

STATES OF JERSEY



HSBC MIDDLE EAST (HBME): INVESTIGATION

Lodged au Greffe on 29th January 2013
by Deputy G.P. Southern of St. Helier

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to request the Minister for Economic Development, in conjunction with the Chief Minister, to investigate the issues relating to Jersey contained in the U.S. Senate Report “U.S. Vulnerabilities to Money Laundering, Drugs, and Terrorist Financing: HSBC Case History” and to report his findings to the States by 31st July 2013.

DEPUTY G.P. SOUTHERN OF ST. HELIER

REPORT

The 2012 U.S. Senate Report “U.S. Vulnerabilities to Money Laundering, Drugs, and Terrorist Financing: HSBC Case History” contains a number of serious findings regarding the failure of HSBC worldwide to apply proper anti-money laundering (AML) practices over the past decade. Whilst much of the global attention in this report was directed to the blatant abuse on the part of HSBC Mexico, the report contained claims that HSBC Middle East (HBME), which is registered in Jersey, was involved in 3 issues of malpractice –

- The “stripping out” of identities to hide Iranian connections;
- Booking dollar transfers as interbank transactions to avoid Office of Foreign Asset Control (OFAC) filters;
- Continuing to trade with Al Rajhi bank despite terrorist financing concerns.

In reply to the following questions, the Chief Minister published a response on 31st July 2012 –

1. To what extent was the JFSC aware of these practices and the concerns they raised at the time at HBME, and if they were not aware when were they made aware?
2. What powers does the JFSC, or other body, have to regulate, control or eliminate such practices and if not why not?
3. How do these findings reflect on Jersey’s much-vaunted reputation as a well regulated finance centre and what actions will they take to improve standards of regulation both here and globally?

The response, along with a statement from the parent company HSBC Holdings PLC (Appendix 1), is as follows.

ANSWER TO THE DEPUTY’S QUESTIONS BY THE CHIEF MINISTER

“In responding to the Deputy it is helpful to start with an answer to the third question.

No jurisdiction in the world can say that its financial system is without risk of being abused by perpetrators of financial crime no matter how good the regulation is. This applies to London and New York as well as to Jersey. It is wrong therefore to imply that if a specific case is publicised with an apparent Jersey connection this puts into question the Island’s reputation for a high standard of regulation, particularly when that standard has been endorsed by independent bodies such as the IMF. *Those cases if they occur are more appropriately to be seen as a bad apple in an otherwise good barrel.* What is important however is that when individual cases are identified they are acted upon, and Jersey has a good record in this respect both through the rigour of the regulatory response and the robustness and integrity of the judicial system. Firm action is also expected from the financial institution concerned (see the attached statement issued by HSBC).

In some cases the experience can suggest there is a need to review the regulatory approach on a global or local basis. An example of a global response is the action

taken earlier this year by the FATF to review its 40 recommendations which Jersey and regulators worldwide are having regard. In some cases such as in the action to be taken against the abuse of corporate vehicles it is encouraging to see jurisdictions being expected to engage in practices that mirror what Jersey has long applied.

When considering Jersey's role in responding to matters identified on a global basis it is important to recognise that financial institutions will often have offices in many jurisdictions and therefore be subject to oversight by a number of regulators. While Jersey is the home supervisor for HBME there are branches of the bank in many countries and the latter will have regulatory responsibilities as a host supervisor, including the responsibility for on-site examinations. Jersey as the home supervisor will wish to be assured that group standards are being applied on AML/CFT and Sanctions but the quality of day to day business transactions will depend on the competence of management and the degree of oversight exercised by the host regulator.

The JFSC like any other financial services regulator will respond actively to any suggestion that there may have been a breach of UN Sanctions or any lapse in AML/CFT.

The JFSC is constrained by its regulatory laws from giving any publicity to its actions or to the information obtained.

However the JFSC has been and can be expected to remain very active in its supervisory oversight and its enforcement action. The JFSC has advised that it has been in extended dialogue with banks and, at this time, it is not anticipated that the current US Senate Review of the matters to which the Deputy has referred will call for any action against any Jersey registered entity.

The JFSC keeps its regulatory standards under regular review and experience to-date shows that it will be quick to respond either to matters that emerge from an on-site visit, or from information received from other regulators. As the independent assessments of Jersey have shown to be the case, the JFSC has the powers to regulate, control or eliminate practices that are in conflict with the regulatory standards being applied."

My immediate comments and questions on the limitations revealed by this answer were given in a press release (reproduced here) at the time. This produces a set of questions which need to be answered, which, in turn, can serve as the terms of reference of any enquiry.

"Chief Minister fails to clear up money laundering concerns

The response of the Chief Minister in suggesting that accusations of money laundering on the part of Jersey registered HSBC Middle East (HBME), made in a recent US Senate report, were merely "*to be seen as a bad apple in an otherwise good barrel*" is today described as "inadequate" by Deputy Geoff Southern.

"Nor is it useful to point to the parent institution concerned which has apologised and promised to do better in future" says Deputy Southern. The fact is that the JFSC is the

“home regulator” for HBME and has a duty to try to ensure that anti-money laundering (AML) practices are of the highest standards on the Island.

Many questions remain to be answered:

- Was the JFSC aware of the practice of “stripping out” of identities to hide Iranian connections, and when was it made aware? If not, why not? What went wrong?
- Is the JFSC actively investigating any potential breach of sanctions concerning dollar transactions with Al Rahji Bank despite terrorist financing concerns?
- Did such “stripping out” of identities breach the Money Laundering (Jersey) Order 2008, or was this practice in direct contradiction to article 3.5.2.2 of the Codes of Practice for Deposit-taking Business (the Codes) to provide all appropriate details of each transaction on accounting and other records?

As a home regulator, the Commission has responsibility for ensuring that the bank is maintaining good governance and operating to both its own group standards and those established by the Jersey regulatory regime. Of prime concern must be the AML regime.

- Did the Compliance Officer or AML Officer at HBME have sufficient powers, independence, authority and access as required by 3.4.3 of the Codes?

Nor is it useful for the Chief Minister to state that the problem lies elsewhere since HBME has branches in many countries where they are subject to the “host regulator”. But the Codes look for higher standards, not lower:

“Overseas branches and subsidiaries should apply any more stringent minimum requirement applicable in their jurisdictions.”

As the Chief Minister puts it:

“Jersey, as the home supervisor, will wish to be assured that group standards are being applied on AML/CFT and Sanctions”.

These accusations about a Jersey registered and regulated company cast Jersey in a bad light and will continue to affect our reputation as a financial centre.

- Will the Minister assure us all that they will be thoroughly investigated and made public in a report to the States in due course?”

Having researched the codes further (see below), I remain convinced that, in order to establish that Jersey has the highest standards, not just on paper, but in the vigour with which we are prepared to enforce our inspection and regulatory regimes, we need a full public report on the actions of both HBME and the JFSC to assess what occurred and how we might prevent any recurrence.

In particular, I believe this must be a report which is made public, and to take issue with the Chief Minister's statement –

“The JFSC is constrained by its regulatory laws from giving any publicity to its actions or to the information obtained.”

Appendix 2 outlines the relevant Articles of the Financial Services Commission (Jersey) Law 1998 and the Financial Services (Jersey) Law 1998. Members will note the wide provision to publish reports or advice contained in Articles 5(1)(b) and 8(3)(c) of the former, along with the powers to direct given to the Minister in Article 12 and the ability in Article 13(1)(c)(ii) to publish information to protect the reputation of the Island.

Articles 37 and 38 of the latter appear to give wide discretion to publish information, either already in the public domain (i.e. the prior report of the U.S. Congress) or in Article 38(b)(i)(A) to enable the Commission to discharge its functions “under this law or any other enactment.”

Terms of reference

There are several questions that require answers or explanations in this case. These include –

- The actions of HBME in –
 - (a) “stripping out” Iranian connections, and
 - (b) transactions with Al Rahji Bank.
- The position of both HBME and JFSC in ensuring compliance with Articles 3.5.2.2 and 3.4.3 of the Codes of Practice.

Whilst Jersey may have appropriate regulatory powers in place, whether as “home” or “host” regulator, one has to question –

- The level of the inspection regime, both at home and abroad, put in place by JFSC, along with the resource required.
- What derogations were in place, if any, at HBME.
- It is also important to establish which “persons” whether individuals or legal persons (i.e. companies) can be held responsible and what sanctions, if any, are to be imposed by the Jersey authorities.

Members will note that many of these issues are concerned with the actions of the JFSC itself. Whilst I have no doubt at all that in its investigation of the HBME case, the JFSC would willingly turn a critical spotlight on its own activities and procedures in order to improve its own performance as regulator, an internal investigation is far from perfect. If we are to produce a public report, which I believe we must, then a greater degree of accountability is required. I am equally in little doubt that the JFSC has substantially completed much of its work on HBME, and in conjunction with the U.S. Congress Report, the lessons that may be learned from it may already be clear.

What is now required is a little more transparency. That is why I have directed this proposition at the Minister for Economic Development and the Chief Minister. A simple solution would be to appoint an independent, suitably qualified reviewer to assess the evidence and conclusions arrived at by the JFSC, or others, and produce a report, as appropriate.

Summary of U.S. Congress report

The report describes the relationship between HSBC United States (HBUS) and HSBC affiliates as follows –

“HSBC Affiliates. HSBC has hundreds of affiliates located in over 80 countries. At least 80 HSBC affiliates have turned to HBUS for access to U.S. dollars and the U.S. financial system. These affiliates typically interact with HBUS by opening a correspondent account at HBUS headquarters in New York. Many use the account to clear U.S. dollars wire transfers; some use the account to cash U.S. dollar instruments like travelers cheques or money orders; still others use the account for foreign exchange purposes. In addition, some opened a separate account to buy or sell physical U.S. dollars as part of HBUS’ wholesale banknotes business, until it was shuttered in 2010.

HSBC affiliates have accounted for a large portion of HBUS’ U.S. dollar activities. In 2009, for example, HSBC determined that “HSBC Group affiliates clear[ed] virtually all USD [U.S. dollar] payments through accounts held at HBUS, representing 63% of all USD payments processed by HBUS.” HSBC also calculated that, over an eight-year period, its U.S. dollar clearing business had increased over 200%, from processing an average daily amount of \$185 billion in 2001, to \$377 billion in 2009. HBUS also executes transactions through HSBC affiliates in other countries. It has been estimated that, in 2009, HBUS processed 19.4 million transactions, involving \$45.9 trillion, through HSBC affiliates.”

The report describes HSBC Middle East (HBME) as follows –

“A [second] key affiliate is HSBC Bank Middle East Ltd. (HBME). Incorporated in Jersey in the Channel Islands and owned through a chain of subsidiaries reaching back to the Group’s parent corporation in London, HBME oversees a network of financial institutions throughout the Middle East and North Africa. With more than 5,000 employees, HBME provides banking services through nearly 45 branches in Algeria, Bahrain, Jordan, Kuwait, Lebanon, Oman, Pakistan, Qatar, and the United Arab Emirates. In 1998, HSCB Group established “HSBC Amanah,” a “global Islamic financial services division” designed to “serve the particular needs of Muslim communities” in compliance with Islamic law.

HSBC Bank Middle East Limited appears on the JFSC website as registered since 2003.”

The Senate report highlights the involvement of HBME in 2 sections. The first, starting on page 118, is summarized as follows –

“IV. HSBC AFFILIATES: CIRCUMVENTING OFFICE OF FOREIGN ASSETS CONTROL (OFAC) PROHIBITIONS

In 2001, when HSBC Europe (HBEU) raised the issue of processing U-turn transactions through its U.S. account in compliance with U.S. requirements, HBUS personnel made it clear that any such transactions would need to be fully transparent and include all underlying payment details to enable HBUS to evaluate whether they qualified as permissible U-turns.

From at least 2001 to 2007, however, despite repeated HBUS requests for full transparency, HBEU and later HSBC Middle East (HBME) sent transactions involving Iran through their U.S. dollar correspondent accounts at HBUS without full disclosure of the transaction details. In some instances, the HSBC affiliate simply stripped the identifying Iranian information from the transaction documentation. In others, the HSBC affiliate also sent the transaction as a transfer between banks in permitted jurisdictions, a tactic sometimes referred to as a “cover payment,” since the bank-to-bank transfer acted as a cover for the underlying transaction.

Both methods sought to ensure that a transaction would not be stopped by HBUS’ OFAC filter and delayed for individualized review to determine whether it, in fact, qualified as a permissible U-turn, but would instead benefit from “straight through processing” or STP.”

The second, which refers to dealings with the Saudi Arabian Al Rajhi bank starts on page 188 and is summarized here –

“V. AL RAJHI BANK: DISREGARDING LINKS TO TERRORIST FINANCING

The decision to sever ties with Al Rajhi Bank was announced internally within HSBC on January 28, 2005. The decision clearly affected some HSBC affiliates, such as HBUS and its London Banknotes office which discontinued transactions with Al Rajhi Bank, but not others, such as HSBC Bank Middle East which continued doing business with Al Rajhi Bank and other Al Rajhi entities. The Subcommittee asked but has received no explanation as to why the decision bound HSBC affiliates in the United States and Europe, but appeared to not apply to the Middle East.

Susan Wright was then the Chief Money Laundering Control Officer for the entire HSBC Group. She reported to David Bagley, head of the HSBC Group’s overall Compliance Department. The documents do not explain why HSBC Middle East disagreed with the decision or why it was allowed to continue its relationship with Al Rajhi Bank, when HSBC’s Group Compliance had decided to sever the relationship between the bank and other HSBC affiliates due to terrorist financing concerns.”

HSBC Bank Middle East

Anti-Money Laundering and Sanctions Compliance

Jersey Regulations

Arguably, a breach of a U.S. sanction is not a breach of any Jersey-specific or related sanction Law. However, it is clear the JFSC must consider whether a firm had appropriate systems and procedures.

Further, the need for effective anti-money laundering (AML) and sanctions compliance systems and controls is well known, as are the severe penalties for firms failing to do this. Increased regulatory scrutiny and the extra-territoriality of U.S. laws are driving greater focus in this area, providing additional challenges for regulated firms to face. In addition to the challenge of managing the immediate interaction with the authorities, this scrutiny is also exposing weaknesses in regulated firms' underlying infrastructure (data, documentation, systems and controls and resources).

Concerning sanctions, the JFSC states in its Sanction **General Information Guide** (Issued: January 2011, Updated: March 2011) –

- Under Article 5 of the Financial Services (Jersey) Law 1998, the Commission has the power to generally supervise persons registered by it. Article 11 of the Money Laundering (Jersey) Order 2008 (the “MLO”) requires that relevant persons must maintain appropriate policies and procedures in respect of that person’s financial services business in order to prevent and detect money laundering.
- Under Article 11(3)(e) of the MLO, this includes policies and procedures to determine whether a business relationship or transaction, or proposed business relationship or transaction, is with a person connected with a country or territory that is subject to measures for purposes connected with the prevention and detection of money laundering, such measures being imposed by one or more countries or sanctioned by the European Union or the United Nations.
- As a result, the Commission monitors financial services businesses to ensure that they comply with Article 11(3)(e) of the MLO.
- The Commission also conducts outreach to raise Industry awareness of sanctions vulnerabilities, with a view to securing the efficient and effective provision of financial services in or from within Jersey under Article 8(3)(d) of the Financial Services Commission (Jersey) Law 1998.

HSBC Bank Middle East, HBME

HSBC Bank Middle East, a subsidiary of HSBC Holdings plc., that is headquartered in St. Helier, Jersey, Channel Islands – HBME is a *relevant person in Jersey and has to follow certain rules and regulations, for example –*

1. [Money Laundering \(Jersey\) Order 2008](#) – *the MLJO*; and
2. Handbook For The Prevention And Detection Of Money Laundering And The Financing Of Terrorism – *AML HANDBOOK*;
3. Codes of Practice for Investment Business/Codes of Practice for General Insurance Mediation Business/Codes of Practice for Deposit-taking Business codes of conduct – collectively codes of practice (COP).

These particular instruments are important to ensuring Jersey regulated businesses (a relevant person) have systems and controls (policies and procedures) to prevent and detect money laundering.

Money Laundering (Jersey) Order 2008 – *the MLJO*

The Money Laundering Order applies to any person that is carrying on financial services business in or from within Jersey. This will include Jersey-based branches of companies incorporated outside Jersey conducting financial services business in Jersey.

- *Article 11(8) of the MLJO states that a relevant person operating through branches or subsidiaries, which carry on financial services business, must communicate its policies and procedures, maintained in accordance with Article 11(1), to those branches or subsidiaries.*

Further –

1. Under Article 10A(2)(a) of the Money Laundering Order, a relevant person that is a Jersey body corporate or Jersey limited liability partnership and carries on a financial services business through an overseas branch must comply with the Money Laundering Order in respect of that business. In cases where a relevant person is not a Jersey body corporate or Jersey limited liability partnership, Article 10A(3) requires a relevant person that carries on a financial services business through an overseas branch to apply measures that are at least equivalent to the requirements of the Money Laundering Order to that business.
2. Under Article 10A(2)(b) and (4) of the Money Laundering Order, a relevant person must ensure that any subsidiary of that relevant person applies measures that are at least equivalent to the requirements of the Money Laundering Order in respect of any financial services business carried on outside Jersey by that subsidiary.
3. Article 10A(8) requires a relevant person to take other reasonable steps to effectively deal with the risk of money laundering and the financing of terrorism.

The Handbook for regulated financial services businesses

1. Part 1: Section 2 – Corporate Governance – section 26 it is stated –
 - a. A relevant person must establish and maintain systems and controls to prevent and detect money laundering and the financing of terrorism, that enable the business to:
 - Monitor compliance by overseas branches and subsidiaries with policies and procedures (bullet point 7).
2. Part 1: Section 2 – Corporate Governance – section 2.4.1 – Oversight of the effectiveness of systems and controls [GUIDANCE NOTES] it is stated –
 - a. The Board may demonstrate that it has assessed the effectiveness of a relevant person’s systems and controls where it, for example:
 - i. Receives regular and timely information relevant to the management of the business’ money laundering and financing of terrorism risk, including information on any branches and subsidiaries.

Codes of conduct

Concerning its licences, HBME must also comply with 3 Codes of Practice (unless derogations are granted).

All the codes require that a **registered person must conduct its business with integrity**.

The banking code goes on to say –

- Failure to comply with the above principle will be considered amongst the most serious of breaches of the Codes.
- Without limiting the breadth of the above principle, a registered person must not act or refrain from acting, or contract or have any other arrangement, so as to avoid or seek to avoid, any regulatory responsibilities it may have under the Codes and the full consequences of not following them.

Further, the BANKING BUSINESS Codes of Practice (COP) – revised 21st May 2012 require that –

Management is able to properly guard against involvement in financial crime and ensure that the registered person is complying with all relevant legislation and guidance to counter money laundering and the financing of terrorism.

Anti-money laundering legislation includes the Proceeds of Crime (Jersey) Law 1999, the Money Laundering (Jersey) Order 2008, the Terrorism (Jersey) Law 2002 and the Drug Trafficking Offences (Jersey) Law 1988, as well as any other applicable Laws and United Nations or European Union Sanctions Orders applied within Jersey, all as amended from time to time.

The legislation must be observed in conjunction with the standards set out in the relevant Handbook for the Prevention and Detection of Money Laundering and the Financing of Terrorism (the “relevant AML/CFT Handbook”) issued by the Commission. In addition to legal action, failure to follow legislation to counter money laundering and the financing of terrorism or the relevant AML/CFT Handbook may form the basis for regulatory action by the Commission –

1. 3.2.1.8 Management is able to perform sufficient due diligence on the registered person’s customers and prospective customers to adequately assess all relevant risks, including that of money laundering.

In the light of the above Codes, Regulations and Orders, the following questions require investigation and answers –

Derogations

A relevant person must comply with the Law (MLJ Order 2008) and where it does not comply with JFSC rules (AML Handbook/Codes of Practice) it must seek derogation (exception).

- Has HMBE been given derogations from the requirement to follow the codes of practice and or the AML handbook?

Where legislation in place in a jurisdiction outside Jersey which prohibits compliance with the Money Laundering Order, then, under Article 10A(6) of the Money Laundering Order, the requirements set out in Article 10A(2), (3) and (4) do not apply and the Commission must be informed that this is the case.

- Was the JFSC ever given such information?

Also in light of the U.S. revelations –

- Does HBME meet the test of conducting its business with integrity?

Regulatory responsibility

- In regard to maintaining its anti money-laundering standards, is it the case that HBME must operate at Jersey (legal and regulatory) standards and not the potentially lower standards that may be found in some of the jurisdictions in which it operates?
- In this regard who has responsibility to ensure compliance with the Money Laundering (Jersey) Order? Is it the home jurisdiction (Jersey) or the host country?

(In the case of HBME: Algeria, Bahrain, Jordan, Kuwait, Lebanon, Oman, Pakistan, Qatar, and the United Arab Emirates.)

Home and host state regulation

The AML handbook (part 34) states that overseas regulatory requirements and guidance may be followed by overseas branches and subsidiaries conducting financial services business, rather than the Regulatory Requirements and Guidance Notes contained in the Handbook, so long as the overseas regulatory requirements and guidance are consistent with those of the Handbook, or are otherwise consistent with the requirements of the FATF Recommendations. In this regard –

1. What agreements are in place with host states to provide the JFSC with the comfort that host state supervision is consistent with Jersey standards?
2. Does the JFSC undertake any onsite supervisory visits to the branches of the Jersey bank?
 - (a) If so, when was the last visit, how many a year, how many employees dedicated to this bank, etc.?
 - (b) If not, why not?

The JFSC handbook

- (a) Which territories in which HBME operates have regulatory requirements and guidance that are consistent with those of the JFSC Handbook, or are otherwise consistent with the requirements of the FATF Recommendations?

Concerning the JFSC regulatory approach –

1. In the light of the JFSC aims and objectives, is HBME treated as a higher risk entity due to its status in the particular territories in which it has affiliates?
2. Following recent sanction-related fines and punishments against several banks, and including RBS group (U.K. fine) and Lloyds (U.S.A. fine) in regard to sanction matters, did the JFSC increase its supervision of HBME in light of the risks that came to light in these cases? Namely –
 - (a) RBS – reputational damage to the UK; and
 - (b) Poor systems and control operating in Dubai due to its location to sanctioned countries and local staffing and cultural matters.
3. Concerning HBME, what is the JFSC's responsibility in regard to the supervision of its operations?

Chief Minister and Iran

On 5th December 2011, in pursuance of Article 23C of the Money Laundering (Jersey) Order 2008, the Minister issued the Iran Financial Restrictions Direction (attached). This was an interim measure to require the financial services sector to

cease all business relationships and transactions with Iranian banks and their branches and subsidiaries, including the Central Bank of Iran.

This direction has now been revoked following introduction of the Money Laundering and Weapons Development (Directions) (Jersey) Law 2012, which came into force on 12th January 2012: the Chief Minister has now made the Money Laundering and Weapons Development (Iran) (Jersey) Order 2012, which makes better provision than, and replaces, the former financial restrictions.

Will HBME be investigated under these laws following the nature of the U.S. revelations?

Finally, does the HBME case show that the JFSC has failed to meet its legal regulatory objective? Its legal regulatory objective is to maintain Jersey's position as an international finance centre with high regulatory standards by –

- (a) reducing risk to the public of financial loss due to dishonesty, incompetence, malpractice or the financial unsoundness of financial service providers;
- (b) protecting and enhancing the reputation and integrity of Jersey in commercial and financial matters;
- (c) safeguarding the best economic interests of Jersey; and
- (d) countering financial crime both in Jersey and elsewhere.

In line with the Commission's key principle and aims to –

- (a) ensure that all entities that are authorised meet fit and proper criteria;
- (b) ensure that all regulated entities are operating within accepted standards of good regulatory practice;
- (c) match international standards in respect of banking, securities, trust company business and insurance regulation, and anti-money laundering and terrorist financing defences;
- (d) identify and deter abuses and breaches of regulatory standards; and
- (e) ensure the Commission operates effectively and efficiently and is properly accountable to the Minister for Economic Development.

Financial and manpower implications

The JFSC is funded by fees from industry including the finance sector. No doubt it has already completed substantial work on the HBME case as part of its remit. If this proposition were to be accepted by the States, the costs of the engagement of an independent reviewer should be met from JFSC reserves. This should not cost more than £40,000.

HSBC statement on testimony before the United States Senate Permanent Subcommittee on Investigations

16 July, 2012 – On Tuesday 17 July, HSBC will appear before the United States Senate Permanent Subcommittee on Investigations about a case history of U.S. Vulnerabilities to Money Laundering and Terrorist Financing.

HSBC takes compliance with the law, wherever it operates, very seriously. We will acknowledge that, in the past, we have sometimes failed to meet the standards that regulators and customers expect.

We will apologise, acknowledge these mistakes, answer for our actions and give our absolute commitment to fixing what went wrong.

We have learned a great deal working with the Subcommittee on this case history and also working with U.S. regulatory authorities, and recognize that our controls could and should have been stronger and more effective in order to spot and deal with unacceptable behaviour.

We believe that this case history will provide important lessons for the whole industry in seeking to prevent illicit actors entering the global financial system.

With a new senior leadership team and a new strategy in place since last year, HSBC has already taken concrete steps to augment the framework to address these issues including significant changes to strengthen compliance, risk management and culture.

These steps include:

- Creation of a new global structure, which makes HSBC easier to manage and control with four global businesses and ten global functions, allowing a coordinated and consistent approach, including compliance and risk;
- Substantial increase in resources, doubling of global expenditure and significant strengthening of compliance as a control function;
- Adopting and enforcing a single standard globally determined by the highest regulatory standard we must apply anywhere. This includes:
 - Maximizing information sharing for risk management purposes across HSBC to the extent permitted by law;
 - Applying a globally consistent approach to knowing your customer regulations;
 - Requiring all HSBC affiliates to independently complete due diligence on other HSBC affiliates with which they have a correspondent banking relationship;
 - Introducing a global risk filter which will standardize the way we do business in high risk countries; and
 - Reinforcing a consistent global sanctions policy. Among other things, this will mean that we will be screening for all illicit actors designated by OFAC in all jurisdictions, in all currencies.

Successfully implementing these steps will make a significant difference to the overall integrity of the global financial system.

Success in detecting and preventing illicit actors' access to the global financial system calls for constant vigilance and HSBC will continue to work in close cooperation with all governments to achieve this. This is integral to the execution of HSBC's strategy and to our core values.

Publication of Findings

FINANCIAL SERVICES COMMISSION (JERSEY) LAW 1998

5 Functions of the Commission

- (1) The Commission shall be responsible for –
 - (a) the supervision and development of financial services provided in or from within Jersey;
 - (b) providing the States, any Minister or any other public body with reports, advice, assistance and information in relation to any matter connected with financial services;

... ..

8 General powers of the Commission

- (1) The Commission has the power to do anything –
 - (a) that is calculated to facilitate; or
 - (b) that is incidental or conducive to,the performance of any of its functions.
- (2) That power includes the power, as part of the Commission’s routine examination of a supervised entity –
 - (a) to require the entity to supply information in a format and at times specified by the Commission;
 - (b) to require the entity to provide answers to questions; and
 - (c) to require the entity to allow officers or agents of the Commission to enter the entity’s premises.
- (3) Without prejudice to the generality of paragraph (1) the Commission may, in connection with the carrying out of its functions –
 - (a) seek and exchange information relating to the supervision and development of financial services in Jersey and the supervision and development of similar services carried on outside Jersey;
 - (b) consult and seek the advice of such persons or bodies whether inside or outside Jersey as it considers appropriate;
 - (c) publish, in such manner as it considers appropriate, such information relating to its functions as it thinks fit; and
 - (d) provide advice, assistance or services to any person with a view to securing the efficient and effective provision of financial services in or from within Jersey.

... ..

12 Guidance and directions

- (1) The Minister may, after consulting the Commission and where the Minister considers that it is necessary in the public interest to do so, give to the Commission guidance or give in writing general directions in respect of the policies to be followed by the Commission in relation to the supervision and development of financial services in Jersey and the manner in which any function of the Commission is to be carried out.
- (2) It shall be the duty of the Commission in carrying out any of its functions to have regard to any guidance and to act in accordance with any directions given to it by the Minister under this Article.

13 Publication of information and advice

- (1) The Commission may publish information or give advice or arrange so to do in such form and manner as it considers appropriate with respect to –
 - (a) the operation of this Law or any other enactment, including in particular the rights of those provided with financial services, the duties of those who provide such services and the steps to be taken for enforcing those rights or complying with those duties;
 - (b) any matters relating to the functions of the Commission under this Law or any other enactment; or
 - (c) any other matters relating to financial services about which it appears to it to be desirable to publish information or give advice concerning –
 - (i) the reduction of the risk to the public of financial loss due to dishonesty, incompetence or malpractice by or the financial unsoundness of persons carrying on financial services in or from within Jersey,
 - (ii) the protection and enhancement of the reputation and integrity of Jersey in commercial and financial matters, or
 - (iii) the best economic interests of Jersey.
- (2) The Commission may offer for sale copies of information published under this Article and may, if it thinks fit, make a reasonable charge for advice given under this Article at any person's request.
- (3) Nothing in this Article shall be construed as authorizing the disclosure of information in any case where, apart from the provisions of this Article, it could not be disclosed.

FINANCIAL SERVICES (JERSEY) LAW 1998

RESTRICTIONS ON DISCLOSURE OF INFORMATION

37 Restricted information

- (1) Subject to paragraph (2) and to Article 38, a person who receives information relating to the business or other affairs of any person –
- (a) under or for the purposes of this Law; or
 - (b) directly or indirectly from a person who has so received it,
- shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or a fine, or both, if he or she discloses the information without the consent of the person to whom it relates and (where subparagraph (b) applies) the person from whom it was received.
- (2) This Article does not apply to information which at the time of the disclosure is or has already been made available to the public from other sources, or to information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.

38 Permitted disclosures

- (1) Article 37 does not preclude the disclosure of information –
- (a) by the Commission –
 - (i) to the Viscount,
 - (ii) to the Comptroller and Auditor General for the purpose of enabling or assisting the carrying out of any of the Comptroller and Auditor General's functions in relation to the Commission, or
 - (iii) to any person for the purpose of enabling or assisting that person to exercise that person's statutory functions in relation to any person or class of person in respect of whom the Commission has statutory functions;
 - (b) by or to any person in any case in which disclosure is for the purpose of enabling or assisting any of the following –
 - (i) the Commission or any person acting on its behalf,
 - (ii) a person appointed under an enactment by any of the following –
 - (A) the Commission,
 - (B) the Court, on the application of the Commission,
 - (C) a Minister, where that Minister and the Commission are each specified in that enactment as having power to appoint that person,
- to discharge the Commission's functions or that person's functions under this Law or under any other enactment;

... ..