

Treasury Department Reaches Landmark Settlement with HSBC

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Combined Federal, Local, International Action Marks Largest Bank Settlement in U.S. History

WASHINGTON – The U.S. Department of the Treasury today announced settlements amounting to \$875 million – the largest collective settlement in the department’s history – with HSBC Holdings plc (together with its affiliates, HSBC). The Treasury Department’s collective settlement, reached by the Financial Crimes Enforcement Network (FinCEN), the Office of the Comptroller of the Currency (OCC), and the Office of Foreign Assets Control (OFAC) is part of the combined federal, local, and international government action that amounted to the largest bank settlement in U.S. history. In total, more than \$1.9 billion were assessed in penalties for HSBC’s conduct in violation of the Bank Secrecy Act (BSA) and U.S. sanctions.

The bank’s breakdowns in anti-money laundering (AML) compliance were particularly egregious because these failures allowed hundreds of millions of dollars from Mexican drug trafficking organizations to flow through accounts in the United States. Despite HSBC’s extensive global operations and the substantial resources it had available to manage transnational risk, it failed to help secure the United States financial borders and left dangerous gaps that international drug dealers and other criminals readily abused. The penalties reflect the damage to the integrity of the U.S. financial system inflicted by HSBC, and the federal government’s intolerance of behavior and business practices that disregard BSA requirements and U.S. sanctions regimes.

“These settlements implicate willful and dangerous practices by one of the world’s biggest banks,” said Under Secretary for Terrorism and Financial Intelligence David S. Cohen. “HSBC absolutely knew the risks of the business it pursued, yet it ignored specific, obvious warnings. Its failures allowed hundreds of millions of dollars in drug money to pass through its unattended gates.”

The OCC and FinCEN announced separate assessments of \$500 million civil money penalties (CMP) against HSBC Bank USA N.A. (HBUS), McLean, Virginia for BSA violations. The OCC CMP is being levied for failure to comply fully with a remedial order addressing these violations, issued by the OCC in 2010. Both of these penalties will be deemed satisfied by a single payment of \$500 million to the Treasury Department. OFAC also reached an additional \$375 million agreement with HSBC to settle potential liability for apparent violations of U.S. sanctions that will be deemed satisfied by payment of an equal amount to the Department of Justice for the same pattern of conduct.

. Since at least mid-2006, the bank lacked an effective risk-based AML program reasonably designed to manage risks of money laundering or other illicit activity, given the bank’s products, services, transaction volume, scope of business activities, geographic reach, and customers. The bank’s prolonged systemic failures to comply with BSA suspicious activity reporting requirements resulted in the failure to detect and adequately report evidence of money laundering and other illicit activity.

HBUS’s ineffective AML program exposed the U.S. financial system to severe criminal abuse. From 2002 until 2009, despite obvious information to the contrary, the bank rated Mexico as having “standard” money laundering risk, the lowest of the bank’s four possible country risk ratings. As a result of ratings like this, hundreds of billions of dollars in wire transactions from Mexico were excluded from the bank’s internal AML reviews. Additionally, from 2006 through 2009, the bank did not monitor bulk cash transactions conducted with its Mexican and other foreign affiliates and took delivery of more than \$15 billion in cash. In 2006, FinCEN alerted all U.S. financial institutions about money laundering risks associated with United States/Mexico cross-border cash and warned that cash from illegal drug trafficking was being smuggled into Mexico, placed into financial institutions, and then returned to the United States.

Similarly, the bank maintained correspondent accounts for affiliates around the world and did not collect or maintain, as the BSA requires, any customer due diligence information regarding these relationships. As a consequence, many foreign financial institutions and their customers effectively gained unmonitored access to the U.S. financial system without appropriate safeguards against illicit financial activity.

These AML compliance failures meant that the bank did not and could not reliably detect and report suspicious activity and therefore deprived law enforcement and regulators of critical information used to combat money laundering, terrorist finance, transnational organized crime, and other domestic and global financial threats.

OFAC’s settlement resolves an investigation into HSBC’s apparent violations of the Iranian Transactions Regulations (ITR), 31 C.F.R. part 560; the Burmese Sanctions Regulations (BSR), 31 C.F.R. part 537; the Sudanese Sanctions Regulations (SSR), 31 C.F.R. part 538; the Cuban Assets Control Regulations (CACR), 31 C.F.R. part 515; and the Libyan Sanctions Regulations (LSR), 31 C.F.R. part 550 (which were in effect until 2004).

For a number of years, up to and including 2007, HSBC affiliates in Europe, the Middle East, and Asia processed transactions through U.S. financial institutions that involved countries, entities, or individuals subject to U.S. sanctions. HSBC Group’s London head office and Dubai branch engaged in payment practices that interfered with the implementation of U.S. economic sanctions by financial institutions in the United States, including HBUS. Payment practices included the use of Society for Worldwide Interbank Financial Telecommunication (SWIFT) payment messages in a manner that obscured references implicating U.S. sanctions, removal of information from SWIFT messages, and forwarding of payment messages to U.S. financial institutions that falsely referenced an HSBC affiliate as the ordering institution. As a result, payments totaling approximately \$430 million were routed through U.S. banks for or on behalf of sanctioned parties in apparent violation of U.S. sanctions.

HSBC has assured OFAC that it has terminated the conduct leading to today’s settlement. Under the settlement agreement, HSBC is required to put in place and maintain policies and procedures to minimize the risk of the recurrence of such conduct in the future. HSBC is also required to provide OFAC with copies of submissions to the Federal Reserve relating to the OFAC compliance review that it will be conducting as part of its settlement with the Federal Reserve.

As with past investigations, OFAC, FinCEN, and the OCC worked closely with their counterparts at other government agencies investigating this matter, including the Department of Justice, the Board of Governors of the Federal Reserve System (“Federal Reserve”), and the District Attorney’s Office of New York, to bring this case to closure in a responsible and coordinated fashion.

HSBC’s settlement with OFAC, FinCEN, and the OCC are simultaneous with settlements with the Department of Justice’s Asset Forfeiture and Money Laundering Section and the New York County District Attorney’s Office, as well as orders involving the Federal Reserve with the cooperation of the UK’s Financial Services Authority.

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