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**WRITTEN TESTIMONY FOR
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
FEBRUARY 4, 2010**

Good morning Chairman Levin, Ranking Member Coburn, and subcommittee members. My name is Wiecher Mandemaker and I am the Director of General Compliance responsible for anti-money laundering compliance in the personal financial services division of HSBC Bank USA, N.A. I previously served as a Vice President in HSBC's Government and Institutional Banking Department, focused on Embassy and Foreign Government accounts. Thank you for the opportunity to appear before you today to discuss our efforts to combat money laundering and the misuse of international banking facilities by Politically Exposed Persons ("PEPs"), their relatives, close associates and connected institutions. HSBC appreciates your longstanding interest and leadership with respect to this topic, and we were pleased to appear before the Permanent Subcommittee on Investigations ("PSI") in 2001 when this topic was also addressed. We very much appreciated the PSI's favorable observations regarding our evaluation and due diligence processes at that time, when few were focused on this topic and before regulations implementing the USA PATRIOT Act were promulgated. While no institution can proactively anticipate and thwart every effort by PEPs to misuse banking facilities, HSBC has remained committed to the vigorous enforcement and continuous improvement of its anti-money laundering policies and practices. We look forward to learning from the PSI's most recent report, and can pledge to you today that we will continue to look for ways to strengthen our practices.

As you know, anti-money laundering laws were significantly strengthened in the post-September 11th era, as it became clear that anti-money laundering laws are not only key to fighting foreign corruption and crime, but also a critical component of the battle against terrorism. Prior to 2002—which is when much of the activity that the PSI has asked HSBC to describe took place—there were no federal statutes or regulations that required enhanced due diligence on senior foreign political figures, known internationally as “politically exposed persons,” or PEPs. This began to change in 2002, when the USA PATRIOT Act took effect. The Department of the Treasury also published interim final regulations providing guidance on compliance with Section 312 of the USA PATRIOT Act in 2002, and final regulations were promulgated in 2006. The regulations recognize that effective anti-money laundering policies occur within the context of an overall risk-based approach. Thus, for example, the regulations mandate specific enhanced due diligence only for high-value private banking accounts with minimum balances exceeding \$1 million, and encourage other appropriate due diligence to be undertaken by banks in coordination with guidelines set forth by regulators to achieve effective risk-based review.

HSBC has never been of the view, however, that our anti-money laundering practices should begin and end with the requirements of the law, and we have worked closely with regulators, non-governmental entities, and other financial institutions to adopt prudent practices that meet or exceed legal requirements and robustly implement regulatory guidance. We have had specific policies in place addressing our banking relationships with PEPs since 2000. And, our broader practices today exceed even the more robust post-September 11th federal regulations in a number of important respects. For instance, HSBC applies enhanced due diligence to all accounts held by PEPs as a component of its overall risk-based approach, rather than just private

banking accounts specified in regulations. In addition, HSBC conducts due diligence on our non-publicly traded foreign correspondent banking clients in high-risk jurisdictions down to the 5% ownership level, even though current banking regulations generally require us to conduct due diligence only down to the 10% level. *See* 31 C.F.R. § 103.176(b)(iii)(2) (defining an “owner” who is subject to enhanced due diligence as “any person who directly or indirectly owns, controls, or has the power to vote 10 percent or more of any class of securities of a foreign bank”).

To be effective, anti-money laundering practices must be risk-based, which means that they are complex and necessarily involve trade-offs. We are therefore always on the lookout for improper activity or customers that may have slipped through our first lines of defense. While we may not always catch every instance of suspicious activity as soon as we would like, we believe the record before you today shows a consistent pattern: when HSBC has become aware of a pattern of unusual or unexplained transactions, we have refused to process those transactions and carefully scrutinized the relationship. And, when we discover a pattern of unexplained activity from a particular account, we have promptly ended the relationship and taken other appropriate actions. Pursuant to the Bank Secrecy Act I am not at liberty to divulge whether particular suspicious account activity was reported by HSBC to U.S. authorities on Suspicious Activity Reports. However, I assure you that HSBC takes its responsibility to report suspicious activity seriously, as well as our obligation to be responsive to any requests from the government for additional information.

You have asked me to address a number of specific topics through our testimony and response to questions today, including terminated banking relationships with family members of the former President of Gabon; a thwarted attempt to transfer sizeable funds from an account

belonging to the central bank of Angola, Banco Nacional de Angola (“BNA”); and HSBC’s due diligence and monitoring in connection with the bank’s relationship with the Banco Africano de Investimentos (“BAI”), Angola’s leading private investment bank. You have also asked me to address HSBC’s current policies and procedures with regard to banking relationships with PEPs, as well as the bank’s views on a number of policy proposals currently being considered to strengthen anti-money laundering laws. Because these requests for information cover events that occurred over the course of a decade and involve diverse areas of HSBC’s business, no single employee has personal knowledge of all the relevant accounts and activities. While I hope that the information I provide today is helpful, I want to be clear that it is necessarily based on my review of information gathered over a period of time and not on my own experience. There are also gaps in our institutional knowledge of some matters due to changes in personnel and the lack of ready access to some older historical records. With those caveats in mind, the information provided below reflects my understanding of the key facts related to the issues that you have asked me to address. HSBC has also provided large amounts of additional information to your staff, and I would be remiss if I did not take this opportunity to also publicly thank your staff for its professionalism and courtesies throughout the PSI’s inquiry.

Banking Relationships With Members of the Bongo Family

Between 2000 and 2003, HSBC held standard retail accounts for a daughter and daughter-in-law of the former President of Gabon, Omar Bongo. These accounts were opened prior to the enactment of the USA PATRIOT Act in 2001 and the development of modern Know Your Customer (“KYC”) standards. At the time of account opening, neither individual indicated that she was a Gabonese citizen or national, and neither indicated a relationship with the Government of Gabon. Formal documentation—a passport and a driver’s license—also reflected

no connection to Gabon. Records from one Bongo relative indicated that she was born in Mexico and was a Canadian national. Records from the other relative indicated that she was an American from California. HSBC terminated these accounts on its own initiative in 2003 after detecting unusual account activity through routine internal monitoring programs and conducting further diligence on the accounts, which uncovered the relationship with Gabon's former President. The accounts were not high-value accounts, were not entered into because of any special solicitations, and did not receive any special treatment. Moreover, our review of contemporaneous records suggests that there was no resistance to the account closures by the business units, which took place, as I mentioned above, seven years ago.

In the interest of full disclosure, I want to also note that a second daughter of the former Gabon President attempted to open an account with HSBC in 2008 by transferring funds from an account she held at the time with Citibank in New York. HSBC designated that account for heightened review under our current policies. As a result of the review, the account was closed before it was actually funded. We believe this quick response demonstrates the effectiveness of HSBC's commitment to continuously improving its anti-money laundering efforts with respect to PEPs. Further details on the initial two accounts are outlined below.

Inge Collins Bongo. Inge Collins Bongo is a U.S. citizen and national who HSBC understands was or is married to Ali Ben Bongo, the son of Gabon's former President Omar Bongo. In 2000, Mrs. Collins Bongo opened a savings and checking account at Republic National Bank, our predecessor bank, in the name of the Collins Revocable Trust. She provided domestic identification, including a U.S. passport and California driver's license. At the time she opened the accounts, she stated that she intended to maintain a relatively modest average balance with monthly cash withdrawals for petty expenses and wire transfers for travel. Mrs. Collins

Bongo's accounts were initially funded with checks drawn on a domestic Fidelity Investments account. While we do not have records sufficient to identify the source of every deposit transaction, extant records indicate that her checking account then continued to be funded primarily with domestic sources of funds, including the Fidelity Investment account and proceeds from California real estate investments. At that time, the account had no international wire transfer activity. Mrs. Collins Bongo's husband, Ali, was not a joint signatory on the account, although Mrs. Collins Bongo indicated that she shared an address with him in California. The employee who opened the account is no longer with HSBC, but we believe it is likely that PEP diligence was not initially conducted in connection with the account because Mrs. Collins Bongo was a U.S. national with no apparent ties to Gabon and because her husband did not provide any information to HSBC about his background, as he would have been required to if he had been a co-applicant.

Mrs. Collins Bongo's account activity began to change after she opened a second checking account in 2001. This account received a total of \$656,685 in international wire transfers from European banks starting in August 2001, with most of the wire activity concentrated in mid-2002 and later. Mrs. Collins Bongo also made a \$70,000 cash deposit in November 2002, which triggered a Currency Transaction Report ("CTR") and an internal review. These unusual transactions, combined with an effort by the bank to identify PEPs who may be holding accounts with the bank, led HSBC to identify the accounts as being associated with the Bongo family in Gabon. HSBC initiated an account closure process, along with reviews for appropriate regulatory reporting. The accounts were formally closed by HSBC in early 2003, with no advanced prompting from U.S. authorities.

Yamilee Bongo Astier. Yamilee Bongo Astier opened one retail personal checking account with HSBC in September 2000, signing as Yamilee B. Astier, while she was a student at New York University. Ms. Astier provided HSBC with a Canadian passport, identifying her country of birth as Mexico. Ms. Astier opened a second checking account in September 2002, at around that time she also closed the first account. Her account activity in the first year and a half consisted of deposits of around \$50,000 occurring around the start of each academic semester in August/September and January, and less than \$10,000 in incoming foreign wire activity from banks located in Europe and Haiti. In 2002, Ms. Astier began making larger cash deposits of \$50,000 to \$107,000, and HSBC promptly filed CTRs in connection with these deposits. It does not appear, however, that the CTRs and cash transactions immediately prompted an internal review as they had in the case of Mrs. Inge Collins Bongo. An investigation was conducted, however, after Ms. Astier received a wire in May 2003 of \$183,500 through Citibank in the Republic of Gabon, ostensibly for the purpose of purchasing cars. Following the investigation, HSBC moved to close Ms. Astier's account on its own initiative in July 2003.

We believe the closure of these two accounts in 2003—as well as HSBC's ability to detect and close a third Bongo-related account before it was even funded in 2008—demonstrate the robustness and continuing enhancement of our anti-money laundering program.

Relationship With Banco Nacional de Angola (BNA)

HSBC and its predecessor entities have had a banking relationship with BNA, the central bank of Angola, for nearly three decades. As the central bank, BNA is controlled by the Angolan government, and is known as a responsibly managed central bank that maintains client relationships with a number of major international financial institutions. BNA traces its roots back to the mid-19th century, and has recently drawn praise for its efforts to bring best practices

to the Angolan financial industry, such as implementing Basel I and Basel II standards, increasing banking sector reserve requirements, and implementing IAS/IFRS accounting policies. The United States government has a current relationship with BNA through USAID, including a recently signed bilateral grant agreement. We believe this relationship reflects a genuine and progressive desire to “deepen and strengthen the relationship between the United States and Angola,” as Secretary Clinton indicated during her August 2009 visit to the country, and to promote greater transparency in Angola’s financial sector. BNA has faced its share of challenges, as have most financial institutions in the developing world, but HSBC has been proud to provide services to BNA over the years, and we believe our presence in Angola remains a positive force for stronger banking policies.

In response to the PSI’s review, HSBC has identified one unusual incident in connection with its relationship with BNA, which was a thwarted attempt in 2002 by a now-former BNA official to transfer \$50 million in U.S. Treasury bonds to an account ultimately controlled by a U.S. lawyer based in California. The transfer was authorized by BNA’s then-Governor, and the transaction instructions were personally confirmed by various individuals and routed through the international SWIFT system. When two separate transfer attempts failed, BNA’s then-Governor requested that HSBC provide a safekeeping receipt for the bonds, which could be used as a negotiable instrument. Due to the unusual nature of the request, compliance personnel were ultimately alerted, and based on their advice, HSBC declined the request. The BNA Governor responsible for the requests left BNA shortly thereafter, and we have identified no subsequent unusual activity in connection with the BNA account. We continue to monitor the relationship with BNA closely, particularly in light of recent reports from the Angolan government regarding an apparent attempt by some current or former BNA officials to engage in fraudulent transfers.

We fully recognize that the attempted transfer of funds in this instance could well have gone through our bank, and it is obvious that bank personnel did not originally understand and recognize the unusual nature of the proposed transaction. But as I indicated earlier, we simply will not catch every unusual transaction, and our programs today are better than they were a decade ago. It is also worth noting in this instance that our compliance team quickly recognized the potential for fraud when the matter was escalated, and took decisive action to prevent any fraudulent transfer from occurring. We are also comfortable with our decision not to end our longstanding banking relationship with BNA over the incident, particularly given the change that took place in management. We believe our presence in the Angolan banking system is a net positive, and are committed to working with our counterparts there to continue improving mechanisms and policies for deterring improper banking practices.

Relationship With Banco Africano de Investimentos (BAI)

The Banco Africano de Investimentos (BAI) was established in 1996 as the first private investment bank in Angola. BAI has subsequently evolved into a leading full-service financial institution in Angola. BAI has participated in projects involving the World Bank and the U.S. Export-Import Bank, set up Angola's first ever private equity fund, and took the lead among other Angolan financial institutions to begin syndicating loans for infrastructure development domestically. According to BAI's published annual report, by the end of 2008 BAI held net assets of \$7.6 billion, a deposit portfolio of \$5 billion, and had 1,089 employees. The services that HSBC provides to BAI include a correspondent banking relationship, various foreign exchange operations, wire services, use of an HSBC-supported corporate credit card program, and, more recently, an establishment of a settlement account that BAI uses to clear payments to Visa now that it has started its own credit card program. We believe institutions like BAI are an

important part of the equation as Africa moves to bring more and more of its residents into the modern banking system.

Our relationship with BAI demonstrates our commitment to robust KYC procedures as applied to clients in high-risk jurisdictions such as Angola, and enhanced due diligence on correspondent accounts for certain foreign banks. Because it is a privately held foreign bank, BAI's correspondent account is, by federal regulation, subject to enhanced due diligence requiring HSBC to obtain the identity of each person who directly or indirectly owns, controls, or has the power to vote 10% or more of any class of BAI's securities. HSBC has, as a matter of internal risk-based review, exceeded the level of due diligence required by federal regulation and investigated BAI's ownership structure down to the 5% ownership level. At the time of our 2007 review, BAI had nine outside investors with a 5% or higher share, and our investigation of those outside investors did not reveal any relationships of concern between those investors and the president of Angola or any other known PEPs. HSBC's decision not to conduct due diligence on even *smaller* stakeholders of BAI is consistent with the USA PATRIOT Act, its implementing regulations, and its risk-based approach to AML. To conduct due diligence on every owner—such as a 1% owner of an investment vehicle that itself controlled only 5% of BAI's shares—would require an enormous expenditure of resources without meaningful AML gains, since such an owner would present no threat of control by commanding 0.05% of BAI's shares.

We also note that our expanded due diligence and AML monitoring of BAI goes beyond just exploring its ownership structure. Because BAI is in a high-risk jurisdiction, HSBC also conducts annual KYC reviews and more stringent monitoring of BAI's wire transfer activity. In light of HSBC's due diligence efforts, the historical absence of any suspicious account activity,

BAI's status as a leading African financial institution, and the limited control risks posed by BAI's diverse ownership structure, HSBC did not designate BAI as a Special Category of Client, or SCC, prior to 2008. In November 2008, BAI's status was changed prudentially to SCC status, in light of the PSI's inquiry. Because HSBC was already subjecting BAI to its highest level of due diligence review, this designation does not as a practical matter change the amount of scrutiny that HSBC applies to its relationship with BAI. HSBC will continue to monitor changes to BAI's ownership according to both its legal obligations and its internal risk policies.

Policies and Procedures With Regard To Politically Exposed Persons (PEPs)

Know Your Customer Policies. HSBC account managers are required to obtain information from potential customers at the time of account opening and to identify those who may be PEPs. Our accounts database is then regularly screened against commercially accessible databases of PEPs, so as to assist us in identifying any PEPs who were not identified during the account opening process or who may have become PEPs subsequent to account opening. These policies are in line with the requirements of the customer identification program, or CIP, and other customer due diligence procedures required by regulations implementing the USA PATRIOT Act.

Special Category of Client Policies. HSBC's current policy is to discourage private banking relationships with PEPs unless we have a long-standing relationship and are comfortable that the customer has a legitimate source of funds. HSBC defines PEPs broadly to include a wide range of individuals and entities, including the family, advisers, and business associates of high ranking political officials, as well as the companies over which those individuals exercise influence. Further, we stress that the definition of PEP should not be considered exhaustive, or

applied in a bureaucratic fashion. These standards meet or exceed current federal regulations, banking agency guidance, and FATF recommendations regarding PEPs.

When HSBC has relationships with PEPs, these customers are subject to additional due diligence measures. Account managers are instructed to obtain additional information from the customer regarding source of wealth, and the relationship must be authorized by a senior manager or senior member of the compliance team and is subject to periodic review by management. The relationship is usually managed by a specific Relationship Manager or relationship team with dedicated responsibility for managing higher-risk relationships. Approved customers are maintained in a central register and subject to ongoing enhanced due diligence and monitoring. Our Compliance and Internal Control groups monitor the relationship regularly and HSBC performs a semi-annual review of the account.

Anti-Money Laundering and Fraud Detection. Fraud and anti-money laundering monitoring are closely related and often overlap. Fraud monitoring focuses on identifying suspicious activities that may pose a risk of loss to the bank and its customers, while anti-money laundering monitoring provides an additional layer of focus on suspicious activities that may be unlawful under the Bank Secrecy Act. In addition to its enhanced due diligence for PEPs, HSBC also monitors potentially fraudulent or unusual transactions indicative of money laundering activity on all its accounts. Transactional accounts are generally monitored for both fraud and anti-money laundering purposes, but the metrics and terminology used depend on the nature of the product and account, the customer, and various risk factors. Among the tools we use today is specialized software that identifies suspicious patterns of activity and account usage trends, such as large cash transactions or unusual wire activity. When unusual activity is identified, the account is subjected to further review and the activity is reported to authorities as appropriate. I

should note here that this technology was not as sophisticated during the 2000-2003 time period, when we nevertheless detected and proactively ended relationships with the Bongo family.

Strengthening the Regulatory and Enforcement Regime

While we have worked hard to implement robust anti-money laundering practices at HSBC, we believe that there is more that can be done to standardize best practices across the industry and strengthen the legal regulatory and enforcement regime both nationally and internationally. In general, HSBC supports any measure that facilitates the bank in identifying anti-money laundering activity that can be implemented without an undue regulatory burden.

These may include:

- Greater standardization of the definition of a PEP within an overall risk-based approach, and greater international coordination with regard to compiling PEP lists. While we must be careful to ensure that such standards are not applied rigidly or bureaucratically, we must also be sure that there is baseline agreement on individuals who present high-risk.
- Attention to domestic PEPs. While the United States is not considered a high-risk jurisdiction for political corruption, HSBC applies heightened due diligence to certain senior domestic political figures as well, which is not required by current federal regulations. HSBC does not oppose designating domestic senior political persons as PEPs, as long as such designations do not create an undue burden in light of the generally lower risk within a well regulated domestic environment.
- Identification of beneficial owners of corporations. HSBC would support efforts to strengthen the identification of the beneficial owners of corporations when formed, provided this can be implemented without an undue burden on financial institutions.
- Application of anti-money laundering regulations to non-bank financial institutions, such as escrow agents or attorney-client trust accounts. We welcome efforts to make non-bank

financial institutions part of the overall anti-money laundering regime, so as to cover more points of entry into the financial system. Any missing links in the chain make the entire system more vulnerable to money laundering.

Conclusion

Effective anti-money laundering controls are a key weapon in the fight against political corruption, by denying those who would steal money from their own people the ability to shelter and move that money around the world. We think the record demonstrates that HSBC has a clear commitment to fighting money laundering by foreign corrupt officials and their families and associates. As federal law itself acknowledges, however, the process of managing anti-money laundering compliance is complex, and necessarily involves compromises and tradeoffs as part of risk-based management. Not every issue will be spotted in every instance as promptly as we might like, nor will we always be able to stay a step ahead of those who design ever more complex transactions to hide their identities and plans. We are also the “World’s Local Bank,” located in far more countries around the globe than most other institutions, and as such, we realize that we have unique opportunities and challenges in the fight against improper banking practices. I hope we can all agree, however, that we have come a long way in the last ten years, and I want you to know that we at HSBC appreciate your personal leadership in driving this issue forward. We look forward to learning from the PSI’s recent work in this area and I will be pleased to answer your questions.