Embassy of $30,000; and issued a $40 million loan to the E.G. government which was secured by a CD and repaid in full. In 2001, Riggs issued a $13.7 million loan to the government-owned E.G. airline, Ecuato-Guineana de Aviacion, to buy an airplane for flights within the country.[201] This loan was guaranteed by the E.G. government. In 2003, Riggs issued a $29.8 million loan to the E.G. government to purchase an airplane for the use of the E.G. President.[202] Riggs also provided for a period of time certain debt management services to the E.G. government, which included keeping a detailed record of the government's public and private debt and making directed payments.[203]

Riggs also addressed the credit needs of some senior E.G. officials. For example, in 1999, with Riggs' assistance, the E.G. President paid $2.6 million for a Potomac, Maryland

---

[199] This Subcommittee first highlighted this problem in the 1999 Subcommittee Private Banking Hearings. See Minority Staff report at 877-78.

[200] At least one of these letters of credit appears to have been used to finance arms sales. See, e.g., documentation associated with Letter of Credit No. 1998-11014 for $2.5 million, issued on behalf of the E.G. government to purchase weaponized armored vehicles and related munitions from Sabiex International S.A., (11/5/98), Bates RNB 0011940-53, 0011970-79 and 003418-39.

[201] See Riggs "Officers' Loan Committee Action" (11/26/02), Bates T 00003089-3101.

[202] See Riggs "Officers' Loan Committee Action" (9/29/03), Bates T 00003904-15.

[203] See, e.g., memorandum from Simon Kareri to Joseph Allbritton (undated), Bates ZZ 000138.

residence.[204] Also in 1999, the bank provided a loan for nearly $750,000 at a favorable rate to enable the E.G. President's wife to buy a second, $1.15 million residence in Potomac, Maryland. Riggs provided an interest rate available for purchasing a personal residence, even though the bank knew the house was being purchased as a rental and, in fact, established an account to receive the rental payments. This loan was repaid in full within the year.[205] In 2000, Riggs provided a mortgage to Pastor Micha Ondo Bile, E.G. Minister of Foreign Affairs and one-time E.G. Ambassador, to buy a residence in Virginia.[206] Riggs apparently is also listed as the contact on a $349,000 residence purchased in 2000, by the E.G. President's brother, Armengol Ondo Nguema.[207] In 2002, Riggs issued a $3.75 million loan to the President's son, Teodoro Nguema Obiang, to help him buy a $7.5 million penthouse apartment in California.[208]

Riggs also provided the President's wife and son, among other E.G. clients, with debit and credit cards. In March 2001, for example, at the request of the E.G. account manager, Riggs increased the daily limit on Ms. Obiang's debit card to $10,000 per day.[209] Riggs also provided a reference letter to assist the President's son, Teodoro Nguema Obiang, gain entry into an American Express Preferred International Client Program.[210] In addition, Riggs provided E.G. clients with extensive foreign currency exchange services.

Student Accounts. Riggs also managed two accounts used to provide educational funding for E.G. students. Riggs records indicate that, from 2001 until 2003, more than 100 E.G. students received funding to study abroad, often in the United States, many of whom appeared to be children or relatives of wealthy or powerful E.G. officials.[211]

During the 1990s, Equatorial Guinea obtained commitments from several major oil companies, as part of their oil production agreements, to provide annual funding for E.G. students wishing to obtain advanced training or a university education. ChevronTexaco, CMS, ExxonMobil, Marathon, Triton, and Vanco all provided this funding, with annual payments totaling as much as $275,000 per oil company. In earlier years, the oil companies paid students' tuition bills and living expenses directly. In 2001, however, Riggs opened the first E.G. student account and agreed to provide administrative support for the students funded out of it, all of whom were studying in the United States.[212] Several of the oil companies then halted direct funding of E.G. students, instead making deposits to the E.G. student account and relying on Riggs Bank to pay the students' bills.[213]

---

[204] See Maryland real property records, which list the "New Owner's Mailing Address" as "c/o Simon Kareri, Riggs Bank." See also "Oil Boom Enriches African Ruler" (1/20/03), Los Angeles Times.

[205] See Riggs Loan No. 100-63136 (12/7/99).

[206] See Riggs Loan No. 13220. See also Riggs analysis of E.G. accounts, "Equatorial Guinea," (12/8/03), Bates OCC 0000503177-83, at 82.

[207] See Virginia real property records. See also "Oil Boom Enriches African Ruler" (1/20/03), Los Angeles Times.

[208] See Riggs loan documentation (7/22/02), Bates RNB 010508-18. Riggs also provided a reference letter to help him purchase a residence in New York. See, e.g., letter from Riggs to the Olympic Tower Condominium Board (3/16/00), Bates RNB 010465-67.

[209] Riggs memorandum from Simon Kareri to Ray Lund (3/9/01), Bates RNB 028505.

[210] See, e.g., letter from Riggs Bank to American Express TRS Co. (4/27/01), Bates RNB 009735.

[211] See, e.g., memorandum from Simon Kareri to Ray Lund (undated but likely in late 2002), Bates ZZ-000147 ("[W]e have increased the students that we manage for them from 26 to 117.").

[212] Apparently a contractor, Exploration Consulting Ltd. provides similar services for E.G. students studying in the United Kingdom. See letter from the law firm of Garvey Schubert Barer to the Subcommittee (6/18/04), conveying responses of Marathon, at 16.

[213] See, e.g., communications between CMS Energy and Simon Kareri regarding four students (8/21/01 and 8/23/01), Bates RNB 006340-43 and 46-56. A few of the oil companies continued to fund directly the expenses of a few E.G. students studying in the United States.

Riggs opened the first E.G. student account in March 2001, in the name of "Republica de Guinea Ecuatorial-Cuenta Estudiantes MME." The account signatories were Cristobal Manana Ela, E.G. Minister of Mines & Energy; and the President's son, Gabriel Nguema Lima, E.G. Secretary of State Mines & Energy. Documentation indicates that this account saw deposits of about $300,000 per year and numerous disbursements to cover students' travel, tuition, and living expenses.[214]

Documentation shows that, from the beginning, the E.G. account manager expended considerable energy tracking the students' educational activities and paying their bills. For example, a letter sent by the E.G. account manager to the Minister of Mines thanking him for opening the account states: "We have started the process of contacting the students and will provide more details to you soon."[215] Six months later, in September 2001, a letter reporting on the status of the "program" recites numerous difficulties, including "students who were giving us incorrect banking information including some who were giving us information of their friends"; "determin[ing] whether all the students are in school"; dealing with students "receiving refunds from the schools;" and resolving "immigration visa issues."[216] A February 2002 letter reports that only five of the E.G. students were maintaining the required "B" grade average and recommends reducing the monthly stipends for poorly performing students.[217] A list of disbursements for just the first seven months of 2003, is six pages long with reduced-size type.[218]

One of the oil companies, Marathon, told the Subcommittee that, in 2003, in the course of its normal due diligence efforts, its personnel asked Riggs about its management of the student program and how the funds were used. Marathon reported to the Subcommittee that Riggs informed them that it paid tuition bills directly to students' universities, rental incomes directly to landlords, health insurance premiums directly to the health insurer, and monthly stipends and travel costs directly to the students. Marathon also reported that, "[a]ttendance and grades were monitored by Riggs, with the information being sent directly by the schools," and that "Riggs assisted the [E.G.] Ministry in the selection of schools."[219]

In May 2002, Riggs opened a second E.G. student account in the name of "Republica de Guinea Ecuatorial-Fondo Especial Para Becas." The only signatory for this money market account was the Riggs E.G. account manager, Simon Kareri.[220] Riggs Bank has indicated that senior officials had been unaware that a Riggs employee was the signatory on a client account and that this arrangement was contrary to its practice. However, a June 2002 memorandum prepared by the E.G. account manager providing an "Equatorial Guinea Update" to the bank's Chairman of the Board, President, and other top officials, states in part: "I have been appointed as the head of a commission for higher education and a decree was issued that I should be the sole signatory of the permanent fund to manage the Scholarships to be granted for Universities. ... We are in the process of admitting 50 students this year as the first phase of the program begins."[221]

---

[214] See, e.g., Riggs account statement (3/4/03-3/21/03), Bates RNB 000010-11; Riggs listing of account disbursements from January-July 2003, Bates RNB 006602-09.

[215] Letter from Simon Kareri to Cristobal Manana Ela (3/29/01), Bates RNB 006383.

[216] Letter from Simon Kareri to Cristobal Manana Ela (9/19/01), Bates RNB 006820-21.

[217] Letter from Simon Kareri to Gabriel Nguema Lima (2/19/02), Bates RNB 006698-702.

[218] Riggs listing of account disbursements from January-July 2003, Bates RNB 006602-09.

[219] Letter from the law firm of Garvey Schubert Barer to the Subcommittee (6/18/04), conveying responses of Marathon to Subcommittee questions, at 17.

[220] Riggs account opening documentation for second E.G. student account, Account No. 25-380-310 (5/12/02), Bates RNB 000014.

[221] Internal Riggs memorandum from Simon Kareri to Robert Allbritton and Lawrence Hebert, with copies to five other Riggs officials, including Tim Coughlin and Ray Lund, "Equatorial Guinea Update" (undated, but likely 6/28/02), Bates ZZ 000123-24. But see Riggs memorandum to the file from Mr. Kareri (8/13/02) and new signature

The money market account was also linked to a Riggs investment account of the same name, Account No. 68-002-6036. Riggs produced account documentation for both accounts which shows that, on June 25, 2002, $1 million was transferred from the money market account to the investment account.[222] That $1 million was then returned to the money market account on November 5, 2002, presumably for disbursement on student expenses. The Subcommittee has been told that the funds in these accounts were paid to only one school, the Institute Pacem In Terris of La Roche University in Pittsburgh, Pennsylvania, which had enrolled more than 50 E.G. students.

Other Services. In addition to the student accounts, the E.G. account manager at Riggs provided other questionable services to the E.G. government, related to procurement matters and financial advice.

For example, the E.G. account manager appears to have provided certain procurement services related to a project to build a 100 kilometer roadway in Bata, Equatorial Guinea. In a meeting between Riggs and E.G. officials at the bank on February 23, 2004, the E.G. officials apparently informed the bank that the E.G. government had authorized Mr. Kareri to make two payments of $329,000 and $66,000 to three U.S. vendors, Soils Control International, Pro Form Systems Inc., and Business Investments Consolidated (BIC) International, for providing goods and services to the E.G. government.[223] Bank records show, however, that funds totaling $1,096,677.78 were withdrawn from the E.G. oil account and paid to Jadini Holdings, Ltd., the offshore shell corporation controlled by the account manager's wife, at least partly in connection with this project. The funds were the result of three wire transfers made from the E.G. oil account to Jadini Holdings. The first two wire transfers took place on July 5, 2001, for $329,926 and $700,000.[224] The third wire transfer was on March 20, 2002, for $66,751.78.[225] The E.G. officials told the bank that the government had never authorized the $700,000 payment to Mr. Kareri, and that the three vendors had been owed only $307,000.[226] Riggs told the OCC that it has been unable to identify an E.G. request for the $700,000 wire transfer, and that Mr. Kareri

---

card changing the account signatory to the E.G. Secretary of State for Treasury, Bates RNB 013621-23.

[222] See Riggs account statements for the investment account, (June 2002) Bates RNB 013878 and (October 2002), Bates RNB 013837. See also, e.g., OCC examination materials, Bates OCC 0000510316 (on 6/19/02, Account No. 25-380-310 had a credit of $1.25 million).

[223] OCC internal emails (2/24/04-2/25/04), Bates B 03141-03144. Correspondence found in Mr. Kareri's files indicate a link between the Bata road project and Soils Control International, but not the other two companies. For example, two letters dated 7/16/01 and 9/18/01, Bates OCC 0000547503-04, from Mr. Kareri to Soils Control International, Inc., provide payments totaling $92,156 for "TopSeal," a liquid sealant to be used in the construction of the E.G. road. The September 2001 letter states: "Please do not include any invoices on the shipping documents." A third letter, dated 5/14/01, Bates OCC 0000547499, from Mr. Kareri to E.G. President Obiang, submits invoices for the TopSeal. This invoice appears to be from Jadini Holdings, rather than Soils Control International. The letter states: "Pursuant to our discussion regarding road construction using TopSeal, I am pleased to submit the attached invoice. The invoice reflects the cost of purchasing and shipment of 2,650 barrels of TopSeal to Bata for the construction of a 100 kilometer road. In addition, training and supervision will be provided ...." Three different invoices, numbered 1035, 1036 and 1039, Bates OCC 0000547500-02, follow. The first invoice, numbered 1039, is for $230,000 for a 5-kilometer "test road." The next two invoices each exceed $3 million in total cost. These two invoices are nearly identical, with the same date, products, and shipping instructions, but each lists a different unit price per barrel for the TopSeal, resulting in an overall difference in cost of $622,750.00. The Subcommittee was told that these three invoices, which together total about $7.4 million, were never actually presented to the E.G. government for payment. See also OCC emails, Bates B 03144. The Subcommittee has not found similar documentation linking Pro Form Systems Inc. and Business Investments Consolidated (BIC) International to the road construction project. The Riggs Electronic Payment Advice for the $66,751.78 wire transfer on March 20, 2002, instead references a "Housing Contract."

[224] Riggs document, "Transaction Detail Report," (7/5/01), Bates RNB 001743-001744.

[225] Riggs document, "Electronic Payment Advice," (3/20/02), Bates OCC 0000509453.

[226] OCC internal emails (2/24/04-2/25/04), Bates B 03529-03531.

may have simply instructed an unsuspecting assistant to complete the transfer without having proper authorization.[227]

Leaving aside the issue of whether the E.G. account manager improperly withdrew excess funds from the E.G. oil account, the facts indicate that the account manager had been authorized by the E.G. government to make certain payments on its behalf. More, the evidence shows that the account manager's offshore corporation, Jadini Holdings, was playing a central role in these procurement matters, sending payments to one of the vendors and issuing invoices to the attention of the E.G. President. Riggs management has told the Subcommittee that it had been unaware of Mr. Kareri's corporation and had not approved its involvement in any of the bank's dealings with Equatorial Guinea.

Services Related to Nusiteles. Nusiteles, G.E. is a telecommunications company incorporated in Equatorial Guinea and owned by a number of E.G. high government officials.[228] The stated purpose of Nusiteles is to develop, implement, install and maintain a broadband telecommunications system for Equatorial Guinea.[229] In December 2000, Mr. Kareri and the E.G. Minister of Justice and Religion, Dr. Ruben Maye Nsue Mangue,[230] entered into a contract that established Riggs Bank as the principal financing advisor and placement agent for Nusiteles. The contract also named Taylor-DeJongh, Inc. as a cooperating advisor. Under the contract, Riggs was to provide "advisory and placement services related to structuring, solicitation, and negotiation of political risk insurance and commercial risk guarantees from ... Export Credit Agencies ..., and debt financing from bilateral and multilateral institutions."[231] Riggs' compensation included a $30,000 non-refundable monthly retainer and two percent of the nominal value of the financing obtained.[232]

The Riggs general counsel told the Subcommittee that, under Riggs' policy, he should have had supervisory authority over this contract, but had never seen or approved it.[233] R. Bruce McColm, Vice President of Nusiteles, told the Subcommittee that the E.G. officials responsible for the initial funding of the Nusiteles contract never provided any funds to Riggs, and consequently Riggs has not provided any services under the contract to date.[234]

---

[227] OCC internal emails (2/24/04-2/25/04), Bates B 03141-03144.

[228] The shareholders of Nusiteles include: Dr. Ruben Maye Nsue Mangue, the President of Nusiteles and E.G. Minister of Justice and Religion; Pastor Micha Ondo Bile, E.G. Minister of Foreign Affairs; Armengol Ondo Nguema, E.G. Director of National Security; Socio Abayak, S.A., an E.G. corporation controlled by President Obiang; and International Decision Strategies, a Virginia corporation controlled by R. Bruce McColm. See the complaint in Foley Hoag LLP v. Republic of Equatorial Guinea, Et al., (U.S. Dist. D.C.), Bates RNB 003359-003367. Mr. McColm is the Vice President of Nusiteles and also the President of the Institute for Democratic Strategies, an organization which monitored the most recent municipal, parliamentary, and presidential elections in Equatorial Guinea. See Riggs document, "W-9 Certification" (12/21/01), Bates RNB 003447; and "Summary of the Findings on the December Presidential Elections in Equatorial Guinea" (12/20/02), Bates RNB 003671-003678. The mailing address of Nusiteles is also the mailing address of the Institute for Democratic Strategies, "W-9 Certification" (12/21/01), Bates RNB 003447. The Institute for Democratic Studies received $525,000 in four transfers drawn on an E.G. oil account between March 2000 and October 2002. See Riggs documents, Bates RNB 000172, 001697, 001840, and 001886.

[229] Riggs document, "Proposal for the Role of Financial Advisor and Placement Agent for Nusiteles, GE" (9/22/00), Bates RNB 003462-003482.

[230] At the time of the execution of the contract Dr. Mangue served as the Minister of Justice and Religion for Equatorial Guinea; he has since been removed from that position. See "New Government Appointed in Equatorial Guinea," World Markets Analysis (6/18/04).

[231] "Proposal for the Role of Financial Advisor and Placement Agent for Nusiteles, GE" at 1, Bates RNB 003463.

[232] Id. at 3, Bates RNB 003468.

[233] Subcommittee Interview with Joseph Cahill (6/25/04).

[234] Subcommittee interview with R. Bruce McColm (6/10/04).

Role of Bank Board and Officers Concerning Equatorial Guinea Accounts. Information reviewed by the Subcommittee indicates that Riggs Board members and senior bank officers were well aware of the E.G. accounts. Within five years of its opening in 1995, the E.G. relationship became the largest single relationship in Riggs Bank. The E.G. account manager sent top Riggs officials, including the Chairman of the Board, the President, and the International Banking Group head, periodic memoranda about developments related to the E.G. accounts.[235] Senior Riggs officials also met on several occasions with top E.G. officials, including the E.G. President. In 2001, several senior Riggs Board members and bank officers formed a high level committee which met quarterly each year to provide special attention to the E.G. relationship.

On May 17, 2001, for example, the top officials of Riggs Bank wrote to President Obiang thanking him "for the opportunity you granted to us in hosting a luncheon in your honor here at Riggs Bank."[236] The letter states that Riggs has "formed a committee of the most senior officers of Riggs Bank that will meet regularly to discuss our relationship with Equatorial Guinea and how best we can serve you. This committee, which includes the undersigned, has held its first meeting and requests that you provide us with any projects that you would like us to review on your behalf and make suggestions." The letter signatories were the Riggs Chairman of the Board, Riggs Bank President, and Riggs National Corporation President, as well as the E.G. account manager.

About a month later, the E.G. account manager sent the Chairman, President, and six other senior Riggs officials a memorandum describing a week-long business trip to Equatorial Guinea, from May 20 to May 28, 2001.[237] The memorandum spelled out, day-by-day, which E.G. officials he met with and what was discussed. At one point during that trip, the E.G. account manager delivered to the E.G. President a personal letter from one of the Riggs Board members, Frederick J. Ryan, Jr., inviting the E.G. President to visit the Ronald Reagan Library in California.[238]

In June 2002, another memorandum from the E.G. account manager to the Chairman, President, and five other senior Riggs officials provided an "Equatorial Guinea Update."[239] This memorandum provided specific data on the growth in E.G. accounts during the first half of 2002, stating that "the relationship has simply grown by 52.75% to $408.1 million." It continued: "We have established four more Government accounts for a total of eight excluding the Embassy. This fits quite well with our strategy to enhance and deepen the relationship with the Government." The memorandum also discussed oil discoveries, housing construction, and a new account for E.G. student scholarships. It announced that the Equatorial Guinea government had appointed the Riggs account manager to be the head of an E.G. "commission for higher education" and "sole signatory" of a fund to manage E.G. scholarships.

---

[235] See, e.g., memoranda by Simon Kareri sent to top Riggs officials concerning: "Equatorial Guinea" (undated but likely 4/17/97), Bates ZZ-000160-62; "Equatorial Guinea" (undated but likely 10/12/00), Bates ZZ-000138; "Lunch with the President of Equatorial Guinea" (undated but likely 2/28/01), Bates ZZ 000143; "Equatorial Guinea Contacts" (undated but likely 5/18/01), Bates ZZ 000146; "Equatorial Guinea trip briefing," (undated but likely June 2001), Bates ZZ 000118-20; "Equatorial Guinea Update" (undated but likely 3/1/02), Bates ZZ 000158; "Equatorial Guinea Update" (undated but likely 6/26/02), Bates ZZ 000123-24; "Bush meetings with African Presidents" (undated but likely 6/28/02), Bates ZZ 000159; "Posting of International Operations Assistant II" (undated but likely 9/17/02), Bates ZZ 000147; "Equatorial Guinea article" (12/12/02), Bates ZZ 000163; "Equatorial Guinea" (6/23/03), Bates ZZ 000148; "Equatorial Guinea" (undated but likely 6/23/03), Bates ZZ 000149; and "Equatorial Guinea" (7/9/03), Bates ZZ 000165.

[236] Letter from Riggs Bank to President Obiang (5/17/01), Bates RNB 003828.

[237] Internal Riggs memorandum from Mr. Kareri to Mr. Allbritton, Mr. Hebert, and six other senior Riggs officials, "Equatorial Guinea trip briefing," (undated but likely June 2001), Bates ZZ 000118-20.

[238] Id. President Obiang eventually visited the Reagan Library in August or September 2001. Subcommittee communication with Reagan Library (7/13/04). See also, e.g., email from Mr. McColm to Simon Kareri, "Equatorial Guinea–Los Angeles," (8/27/01), Bates RNB 003696.

[239] Internal Riggs memorandum from Mr. Kareri to Mr. Allbritton and Mr. Hebert, with copies to five other Riggs officials, "Equatorial Guinea Update" (undated but likely 6/28/02), Bates ZZ 000123-24.

In December 2002 and, again, in January 2003, the Los Angeles Times published articles on how the oil boom in Equatorial Guinea appeared to be enriching the E.G. President and other E.G. officials.[240] The second article also prominently mentioned E.G. accounts at Riggs Bank. At one point, in response, the E.G. account manager at Riggs sent a memorandum to the Riggs Bank President, disparaging the reporter, identifying allegedly inaccurate statements in the first article, and responding to allegations of corruption as follows:

> "Regarding the issue of the President of Equatorial Guinea being corrupt, I take exception to that because I know this person quite well. We have reviewed for Ray the transactions of Equatorial Guinea with Riggs since inception and not once did Riggs send money to any 'shady' entity or destination. I am best advised to work diligently to serve our clients than to worry over the wrangling of an angry individual who sees conspiracy in everything."[241]

Six months later, in June 2003, Riggs Bank hosted the E.G. President and a number of E.G. Ministers at a private meeting at the bank. Riggs attendees included the Chairman of the Board of Riggs Bank, the President of Riggs Bank, the President of Riggs National Corporation, and the E.G. account manager. The discussion included "various aspects of the existing relationship and the future of Equatorial Guinea's oil revenue."[242] Riggs officials interviewed by the Subcommittee said that corruption issues were never raised or discussed during this meeting.

Riggs Incomplete Response to Oversight of E.G. Accounts. Riggs Bank initially failed to identify to the Subcommittee a number of E.G. accounts at the bank and produced limited electronic mail.

In March 2003, the Subcommittee issued its first subpoena to Riggs Bank for information related to the E.G. accounts. Riggs initially identified for the Subcommittee only about 30 E.G. accounts, when it actually had over 60 accounts and CDs associated with the E.G. relationship. Riggs told the Subcommittee that the errors were because the bank had to compile the information manually and accounts had inadvertently been left out. When an OCC examiner received the same treatment in late 2003, she wrote in an internal email: "The bank did not have a comprehensive list of all EG accounts until after I compiled a list of about two dozen more accounts [than] they told me about – even though management has designated this a 'high risk' account and it is the largest (at over $600MM) relationship in the bank – incomprehensible."[243]

Initial document production was apparently largely controlled by the E.G. account manager, and resulted in Riggs failing to produce numerous documents subject to the Subcommittee's subpoena, including memoranda to top Riggs officials about the E.G. accounts and materials related to the E.G. account manager's handling of certain procurement matters for the E.G. government, including some which resulted in wire transfers from the E.G. oil account to Jadini Holdings, the offshore corporation controlled by the account manager. After the E.G. account manager was fired in January 2004, and almost one year after first receiving a Subcommittee subpoena, Riggs produced a substantial volume of additional documents responsive to the Subcommittee's request, but did not produce certain account documentation, including electronic mail communications by personnel who serviced the E.G. accounts.

In addition to slow and incomplete document production, Riggs failed to undertake a detailed internal review of the E.G. accounts until late 2003, despite receiving the first Subcommittee subpoena in March 2003, and an early warning from the OCC of an upcoming targeted review of the E.G. accounts which actually began in October 2003. Riggs apparently

---

[240] See "The Crude Politics of Trading Oil," Los Angeles Times (12/6/02); and "Oil Boom Enriches African Ruler," Los Angeles Times (1/20/03).

[241] Memorandum by Simon Kareri to Larry Hebert on "Equatorial Guinea article" (12/12/02), Bates ZZ 000163.

[242] Riggs "Officers' Loan Committee Action" (9/29/03), Bates T 00003904-915, at 911.

[243] OCC email (12/16/03), Bates OCC 0000516986.

initiated its "comprehensive" review of the E.G. relationship in September 2003, after hiring additional investigative personnel to verify information supplied by the E.G. account manager.[244] This review, which included a detailed examination of E.G. account transactions, immediately uncovered suspicious activity, including a $140,000 check that had been issued by the son of the E.G. President for the E.G. account manager at Riggs, a number of wire transfers withdrawing millions of dollars from the E.G. oil account, and $11.5 million in cash deposits to the Otong account.

In December 2003, the OCC met with the Riggs Board of Directors at both the bank and the bank holding company to discuss its annual Report on Examination of the bank, as well as its ongoing examination of the E.G. accounts.[245] The OCC expressed a number of concerns about the E.G. accounts "center[ing] on the source of funds and ensuring that none are diverted for personal use." At one point, the OCC "observed that the account officer might not be completely objective and advised Compliance and Security to monitor the account carefully."[246] During this discussion, Joseph Allbritton, one of the Board members, stated in the presence of the OCC, that the bank had no intention of closing the E.G. accounts. However, Robert Allbritton told the Subcommittee staff that, while his father did make that statement during the Board meeting, it did not reflect the views of all Board members.[247]

Closure of E.G. Accounts. On February 23, 2004, Riggs officials met with the E.G. President and other E.G. officials to discuss the E.G. accounts and certain transactions.[248] An initial meeting took place at a hotel in downtown Washington, D.C. with the E.G. President in attendance, followed by a lengthier meeting at the bank between Riggs officials and E.G. officials other than the E.G. President. Among other questions, Riggs asked the President for additional information about certain companies, including Apexside Trading and Kalunga, which were recipients of more than $35 million in wire transfers from the E.G. oil account. The E.G. President declined to provide any additional information about the wire transfers to these companies, other than to say that the wire transfers had been authorized. Riggs subsequently advised the E.G. officials that the bank had decided to close the accounts. The accounts were actually closed beginning in March through July 2004.

VI. Riggs' AML Deficiencies and Regulators' Inadequate Oversight

A. Riggs' Indifference to its Anti-Money Laundering Obligations

Finding (3): Dysfunctional AML Program. For many years, Riggs Bank ignored repeated directives by federal bank regulators to improve its anti-money laundering program, instead employing a dysfunctional system that failed to safeguard the bank against money laundering or foreign corruption.

The evidence shows that, since at least 1997, Riggs had a dysfunctional anti-money laundering program, with major deficiencies. The list of major deficiencies is a long one.

For more than five years, for example, the information systems used at Riggs Bank were unable to identify all the accounts opened for a single client. When asked to perform the basic task of listing a client's accounts, bank personnel had to compile this information manually. This

---

[244] See, e.g., internal memorandum from the Riggs Security & Investigations Group (12/18/03), Bates OCC 0000528401-406 (summarizing a "comprehensive review of the Equatorial Guinea (EG) relationship" that was "recently ... undertaken by the Security and Investigations Group.")

[245] See minutes of Board meeting (12/17/03), Bates RNB-GA 025183-91.

[246] Id. at Bates RNB-GA 025184.

[247] Subcommittee interview of Robert Allbritton (7/8/04).

[248] See, e.g., minutes of Riggs Audit Committee (2/25/04), Bates A 05728.

manual tasking impeded effective oversight by consuming disproportional time and resources.[249] When asked for a list of Equatorial Guinea accounts, for example, Riggs took weeks to produce it and omitted key accounts. This problem was identified in several OCC examinations.[250] Computer software capable of listing client accounts did not become operational at Riggs until the fourth quarter of 2003.[251]

Another major problem was that Riggs had not developed a system for identifying which of its clients had low, medium, or high money laundering risks so that it could allocate its AML resources and attention accordingly. Riggs' failure to identify high risk clients was repeatedly identified in OCC examinations as a problem.[252] In July 2003, the Federal Reserve found that Riggs' overall risk management policies and procedures were so inadequate that it required the Riggs National Corporation Board to issue a corporate resolution committing to improvements.[253] In 2004, FinCEN based its assessment of a civil monetary penalty against Riggs in part upon Riggs' continuing failure to "implement an effective system to identify and assess the BSA/AML risk present throughout the institution. ... [M]anagement was unable to define and analyze concentrations of risk in the accounts, customers, locations, and products of Riggs."[254]

Another key problem at Riggs was poor KYC documentation for international private banking clients and Embassy accounts. This documentation problem was repeatedly cited in OCC examinations and in audit reports prepared for the bank. For example, in 2000, an OCC examination stated, "[C]ustomer profile information ... is poor and inconsistent."[255] In 2001, a KPMG audit that examined 13 Embassy accounts at Riggs found that all 13 "had no documented OFAC checks performed," "had no completed KYC form," "no documented due diligence," and "no source funds listed."[256] KPMG stated that, in 2001, Riggs did not even require KYC forms for Embassy accounts. In 2002, an OCC examination stated: "KYC information on existing account relationships in the Embassy and IPB departments is not being updated and in many instances, contains only sparse information."[257] In 2004, when a senior Riggs official took control of the Embassy Banking and International Private Banking departments, he told the Subcommittee staff that, of the 15,000 client files in those departments, he estimated 85 percent had KYC documentation problems and reported that information to the Riggs Board.[258] The FinCEN filing in May 2004, stated that Riggs' customer due diligence program remained "weak," "was not implemented in an effective or consistent manner," and resulted in due diligence information that "was frequently missing."[259] These documentation deficiencies

---

[249] The Subcommittee identified this problem in its last hearings on private banking and money laundering. See1999 Subcommittee Private Banking Hearings, at 881.

[250] See, e.g., OCC examination materials (11/21/03), Bates 001167-68; (3/20/03), Bates OCC 0000516987.

[251] Subcommittee interview of Ray Lund (6/7/04).

[252] See, e.g., OCC examination materials (10/23/00), Bates 0000536186-88; (6/21/02), Bates OCC 000029229; and (9/18/02), Bates OCC 0000028073.

[253] See letter from Federal Reserve to Riggs National Corporation (7/1/03), Bates OCC 0000014259.

[254] See In re Riggs Bank, N.A. (Case No. 2004-01), prepared by the Financial Crimes Enforcement Network (5/13/04), at section (B)(1).

[255] OCC examination materials (10/23/00), Bates 0000536184.

[256] Memorandum to the file by Andersen (12/14/01), regarding "Embassy Banking," Bates OCC 0000536382-85, at 384.

[257] OCC examination materials (6/21/02), Bates OCC 000029229.

[258] Subcommittee interview of Timothy Coughlin (7/7/04).

[259] See In re Riggs Bank, N.A. (Case No. 2004-01), prepared by the Financial Crimes Enforcement Network (5/13/04), at section (B)(1).

occurred despite strong policy statements by Riggs requiring detailed KYC information for client accounts.

Riggs also failed to have an effective system for identifying and monitoring accounts opened by political figures. Although its KYC forms had a box that could be checked for these accounts as early as 1997, Riggs failed to develop a procedure for readily identifying and monitoring them. In July 2000, for example, when the OCC asked Riggs for a list of accounts held by political figures, Riggs compiled the list manually and left off such key names as E.G. President Obiang and former Chilean President Pinochet. In 2003, a KPMG internal audit determined that there was no bank-wide policy on accounts for politically exposed persons, an incomplete list of these accounts, inadequate training of personnel, and a failure by both the International Private Banking and Embassy Departments to subject these high risk accounts to additional scrutiny.[260]

The OCC also repeatedly criticized Riggs for failing to conduct routine monitoring of any of its high risk accounts, including accounts in the International Private Banking and Embassy Departments, accounts held by persons in countries with poor anti-money laundering controls, and persons engaged in high risk businesses such as money transmitters.[261] In 2000, an OCC examination stated: "High risk accounts are not being appropriately identified, documented and monitored."[262] One example from the Riggs case study is Riggs' failure to question or track the multi-million dollar cash deposits to the Otong account, which over a two-year period from 2000 to 2002, totaled $11.5 million. Although Riggs had computer software that enabled its BSA officer to review large transactions on a daily basis, there is little evidence that such reviews actually took place or had any effect on account management.

Another major deficiency in Riggs' AML program was its failure to oversee clients' wire transfer activity to identify suspicious transactions. This major gap in Riggs' AML controls was identified in multiple OCC examinations, and may not yet be corrected.[263] One example of the importance of this deficiency is the wire transfers from the Equatorial Guinea oil account which sent over $35 million to unknown companies with bank accounts in Spain, Luxembourg, and Cyprus. These wire transfers took place over a two-year period, 2000-2002, with virtually no questions asked by Riggs personnel. A BSA investigator hired by Riggs in 2003, however, reviewed the wire transfer records and immediately identified these transfers as suspicious. Subsequent inquiries have since indicated that one or more of the unknown companies may be partly or wholly owned by the President of Equatorial Guinea.

Riggs also failed to implement an effective procedure for filing the Suspicious Activity Reports (SARs) required by the Bank Secrecy Act (BSA). The FinCEN civil monetary penalty assessment states that Riggs violated the BSA by "failing to file or by delinquently filing approximately 33 SARs" representing "at least $98 million in suspicious transactions." It states that another 61 SARs were filed more than 60 days after the suspicious activity occurred; some of these SARs referenced suspicious activity that occurred two or three years beforehand.[264] The Pinochet and Equatorial Guinea accounts provide specific examples of situations where Riggs failed to file a SAR despite clear evidence of suspicious activity. The evidence reviewed by the

---

[260] See, e.g., OCC memorandum on "KPMG Report on Politically Exposed Persons," (10/30/03), Bates OCC 0000555085-86. Section 312 of the Patriot Act requires enhanced due diligence of private banking accounts opened for senior foreign political figures or their families. 31 U.S.C. § 5318(i)(3).

[261] See, e.g., OCC examination materials (10/23/00), Bates 0000536186-88; (6/21/02), Bates OCC 000029229. See also In re Riggs Bank N.A. (Case No. 2004-44), prepared by the Office of the Comptroller of the Currency, at 3.

[262] OCC examination materials (10/23/00), Bates 0000536186.

[263] See, e.g., OCC examination materials (10/23/00), Bates 0000536186; (6/21/02), Bates OCC 000029229-30.

[264] See In re Riggs Bank, N.A. (Case No. 2004-01), prepared by the Financial Crimes Enforcement Network (5/13/04), at section (C)(1) and (2).

Subcommittee is consistent with the statement in the FinCEN filing that: "Riggs' procedures to identify, analyze, and report suspicious activity were either non-existent or not implemented."[265]

Another problem was that Riggs had an ineffective system for alerting its personnel to the bank's receipt of a subpoena requesting information about a particular account, even though subpoenas often play an instrumental role in identifying high risk accounts and evaluating suspicious activity. According to the OCC, Riggs' standard procedure was to send any subpoena to its general counsel for processing.[266] The general counsel's office handled the information request and normally did not inform anyone else at the bank about the subpoena, including the Security Department, Compliance Department, or relevant account manager, instead following a policy of keeping the information confidential. The result was that few bank personnel knew when law enforcement or other inquiries were being made about specific accounts.[267] In the case of the Senate Subcommittee subpoena requesting information related to the Equatorial Guinea accounts, the initial subpoena was issued in March 2003, but most of Riggs senior officers were apparently unaware of it for some time, and the Riggs Board was not informed of the Senate inquiry until a year later.[268]

Still another serious deficiency was the bank's lax internal audit department. The OCC criticized Riggs's BSA audits in several BSA examinations as inadequate.[269] In 2003, the Federal Reserve found Riggs' internal audit function to be unsatisfactory due to untimely audits, insufficient audit reports, and poor communications with the Riggs Board's Audit Committee.[270] In 2004, the OCC stated that Riggs' audits "did not review all of the necessary areas, did not uncover or disclose the severity or the extent of weaknesses in the Bank's BSA compliance, and contained flawed testing and sampling."[271] In response to these and other criticisms, Riggs terminated its chief auditor in 2003, and agreed to establish a new auditing function that will report directly to the bank's Audit Committee.

Riggs has also been cited repeatedly for poor AML training of its employees.[272] Criticisms included inadequate training for completing KYC documentation, filing Currency Transaction Reports on cash transactions, reporting suspicious activity, and handling accounts for political figures. FinCEN also cited Riggs' poor training, stating that "[t]raining on monitoring and detecting suspicious activity was particularly weak at Riggs."[273]

---

[265] Id.

[266] During his Subcommittee interview, Riggs General Counsel, Joseph Cahill, declined to discuss these matters in light of ongoing enforcement actions. Subcommittee interview of Mr. Cahill (6/25/04).

[267] See, e.g., In re Riggs Bank, N.A. (Case No. 2004-01), prepared by the Financial Crimes Enforcement Network (5/13/04), at section (B)(1) ("Riggs did not have procedures or internal controls to ensure that subpoenas and other government requests regarding accountholders were referred to the division responsible for investigating potential suspicious activity.").

[268] See, e.g., minutes of a special Riggs Board meeting (3/2/04), Bates RNB-GA 025253-59, at 56 ("On February 6, [2004], Riggs was informed that there would be a Senate investigation into the EG account manager's activities.").

[269] See, e.g., OCC examination materials (10/23/00), Bates 0000536184; (9/18/02), Bates OCC 0000028073-74.

[270] See letter from Federal Reserve to Riggs National Corporation (7/1/03), Bates OCC 0000014259.

[271] See In re Riggs Bank N.A. (Case No. 2004-44), prepared by the Office of the Comptroller of the Currency, at 4.

[272] See, e.g., OCC examination materials (10/23/00), Bates 0000536189; (6/21/02), Bates OCC 000029229; and (9/18/02), Bates OCC 0000028072-73.

[273] See In re Riggs Bank, N.A. (Case No. 2004-01), prepared by the Financial Crimes Enforcement Network (5/13/04), at section (B)(4).

In addition to all of these deficiencies, Riggs had a poor system for supervising its account managers. Account managers in the private banking and Embassy banking departments are required to fill contradictory roles – to develop a personal relationship with their clients and solicit their business, while also monitoring the clients' accounts for suspicious activity and questioning specific transactions. Human nature makes these contradictory roles difficult to perform, and anti-money laundering duties often suffer. Banks have dealt with this problem by setting up systems to ensure the actions of their account managers are reviewed by third parties, such as management supervisors, compliance personnel, auditors, or legal counsel.

In the case of Riggs, however, third party oversight did little to correct the deficient practices of its account managers. The key supervisor of the International Private Banking and Embassy Banking Departments, for example, the head of the International Banking Group, appears not to have objected to or corrected any of the actions taken by the account managers handling the Pinochet or E.G. accounts. Compliance personnel also did little to improve account management. As stated in the FinCEN civil monetary penalty assessment when discussing Riggs' compliance personnel: "Day-to-day oversight and monitoring of high-risk transactions, high-risk customers, and high-risk geographies were minimal."[274] Riggs internal auditors also did little BSA work, and the bank's general counsel told the Subcommittee that he had no role in any ongoing BSA matters and provided no supervision to anyone in this area. Board oversight was also so weak that, in 2003, the Federal Reserve required the Board to hire an independent consultant to report on how Board oversight could be strengthened.[275]

The corporate culture at Riggs failed to communicate the importance of the bank's anti-money laundering program. The Subcommittee was told that the bank's senior leadership clearly valued the Embassy accounts and accounts opened for foreign leaders, and stressed the importance of customer service. The 1994 trip to Chile by senior Board members to solicit the Pinochet account and the 2001 luncheon in honor of the Equatorial Guinea President illustrate the Board's personal involvement in these accounts. In 2002 and 2003, some Board members expressed opposition to closing the Pinochet and Equatorial Guinea accounts due to money laundering concerns. In March 2003, senior bank officers complained to the OCC about forcing the bank to adopt a rigorous AML program. These are not the actions or sentiments of a Board committed to AML excellence.

Even more telling is the fact that the Riggs Board failed over a five-year period to ensure that regulators' directives to improve the bank's AML program were implemented. Neither the bank nor the bank holding company took the steps necessary to make needed investments in information systems, BSA personnel, BSA training, or practical procedures to safeguard the bank against money laundering. Instead, Riggs tolerated fundamental deficiencies in its AML program year after year, exhibiting indifference at best to regulators' directives. The Subcommittee's investigation is wholly consistent with FinCEN's assessment that Riggs "willfully violated" the requirements of U.S. anti-money laundering laws.

B. Inadequate Regulatory Oversight of AML Deficiencies

Finding (4): Regulatory Failure at Riggs. For many years, OCC examiners accurately and repeatedly identified major anti-money laundering deficiencies at Riggs Bank, but OCC supervisors failed to take strong action to require improvements. OCC regulators were tolerant of the bank's weak anti-money laundering program, too willing to rely on bank promises to correct repeat deficiencies, and failed initially to use available enforcement tools. Federal Reserve regulators were slow and passive.

Finding (5): Conflicts of Interest. By taking a job at Riggs in 2002, after the OCC failed to take enforcement action against the bank in 2001 and 2002 for AML deficiencies, the former OCC Examiner-in-Charge at Riggs created, at a minimum, an

---

[274] See In re Riggs Bank, N.A. (Case No. 2004-01), prepared by the Financial Crimes Enforcement Network (5/13/04), at section (B)(3).

[275] See letter from Federal Reserve to Riggs National Corporation (7/1/03), Bates OCC 0000014259.

appearance of a conflict of interest. In addition, despite federal law barring former employees from appearing before their former agencies on certain matters, and OCC rules barring former employees from attending meetings with the agency for two years without prior approval from the OCC ethics office, the former Examiner attended multiple meetings with OCC personnel related to Riggs' AML compliance, without obtaining the required clearance.

Given the widespread and fundamental deficiencies in Riggs' AML program, it is difficult to understand why federal regulators failed to act sooner to require the bank to correct them.

Several federal regulators have responsibility for AML oversight at Riggs. The OCC is the bank's primary regulator, with responsibility to oversee the safety and soundness of Riggs Bank, including its compliance with anti-money laundering laws. The Federal Reserve Bank in Richmond has oversight authority over the bank holding company, Riggs National Corporation, while the Federal Reserve Bank in Atlanta exercised oversight of Riggs International Banking Corporation, an Edge Act subsidiary in Miami, Florida. FinCEN has been delegated authority to impose civil monetary penalties on financial institutions that violate the Bank Secrecy Act.

As primary regulator of Riggs Bank, the OCC had the greatest responsibility for ensuring Riggs' AML compliance. The Comptroller of the Currency John D. Hawke, Jr. has already stated publicly, "it is clear to me that there was a failure of supervision" and that "we should have taken stronger action earlier."[276]

The Subcommittee reviewed over 60 boxes of materials related to OCC examinations of Riggs' anti-money laundering efforts since 1997, including examination reports, workpapers, correspondence, and electronic mail.[277] The Subcommittee also reviewed a more limited set of examination materials from the Federal Reserve. The evidence obtained by the Subcommittee shows that federal bank regulators, particularly the OCC, conducted numerous examinations of Riggs' AML compliance since 1997, including annual and targeted examinations resulting in about 20 detailed reports or memoranda.

The evidence shows that virtually all of the Riggs AML examinations identified major deficiencies with its anti-money laundering efforts. At the same time, all of the examinations prior to 2002, gave the bank's AML efforts a generally positive rating. This positive rating, according to OCC personnel, was given primarily because Riggs management had committed to correcting the identified deficiencies. But Riggs Bank did not carry through on its commitment, and some of the later examinations noted repeat deficiencies from earlier years. The OCC took no enforcement action, however, until negative press reports in 2002 and 2003 began concentrating public attention on questionable accounts at Riggs Bank involving Saudi Arabia and Equatorial Guinea. More thorough reviews followed, documenting widespread deficiencies and a lack of corrective action, and the OCC began to consider taking formal enforcement action against the bank. In July 2003, the OCC issued its first cease and desist order against Riggs Bank, directing the bank to revamp its AML programs. In May 2004, the OCC issued a second cease and desist order and a $25 million civil monetary fine for failing to comply with the 2003 order. FinCen issued a concurrent $25 million fine for the bank's willful violations of anti-money laundering laws. The Federal Reserve issued its first cease and desist order against the bank holding company in May 2004.

OCC Examinations In General. Much of the OCC workforce is devoted to conducting or supporting examinations of national banks. In general, for a mid-size bank like Riggs, an "Examiner-in-Charge" (EIC) is assigned on a full time basis to the bank. The EIC is responsible for developing an annual examination plan to review key components within the bank and ensure

---

[276] Testimony of Mr. Hawke before the U.S. Senate Committee on Banking, Housing, and Urban Affairs (6/3/04).

[277] The Subcommittee did not, however, review materials related to the OCC's examination of Riggs' accounts related to Saudi Arabia, since that information is currently being reviewed by the full Committee on Governmental Affairs.

its safety and soundness. This plan often includes routine examinations that examine required components of bank operations on a periodic basis, as well as one-time examinations that target special areas of concern. The plan may also include one or more targeted examinations being conducted at multiple banks to examine particular issues of concern in the banking industry.

Once the annual plan is developed and approved, the OCC assigns a "National Bank Examiner" (NBE) to conduct the scheduled examinations at the bank. Throughout each examination, the assigned NBE keeps the EIC informed about the progress of the review, obtains guidance on how to handle specific matters, and provides a written report to the EIC at the conclusion of the examination. When an examination is completed, the EIC and NBE may hold an exit meeting with senior bank officials to inform them of the results. Once each year, the EIC prepares a "Report on Examination" summarizing the examinations conducted during the prior 12-month period, and presents the OCC's findings to the Board of Directors at the bank. EICs also typically communicate on a regular basis with bank personnel, and may speak more often with the bank's Board of Directors if specific concerns arise.

All examination reports and key memoranda are supposed to be included in an electronic database at the OCC known as Examiner View (EV). Key examination workpapers and supporting bank documentation are also required to be preserved for specified periods of time, either in paper or electronic form.[278]

If a bank is operating in an unsafe or unsound manner, or fails to comply with banking regulations or supervisory conditions, an EIC can recommend a variety of informal and formal enforcement actions. If sufficiently serious, proposed enforcement actions are referred for review to the Washington Supervisory Review Committee, which is composed of the OCC's top supervisory and enforcement officials. This Committee is also routinely alerted when problems are discovered related to a bank's AML compliance.[279] After reviewing the referred matter, the Committee can recommend an enforcement action to the Deputy Comptroller. The Deputy Comptroller reviews the matter and, in turn, makes a recommendation to the Comptroller of the Currency. The Comptroller then makes the final determination on how to handle the specified matter.

From 1998 to 2002, the EIC at Riggs Bank was R. Ashley Lee. On August 8, 2002, Mr. Lee recused himself from further dealings with Riggs Bank, because the bank had approached him about a possible position with the bank. Mr. Lee was assigned to other duties within the OCC until October 3, 2002, when he retired, departed from the agency, and began employment at Riggs Bank. Mr. Lee was replaced in the fall of 2002, by Lester Miller, who is the current EIC at Riggs.

From 1997 to 2003, the Riggs EIC reported to John Noonan, Deputy Assistant Comptroller for the Northeast District. In 2002, the OCC reorganized its supervisory structure, but kept Mr. Noonan in charge of Riggs Bank due to ongoing examinations uncovering serious problems. In 2003, Mr. Noonan retired from the OCC, and the Riggs EIC began reporting to Robert P. Sejnoha, Assistant Deputy Comptroller for Mid-size Banks. Mr. Sejnoha reports to Jennifer C. Kelly, Deputy Comptroller for Mid-size and Credit Card Bank Supervision. Ms. Kelly reports, in turn, to Timothy W. Long, Senior Deputy Comptroller, who reports to the Comptroller of the Currency John D. Hawke, Jr.

(1) Summary of Riggs Examinations

The key OCC examinations and supervisory actions over the last five years relating to Riggs' anti-money laundering efforts can be summarized as follows.[280]

---

[278] See policy requirements in "Supervision Work Papers" (No. PPM 5400-8, revised).

[279] Subcommittee interview of Ashley Lee (6/30/04).

[280] This information is derived from a number of OCC examination materials, including an OCC document entitled, "Riggs Bank N.A. Timeline on OCC Supervision of Bank Secrecy Act/Anti-money Laundering" (hereinafter "OCC Timeline") (undated), Bates OCC 0000547377-83; and another OCC document entitled, "Riggs

1997 Consumer Compliance Examination. In August 1997, the OCC completed a consumer compliance examination of Riggs Bank, including its compliance with AML requirements. The examination stated that Riggs' AML efforts were satisfactory, but listed deficiencies in AML internal controls and training as matters requiring attention. Among other measures, the examination directed Riggs to improve AML and KYC training in several areas of the bank, including private banking; enhance KYC procedures in certain lines of business; and implement a system to identify suspicious wire transfers.

1998 AML Examination. In June 1998, the OCC completed an examination of Riggs' AML compliance efforts in its private banking and trust departments. The examination stated that Riggs' overall AML efforts were adequate, but listed as a deficiency poor KYC information in client profiles. Among other measures, the examination directed Riggs to strengthen its SARs policies and procedures, and improve its monitoring of international wire transfers.

1999 Consumer Compliance Examination. In July 1999, the OCC completed a consumer compliance examination of Riggs, including AML compliance efforts in its Embassy and retail banking departments. The examination stated that the Embassy Banking's overall AML efforts were satisfactory, but listed deficiencies in audit independence, frequency, and documentation; AML training; and bank information systems which failed to identify all unusual transactions.

1999 Russian AML Examination. In September 1999, the OCC completed a limited AML examination of Riggs' accounts for Russian clients. The examination found no indications of money laundering requiring a full-scope examination, but directed the bank to improve its documentation for correspondent bank accounts and establish procedures to monitor high risk accounts.

2000 AML Examination. In October 2000, the OCC completed an examination of Riggs' AML compliance efforts in its private banking, trust, and wire transfer departments. The examination stated that Riggs' overall AML compliance was "satisfactory," but certain "improvements are necessary."[281] A memorandum shared with the bank listed deficiencies in AML audits, poor KYC documentation, and inadequate AML training, all of which were described as "repeat supervisory concerns from previous examinations." The memorandum also stated that high risk accounts were "not being appropriately identified, documented, and monitored." When the Subcommittee asked the OCC why the bank's AML efforts were rated "satisfactory" in light of the listed deficiencies, the EIC indicated that the rating was justified because the bank was planning to remedy the identified deficiencies, and it had the necessary AML systems in place – it just wasn't using them.[282]

2000 London AML Examination. Also in 2000, the OCC completed AML examinations of six London banks, including Riggs Bank Europe, Ltd. (RBEL). The December 2000 examination report on RBEL stated that AML risk at the London bank was "high and increasing." The examination listed deficiencies which included inadequate account monitoring, poor audit documentation, and weak risk management.

2001 AML Uncooperative Countries Examination. In February 2001, the OCC completed a targeted examination of Riggs to determine the extent to which the bank was engaging in transactions involving countries deemed to be uncooperative with international money laundering efforts.[283] The examination found that Riggs did not have extensive

---

Bank N.A. Timeline on OCC Supervision of BSA/AML Pre 9/11" (undated), Bates OCCX 00001-2.

[281] OCC examination materials (10/23/00), Bates OCC 0000536182-89.

[282] Subcommittee interview of Ashley Lee (6/30/04).

[283] The Financial Action Task Force has issued a list of these countries.

transaction activity with the listed countries, but also noted a number of problems with its AML operations, including a lack of KYC information and monitoring of high risk accounts. The report listed a number of measures that should be taken to improve the bank's AML operations.[284]

2001 Supervisory Review Committee Meeting. In June 2001, top OCC enforcement officials at the Washington Supervisory Review Committee reviewed a draft Report on Examination (ROE) summarizing the 2000 examinations of Riggs Bank, in part because the draft report discussed three targeted AML examinations which had found serious AML deficiencies at Riggs in both the United States and United Kingdom.[285] The Committee considered whether an enforcement action against the bank should be taken.[286] The EIC at Riggs recommended against any formal enforcement action, because the London deficiencies "have been largely addressed," the bank "generally does a satisfactory job of complying ... [i]n high risk areas," and management was committed to correcting other AML deficiencies.[287] The Committee accepted this recommendation, but also required the ROE to list the specific AML deficiencies and include strong language making it clear that the bank needed to correct them. The minutes stated that the identified AML deficiencies had been outstanding since 2000, with no acknowledgment that similar deficiencies had been identified since at least 1997.

2000 Annual Report on Examinations (ROE). In late 2001, the OCC completed the annual report summarizing OCC examinations of Riggs Bank in 2000, including the AML examinations.[288] This ROE carries an official date of February 28, 2001, but was actually issued much later in the year. It stated that Riggs' AML compliance "needs further improvement." It stated that the Riggs Board had made AML progress "a top priority for 2001 and improvements has been achieved," but "deficiencies remain and continued attention is warranted." The ROE prominently listed a number of AML deficiencies in the areas of account monitoring, audits, KYC documentation, training, and suspicious activity referrals. It also contained the statement that "[t]horough AML transaction monitoring procedures for the 'high-risk' areas were implemented in December 2000 and are effective," which later proved factually incorrect.

2002 Consumer Compliance Examination. In January 2002, the OCC completed a consumer compliance examination of Riggs Bank, including AML compliance. The examination stated that AML deficiencies were being addressed and were in various stages of correction, to be completed by the end of the first quarter in 2002. It rated the quality of risk management as satisfactory, with moderate compliance risk. The examination noted the departure of the bank's compliance officer and the hiring in June 2001, of a new compliance officer with 15 years of experience.

2002 AML Examination. In June 2002, the OCC completed an examination of Riggs' AML compliance efforts in its private banking, Embassy Banking, and wire transfer departments, and Bahamas operations. The examination stated that while Riggs' overall

---

[284] In addition, in December 2001, an internal audit of Riggs Embassy accounts by KPMG found that 13 out of 13 files reviewed had missing KYC documentation and poor due diligence information.

[285] See OCC memorandum, "District SRC Minutes for meeting of June 28, 2001," (9/21/01), Bates 557411-14. The three examinations were the 2000 examination of the bank's overall AML compliance, the 2000 examination of AML compliance at Riggs Bank Europe, Ltd. in London, and the 2001 examination of Riggs' handling of accounts in countries that do not cooperate with international AML efforts.

[286] Although 12 U.S.C. § 1818(s) states that a cease and desist order "shall" be issued by the OCC for a bank that has failed to establish an AML program or has filed to correct identified AML deficiencies, the OCC has apparently interpreted this statute as giving it the discretion to decide whether or not such an order should, in fact, be issued.

[287] OCC memorandum, "District SRC Minutes for meeting of June 28, 2001," (9/21/01), Bates 557411-14, at 557413.

[288] Report on Examination (2/28/01), Bates OCC 0000557861-97.

AML compliance had "improved," further improvements were needed, particularly regarding wire transfers. A memorandum shared with the bank listed a number of deficiencies, including inadequate KYC information and training, inadequate monitoring of high risk accounts, and a lack of policies to govern cash transactions made Payable Upon Proper Identification (PUPID).[289] The memorandum did not indicate whether any of these AML deficiencies were repeat problems from 2000. The memorandum listed eight action items for the bank, and indicated that bank management had committed to addressing them by the end of 2002. They included improving KYC documentation and training, improving use of electronic monitoring systems for wire transfers, establishing PUPID policies and procedures, and strengthening analysis of wire transfer activity.

2002 Pinochet Examination. In July 2002, the OCC completed a targeted examination of the Pinochet accounts at Riggs bank.[290] OCC examiners had come across these accounts by chance in the course of another AML examination. The memorandum stated that the Pinochet accounts represented "a high risk to the bank's reputation as well as potential laundering of illegally obtained funds." It cited inadequate KYC documentation for the source of wealth in the accounts, questionable account transactions, and a failure by the bank to report suspicious activity. For reasons explained further below, this memorandum was never issued as a final examination report, was never communicated in a formal document given to the bank, and was not included in the OCC's electronic files for Riggs examinations.

2001 Annual Report on Examination (ROE). In August 2002, the OCC completed an annual Report on Examination summarizing the examinations of Riggs Bank during the prior year, including AML examinations. The ROE carries an official date of April 9, 2002, but was actually issued four months later. Despite an earlier AML examination which identified a number of AML deficiencies, the last ROE that emphasized the importance of the bank's completing needed AML improvements, and the recently completed Pinochet examination which identified troubling AML practices at the bank, the ROE paid minimal attention to AML issues. It stated briefly that AML "compliance needs lasting and progressive attention," but also stated that bank "[m]anagement has largely addressed or is in the process of addressing the significant deficiencies noted in our prior examination."[291] Many pages later, the ROE stated: "The bank has made good progress in addressing the issues and concerns surrounding the Bank Secrecy Act. However, the April 2002 BSA exam of Embassy Banking, International Private Banking, and wire transfer department identified various concerns that still need management's attention." The ROE does not list any of the outstanding AML deficiencies or set a deadline for the bank to make the necessary AML improvements. The 2001 ROE simply fails to follow through on the strong AML message sent in the 2000 ROE about the need for Riggs to implement an effective AML program.

2002 AML/ATF Examination. In October 2002, the OCC completed a targeted examination to assess the bank's AML risk management, policies and procedures to detect and report terrorist financing, and actions taken to improve AML operations since the 9-11 attack on the United States. Riggs was one of about two dozen banks to undergo this targeted review. An examination memorandum shared with the bank in October stated that AML risk at Riggs was "high and increasing," due to the bank's large volume of higher risk accounts and "the fact that controls are still being developed and/or enhanced."[292] It stated that the bank was "making progress" in AML compliance, but "further improvements are needed." The memorandum directed the bank to improve its AML procedures in five areas,

---

[289] OCC examination materials (6/21/02), Bates OCC 0000029228-30.

[290] "Targeted Examination: Accounts related to Mr. Augusto Pinochet" (7/9/02), Bates OCC 0000517597-603.

[291] Report on Examination (4/9/02), Bates OCC 0000557969-8000, at 975 and 990.

[292] OCC examination materials (9/18/02), Bates OCC 0000028071-74.

including to re-assess the risk associated with certain accounts, develop better "risk matrices" to assign risk ratings to accounts in various areas of the bank, better document decisions on whether to file suspicious activity reports, improve AML training, and develop adequate AML audits. The memorandum does not indicate that any of the identified AML deficiencies were repeats from prior examinations.

2002 Meeting with Riggs Board of Directors. On October 15, 2002, the OCC met with the Riggs Board of Directors about its 2001 Report on Examination for the period, April 2001 to April 2002, and also discussed the targeted anti-terrorist financing and Pinochet examinations. Despite the bank's ongoing AML deficiencies and the disturbing AML practices uncovered during the Pinochet examination, the OCC told the Board that the bank's overall AML compliance was "satisfactory." The OCC also called on the bank to correct the remaining deficiencies, and the bank committed to resolving them by the end of 2002. One Board member, Ms. Allbritton, complained to the OCC about losing the Pinochet accounts.

2003 Saudi Targeted Examination. About a month after the Board meeting, beginning on November 22, 2002, media stories reported that a Riggs account associated with the Embassy of Saudi Arabia had allegedly sent funds that ended up benefitting two of the Saudi terrorists involved in the 9-11 attack on the United States, and the FBI was investigating.[293] The OCC has indicated that it first learned of the concerns associated with the Saudi accounts from these media reports.[294] In December 2002, the OCC met with senior bank management about the Saudi accounts, and, in January 2003, began a targeted examination of them. Initially planned to last one month, this examination uncovered increasingly serious problems and continued for more than five months.

2003 Equatorial Guinea Subpoena. In January 2003, another press report appeared alleging that Riggs accounts associated with Equatorial Guinea containing millions of dollars in oil revenues were being misused by E.G. officials. In March 2003, this Subcommittee issued its first subpoena to Riggs Bank requesting documents associated with the E.G. accounts. Later in 2003, the Subcommittee also issued subpoenas to the OCC to review its Riggs examination materials.

2003 Ongoing AML Examination. In March and April 2003, the OCC issued memoranda with AML updates. Both found significant ongoing AML deficiencies. One commented that Riggs' "efforts to correct previously identified deficiencies [are] less than satisfactory."[295] The OCC also held several meetings with Riggs officers. In one meeting in early March, Riggs officers complained that the AML examinations were "putting a tremendous burden on the bank" and asked whether Riggs was subject to an annual or three-year cycle of AML examinations.[296] The EIC at Riggs noted, "The BSA exam will continue to be challenging as the OCC and bank management have different views on the level of risk and potential impact to the bank." A few weeks later, however, the OCC offered a more positive assessment of Riggs' reaction, stating that after a March 17, 2003, meeting, Riggs "responded very quickly and strongly"; "developed a comprehensive action plan ... to address deficiencies; established a Board level BSA Committee to provide oversight; created a management BSA/AML Task Force to direct the implementation of the

---

[293] Several investigations of these funds transfers are still underway. At least one, by the Presidential Commission on 9-11 determined that no credible evidence exists that any 9/11 operatives received substantial funding from any person in the United States. See "Staff Statement No. 16: Outline of the 9/11 Plot," National Commission on Terrorist Attacks Upon the United States (6/16/2004).

[294] OCC Timeline, Bates OCC 0000547380.

[295] OCC memorandum, "Bank Secrecy Act (BSA) Examination–Issues Update," (3/13/03), Bates OCC 0000028582-87. See also OCC memorandum, "Riggs Bank, NA, BSA/AML examination recap," (4/28/03), Bates OCC 0000028400-10.

[296] OCC examination materials, "Meeting with Riggs Bank N.A. Senior Management," (3/5/03), Bates OCC 0000026292-94.

action plan; and has hired a new BSA Officer with strong credentials with more staff to be added. The bank estimates spending approximately $12 [million] to upgrade BSA systems."[297]

2003 Enforcement Action Considered. In May 2003, the OCC's Washington Supervisory Review Committee met to consider taking a formal enforcement action against Riggs for its ongoing AML deficiencies. OCC officials discussed issuing both a cease and desist order and a civil monetary penalty against the bank. OCC officials were split on whether to impose a civil fine on the bank and, in June, referred the Riggs matter to FinCEN for the first time, asking FinCEN whether it would want to join in an enforcement action against the bank.

2002 Special Report on Examination (ROE). In June 2003, the OCC completed a special Report on Examination (ROE) which focused solely on its recently completed AML examination of Riggs.[298] This ROE identified a long list of serious AML deficiencies. The OCC discussed the findings in the ROE at a special Riggs Board meeting on June 25, 2003, and gave Riggs a letter asking why a civil monetary penalty should not be assessed against the bank.

2003 Cease and Desist Order. On July 16, 2003, the OCC issued a cease and desist order against Riggs Bank, to which the Board members consented. No civil fine was imposed on the bank at that time.

2002 Report on Examination (ROE). Later in 2003, the OCC completed a second Report on Examination (ROE) for Riggs Bank, summarizing the examinations of the bank from December 2002 through March 2003, including on AML issues. This ROE prominently mentioned the special ROE on AML problems and the July consent order, as well as other issues involving capital, asset quality, management, earnings, liquidity and risk management issues.

2003 Targeted Equatorial Guinea Examination. In October 2003, the OCC initiated a targeted examination of the Equatorial Guinea accounts at Riggs Bank. This examination eventually found numerous serious problems with the management of these accounts, including substantial evidence that the bank had not implemented many of the corrective actions that were supposed to have been completed by the end of 2002.

2003 RBEL AML Examination. In December 2003, the OCC completed an AML examination of Riggs Bank Europe, Ltd. in London. This examination found numerous AML deficiencies, with weak compliance management and high compliance risk.

2003 Meeting with Riggs Board. On December 17, 2003, the OCC met with the Riggs Board to present its Report on Examination for 2002, and its ongoing review of the E.G. accounts. Despite the special ROE in June 2003, identifying a long list of AML deficiencies, a Federal Reserve examination in May 2003, which cited the bank holding company for inadequate Board oversight, and the significant AML problems identified in the July 2003 consent order, OCC personnel told the Riggs Board that "[s]atisfactory progress is being made with the Consent Order"; "[o]verall board and management supervision is satisfactory"; and the OCC "had found no instances of money laundering or violations of BSA at Riggs."[299] The OCC did express concerns about the Equatorial Guinea accounts "center[ing] on the source of funds and ensuring that none are diverted for personal use," and the need to control the high money laundering risks associated with the

---

[297] OCC Timeline at Bates OCC 0000547381.

[298] The OCC gave this report a formal date of January 6, 2003, even though it was actually issued six months later. The continual discrepancy between official OCC report dates and the dates the reports are actually issued – here represented by a six-month gap – is a confusing and misleading practice that should be discontinued.

[299] See minutes of Riggs Board meeting (12/17/03), Bates RNB-GA 025183-91, at 84.

bank's Embassy Banking and International Private Banking accounts. In response, a prominent Board member, Joseph Allbritton, told the OCC that the bank had no intention of closing the E.G. accounts.

2004 AML Update. In early January 2004, the OCC issued a supervisory target letter stating that the bank was making "satisfactory progress" in its AML efforts and in complying with the 2003 consent order. The letter recommended additional steps that needed to be taken, particularly with respect to Embassy Banking and International Private Banking accounts. About a week later, however, Riggs investigators examining the E.G. accounts uncovered additional serious problems, including misconduct by the E.G. account manager, questionable wire transfers, and multi-million-dollar cash deposits. By the end of January, the bank had fired the E.G. account manager and in March 2004, the head of its International Banking Group left the bank.

2004 Meeting with Riggs Management. On March 2, 2004, the OCC held an exit meeting with Riggs senior management regarding the E.G. accounts. At this meeting, the OCC informed the bank that although progress had been made in some AML areas, significant deficiencies remained, the bank's ratings would be downgraded, and the bank would likely be subject to additional enforcement action. The OCC delivered another 15-day letter asking the bank why it should not be subject to a civil monetary penalty.

2003 Report on Examination (ROE). In the first quarter of 2004, the OCC completed a Report on Examination (ROE) summarizing the examinations of Riggs Bank during the prior six months. This report prominently mentioned AML concerns and noted "unsafe and unsound practices involving the management, oversight, and control of the EG relationship; additional BSA violations ... and noncompliance with three key articles of the Consent Order."[300] It extensively detailed the OCC's concerns with the E.G. relationship. The ROE stated that the bank's ratings had been downgraded, and the bank was considered a "troubled institution."

2004 Cease and Desist Order and Civil Fine. On May 13, 2004, the OCC issued a second cease and desist order and, under 31 U.S.C. §1818(u), imposed a civil monetary penalty on the bank of $25 million. On the same date, under 31 U.S.C. § 5321, FinCEN imposed a concurrent civil fine of $25 million on the bank for willfully violating its anti-money laundering obligations. Riggs consented to both the cease and desist order and to the $25 million fine.

Federal Reserve Examinations. At the same time the OCC was examining Riggs Bank, the Federal Reserve was conducting AML examinations of the bank holding company, Riggs National Corporation (RNC), and the Edge Act subsidiary, Riggs International Banking Corporation (RIBC) in Miami, Florida. The key Federal Reserve examinations and supervisory actions over the last few years relating to Riggs' anti-money laundering efforts can be summarized as follows.[301]

2000 Annual Report on Examination. In 2000, the Federal Reserve completed a report on its inspection of Riggs National Corporation. This report mentioned AML compliance issues only in passing. It stated that the OCC had identified deficiencies in AML audit, monitoring, and training, and that "potentially high-risk areas are not being reviewed on a timely basis due to [personnel] vacancies."

2002 Annual Report on Examination. In June 2002, the Federal Reserve completed a report on its inspection of Riggs National Corporation covering both 2001 and the first quarter of 2002. This report, like the 2000 report, mentioned AML compliance issues only briefly. It stated that the OCC had identified some AML concerns at Riggs Bank

---

[300] Report on Examination (9/30/03), Bates OCC 0000557735-69.

[301] This information is derived from Federal Reserve examination materials, and a Subcommittee interview of Federal Reserve officials (7/2/04).

which "are receiving adequate attention by management." It also noted "[a]dditional reputational risks are associated with" AML issues, but did not go into any detail.

2002 Board Meeting. On October 16, 2002, the Federal Reserve Bank of Richmond presented its annual examination findings to the RNC Board of Directors. After the meeting, the Chairman of the Board, Joseph Allbritton, told a senior Federal Reserve Bank official that, the day before, the OCC had expressed concerns about certain accounts which had been controlled by Augusto Pinochet and which Riggs had closed in response to OCC concerns, and he requested the Federal Reserve's views on the matter. The Federal Reserve representative did not express an opinion at that time, but did ask the OCC about the accounts. A month later, in November, negative media stories about Saudi Arabia accounts at Riggs Bank began, and by January 2003, the OCC had initiated its targeted examination of the Saudi Arabia accounts. A Federal Reserve examiner participated in the OCC examination, which uncovered questionable account activity and fundamental AML deficiencies.

2003 Targeted Examination of RNC Corporate Governance. In May 2003, the Federal Reserve completed a targeted examination of corporate governance practices at Riggs National Corporation, including Board oversight of Riggs Bank. The examination identified several deficiencies, including weak Board oversight, weak risk management, and unsatisfactory internal audits in which too few audits were completed, others took too long, and there was poor communication of audit results to the Board's Audit Committee. On July 1, 2003, the Federal Reserve sent a letter to Riggs requesting it to adopt a Board resolution that, among other measures, would require a consultant's report on the Board's composition, expertise and oversight, and revamped risk management and audit controls.

2003 Targeted RIBC AML Examination. In June 2003, the Federal Reserve completed a targeted examination of AML compliance at Riggs International Banking Corporation (RIBC) in Miami, Florida. The examination identified numerous AML deficiencies, including poor KYC documentation, inadequate monitoring of accounts, and inadequate procedures to identify and report suspicious activity. The examination directed the bank to undertake corrective actions.

2003 Annual Report on Examination. In September 2003, the Federal Reserve completed a report on its inspection of Riggs National Corporation covering the latter half of 2002 and the first half of 2003. The examination identified AML deficiencies and other problems, including poor corporate governance and risk management, inadequate audits, ongoing AML deficiencies identified by the OCC, and increasing operational and reputational risks. The report stated the Federal Reserve would monitor ongoing corrective actions.

2003 Targeted Equatorial Guinea Examination. In October 2003, the OCC initiated a targeted examination of the Equatorial Guinea accounts at Riggs Bank. A Federal Reserve examiner participated in that examination which eventually found questionable account activity and ongoing AML deficiencies.

2004 Targeted RIBC AML Examination. In April 2004, the Federal Reserve completed a targeted examination of RIBC's AML compliance. The report found ongoing "serious deficiencies," including a lack of account monitoring, poor KYC documentation that was not improved over the last year, inadequate AML training, AML policies and procedures that lack detail, CTR reports with a high error rate, and weak internal audit function. The report also stated: "Of particular concern is the fact that significant weaknesses in [RIBC's] BSA/AML program were identified at the previous examination and received minimal management attention." In addition, in January 2004, the OCC initiated an examination of Riggs' compliance with the OCC's 2003 consent order. A Federal Reserve examiner was kept informed of the OCC's examination findings and Riggs' failure to correct its AML deficiencies.

2004 Cease and Desist Order. On May 14, 2004, the day after the OCC and FinCEN imposed a $25 million civil fine on Riggs Bank, the Federal Reserve issued a cease and desist order against Riggs National Corporation, to which the Riggs Board members consented. The order noted that the bank holding company intended to close RIBC, and required the bank holding company to undertake a number of measures to strengthen management expertise, Board oversight, risk management practices, the internal audit function, and the bank's AML compliance.

(2) Analysis of the Issues

This brief summary of federal examiners' AML oversight at Riggs Banks establishes a number of facts and raises a number of concerns.

AML Deficiencies Identified. First, the record establishes that OCC examiners were doing a careful job of reviewing Riggs' AML compliance efforts, and these examiners accurately and repeatedly identified major AML deficiencies at the bank. Riggs was not a case of federal regulators' being unaware of AML compliance problems at Riggs.

Tolerance of AML Deficiencies. Second, the facts demonstrate a willingness by federal bank regulators to tolerate weak AML controls at Riggs and to allow even fundamental AML deficiencies to continue year after year without forceful action to stop them. Repeatedly, examination reports labeled Riggs' AML program as "satisfactory," while also identifying major AML deficiencies, a practice that sent contradictory signals about the bank's AML performance and need to improve.

Fundamental problems were identified in virtually every Riggs' AML examination since 1997, but for years, as long as Riggs promised to take corrective action, the OCC took no formal enforcement action against the bank. One of the OCC supervisors interviewed by the Subcommittee was blunt in explaining that the Riggs AML deficiencies went on so long, because the agency believed the bank's continual promises to do better. Given the significance of AML controls in fighting terrorism, corruption, drug trafficking, and other crimes, this tolerance of major AML deficiencies is not only inappropriate, but also contrary to law under 12 U.S.C. § 1818(s), which requires federal banking agencies to address repeat AML deficiencies with, at a minimum, a cease and desist order.

In the case of Riggs, an OCC examiner who had reported on AML deficiencies at the bank for several years in a row made an eloquent plea to her superiors for an "exhaustive" AML review, presumably to prompt a sustained effort by regulators to force Riggs to change its ways. In a lengthy email to her superiors in March 2003, listing numerous examples of questionable actions by Riggs, she stated in part:

> "Having just gone through ... several frustrating and stressful weeks uncovering and reporting the findings of our BSA examination at Riggs, discovering highly suspicious transactions and seriously deficient bank processes, our discovery on Tuesday ... compels me to formally express my fear of what we have yet to uncover at this bank. ... The bank failed to disclose to us at least two-dozen official embassy accounts in response to our request for a list of all embassy accounts. They only acknowledged the omitted accounts when we showed them a list we obtained from other sources .... I know first hand that a similar omission occurred during our 2000 BSA examination, where we requested ... a list of all accounts belonging to political figures. Nowhere listed was the highly controversial Augusto Pinochet .... During our 2000 BSA examination we found money exchangers, including one in Syria, for which the bank had insufficient customer information to support multi-million dollars in international wires. Bank management ... stated that it would close the accounts 'as soon as possible'. Our examiners returned six months later to find that the accounts were still open. ... How many times will we conduct an exam and find some new significant problem before we decide to complete an exhaustive review once and for all? I

wonder (at the risk of paraphrasing and butchering a perfectly good quote) if not Riggs who and if not now, when?"[302]

The length of this communication and the detailed nature of its evidence suggest an examiner who was fed up with repeat deficiencies at the bank.

Her supervisor responded: "Thanks ... for taking the time to put all of this together and raise it up for consideration. ... Clearly, Riggs' management has failed to respond properly to previously identified BSA related issues. And OCC (me) failed to take sufficient steps to assure that the bank's response was complete, and implemented."[303]

Undemanding Examiner-In-Charge. A third issue raised by the Riggs case history involves the role played by the OCC's Examiner-in-Charge (EIC) at the bank, including whether over the years he had become more of an advocate for Riggs than an arms-length regulator. EICs are often housed at the banks they oversee, and over the years become well acquainted with their banks' senior management. It is not unusual for EICs to be hired by the bank they oversaw. The OCC has estimated that this job switch happens once or twice each year.

In the case of Riggs, Mr. Lee was the EIC from 1998 until 2002. During that time, he took several actions that suggested overly close relations with the bank. At the Washington Supervisory Review Committee in 2001, for example, it was Mr. Lee who recommended against taking an enforcement action against the bank, despite three AML examinations identifying AML deficiencies, including poor KYC documentation, inadequate account monitoring, and audit problems. The Committee accepted the EIC's recommendation, instead settling for strong language in the 2000 Report on Examination listing the AML deficiencies and directing the bank to correct them. Over the next year, the EIC appears to have done little to ensure the promised corrective actions were actually carried out.

Another troubling incident was the EIC's decision in 2002 to exclude the memorandum and workpapers related to the OCC examination of the Pinochet accounts from the OCC's electronic database called Examiner View (EV). The purpose of EV is to ensure that key examination materials are preserved and readily accessible to OCC regulators overseeing financial institutions. OCC personnel interviewed by the Subcommittee spoke about the importance of entering examination materials into the EV, and the key role played by this database in ensuring the agency has a full understanding of a bank's examination record.

It is beyond dispute that the Pinochet examination memorandum and supporting workpapers were not included in the EV, and that only paper copies were retained. The key NBE who performed the Pinochet examination and who co-authored the memorandum told the Subcommittee that, in the presence of another NBE, the EIC specifically instructed him not to include the memorandum in the Riggs EV file. When asked how often he had received a similar instruction for other examination materials, the NBE replied, "Never." Other OCC personnel also expressed surprise and concern that an EIC would instruct an NBE not to include a key examination in the EV. When asked by the Subcommittee about this matter, the EIC denied telling the NBE not to include the memorandum in the EV, suggesting that the NBE must have been confused after they discussed the need to maintain the confidentiality of the examination results. However, both the NBE, and the second NBE present at the time, insist there was no confusion – that the instruction by the EIC was clear.[304]

---

[302] Email from Lois Trojan (3/20/03), Bates OCC 0000489185-87.

[303] Email from John Noonan (3/25/03), Bates OCC 0000489185.

[304] In addition, the OCC has determined that, instead of including the Pinochet memorandum and workpapers in the EV, the EIC instructed one of the NBEs to insert a notice at the end of an unrelated examination report stating that a paper copy of the Pinochet examination results and related documentation is "maintained in the OCC's Washington/National Capital Area Field Office (located in the OCC's national headquarters)." See internal OCC emails exchanged between Ashley Lee, Lois Trojan and Joe Boss (7/15/02-7/23/02), Bates ZZ 000169; and copy of notice placed in the EV, Bates ZZ 000170. Insertion of this notice in the EV in July 2002, is additional proof that the EIC made a specific decision in 2002 to exclude the Pinochet examination memorandum and

Still another indication of how close the EIC was to Riggs was the fact that, when the bank learned Mr. Lee was going to retire from the OCC, it promptly offered him a senior position with the bank. After being approached by Riggs, Mr. Lee recused himself, on August 8, 2002, from further dealings with the bank. On October 3, 2002, he voluntarily retired from the OCC and assumed his new position at Riggs Bank.

Before he left the agency, OCC ethics officials informed Mr. Lee of certain post-employment restrictions on his allowable contacts with OCC personnel.[305] To prevent conflicts of interest, federal law has long barred federal employees who worked personally and substantially on a particular matter for the government from leaving their agency, turning around, and representing the other side in the same matter before their former agency.[306] The law also bars former employees for two years from communicating with or appearing before their former agency on a particular matter which the former employee knows or should have known was actually pending under his or her official responsibility during the year before the employee left the agency.[307] Violations of these post-employment restrictions are punishable by up to one year in prison and a civil fine equal to the greater of $50,000 for each violation or certain compensation earned by the former employee. Willful violations are punishable by up to five years in prison and a criminal fine of up to $50,000 for each violation.

The OCC has implemented these post-employment restrictions by publishing guidelines and requiring its ethics office to inform departing employees about their post-employment obligations.[308] OCC ethics officials advised Mr. Lee to consult with the ethics office prior to engaging in any contacts with OCC personnel, so that the OCC could advise him as to whether the proposed contact was permissible. These restrictions were conveyed to Mr. Lee through emails exchanged with the OCC ethics office, including a memorandum prepared for him by the ethics office.[309] Mr. Lee was clearly aware of the restrictions and understood how to contact the OCC ethics office for additional guidance, since he actually requested and obtained approval of his meeting with OCC officials about a new Riggs loan review system that had not been at the bank during his OCC tenure.[310]

Evidence obtained by the Subcommittee shows, however, that Mr. Lee failed to respect the OCC post-employment restrictions. On several occasions in 2004, without obtaining prior approval from the OCC ethics office, Mr. Lee attended meetings at which OCC personnel

---

workpapers from the EV database. A bank examiner wishing to read the referenced materials would not be able to access these materials on an OCC computer, but would have to track down the actual paper copies kept in storage at the specified OCC office.

[305] See, e.g., memorandum from Jason D. Redwood, counsel in the OCC ethics office, to Mr. Lee and John Noonan (9/12/02), Bates OCC 0000557526-27.

[306] See post-employment restrictions contained in 18 U.S. § 207(a)(1).

[307] See post-employment restrictions contained in 18 U.S. § 207(a)(2).

[308] See, e.g., "OCC Ethics Rules, A Plain English Guide" (12/97, revised 3/12/04); "Guidelines for OCC Employees on How to Handle Contacts with Former OCC Employees" (OCC Ethics bulletin Board, 1/8/01); "Ethics Rules for Resigning or Retiring OCC Employees," (Document No. 1997-215A, 5/8/02).

[309] See, e.g., memorandum from Jason D. Redwood, counsel in the OCC ethics office, to Mr. Lee and Mr. Noonan (9/12/02), Bates OCC 0000557526-27. This memorandum states in part: "The two rules that apply to Ashley are the permanent representational bar, applicable to 'particular matters' that he 'personally and substantially' participated in while at the OCC, and the two-year representational bar, applicable to matters Ashley supervised during his last year at the OCC. ... I believe the most important points to be remembered are .... To the maximum extent possible, refrain from direct communications between OCC examiners and Ashley until about November, 2004, and permanently with regard to particular matters in which he was personally and substantially involved. ... If direct communications with Ashley potentially involve matters that were under Ashley's supervision as EIC of Riggs, please obtain my prior approval in writing." Mr. Lee responded in another email: "I will ensure that I operate within these rules." Email from Mr. Lee to Mr. Redwood and Mr. Noonan (9/13/02), Bates OCC 0000557529.

[310] See emails exchanged between Mr. Lee, Mr. Redwood, and Mr. Noonan (9/12-13/02), Bates OCC 0000557529.

discussed Riggs' AML compliance.[311] As explained earlier, Mr. Lee had supervised a number of AML examinations of Riggs during his OCC tenure, and made specific recommendations about enforcement actions in this area.[312] Despite his past involvement with and supervision of AML issues at Riggs, he failed to consult with the OCC ethics office about whether it would be a post-employment violation if he attended meetings with the OCC related to Riggs' AML issues. When the Subcommittee asked him about these meetings, Mr. Lee acknowledged attending them, but claimed that he made a deliberate decision not to speak at them so that he would not violate the post-employment ban.[313] His decision not to speak, however, could also be viewed as an admission that Mr. Lee knew he had supervised Riggs' AML compliance issues, at a minimum, and should not have been in any contact with the OCC on Rigg's AML issues without getting prior clearance from the OCC ethics office.

In addition, OCC guidance for current OCC employees states:

> "When an OCC examiner goes to work for a bank where he or she served as EIC within the year preceding his or her departure from the OCC, the current EIC at the bank shall advise the former EIC that he or she will not be permitted to attend meetings with the OCC or otherwise communicate with or appear before the OCC for a period of two years following his or her departure, unless approval is granted in writing by the appropriate OCC ethics official prior to the meeting, communications, or appearance."[314]

It is undisputed that Mr. Lee did not obtain prior written approval from the OCC ethics office before attending meetings in which the OCC discussed Riggs' AML compliance issues. It is also clear that no one from the OCC took the steps required by this guidance to exclude Mr. Lee from those meetings so that no post-employment violation would occur.

Mr. Lee's actions – recommending against a formal enforcement action, suppressing the Pinochet examination materials, accepting a job offer at the bank he regulated, and ignoring post-employment restrictions on OCC contact – all suggest this Examiner had become much too close to Riggs during the years he was responsible for overseeing it.

Failure to Use Enforcement Tools. The facts also demonstrate a clear reluctance by OCC supervisors to make use of available enforcement tools to compel compliance with the anti-money laundering laws. In 2001, for example, the OCC's Washington Supervisory Review Committee reviewed three examinations detailing major, repeat AML deficiencies at Riggs. The Committee knew or should have known that these deficiencies had been outstanding for at least three years. Despite these compelling facts, the Committee went along with the EIC's recommendation against taking any enforcement action against the bank, and settled instead for including forceful language in the annual 2000 Report on Examinations given to Riggs. This

---

[311] See, e.g., OCC document, "Riggs EBD Weekly Update Meeting" (3/25/04), Bates OCC 0000542891 ("We met with Tim Coughlin - Head of Embassy Banking and Risk Manager Ashley Lee to get a weekly update of actions taken in the Embassy Banking Division (EBD) to ensure the area meets compliance with the Consent Order."); minutes of Riggs Audit Committee meeting (2/25/04), Bates A 05723-35(Ashley Lee attended executive session in which OCC discussed E.G. examination); minutes of Riggs BSA Compliance and Audit Committees meeting (3/22/04), Bates A 05795-803 (Ashley Lee attended meeting in which OCC discussed high risk accounts and AML compliance). See also Subcommittee interviews of Ashley Lee (6/30/04) and Joseph Cahill (6/25/04).

[312] See, e.g., OCC Interim Target Memorandum on "Riggs Bank, N.A.: Bank Secrecy Act," from Ashley Lee to Riggs Bank officers (10/23/00), Bates OCC 0000536182-89; OCC Interim Target Memorandum on "Bank Secrecy Act/Anti-Money Laundering (BSA/AML) Exam," from Ashley Lee to Riggs Bank officers (6/21/02), Bates OCC 0000029228-31.

[313] Subcommittee interview of Ashley Lee (6/30/04).

[314] OCC guidance, "Contacts with Former OCC Employees," (undated), Bates OCCX 00032-33. See also government-wide guidance issued by the federal Office of Government Ethics indicating that a former federal employee's mere presence at a meeting with his or her former agency can constitute a violation. Memorandum entitled, "Regarding Revised Post-Employment Restrictions of 18 U.S.C. § 207," (10/26/90), at 4 ("An 'appearance' extends to a former employee's mere physical presence at a proceeding when the circumstances make it clear that his attendance is intended to influence the United States.").

ROE prominently listed the bank's AML deficiencies and directed the bank to correct them. After the sternly worded report was issued in 2001, however, no OCC supervisor took the steps necessary to follow through and ensure the bank actually corrected the identified problems.

In 2002, while the OCC carefully investigated the Pinochet accounts and raised appropriate questions about the attendant money laundering risks, the OCC appears not to have even considered taking enforcement action against the bank for hiding these accounts from the OCC for two years and ignoring the money laundering risk. In fact, the record suggests senior OCC officials spent more time reassuring Riggs that it would keep the Pinochet accounts confidential than considering whether to initiate an enforcement action. In the end, the OCC failed even to issue a final examination report on the Pinochet matter.

In 2003, after uncovering extremely troubling information in connection with accounts associated with Saudi Arabia, the OCC took its first enforcement action against the bank, issuing a cease and desist order requiring it to revamp its AML program. While this order was a more comprehensive and formal directive compared to those in prior examination reports, it imposed no punitive measures such as a civil fine. OCC enforcement officials were clearly considering imposing a fine as demonstrated by their delivery in June 2003 of a "15-day letter" to Riggs. These letters give the recipient 15 days to explain why the OCC should not impose a civil fine for misconduct.

Riggs responded with a letter opposing imposition of a civil fine for its AML deficiencies. After reviewing the letter, some OCC enforcement personnel supported going ahead with the fine, while some OCC personnel from the bank supervisory office advised against it.[315] Rather than resolve the issue internally at that time, the OCC decided to refer the Riggs case to FinCEN, which has delegated authority under 31 U.S.C. § 5321 to impose civil fines for willful AML violations. This referral took place in June 2003. It is difficult to understand, however, why FinCEN had not already been informed about the case, given its publicity. FinCEN and the OCC then took another year before, in May 2004, imposing a civil fine on the bank for $25 million.

It is also worth noting that the key OCC enforcement actions that were taken against Riggs Bank took place after negative press reports began raising public questions about Riggs' AML safeguards. For example, the OCC's in-depth review of the Saudi accounts followed press articles that began appearing in November 2002, suggesting links between certain Riggs accounts and the 9-11 terrorist attack. This examination resulted in the OCC's identifying the same deficiencies as in earlier years, but in contrast to the agency's prior willingness to rely on oral promises by the bank to improve, the OCC issued a public cease and desist order requiring corrective action. The OCC's examination of the E.G. accounts in 2003 and 2004 was, in turn, prompted by a negative press article in January 2003, and by the Subcommittee's investigation of these accounts throughout 2003. The OCC has indicated that it was the E.G. examination that opened their eyes to still more bank misconduct and to evidence of the bank's utter failure to implement promised AML reforms, resulting in the decision to impose a civil fine on the bank.

The OCC has acknowledged that it acted too slowly in the Riggs case. At a hearing, the Comptroller of the Currency John D. Hawke, Jr. admitted that, "We gave the bank too much time." In May 2004, he sent a memorandum to the OCC's Quality Management Division to review the Riggs case and, among other matters, assess "whether our examination team took appropriate and timely actions to address any shortcomings they found in the bank's processes and in its responses to matters noted by the examiners."[316]

AML Assessments. A final issue raised by the Riggs case history involves the treatment of AML deficiencies in the examination reports actually given to the bank. A careful reading of the OCC examination reports shows that AML deficiencies did not receive consistent treatment in the annual Reports of Examination (ROE) given to the Riggs Bank Board of Directors. A ROE

---

[315] Subcommittee interviews of OCC personnel.

[316] Memorandum from John D. Hawke, Jr. to Ronald A. Lindhart (5/20/04), "Engagement Memorandum: Retrospective of BSA/AML violations at Riggs Bank, N.A., McLean, Virginia."

has special significance, because it is the standard mechanism used by the OCC to convey to the Board a comprehensive assessment of the bank's safety and soundness, and bank directors are typically required to sign the last page of the ROE, certifying that they have personally reviewed it. The ROE typically provides a bank's latest CAMELS ratings and offers assessments of the bank's performance on a number of key factors: capital adequacy, asset quality, bank management, earnings, liquidity, sensitivity to market risk, management of nine risk factors, financial analysis, information technology systems, and consumer compliance. The ROE also provides examination conclusions and comments, and "matters requiring attention" by the bank. Currently, the ROE does not routinely offer an assessment of a bank's anti-money laundering program. Instead, if an AML problem arises, the topic is dealt with in the ROE on an ad hoc basis, with a special section or discussions in the management, risk assessment, or consumer compliance sections.

In the case of Riggs, the ROEs issued by the OCC in 1998 and 1999, contained virtually no AML information, other than a brief mention near the end of each report that an AML examination had taken place during the year. Neither report conveyed any AML examination results or other AML assessment. Neither report gave any hint to the Board of Directors that AML deficiencies had been identified in 1997, 1998, and 1999 AML examinations of Riggs.

In contrast, the 2000 ROE prominently identified a host of AML deficiencies at the bank, with strong language calling for immediate corrective action. The discussions of AML problems appeared in a special section and in several standard sections of the ROE. In 2001, the approach taken in the ROE changed again. The ROE made a brief statement that AML compliance "needs lasting and progressive attention," but also stated that the bank had made "good progress in addressing the issues" and devoted little overall space to the bank's AML performance. The 2001 ROE was also issued much later in the year – in mid 2002.

The subsequent ROE, which supposedly covered 2002, was actually issued in late 2003. In contrast to the low-key approach taken in 2001, this ROE again treated AML deficiencies as a major concern, citing numerous deficiencies and the consent order issued in July 2003. In addition, the OCC issued a special ROE devoted solely to AML problems at the bank and required all Riggs directors to review and sign it. Although this ROE carries an official date of January 6, 2003, it was actually issued six months later in June 2003.

Viewed together, the ROEs issued to Riggs Bank from 1998 to 2003, demonstrate that current practice at the OCC is to communicate AML assessments to Boards on an ad hoc basis.[317] This ad hoc treatment can, and in the Riggs case did, lead to confusing signals regarding the extent of AML deficiencies, whether the bank was doing enough to correct them, and the importance placed on corrective action by the OCC. A more uniform treatment of AML issues in the annual ROEs given to Board members would elevate the importance of these issues, and possibly increase both consistent treatment by regulators and completed corrective actions by banks.

C. AML Oversight Generally

Finding (6): Uneven AML Enforcement. Current AML enforcement efforts by federal agencies are uneven and, at times, ineffective, as demonstrated by cases in which federal regulators have allowed AML compliance problems to persist at some financial institutions for years, failed after three years to issue final regulations implementing the Patriot Act's due diligence requirements, and failed to issue revised guidelines for bank examiners testing AML compliance with the Patriot Act's due diligence requirements combating money laundering and foreign corruption.

---

[317] Federal Reserve Banks issue a "Report of Bank Holding Company Inspection" that is similar to the OCC's ROE. In the Riggs case, these reports also treated AML concerns in an inconsistent, ad hoc fashion, and would also benefit from standard, annual AML assessments.

The failure to take quick and forceful enforcement action in the Riggs matter is not an isolated case. It is symptomatic of uneven and, at times, ineffective enforcement by all federal bank regulators of bank compliance with their anti-money laundering obligations.

In addition to Riggs, a number of AML cases demonstrate that federal banking regulators have allowed AML compliance problems to persist for years without correction. Recently, the General Accounting Office (GAO) testified before the Senate Committee on Banking, Housing, and Urban Affairs and described several of these cases.[318]

GAO reported, for example, that the Federal Reserve Bank of New York (FRBNY) allowed AML problems to continue at Banco Popular de Puerto Rico for four years before taking enforcement action.[319] This bank's AML program had numerous fundamental flaws which, among other problems, allowed an individual later convicted of money laundering to make repeated cash deposits at the bank, from 1995 to 1998, totaling $21.5 million. During this period, the FRBNY conducted four examinations of the bank, but none identified AML deficiencies. In 1999, four years after the money launderer began making cash deposits, the FRBNY received a law enforcement tip about possible drug proceeds being laundered through the bank, initiated an in-depth examination of the bank's AML program, and found widespread, significant AML deficiencies. In 2000, the FRBNY and FinCEN imposed a civil fine of $20 million on the bank, required it to revamp its AML program, and participated with the Department of Justice in entering into an agreement with the bank which deferred a criminal prosecution against the financial institution.

GAO also reported on a case in which the OCC allowed AML problems to persist for six years at Broadway National Bank, a small community bank in New York City.[320] This bank's AML program was also fundamentally flawed; its deficiencies included a complete absence of any policies or procedures to identify or report suspicious activity. In 1998, over 100 suspect accounts were identified at the bank, including 12 accounts controlled by an individual who later pled guilty to laundering money for a Colombian drug cartel and who made repeated cash deposits of $100,000 or more from 1992 until 1998. In March 1998, alone, this individual deposited $4 million in cash at the bank and withdrew $3.2 million through 90 wire transfers, of which 87 went to Colombia. The bank also allowed other clients to engage in multiple structured cash deposits to avoid reporting requirements. During the relevant time period, the OCC conducted a single AML examination of this small community bank and found its overall 1995 AML compliance "satisfactory." In 1998, the OCC received a law enforcement tip that caused it to conduct an in-depth examination of the bank's AML program and uncovered significant AML deficiencies. In 1998, the OCC issued a cease and desist order requiring the bank to revamp its AML program. In 2002, the bank pleaded guilty to three felony charges for failing to maintain an AML program, failing to file suspicious activity reports related to $123 million in cash deposits, and helping customers structure $76 million in cash transactions to evade currency reporting requirements. The bank agreed to pay a $4 million criminal fine. In 2003, the bank's two most senior officers each paid the OCC a civil fine of $35,000.

A third example involves a credit union which GAO reported had ongoing AML violations for eight years before the National Credit Union Administration (NCUA) took enforcement action.[321] From 1989 to 1997, the Polish and Slavic Federal Credit Union in Brooklyn, New York, failed to file numerous Currency Transaction Reports (CTR) for cash transactions exceeding $10,000. It also improperly exempted from its CTR filings the credit union's former

---

[318] See "Anti-Money Laundering: Issues Concerning Depository Institution Regulator Oversight," (Report No. GAO-04-833T, 6/3/04), testimony provided by the General Accounting Office before the U.S. Senate Committee on Banking, Housing, and Urban Affairs.

[319] Id. at 6-7.

[320] Id. at 9. The Subcommittee also investigated this bank, conducting several interviews of Broadway National Bank officials in 1999, as part of an ongoing money laundering investigation at that time. The information recited here is derived from both the GAO testimony and the Subcommittee's 1999 investigation.

[321] GAO testimony, at 7-8.

Chairman of the Board, who owned a travel agency and money remitter business and did not qualify for a CTR exemption. This individual's remitter business reportedly made over 1,000 cash deposits in excess of $10,000 during the eight years, but no CTRs were filed. In 1997, the NCUA initiated a series of enforcement actions against the credit union, and in 1999, placed it in conservatorship due to inadequate internal controls. In 2000, three years after the misconduct, FinCEN determined that the credit union had failed to establish an adequate AML program, and assessed a civil fine of $185,000.

Another example involves a bank which had ongoing AML violations for a number of years before the Federal Deposit Insurance Corporation (FDIC) and Federal Reserve Board took enforcement action. According to FinCEN, the Korean Exchange Bank, which has branches and subsidiaries in major cities across the United States, allowed customers to make suspicious cash deposits, engage in structured cash transactions, and send suspicious wire transfers, without filing suspicious activity reports.[322] For example, the bank accepted without inquiry 37 cash deposits totaling $1.2 million over a two-month period from a company that allegedly imported wigs, while allowing an allegedly related company to deposit $16 million in repeated cash deposits from 1986 to 1999. A New York account for the second company, opened in 1998, received cash deposits of over $3.8 million in eight months and withdrew most of the deposited funds within a short time through 70 wire transfers sent to various beneficiaries in Korea and Japan. The FDIC conducted at least three examinations of the bank from 1999 to 2001, which identified major AML deficiencies. In 2000, the FDIC, Federal Reserve, and four state banking agencies issued a joint consent order requiring the bank to revamp its AML program. Three years later, in 2003, FinCEN imposed a $1.1 million civil fine on the bank, for failing to file 39 suspicious activity reports from 1998 to 2001, involving nearly $32 million, and for failing to verify the identity of persons who were not regular bank customers but claimed cash from wire transfers of $3,000 or more.

A final example involves thrifts overseen by the Office of Thrift Supervision (OTS). GAO reported that in September 2003, the Inspector General (IG) of the Treasury Department reviewed OTS enforcement actions taken against thrifts with substantive AML violations.[323] The IG report stated that OTS examiners had found substantive AML violations at 180 of 986 thrifts examined from January 2000 through October 2002, a rate of about 18 percent. OTC had issued written enforcement actions for only 11 of the 180 thrifts, which is about six percent. Moreover, five of the 11 enforcement actions were described by the IG as untimely, incomplete, or ineffective. The IG also reported that, of 68 sampled cases in which the OTS had "relied on moral suasion and thrift management assurances" to obtain AML compliance, 47 thrifts, or 69 percent, took the required corrective action, but 21 thrifts, or 31 percent, did not. In fact, at some of the 21 thrifts that took no corrective action, the IG reported that BSA compliance worsened.

These cases indicate that all of the federal banking regulators, not just the OCC, need to strengthen their AML enforcement efforts. The Federal Reserve, FDIC, NCUA, and OTS each allowed AML deficiencies to continue for years before taking any enforcement act. They took one or more additional years to impose civil fines. Regulators need to make more prompt use of available enforcement tools, including civil fines, when financial institutions ignore their AML obligations.

In addition to uneven enforcement actions, the U.S. Department of Treasury, FinCen, and all of the federal bank regulatory agencies, have failed to take needed regulatory actions to ensure consistent implementation and enforcement of the Patriot Act provisions combating money laundering and foreign corruption. First, despite enactment in October 2001, three years ago, neither Treasury nor any of the federal agencies has issued a final rule implementing the Patriot Act's requirements for financial institutions to exercise due diligence when opening certain accounts for foreign clients, including private banking accounts for senior foreign political

---

[322] See In re Korea Exchange Bank (Case No. 2003-04, 6/20/03), in which the Financial Crimes Enforcement Network imposes a $1.1 million civil monetary penalty on the bank. This example was not discussed in the GAO testimony.

[323] Id., at 9-10.

figures.[324] A proposed due diligence rule was issued by Treasury and FinCEN in mid-2002, and attracted significant public comment at the time, but years later has yet to be finalized.[325] The proposed rule included some controversial interpretations of the law's due diligence requirements[326] and, in some cases, omitted guidance that would have provided useful direction to both financial institutions and regulators interpreting the law.[327]

Instead of issuing a final rule, on July 23, 2002, the Treasury Department issued an "interim final rule" which essentially repeated the statutory language in the Patriot Act, and directed banks to implement a due diligence program "that comports with existing best practice standards" and, in the case of senior foreign political figures, is "consistent with" Federal Reserve guidance on private banking activities issued in 1997, and federal guidance on "enhanced scrutiny for transactions that may involve the proceeds of foreign corruption issued jointly by Treasury, the bank regulators, and the State Department in January 2001."[328] This interim rule provides general direction on banks' due diligence obligations, but virtually none of the specifics in the proposed rule. One senior OCC enforcement official commented in 2003: "[T]here is no final rule out on section 312, and the interim rule imposes little more than a 'good faith' standard."[329] By failing to devote the resources needed to finalize the Section 312 due diligence rule, the Treasury Department has left both regulators and financial institutions without appropriate guidance.

In addition to failing to issue a final due diligence rule, federal banking agencies have also failed to update their AML examination manuals to include guidance on ensuring bank compliance with the due diligence requirements in the Patriot Act. OCC examiners, for example, are using a four-year-old examination manual, issued in 2000, which contains no reference to the due diligence requirements that became effective in July 2002, for private banking accounts, including accounts opened by senior foreign political figures.

VII. Foreign Corruption and Oil Transparency

Finding (7): Unseen Payments. Oil companies operating in Equatorial Guinea may have contributed to corrupt practices in that country by making substantial payments to, or entering into formal business ventures with, individual E.G. officials, their family members, or entities they control, with minimal public disclosure of their actions.

The Riggs case history has additional significance for international anti-corruption efforts. Over the past decade, Africa has become an increasingly important source of oil and natural gas for the United States.[330] U.S. oil companies have dedicated increasing resources to the discovery

---

[324] See Section 312 of the Patriot Act, codified at 31 U.S.C. § 5318(i).

[325] See 67 F.R. 37,736 (5/30/02).

[326] For example, the proposed regulations suggested creating a due diligence exception for certain offshore shell banks that had no basis in the statutory language. See comment letter on the proposed regulation submitted by Senators Levin, Grassley and Kerry (10/11/02), at 4-7.

[327] For example, the proposed regulations failed to provide any guidance on the enhanced due diligence obligations of banks wishing to open accounts for senior foreign political figures or their family members. See id. at 8.

[328] See 67 F.R. 48,348 (7/23/02). The interim final rule also completely exempted a number of categories of financial institutions from any duty to comply with the Patriot Act's due diligence requirements. The interim final rule states: "Treasury anticipates issuing a final rule no later than October 25, 2002."

[329] Internal OCC email (10/16/03), Bates OCC 0000505424.

[330] See, e.g., "Promoting Transparency in the African Oil Sector," report prepared by the Center for Strategic and International Studies Task Force on Rising U.S. Energy Stakes in Africa (March 2004); "Doing the Sums on Africa - Developing Africa's Economy – By Invitation," The Economist, (5/20/2004)(West Africa could supply up to 25% of the U.S.'s hydrocarbon imports within a decade).

and development of African reserves and production facilities. Nigeria, Angola, Gabon, and Equatorial Guinea are now the top four producers of oil on the continent, and each is a supplier to the United States. Each is also known to have major problems with corruption, poverty, and violence. As international and non-governmental organizations intensify their efforts to ensure that oil and gas proceeds are not misappropriated, natural resource development does not destabilize the region, and oil wealth is used to advance the well-being of Africa's population,[331] the Riggs case history offers useful information about how oil companies sometimes operate within a developing economy.

When analyzing large transactions involving the E.G. oil account and other E.G. accounts at Riggs Bank, the Subcommittee staff became aware of a number of substantial payments made by oil companies to particular E.G. government offices, E.G. officials, their family members, or entities controlled by the officials or their family members. Research into these payments uncovered a number of business transactions between the oil companies and E.G. individuals that may have attracted little or no public notice. The nature of these transactions and the amount of money involved raise legitimate questions about these and other business dealings within the country.

Among other information uncovered during research into various oil company payments, the Subcommittee's investigation found that some E.G. officials and their families had come to dominate certain sectors of the E.G. economy and, in some cases, had become virtual economic gatekeepers for foreign companies wishing to do business in the country. For example, according to internal Riggs documents, the E.G. President controls several E.G. businesses which virtually monopolize the E.G. construction, supermarket, and hotel industries and generate significant revenues in other areas as well.[332] The E.G. President's son apparently dominates the timber industry and also has key companies in other economic sectors.[333] The E.G. President and his wife also appear to control significant parcels of E.G. land which they have leased or sold to some foreign corporations. This type of economic dominance compels foreign companies wishing to operate in Equatorial Guinea to do business with the E.G. President, his relatives, or the entities they control, at times providing them with lucrative returns. How oil companies can and should respond to this situation raises a number of difficult policy issues.

A. Oil Companies in Equatorial Guinea

Over the past decade, oil companies with a major presence in Equatorial Guinea include: ChevronTexaco Corporation; CMS Energy Corporation whose E.G. oil interests were purchased by Marathon Oil Company in 2002; Devon Energy Corporation; ExxonMobil Corporation; Triton which was acquired in 2001 by Amerada Hess Corporation; and Vanco Energy Company. Currently, ExxonMobil, Hess, and Marathon have substantially greater E.G. operations than the others.

To do business in Equatorial Guinea, each of these oil companies entered into one or more oil production sharing contracts with the E.G. government. These contracts require the oil companies to provide a certain percentage of the oil they discover to the E.G. government and to pay E.G. taxes on the profits they make in the country.

The E.G. government instructs the oil companies where to send payments owed to the government. The records examined by the Subcommittee indicate that most of the payments made by the oil companies went to E.G. government accounts, including many that went to the E.G. oil account at Riggs. However, the records also show a number of payments to other accounts or individuals. For example, Marathon made a number of payments to E.G. accounts other than the oil account, including accounts for the E.G. Embassy Missions in Washington and

---

[331] See, e.g. "Oil, Diamonds, and Sunlight: Fostering Human Rights Through Transparency in Revenues from Natural Resources," Andreanna M. Truelove, 35 Geo. J. Int'l L. 207 (Fall 2003).

[332] Riggs memorandum to the file by Simon Kareri (11/28/01), Bates RNB 000040.

[333] See Riggs "Officers' Loan Committee Action" (7/18/02), Bates RNB 010508-18, at 12.

New York.[334] Hess made payments to approximately 33 different E.G. government vendors between May 1997 and March 2004.[335] In addition, some of the oil companies have, on occasion, entered into business ventures with E.G. officials, their family members, or entities they control.

B. Oil Company Payments

The Subcommittee's review of E.G. account documents and related materials indicates that three of the oil companies have, on occasion, made large payments to individual E.G. officials, their family members, or entities controlled by them. These payments were for leases, land purchases, services, employment of E.G. nationals, and Embassy operations. All six oil companies made payments for educational expenses for E.G. students. A brief description of these payments follows.

(1) Payments for Leases and Land Purchases

A memorandum to the file written by the Riggs E.G. account manager on the President's business holdings states that land leases from certain oil companies were generating significant revenues for the E.G. President, since the large-acreage compounds used by the companies were located on farm land leased from him.[336]

ExxonMobil's E.G. subsidiary, Mobil Equatorial Guinea Inc. ("MEGI"), leases buildings and land in what MEGI refers to as the "Abayak Compound," which is an area of approximately 50 acres for offices and employee living facilities.[337] From March 19, 1996 until June 22, 2001, MEGI leased the Abayak Compound using two leases – a buildings lease and a land lease – each of which was obtained directly from the E.G. President's wife.[338] On June 22, 2001, the leases were amended to change the lessor to Abayak S.A., an E.G. company controlled by the E.G. President.[339] According to ExxonMobil, the E.G. President's wife is actively involved in the management and administration of the property.[340] MEGI delivers rental checks to the Lessor's representative, as instructed, some of which were deposited into a Riggs account held in the name of the President's wife.[341]

In addition, between 2001 and 2003, pursuant to a lease agreement for the rental of a house for an ExxonMobil area manager, another ExxonMobil subsidiary, Mobil Oil Guinea Ecuatorial (MOGE), paid $45,020 to Francisco Pascual Obama Asue, the E.G. Minister of Agriculture.

---

[334] Letter from Marathon Oil Company to the Subcommittee (6/18/04), at 6.

[335] Letter from Amerada Hess Corporation to the Subcommittee (5/03/2004), attachment 2.1(a).

[336] Riggs memorandum to the file by Simon Kareri (11/28/01), Bates RNB 000040.

[337] Letter from ExxonMobil Corp. to the Subcommittee (6/02/04), attachment 1, at 1.

[338] Id. The "buildings lease" is for the original buildings in the Abayak Compound. The initial rent under this lease was $130,000 per year and increased to $175,500 in 2001, with an escalation provision of no more than 15% every three years by mutual agreement of the parties. The "land lease" covers land that was undeveloped forest when first leased. The initial annual rent was $7,000 per year, which was increased to $10,000 per year when a 2001 amendment added approximately 5 acres of adjacent land.

[339] Id.

[340] Letter from ExxonMobil Corp. to the Subcommittee (4/20/04), attachment 1, at 5.

[341] Riggs account records show, for example, that ExxonMobil made a rental payment to the President's wife for about $111,000 on 6/11/98, Bates RNB 000975-000976; and another for about $161,000 on 5/16/00, letter from ExxonMobil Corp. to the Subcommittee (6/2/04), attachment 1, at 2. See also a 4/12/99 payment by ExxonMobil of about $93,000 to the E.G. President's wife, Riggs account records, Bates RNB 028695, which also was a Abayak Compound rental payment.

Between 2000 and May 2004, MOGE also paid $236,160 to ATSIGE, a labor contractor owned by the E.G. Interior Minister.[342]

In addition, the Amerada Hess Corporation (Hess) has paid E.G. officials and their relatives nearly $1 million for building leases.[343] Of the 28 leases Hess identified for rentals in Malabo, Equatorial Guinea, 18 were leased from persons connected to the government or the Obiang family.[344] With the exception of four houses and one office, Hess indicated that it planned to cancel all of these leases by April 30 of this year. One of these leases was negotiated and executed in 2000 by Triton (which was acquired by Hess in late 2001) and involved leasing property from a fourteen-year-old relative of the President, who was represented by his mother. Under this lease, Hess and Triton have paid $445,800 to the relative and his mother.[345]

Triton also purchased a tract of land near Bata Airport from military officer General Antonio Obana Ndong for approximately $300,000 for use as a heliport.[346]

Marathon has paid or agreed to pay the E.G. President over $2 million for the purchase of land. In January 2004, to expand its Alba Field operations and liquid petroleum gas plant, Marathon negotiated with Abayak S.A. for the purchase of 50 hectacres of land located in Punta Europa, Equatorial Guinea.[347] Marathon delivered to Abayak a check for more than $611,000 made out to D. Teodoro Obiang Nguema.[348] In January 2004, Marathon also negotiated with Abayak, as the agent for D. Teodoro Obiang Nguema, for the purchase of an additional 208 hectacres of Punta Europa land to be used for a proposed liquified natural gas plant.[349] As of June 18, 2004, this purchase was still pending, but the agreed upon purchase price was about $1.4 million.[350]

(2) Payments for Services

Security Services. Two of the oil companies doing business in Equatorial Guinea, Hess and ExxonMobil, told the Subcommittee that they buy their security services through Sociedad Nacional de Vigilancia (Sonavi), a company owned by the President's brother, Armengol Ondo Nguema. These companies told the Subcommittee staff that Sonavi has a monopoly on security services in E.G., and Hess told the Subcommittee that Soanvi's rates were not negotiable as they are driven by E.G. law.[351] Between January 2000 and May 2004, Hess paid a total of about

---

[342] Letter from ExxonMobil Corp. to the Subcommittee (6/17/04), attachment 1, at 2.

[343] Letter from Amerada Hess Corp. to the Subcommittee (4/23/04), at attachment 4.1, Bates AHC 00030; letter from Amerada Hess Corp. to the Subcommittee (6/02/04) at attachment to paragraph 4, Bates AHC 00104.

[344] Id.

[345] Letter from Amerada Hess Corp. to the Subcommittee (6/02/04), at 3 and at attachment to paragraph 4, Bates AHC 00104. In an interview with Subcommittee staff, a Hess representative explained that in 2003, Hess was served with a court order instructing it to stop paying the President's relative and make rental payments to another Equatorial Guinea citizen whom the court declared had documented that he was the legitimate property owner. Hess complied, and approximately two months later a Minister of the E.G. government asked Hess why it had stopped making payments on the lease and informed Hess that the youth was his Godson. When Hess informed the Minister of the court order, the Minister called the judge who had issued the court order. According to Hess, while on the telephone with the Minister, the judge rescinded the court order, and Hess started paying the relative for the lease again.

[346] Letter from Amerada Hess Corp. to the Subcommittee (6/02/04), at 1.

[347] Letter from Marathon Oil Co. to the Subcommittee (4/16/04), at 3.

[348] Id.

[349] Id. See also letter from Marathon Oil Co. to the Subcommittee (6/18/04), attachment 1, at 2.

[350] Id.

[351] Letter from Amerada Hess Corp. to the Subcommittee (6/02/04), at 2.

$300,500 to Sonavi.[352] Hess planned to end its contract with Sonavi, but told the Subcommittee that there was a possibility that it would be ordered to continue employing government-nominated companies like Sonavi for security services, and prevented from using exclusively its own security guards.[353]

From August 1997 to October 2000, ExxonMobil, the other oil company that uses Sonavi, had one of its subsidiaries pay Sonavi $683,900 for security services in Equatorial Guinea.[354] In addition, between 2000 and 2003, a different ExxonMobil entity paid approximately $26,400 to Sonavi for security.[355] ExxonMobil told the Subcommittee that it had determined that its relationship with Sonavi was at arm's length and that payments made had been consistent with market rates.[356]

Four other oil companies told the Subcommittee that they are allowed to get their security services from other sources.

Employing E.G. Nationals. Marathon told the Subcommittee that, after acquiring CMS Energy's E.G. oil interests in 2002, Marathon continued CMS's practice of obtaining laborers through APEGESA, an entity Marathon believes is partially owned by Juan Olo, the former E.G. energy minister and current President of the Board of Directors of GEOGAM. Marathon reimburses APEGESA for the compensation it pays to workers, and also pays a fee of approximately 20% of the salaries of the workers. Since 2002, Marathon has paid APEGESA about $7.5 million.[357]

Between 2002 and May 2004, Marathon also used the services of a company called Multi-Services Systems (MSS) to employ local nationals. E.G. officials are believed to hold an interest in and serve as officers of MSS. Marathon's payments to MSS cover the compensation paid to the workers, and a fee of approximately 20% of the salaries of the workers. The total amount paid to MSS during this period was about $6.9 million.[358]

(3) Payments to Support E.G. Mission and Embassy

In some instances, E.G. officials have directed some oil payments be paid to support E.G. embassies. At the request of the E.G. Minister of Mines and Energy, for example, Marathon has directed $5,400 per month via wire transfer to a Chase Manhattan Bank account for the Permanent Mission of Equatorial Guinea in support of the E.G. Permanent Mission to the United Nations in New York.[359] According to the company, these payments have been deducted from the E.G. government's royalties.

Under another production sharing contract, Marathon is also required to pay $7,000 a month to assist the E.G. government in maintaining an embassy in Washington D.C. At the

---

[352] Id.

[353] Id.

[354] Letter from ExxonMobil Corp. to the Subcommittee (6/02/04), attachment 1, at 2.

[355] Letter from ExxonMobil Corp. to the Subcommittee (6/17/04), attachment 1, at 4.

[356] Letter from ExxonMobil Corp. to the Subcommittee (6/02/04), attachment 1, at 2.

[357] Letter from Marathon Oil Co. to the Subcommittee (6/18/04), at 3.

[358] Id., at 5.

[359] Id., at 6-7.

request of the Minister of Mines and Minerals, Marathon also pays $3,500 a month for the Embassy personnel's medical insurance and $2,700 for social security payments.[360]

Marathon also told the Subcommittee that under one of its production contracts it is required to purchase services, materials and equipment for the government's use as reasonably requested by the government. The company is authorized to deduct the cost of such purchases from amounts payable to the E.G. government.[361]

(4) Payments for E.G. Students

Evidence obtained by the Subcommittee indicates that all six of the oil companies also made significant payments for expenses incurred by E.G. students seeking to obtain advanced training or a university education outside of Equatorial Guinea. Many and perhaps all of these students were the children or relatives of E.G. officials, but the evidence is unclear regarding the extent to which each of the oil companies was aware of the students' status. Making these payments is apparently a required condition in some oil production sharing agreements.[362]

The evidence indicates that some of the oil companies directly paid students' tuition bills and living expenses. In March 2001, however, Riggs Bank opened the first of two accounts intended to be used for E.G. student expenses[363] and agreed to provide administrative support for the students who were studying in the United States and were funded out of a Riggs account. A U.K. company, Exploration Consulting Ltd. ("ECL"), apparently provided similar services for E.G. students studying in the United Kingdom.[364] Some of the oil companies then halted direct funding of E.G. students, instead making deposits to one or more E.G. student accounts administered by Riggs or ECL, and relied on these third parties to pay the students' bills.[365]

According to ChevronTexaco, it provided $150,000 each year between 2001 and 2004 for E.G. student training expenses to various E.G. Ministry of Mines and Energy accounts. The 2001 and 2002 payments were made to an account at Societe Generale in Equatorial Guinea. The 2003 payments were made by wire transfers of $90,000 to Riggs in Washington, D.C. and $60,000 to Lloyds in the United Kingdom. The 2004 payment was made to an account at Lloyds.[366]

Devon indicated to the Subcommittee that in June 2003, pursuant to the educational training obligations contained in two of its Production Sharing Contracts, it made a payment of approximately $150,000. In January 2004 it made a similar payment of $200,000. The payments

---

[360] Id. Payments are made by wire transfer to Riggs Bank for the account of the Embassy of the Republic of Equatorial Guinea, Account No. 76772007. Marathon was advised in May 2004 by the E.G. Ambassador, Teodoro Biyogo Nsue, that the Riggs Bank account had been closed and future payments to the E.G. Embassy were to be made to an account at The Congressional Bank, Potomac, MD.

[361] Id.

[362] See, e.g., letter from Marathon Oil Co. to the Subcommittee (4/16/04), attachment at 3 ("Marathon is required under both the Alba Production Sharing Contract and the Block D Production Sharing Contract to contribute, at the Ministry of Mines and Mineral's request, to a fund maintained by the Ministry for the training of citizens of the Republic of Equatorial Guinea.").

[363] For a description of these two Riggs accounts, see Section V(C) of this Report. The first account was opened in the name of "Republica de Guinea Ecuatorial-Cuenta Estudiantes MME," and the second, opened in May 2002, was in the name of "Republica de Guinea Ecuatorial-Fondo Especial Para Becas."

[364] See letter from Marathon Oil Co. to the Subcommittee (6/18/04), at 16.

[365] See, e.g., communications between CMS and Simon Kareri regarding four students (8/21/01 and 8/23/01), Bates RNB 006340-43 and 46–56.

[366] Letter from ChevronTexaco to the Subcommittee (7/8/04), attachment at 2. For 2003 Riggs payment, see also Riggs listing of account activity from January-July 2003, Bates RNB 006602-09, at 606.

were made by check to either the Ministry of Mines and Energy or the Treasury of the Republic of E.G. as required by the contract.[367]

ExxonMobil did not provide the Subcommittee with any information indicating it had made payments in support of E.G. students. A Riggs document states, however, that ExxonMobil, along with Marathon, directly funded 28 to 35 E.G. students in 2003.[368] The document does not provide a dollar amount.

Between 2001 and 2003, Hess made payments totaling at least $1.9 million in support of E.G. students studying in the United States or Canada. Hess (via its predecessor Triton) made these payments through a Triton subsidiary, Triton Equatorial Guinea, Inc.[369] Triton also directly funded two E.G. students at the University of South Carolina paying more than $50,000 per student.[370] In addition, on or about March 6, 2001, as a favor, Triton Equatorial Guinea, Inc. transferred over $250,000 to a Riggs account established to provide funding for the education of the children of Armengol Ondo Nguema, the E.G. President's brother, using funds he supplied.[371] These payments exceed $2 million altogether.

Marathon is obligated under its Production Sharing Contracts to pay almost $300,000 a year for E.G. student training. For its 2002 obligations, Marathon made a payment of $150,000 to the E.G. student account at Riggs, and a payment of $70,000 to a similar account at Lloyds Bank in London.[372] Marathon indicated to the Subcommittee that it anticipates making an additional $590,000 in similar payments for its 2003 and 2004 obligations.[373] CMS and Riggs records dated before Marathon's acquisition of CMS's interests in 2002 indicate that in August 2001 CMS paid $275,000 into one of the E.G. student accounts at Riggs Bank.[374]

Marathon also provided direct support to students.[375] Records indicate that CMS (which later sold its E.G. interests to Marathon) directly funded four E.G. students between 1996 and 2001.[376] After Marathon purchased CMS' oil interests in Equatorial Guinea in 2002, Marathon funded two students who had previously been supported by CMS.[377] Marathon told the

---

[367] Letter from Devon Energy Corp. to the Subcommittee (4/26/04), at 3.

[368] See email from Riggs to the OCC (12/4/03), Bates OCC 0000510314, listing students "funded directly by the Exxon and Marathon Oil Companies."

[369] See letter from Amerada Hess Corp. to the Subcommittee (5/3/04), attachment 2.1(b) entitled, "Houston/Dallas Payments to the EG Government During the Period May 2, 1997 to December 31, 2003," Bates AHC 00086. See also, e.g., letter from Riggs Bank to President Obiang (2/8/02), Bates RNB 006703.

[370] See "Follow Up Questions for Hess," (7/13/04), containing responses from Amerada Hess to questions from the Subcommittee, at 1.

[371] See letter from Amerada Hess to the Subcommittee (6/2/04), attaching copies and English translations of a letter from Andy Mormon, Temporary General Manager, Triton Equatorial Guinea, to Armengol Ondo Nguema (3/5/01), "Reference: $250,000 Transfer for your children who are studying in the United States and Canada," and a letter from E.G. Minister Baltasar Engonga Edjo to Andy Morman (3/6/01), "Reference: USD $250,000 transfer in favor of Armengol Ondo Nguema, relating to the funding of his children's school expenses," Bates AHC 00095-97 and 00101-03.

[372] Letter from Marathon Oil Co. to the Subcommittee (04/16/04), attachment at 4.

[373] Letter from Marathon Oil Co. to the Subcommittee (06/18/04), at 7.

[374] Id., Bates RNB 006340-43, at 41.

[375] See email from Riggs to the OCC (12/4/03), Bates OCC 0000510314, listing 28-35 students "funded directly by the Exxon and Marathon Oil Companies."

[376] See communications between CMS and Riggs Bank regarding four students (8/21/01 and 8/23/01), Bates RNB 006341-43, at 41, and 006346-56, at 53-55.

[377] These students attended the Berlitz Language Center in Houston to learn English and then the Houston Community College. See letter from the Marathon Oil Co. to the Subcommittee (6/18/04), at 17.

Subcommittee that "it came to the attention of Marathon that the two students might be related to President Obiang. Although this was never verified with certainty, Marathon informed the [E.G.] Minister on August 27, 2003, that Marathon would discontinue this practice. ... The last payment Marathon made in support of these students was in November of 2003."[378] In fiscal year 2003 alone, the funding Marathon provided for these two students exceeded $14,000.[379]

Vanco also made four payments to accounts for the Ministry of Mines and Energy for the training of E.G. students. Two payments totaling about $158,000 were made between 2000 and 2001 to Lloyds Bank London, and two payments exceeding $190,000 were made between 2002 and 2003 into an E.G. student account at Riggs Bank.[380]

Altogether, the Subcommittee was able to document payments in excess of $4 million made by oil companies to support more than 100 E.G. students studying abroad, most of whom were the children or relatives of wealthy or powerful E.G. officials.

C. Joint Business Ventures

In a few instances, some oil companies have also entered into business ventures with companies owned or controlled by high ranking E.G. officials or their family members.

Mobile Oil Guinea Ecuatorial (MOGE). In 1998, for example, ExxonMobil entered into a business venture with Abayak S.A., the construction and real estate company controlled by the E.G. President, to form Mobile Oil Guinea Ecuatorial ("MOGE"), an oil distribution business in Equatorial Guinea that supplies Mobile Equatorial Guinea Inc. ("MEGI").[381] According to ExxonMobil, Mobil International Petroleum Corporation owns 85 percent of MOGE and Abayak owns 15 percent.[382] Dividends declared by MOGE in 2001, 2002, and 2003, resulted in dividend payments to Abayak of approximately $10,500 each year.[383]

GEOGAM. Guinea Equatorial Oil & Gas Marketing Ltd. (GEOGAM) is a special purpose, state-owned corporation that was established in 1996, and may be partially privately held by E.G. officials.[384] Marathon has entered into two business ventures with GEOGAM. The first is Atlantic Methanol Production LLC (AMPCO), a company which owns and operates a methanol plant in Equatorial Guinea. Marathon and one other oil company each own 45% of AMPCO, while 10% is owned by GEOGAM. Between 2002 and May 2004, AMPCO paid dividends to GEOGAM totaling over $4 million.[385]

Marathon's second business venture with GEOGAM is Alba Plant, LLC, a company that owns a liquid petroleum gas facility in Equatorial Guinea. Marathon owns 52.17% of Alba Plant

---

[378] Id. at 18.

[379] See letter from Max Birley, Vice President of Marathon E.G. Production Limited, to Cristobal Manana Ela, E.G. Minister of Mines and Energy, (10/16/03), Bates RNB 006261-006263.

[380] Letter from Vanco Energy Company to the Subcommittee (06/08/2004), attachment 3. For Riggs payments see also Riggs listing of account activity from January-July 2003, Bates RNB 006602-09, at 605; and letter from Riggs Bank to President Obiang (2/8/02), Bates RNB 006703.

[381] Letter from ExxonMobil Corp. to the Subcommittee (06/17/04), attachment 1, at 3.

[382] Id.

[383] Id., at 3-4.

[384] See, e.g. letter from Marathon Oil Co. to the Subcommittee (7/13/04), attachment at 1 (according to a GEOGAM representative, GEOGAM is 25 percent owned by the E.G. government and 75 percent owned by Abayak, the company controlled by the E.G. President).

[385] Letter from Marathon Oil Co. to the Subcommittee (6/18/04), attachment at 16.

LLC, while GEOGAM owns 20%.[386] In 2002, Alba Plant paid dividends to GEOGAM totaling more than $87,000.[387]

GEPetrol. GEPetrol is a special purpose, state-owned corporation that may also be partially privately held, possibly by E.G. government officials. Marathon has told the Subcommittee that it believes GEPetrol is owed 100% by the government,[388] but some evidence obtained by the Subcommittee suggests that GEPetrol could have one or more E.G. officials as part owners.

Marathon has entered into three business ventures with GEPetrol. The first is a company called LNG Holdings Limited, which is developing the LNG project. Marathon owns 75 percent of LNG Holdings, while GEPetrol owns 25 percent.[389] GEPetrol also has an interest in the Alba Block Production Sharing Contract, which includes the producing Alba Field, as well as an interest in an area known as Block D.[390]

Another joint venture potentially involving GEPetrol is found on what is known as Block N, located on the Corisco Bay shelf. Devon Energy Company's wholly-owned subsidiary owns 31 percent of the participating interest in Block N. The E.G. Ministry of Mines and Energy holds another 15 percent of Block N, but the Production Sharing Contract provides that this interest can be assigned to GEPetrol.[391]

D. Transparency Initiatives

Earlier this year, the Center for Strategic and International Studies issued a report describing the increasing importance to the United States of oil-producing countries in Africa.[392] This report also called for major U.S. and international efforts to increase transparency efforts in these countries to reduce corruption. The report explained:

> "The task force concluded that a key to promoting political, economic, and social reform is transparency in public finance. If leaders tell their citizens how much revenue the government takes in and where it is spent, the resulting transparency will engender more realistic public expectations, more plausible national development programs, and better means to combat corruption and promote democracy, respect for human rights, and the rule of law. Transparency will benefit U.S. companies as well. Respect for the rule of law, codified regulatory practices, and transparent bidding and award practices deter corruption and encourage a level playing field for U.S. companies."

The report called on the United States to undertake a sustained, high-level effort to promote transparency efforts in West and Central Africa and commended, in particular, three international transparency initiatives: the Extractive Industries Transparency Initiative, G-8 Anti-Corruption and Transparency Initiative, and the Publish What You Pay Campaign.

Extractive Industries Transparency Initiative (EITI). EITI is a voluntary program launched by U.K. Prime Minister Tony Blair at the World Summit on Sustainable Development in Johannesburg in September 2002. The initiative is administered by the U.K.'s Department for

---

[386] Letter from Marathon Oil Co. to the Subcommittee (4/16/04), attachment at 13.

[387] Letter from Marathon Oil Co. to the Subcommittee (6/18/04), attachment at 13.

[388] Id., at 18.

[389] Id., at 19.

[390] Id., at 18.

[391] Letter from Devon Energy Corp. to the Subcommittee (4/26/04), at 2.

[392] "Promoting Transparency in the African Oil Sector," report prepared by the Center for Strategic and International Studies Task Force on Rising U.S. Energy Stakes in Africa (March 2004).

International Development. It encourages (a) governments, (b) publicly traded, private and state-owned extractive companies, and (c) international organizations, non-governmental organizations (NGOs), and others with an interest in the extractive industries sector to work together voluntarily to develop a framework to promote transparency of payments and revenues in the extractive sector in countries heavily dependent upon these resources.[393]

The EITI would require that host governments report, in an accessible and timely manner, all significant "Benefit Streams" from certain extractive industries activities on a consolidated cash-basis and that they request companies to do what is necessary to enable this consolidated reporting. Host governments would also be responsible for ensuring that all relevant future contracts and agreements are designed in a manner that allows all parties to adhere to the Reporting Guidelines and asking companies to do the same. To facilitate this consolidated reporting, state-owned companies would be required to report their equity share of significant benefit streams to host governments from their extractive industries activities on a consolidated cash-basis.[394]

A number of countries, including Equatorial Guinea, have made public statements regarding their willingness to participate in EITI. However, only a few nations have actually begun taking steps toward implementation.[395] As these and other countries develop their reporting guidelines, it is important that the EITI ensure that all payments are included in the disclosure. The current draft guidelines define "Host Government" to include "the governing regimes and institutions of a state within whose territorial boundaries companies within the Extractive Industries operate. [It also] includes local, regional, state and federal representatives of these regimes and institutions and entities that are controlled by these regimes and institutions."[396] Implementing countries should clarify this definition to ensure that it encompasses payments not only to agencies and government officials, but also to their relatives and entities controlled by these officials and their relatives. Furthermore, since the draft guidelines classify state-owned oil companies as companies rather than part of the host government,[397] EITI must make sure that there are mechanisms to ensure that funds routed to state-owned companies are fully reflected, even if a portion of the funds go to private individuals as appears to be the case in Equatorial Guinea's GEOGAM.

G-8 Anti-Corruption and Transparency Initiative. On July 3, 2003, the G-8 nations adopted at their Evian Summit an "Action Plan on Fighting Corruption and Improving Transparency."[398] This initiative is significantly broader than the EITI as it does not focus on one particular industry sector, but rather on the entire budget of a country. As described at the Sea Island G-8 summit in June 2004, the focus of the initiative is "transparency in public budgets, including revenues and expenditures, government procurement, the letting of public concessions and the granting of licenses. Special emphasis will be given to cooperation with countries with large extractive industries sectors."[399]

---

[393] See www.dfid.gov.uk/News/News/files/eiti_stat_of_principals.htm.

[394] "Revised Draft Reporting Guidelines," Extractive Industries Transparency Initiative, (5/23/03), http://62.189.42.51/DFIDstage/News/News/files/eiti_draft_report_guidelines.pdf.

[395] Subcommittee staff communications with the EITI Team Leader at the U.K. Department for International Development (June and July 2004).

[396] Id. at 5.

[397] Id.

[398] See www.g8.fr/evian/english/navigation/2003_g8_summit/summit_documents/ fighting_corruption_ and_improving_transparency_-_a_g8_action_plan.html. The G-8 nations are: United States, France, Russia, United Kingdom, Italy, Germany, Japan, and Canada.

[399] See http://www.g8usa.gov/d_061004e.htm.

Four pilot "Compacts to Promote Transparency and Combat Corruption" are currently underway with four different countries.[400] For countries with significant extractive industries, the G-8's Action Plan, as outlined at the 2003 Evian summit, sets out principles that include encouraging governments and companies to disclose to an independent third party such as the IMF, World Bank, or Multilateral Development Banks, revenue from the extractive sectors. This information would be published at an aggregated level, in accessible and understandable ways, while protecting proprietary information and maintaining contract sanctity. The principles outlined for the pilot programs include working with participating governments to develop and implement action plans for establishing standards of transparency with respect to all budget flows (revenues and expenditures) and with respect to the awarding of government contracts and concessions.[401]

Publish What You Pay Coalition. Publish What You Pay (PWYP) is a third initiative organized by a coalition of more than 190 non-governmental organizations. This initiative calls for publicly-traded natural resource and oil companies to be required by market regulators, as a condition of public listing, to disclose aggregate information about tax payments, royalty fees, license fees, share purchases, revenue sharing payments, payments-in-kind, forward sales of future revenues, and commercial transactions with governments or public sector entities, for the products of every country in which they operate. The campaign was founded by Global Witness, Open Society Institute, Oxfam, Save the Children UK, CAFOD, and Transparency International UK.[402]

Unlike the EITI, PWYP focuses solely on disclosure by extraction companies. Another significant difference between PWYP and EITI is that PWYP seeks mandatory rather than voluntary compliance.

The PWYP coalition has highlighted a number of ways to promote revenue transparency in the extractive industries. These include: (a) non-legislative adjustments to accounting requirements and stock market listing rules; (b) a future International Financial Reporting Standard for the extractive industries to be developed by the International Accounting Standards Board; and (c) legislative adjustments to existing anti-bribery 'books and records' provisions enforced by national securities and financial regulators.[403]

On March, 30, 2004, the European Parliament approved by a vote of 390-8, with 102 abstentions, an amendment to the "Transparency Obligations Directive" in the European Union's (EU) Financial Services Action Plan calling on E.U. member states to promote public disclosure of payments to governments by extractive companies listed on European stock exchanges. This directive is expected to introduce minimum requirements for information that must be provided by companies listed on securities markets in the European Union.[404]

E. Foreign Corrupt Practices Act

In 1977, Congress enacted the Foreign Corrupt Practices Act ("FCPA") to criminalize illicit payments to foreign public officials by U.S. businesses and individuals.[405] The FCPA has two basic sets of provisions: (a) the anti-bribery provisions, which prohibit domestic and foreign companies and U.S. citizens and aliens from paying anything of value to any foreign official,

---

[400] See http://www.g8usa.gov/documents.htm. The countries are Georgia, Nicaragua, Nigeria, and Peru.

[401] See www.g8.fr/evian/english/navigation/2003_g8_summit/summit_documents/ fighting_corruption_ and_improving_transparency_-_a_g8_action_plan.html.

[402] See www.publishwhatyoupay.org.

[403] Id.

[404] Id.

[405] See 15 U.S.C. § 78dd-1 et seq.

government employee, officers of a public international organization, foreign political party or candidate, or any agent of those entities, if the purpose is to cause the payee to act, or refrain for acting, in a way to assist the company in obtaining or retaining business; and (b) the accounting provisions, which impose certain accounting and record-keeping requirements on publicly traded companies.[406]

Based on guidelines issued by the U.S. Sentencing Commission, federal courts are required to take into account the existence or absence of effective corporate compliance programs when handing down criminal sanctions with respect to violations of the FCPA.[407] The presence of an effective compliance program can significantly reduce a corporation's sentence as well as prevent a breach of fiduciary duty by the company's board of directors.

Each of the six major oil companies doing business in Equatorial Guinea has a written FCPA compliance policy. These policies and the resulting FCPA practices vary significantly from company to company. It is also not clear that the written policies are fully effective in monitoring the companies' business dealings in Equatorial Guinea. For example, when asked to list payments to E.G. officials and their family members, ExxonMobil said it did not have a complete listing and would need additional time to research about 500 contracts.[408] Another company, Amerada Hess, told the Subcommittee that because it is very common for E.G. officials to have shares in private companies or family interests in private concerns, there may be a number of such instances of which the company is unaware.[409]

VIII. Recommendations

Based upon its investigation, the Subcommittee Minority staff makes the following recommendations.

(1) **Strengthen Enforcement.** To strengthen anti-money laundering (AML) enforcement, federal bank regulators should require prompt correction of AML deficiencies identified by their examiners, make greater use of formal enforcement tools, including more timely use of civil fines, and consider developing a policy requiring mandatory enforcement actions within a specified period of time against any financial institution with repeat AML deficiencies.

(2) **Take Regulatory Action.** By the end of 2004, federal regulators should issue final regulations and revised examination guidelines implementing the due diligence requirements of the Patriot Act, including for private banking accounts opened for senior foreign political figures or their family members.

(3) **Issue Annual AML Assessments.** Federal bank regulators should include on a routine basis AML assessments in the Report on Examination given to banks each year, and should make those AML assessments available to the public, both to increase bank compliance with requirements to combat money laundering and foreign corruption, and to alert other financial institutions to banks with inadequate AML controls.

(4) **Strengthen Post-Employment Restrictions.** Using 41 U.S.C. § 423(d) as a model, Congress should enact legislation to impose a one-year cooling-off period for federal Examiners-in-Charge of a financial institution before they can accept a position with the financial institution they oversaw.

---

[406] Id. See also "The Foreign Corrupt Practices Act and the Due Diligence Process," 1368 PLI/Corp 579, 583 (2003).

[407] See U.S.S.G. § 2(b)4.1.

[408] Subcommittee staff discussion with ExxonMobil (6/7/04).

[409] Letter from Amerada Hess Corp. to the Subcommittee (4/23/04), at 2.

(5) Authorize Intrabank Disclosures. The United States should work with the European Union and other international bodies to enable financial institutions with U.S. and foreign affiliates to exchange client information across international lines to safeguard against money laundering and terrorist financing.

(6) Increase Transparency. Oil companies operating in Equatorial Guinea should publicly disclose all payments made to or business ventures entered into with individual E.G. officials, their family members, or entities controlled by them, and should prohibit future business ventures in which senior government officials or their family members have a direct or beneficial interest. Congress should amend the Foreign Corrupt Practices Act to require U.S. companies to disclose substantial payments made to, or business ventures entered into with, a country's officials, their family members, or entities controlled by them.