

Sweetheart Settlement for HSBC Bank on Drug Money Laundering Charges

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The US Justice Department on Tuesday announced a settlement with the British-based HSBC bank regarding charges of money laundering Mexican drug funds that allows the bank to admit to wrongdoing and pay a fine without being criminally charged.

In a lengthy front-page article Tuesday morning, before the settlement was announced, the *New York Times* reported that US authorities had decided, despite ample evidence that HSBC had laundered billions of dollars for major drug cartels in Mexico and Colombia, not to press criminal charges against the bank or any of its executives because the bank was “too big to indict.”

The *Times* article, citing government sources on internal discussions between the Justice Department, the Treasury and the Office of the Comptroller of the Currency, spelled out the rationale that has guided the response of the Obama administration to a host of bank scandals in the aftermath of the Wall Street crash of September 2008. Not a single major institution or leading bank executive has been prosecuted for the pervasive fraud and swindling that led to the financial crisis and triggered the global slump—and continues unabated today.

The financial mafia that bestrides the American economy and controls the political system is, in practice, above the law. The government and the various financial regulatory agencies are its protectors, making sure that no leading banker or institution is held accountable for violations of the law and social crimes against the people.

Under the agreement announced Tuesday in Brooklyn by New York Assistant Attorney General Lanny Breuer and other federal, state and local officials, HSBC, Europe’s biggest bank and the third largest in the world, will forfeit \$1.256 billion and pay an additional \$650 million in civil penalties. The bank acknowledges having violated the Bank Secrecy Act in laundering Mexican drug cartel money and having breached other federal laws by ignoring US sanctions in financial dealings with Cuba, Iran, Libya, Sudan and Burma.

Instead of being indicted, the bank enters into a five-year deferred prosecution agreement, during which it is to be monitored for compliance by an independent agency. This quasi-probationary period is, however, little more than a formality. It is highly unlikely that criminal charges will ever be laid. Wall Street responded to the announcement of the agreement by bidding up HSBC shares a half percentage point.

The total fine of \$1.9 billion is only 8.6 percent of the \$22 billion profit the bank recorded in 2011, and is likely less than the profits HSBC made over many years serving as the main

financial conduit for Mexican drug lords, including the Sinaloa Cartel.

At a press conference Tuesday, Assistant Attorney General Breuer said HSBC was guilty of “stunning failures of oversight—and worse—that led the bank to permit narcotics traffickers and others to launder hundreds of millions of dollars through HSBC subsidiaries, and to facilitate hundreds of millions more in transactions with sanctioned countries.”

US Attorney for the Eastern District of New York Loretta Lynch said, “HSBC’s blatant failure to implement proper anti-money laundering controls facilitated the laundering of at least \$881 million in drug proceeds through the US financial system.” She told reporters that Mexican drug cartels had moved hundreds of thousands of dollars a day through HSBC facilities. The bank’s Mexican operations shifted at least \$7 billion from 2007 to 2009 into the United States.

A press release from the Justice Department said that HSBC Bank USA failed to monitor over \$670 billion in wire transfers and over \$9.4 billion in purchases of physical US dollars from HSBC Mexico from at least 2006 to 2009.

Last July, the Senate Permanent Subcommittee on Investigations released a report charging HSBC with laundering Mexican drug money on a massive scale. The report said that HSBC’s Mexico bank had a branch in the Cayman Islands that had no offices or staff, but held 50,000 client accounts and \$2.1 billion in 2008.

It also denounced the bank’s US regulator, the Office of the Comptroller of the Currency, for turning a blind eye to the bank’s suspicious and incriminating activities. The Senate subcommittee noted that in 2010, the regulatory agency flagged \$60 trillion in transactions and 17,000 accounts as potentially suspicious, but failed to even fine HSBC.

It is likely that HSBC stepped up its drug money laundering operations in response to the banking crisis that began in earnest in 2007 and erupted in full force with the collapse of Lehman Brothers in September of 2008. In 2007, the bank began posting billions of dollars in losses at its American consumer spending arm, forcing it to go begging to shareholders for more capital.

There is evidence that at the height of the banking crisis, a number of major banks depended on cash from drug-related laundering operations to stay afloat. According to Antonio María Costa, who then headed the United Nations office on drugs and crime, the flow of crime syndicate money represented the only “liquid investment capital” available to banks at the height of the crisis. “Inter-bank loans were funded by money that originated from the drugs trade,” he said. “There were signs that some banks were rescued that way.”

In March of 2010, the US Justice Department reached a similar settlement with Wachovia Bank, now part of Wells Fargo, as that announced Tuesday with HSBC. Wachovia admitted to having violated the Bank Secrecy Act by laundering \$378.4 billion for the Sinaloa Cartel between 2004 and 2007. Rather than being prosecuted, it was given a deferred prosecution agreement under which it paid a fine of \$160 million, less than 2 percent of its profit for the previous year.

By serving as financial conduits for the Mexican drug cartels, these banks have played a critical role in the drug war that has taken tens of thousands of lives in that country, not to mention the social devastation wrought in the US and around the world by the narcotics

trade.

Martin Woods, a Wachovia whistleblower who had been forced to resign, said at the time of the US settlement with the bank: "These are the proceeds of murder and misery in Mexico, and of drugs sold around the world... It's simple: if you don't see the correlation between the money laundering by banks and the 30,000 people killed in Mexico, you're missing the point."

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