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It's not just tax

Drug cartels, sanctions busting and disregarding the risk of terrorist financing; the other failings on Lord Green's watch

HSBC is fighting an international crisis after news outlets claimed leaked internal documents reveal how its Swiss arm helped clients hide accounts and evade taxes, from 2005-2007. But it's not just tax. HSBC has faced a range of major scandals during Lord Stephen Green's tenure as CEO and Chairman, and been subject to record-breaking fines for money-laundering for some of the world's most notorious drug cartels as well as flouting US sanction laws.

Lord Green earned £20 million in bonuses and shares during this time, and went on to become the UK's Minister of State for Trade and Investment in 2010. His responsibility as head of the bank for such widespread failings, his apparent negligence for not being aware of them or worse complicity in them continuing, raises serious questions as to his suitability for either role.

Global Witness is calling for Lord Green's role in these failings to be investigated by the authorities. But just as importantly, lessons must be learned for the regulation of the UK's financial sector as a whole. Lord Green is not a bad apple – he is the most visible symptom of a much wider malaise, which is born of consistently weak regulation and lack of accountability for senior executives. This has dire consequences for society as a whole – crimes like drug dealing, terrorism and corruption are not possible without a supposedly reputable bank account to hide the money in and provide a smokescreen from the authorities.

During Lord Green's time as CEO and Chair of HSBC Group he presided over systematic, widespread and repeated deficiencies in HSBC's systems, and the recurrent failure to comply with US laws designed to prevent money laundering and banned countries and entities from using the financial system. Lord Green specifically changed his mandate as Chairman to include responsibility for compliance and auditing during this time, ensuring that the buck stopped with him.ⁱ

These are some of the areas where the bank's systems failed repeatedly and were not addressed on Lord Green's watch:

- **Drug Cartels:** In December 2012, HSBC was fined a then record £1.2 billion by the US authorities after admitting money laundering by drug cartels through its Mexican division and dealings with pariah states, in violation of US law.ⁱⁱ
- Over 35,000 people were killed at the hands of drug traffickers in Mexico while HSBC was allowing money to be laundered by one of the biggest and most notorious cartels.ⁱⁱⁱ Lord Green should have known in February 2008 of warnings from the Mexican authorities that HSBC was at severe risk of laundering hundreds of millions, if not billions, of US Dollars for Mexican drug lords. This included a warning that a drug lord was on

tape saying HSBC was the bank to launder money.^{iv} Yet no action was taken for another eight months, allowing HSBC to accept a record amount of US dollar deposits (which were high risk transactions) in Mexico during 2008. As early as 2005, Green was copied into emails warning about problems with the compliance controls at the Mexican division of HSBC, including the falsifying of key documents.

- In 2013 a US Senate Committee investigation declared the bank guilty of “severe, widespread and longstanding” deficiencies in its anti-money laundering systems^v, and describing the bank’s culture as “pervasively polluted”.^{vi}
- **Sanctions busting:** According to its deferred prosecution agreement with the US Department of Justice HSBC broke US law by permitting \$660 million from sanctioned countries (such as Iran, Libya, Burma, and Sudan) to be moved through the American financial system in violation of economic sanctions.^{vii}
- **Disregarding the risk of terrorist financing:** According to a 2012 Senate report, evidence began to emerge after the 9/11 terrorist attack suggesting that a major Saudi bank may have had links to financial organisations associated with terrorism. In particular, that one of its key founders was an early financial benefactor of al Qaeda. In 2005, HSBC Group headquarters in London announced internally that its affiliates should sever ties with the Saudi bank, but reversed the policy four months later. HSBC Middle East, among other HSBC affiliates, continued to do business with the bank. HSBC US provided physical dollars to the Saudi bank totalling over \$1bn between 2008 and 2010.^{viii}

Each of these issues fell directly within Lord Green’s mandate as Chairman. The evidence provided by the Department of Justice and the Senate investigation suggests that he should have known HSBC US was at risk of breaking US law and yet failed to act. But instead of facing tough questions or criminal sanctions from UK and US regulators, Lord Green was held up as an example of ethical business and given a job as government trade minister. He has been allowed to keep every penny of the £20 million he made in performance bonuses at HSBC (as far as public records show).

Sadly, this failure is not unique to Lord Green or HSBC. Global Witness has repeatedly exposed a poor culture of compliance within the global banking industry.^{ix} This is the result of lack of real deterrents or personal accountability for senior bankers who fail to comply with anti-money laundering regulations, inadequate sanctions for banks, and weak enforcement of rules by regulators.

In order to change this, the following needs to happen:

a) Senior bankers should be held legally responsible for their banks’ money laundering performance. A designated person at board level needs to be held personally accountable for anti-money laundering compliance in order to make banks take their obligations seriously. In the most egregious cases, senior bankers should face serious criminal penalties for failure (both fines and jail). The Minister for Business and Enterprise has said that “those at helm of large banks that are systematically important should be liable for criminal prosecutions if they behave negligently.”^x The Government should follow through on this. At the very least, they should be banned from working in the industry and have their bonuses clawed back.

b) Remove barriers to holding senior executives accountable

Danny Alexander has called for changes to legislation to ensure bankers can be held criminally responsible when their banks aid tax evasion. This should be broadened to apply to all instances of a bank violating laws. As UK law stands it is very difficult to prove liability for senior executives. This should be addressed so that senior bankers can face criminal charges if they played a role in their banks breaking the law. The Government should consider whether the Serious Crime Bill currently going through parliament is a good opportunity to address this.

c) Measures to ensure that banks adequately monitor high-risk customers. Banks should be required to review annually the business they do with Politically Exposed Persons (public officials with the potential to steal public funds or take bribes and / or their family members or close associates). For very high-risk customers, such as foreign politicians from countries with a reputation for grand corruption, the burden of proof should be flipped, so that such customers have to prove their funds are legitimate, rather than banks simply finding a plausible explanation for the customer's wealth. Banks should review all of their politically exposed clients annually and where they cannot be sure the business meets the above stipulations, they should terminate the relationship.

ⁱ From a *Daily Telegraph* interview with Michael Geoghegan on his time as CEO at HSBC "HSBC ex chief Michael Geoghegan relaxes as another marathon looms" (20 December 2010): <http://www.telegraph.co.uk/finance/newsbysector/banksandfinance/8212815/HSBC-ex-chief-Michael-Geoghegan-relaxes-as-another-marathon-looms.html>

ⁱⁱ See the US Department of Justice press release, 11 December 2012 <http://www.justice.gov/opa/pr/2012/December/12-crm-1478.html>

ⁱⁱⁱ The US Department of Justice state that HSBC was laundering drug money from 2006 to 2010 – see its document outlining the charges against HSBC: Deferred Prosecution Agreement (DPA) Attachment A, document note 9: <http://www.justice.gov/opa/documents/hsbc/dpa-attachment-a.pdf> For Mexican Government figures on killings by drug gangs during that period see June S. Beittel "Mexico's Drug Trafficking Organizations: Source and Scope of the Violence" April 2013, p25 <http://fpc.state.gov/documents/organization/208173.pdf>

^{iv} According to a statement of facts presented by the US Department of Justice as part of its action against HSBC, and which HSBC signed to show it agreed to, "HSBC Mexico's CEO was also told that Mexican law enforcement possessed a recording of a Mexican drug lord saying that HSBC Mexico was the place to launder money. HSBC Mexico's CEO immediately elevated these issues up to HSBC Group's CEO, Head of Legal, Head of Audit, and Head of Compliance." See the Department of Justice's Statement of Facts, p 13, note 37. <http://www.justice.gov/sites/default/files/opa/legacy/2012/12/11/dpa-attachment-a.pdf>

^v See United States Senate Permanent Sub-Committee on Investigations July 2011 report: U.S. Vulnerabilities to Money Laundering, Drugs, and Terrorist Financing: HSBC Case History, pp 3 and 221 <http://www.hsgac.senate.gov/download/report-us-vulnerabilities-to-money-laundering-drugs-and-terrorist-financing-hsbc-case-history>

^{vi} See US Senate Permanent Subcommittee on Investigation press release "HSBC Exposed U.S. Financial System to Money Laundering, Drug, Terrorist Financing Risks" 16 July 2012 <http://www.hsgac.senate.gov/subcommittees/investigations/media/hsbc-exposed-us-financial-system-to-money-laundering-drug-terrorist-financing-risks>

^{vii} See the Deferred Prosecution Agreement document notes 63 to 67.

^{viii} US Senate Permanent Sub-Committee on Investigations report pp 6 and 221. The Saudi later bank strongly denied supporting terrorism

^{ix} See Global Witness reports: "Undue Diligence: how banks do business with corrupt regimes" (March 2009) <http://www.globalwitness.org/library/undue-diligence-how-banks-do-business-corrupt-regimes> ; and "International Thief Thief: how British banks are complicit in Nigerian corruption" (October 2010) http://www.globalwitness.org/sites/default/files/pdfs/international_thief_thief_final.pdf

^x During an interview on BBC's Newsnight, 10 February 2015.