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January 31, 2013

The Honorable Martin Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 17th Street Northwest
Washington, DC 20429

Dear Chairman Gruenberg,

We respectfully ask that the Board of Directors of the Federal Deposit Insurance Corporation (FDIC) initiate formal proceedings under Section 8 of the Federal Deposit Insurance Act (FDI) to terminate the depository insurance of HSBC Bank USA (HSBC) in light of HSBC's admission to criminal violations of federal anti-money laundering laws.

On December 11, 2012, the U.S. Department of Justice announced that HSBC "agreed to forfeit \$1.256 billion and enter into a deferred prosecution agreement with the Justice Department for HSBC's violations of the Bank Secrecy Act (BSA), the International Emergency Economic Powers Act (IEEPA) and the Trading with the Enemy Act (TWEA)." The government further noted that "HSBC has waived federal indictment, agreed to the filing of the information, and has accepted responsibility for its criminal conduct and that of its employees."¹

The Justice Department found, and HSBC admitted to, violations of the BSA and anti-money laundering regulations. "As a result of these concurrent [anti-money laundering] failures, at least \$881 million in drug trafficking proceeds, including proceeds of drug trafficking by the Sinaloa Cartel in Mexico and the Norte del Valle Cartel in Colombia, were laundered through HSBC Bank USA without being detected," according to a Statement of Facts agreed to by the Justice Department and HSBC.²

¹ Department of Justice press release, available at: <http://www.justice.gov/opa/pr/2012/December/12-crm-1478.html>

² Department of Justice, Statement of Facts, December 11, 2012, available at: <http://www.justice.gov/opa/documents/hsbc/dpa-attachment-a.pdf>

HSBC's violation of anti-money laundering laws included "Failure to adequately monitor over \$200 trillion in wire transfers between 2006 and 2009 from customers located in countries that HSBC Bank USA classified as "standard" or "medium" risk."³

Section 8 of the Federal Deposit Insurance Act provides for the "termination of status as insured depository institution" where the FDIC determines that an insured depository institution has engaged in "unsound practices" or where "an insured depository institution . . . violated any applicable law."⁴

The admitted criminal violations at HSBC exceed those of Riggs Bank, whose federal insurance the FDIC terminated in 2005 following money laundering violations. Where the HSBC case involves the admitted laundering of nearly \$1 billion in drug trafficking proceeds, the Riggs case involved approximately \$98 million.⁵

In the Riggs proceeding, the federal government "determined that Riggs willfully violated the suspicious activity and currency transaction reporting requirements of the BSA and its implementing regulations, and that Riggs has willfully violated the anti-money laundering program ('AML program') requirement of the BSA and its implementing regulations."⁶

Despite the similarity with regard to HSBC, and the substantial admitted criminal anti-money laundering violations, federal regulators reportedly elected to forgo this option based on the bank's size. Justice Department prosecutor Lanny Breuer explained at a media conference, "'Our goal is not to bring HSBC down," Breuer said. "It's not to cause a systemic effect on the economy."⁷ The New York Times reported: "Treasury Department officials and bank regulators at the Federal Reserve and the Office of the Comptroller of the Currency pointed to potential issues with the aggressive stance, according to the officials briefed on the matter. When approached by the Justice Department for their thoughts, the regulators cautioned about the effect on the broader economy."⁸

³ Statement of Facts, DOJ <http://www.justice.gov/opa/documents/hsbc/dpa-attachment-a.pdf>

⁴ See FDIC, Section 8, Federal Deposit Insurance Act, available at: <http://www.fdic.gov/regulations/laws/rules/1000-900.html>

⁵ The U.S. Senate provided a detailed window into Riggs's activities along with regulatory oversight.

PSI hearing document: <http://www.hsgac.senate.gov/imo/media/doc/ACF5F8.pdf?attempt=2>

⁶ See "In the Matter of Riggs Bank," US Treasury Financial Crimes Enforcement Network, available at: http://www.fincen.gov/news_room/ea/files/riggsassessment3.pdf. The full course of regulatory and judicial proceedings attending the Riggs money laundering scheme resulted in a May 16, 2005 decision by the FDIC to terminate Riggs's depository insurance. (http://www2.fdic.gov/idasp/confirmation_outside.asp?inCert1=2095)

⁷ "HSBC to pay \$1.9 billion" Los Angeles Times, Dec. 11, 2012, available at: <http://www.latimes.com/business/la-fi-hsbc-fine-20121212,0,2422326.story>

⁸ "HSBC to pay \$1.9 billion," New York Times, Dec. 11, 2012, available at:

<http://dealbook.nytimes.com/2012/12/10/hsbc-said-to-near-1-9-billion-settlement-over-money-laundering/>

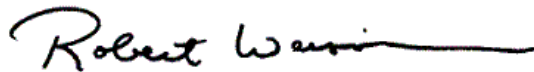
Terminating insurance for HSBC need not result in the elimination of thousands of jobs of innocent HSBC employees or have systemic repercussions. As in the case of Riggs, which was sold to PNC, another management team can operate the bank under a different brand.

When the President signed the Wall Street Reform Act, he acted to ensure that a bank's size would not immunize it from accountability. President Obama declared, "Never again will the American taxpayer be held hostage by a bank that's too big to fail."⁹ By terminating HSBC's insurance, and applying its powers to resolve the firm and sustain the firm under new management and a new brand, the FDIC can uphold the promise of our government articulated by the President.

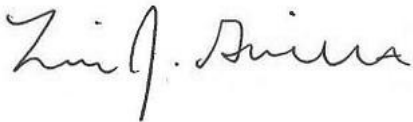
We respectfully ask that the Board institute formal proceedings as provided by law to terminate depository insurance at HSBC Bank N.A.

Your consideration is appreciated.

Sincerely,

A handwritten signature in black ink that reads "Robert Weissman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Robert Weissman, President

A handwritten signature in black ink that reads "Lisa Gilbert". The signature is cursive and somewhat stylized.

Lisa Gilbert, Director of Public Citizen's Congress Watch

A handwritten signature in black ink that reads "Bartlett Naylor". The signature is cursive and somewhat stylized.

Bartlett Naylor, Financial Policy Advocate

⁹ White House Blog, available at: <http://www.whitehouse.gov/blog/2010/01/21/president-obama-never-again-will-american-taxpayer-be-held-hostage-a-bank-too-big-fa>. The President's comment is readily available on Youtube