

United States House of Representatives
Committee on Financial Services
Washington, D.C. 20515

July 15, 2016

The Honorable Loretta Lynch
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Lynch:

In 2012, HSBC Bank USA, N.A. and HSBC Holdings plc (“HSBC”) avoided criminal prosecution for failing to prevent money laundering by international drug cartels and for “knowingly and willingly” helping to move hundreds of millions of dollars to several countries under U.S. sanctions. Unlike most alleged criminal actors, the bankers that orchestrated and profited from these gross violations of federal anti-money laundering and terrorism financing laws did not face the threat of prison. Instead, HSBC entered a five-year deferred prosecution agreement (“DPA”) with the Department of Justice (the “Department”) whereby HSBC employees escaped criminal prosecution while the company paid fines and agreed to reform its compliance efforts under the watch of an independent monitor.

At the time that this arrangement was announced, I was one of the many who believed that the penalties were insufficient to deter future financial crime. I remain skeptical that fines alone are enough to stop bad actors on Wall Street.

I have long criticized the apparent two-tiered American justice system that subjects low-level criminal offenders to harsh prison sentences that completely upend their lives and compromise their futures, while allowing the perpetrators of major financial crimes to be largely shielded from criminal prosecution.¹

After the Department published the details of its settlement agreement with HSBC, I wrote to then-Attorney General Eric Holder to express my concern with the Department’s decision to enter into a DPA rather than proceeding with criminal prosecutions of individual actors.² Then, after learning that HSBC may have continued to violate anti-money-laundering and terrorism financing laws beyond the period covered by the DPA, I again wrote to then-Attorney General Holder to ask what steps the Department was taking to ensure HSBC’s compliance with the terms of the DPA.³

¹ See Rep. Maxine Waters, *Big Banks and America's Broken, Two-Tiered Justice System*, American Banker (June 17, 2015) (online at <http://www.americanbanker.com/bankthink/big-banks-and-americas-broken-two-tiered-justice-system-1074910-1.html>); see also House Committee on Financial Services (Democrats), *Waters Statement on Five Banks' Guilty Pleas* (May 20, 2015) (online at <http://democrats.financialservices.house.gov/news/documentsingle.aspx?DocumentID=399103>).

² Letter from Rep. Maxine Waters to Attorney General Eric Holder (February 6, 2013).

³ Letter from Rep. Maxine Waters to Attorney General Eric Holder (September 19, 2013).

The Honorable Loretta Lynch

Page 2

July 15, 2016

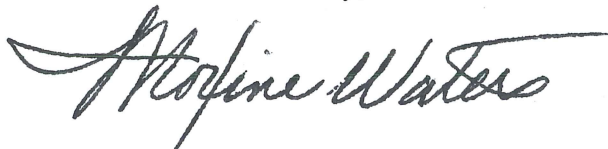
Now, I am troubled by reports that the independent monitor, who was assigned to oversee HSBC's compliance with the DPA, was "unable to certify that the bank's compliance program is reasonably designed and implemented to detect and prevent violations of AML and sanctions laws" in his most recent annual report to the Department.⁴ HSBC's compliance program received a similarly negative assessment in the previous year's annual report. At that time, the independent monitor wrote that HSBC "continues to struggle with a broad range of compliance and control deficiencies that pose an unnecessary level of financial-crime risk to the bank's continuing operations."⁵

The basic compliance measures required by the DPA should have been in place over a decade ago when, perhaps, they could have prevented HSBC employees from committing some of the most egregious financial crimes in recent memory. Yet, more than halfway into a five-year DPA that is set to end next year, HSBC's compliance program is still ineffective at catching and stopping federal banking law violations. This is unacceptable.

In response to HSBC's continued failure to institute an adequate compliance program, I urge you to consider revoking the DPA that has unjustly protected HSBC's bad actors from criminal prosecution. I am encouraged by the Department's decision last year to rescind a similar DPA with UBS Group AG after discovering that the bank committed additional crimes while under the agreement.⁶ I implore you to revisit and reconsider HSBC's DPA, as the Department did with UBS, and to pursue the prosecution of the HSBC employees that have thus far avoided facing justice.

Your prompt attention to this important matter would be greatly appreciated. I would appreciate receiving a response to this request no later than August 19, 2016.

Sincerely,



MAXINE WATERS
Ranking Member

⁴ *HSBC comes up short in money laundering vigilance, U.S. says*, Reuters (April 1, 2016) (online at <http://www.reuters.com/article/us-hsbc-monitor-idUSKCN0WY5GN>); *HSBC Money-Laundering Controls Aren't Sufficient, U.S. Says*, Bloomberg (April 1, 2016) (online at <http://www.bloomberg.com/news/articles/2016-04-01/hsbc-hasn-t-adhered-to-terms-of-u-s-prosecution-agreement-imhzdm5q>).

⁵ *Sealed HSBC Report Shows U.S. Managers Battling Cleanup Squad*, Bloomberg (July 7, 2015) (online at <http://www.bloomberg.com/news/articles/2015-07-07/sealed-hsbc-report-shows-u-s-managers-battling-clean-up-squad>).

⁶ *Justice Department to Tear Up Past UBS Settlement*, The Wall Street Journal (May 14, 2015) (online at <http://www.wsj.com/articles/justice-department-to-tear-up-past-ubs-settlement-1431645723>).