US GOVERNMENT SLAPS HSBC'S WRIST FOR FACILITATING TERRORISM, AGAIN

As I noted last year, when DOJ trumpeted their settlement with HSBC for a slew of money laundering violations, they didn't mention that HSBC had provided almost a billion dollars to a Saudi bank that funded terrorists. Effectively, HSBC's material support for terrorism for 5 years after it first realized it was doing so got completely ignored.

It turns out, between the time in 2010 when HSBC stopped providing cash dollars to a terror-supporting bank and the time of the DOJ settlement, HSBC was still violating counterterrorism sanctions. Treasury's Office of Foreign Assets Controls just issued another settlement with HSBC's US branch, detailing how HSBC processed 3 transfers totaling over $40,164 involving Husayn Tajideen after the bank learned he had gotten listed a designated terrorist. Not a huge amount of money, but over 4 times what Basaaly Moalin is going to jail for.

It's OFAC's rationale it uses to rationalize giving a recidivist just a $32,400 penalty that I find particularly egregious.

> The settlement amount reflects OFAC's consideration of the following facts and circumstances, pursuant to the General Factors under OFAC's Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A. OFAC considered the following to be mitigating factors: HBUS voluntarily self-disclosed the apparent violations to OFAC; HBUS took appropriate remedial action in response to these apparent violations and now has a more robust compliance program in place; and **HBUS has not received a**

> **penalty notice or Finding of Violation from OFAC for substantially similar apparent violations in the five years preceding the earliest date of the transactions giving rise to the apparent violations**. The settlement amount reflects the following aggravating factors: HBUS managers and employees whose primary responsibility includes OFAC compliance were aware of the first apparent violation and had reason to be aware of the second and third apparent violations; the apparent violations resulted in actual economic benefit to an SDGT; HBUS is a large and commercially sophisticated financial institution; **HBUS initially provided an incomplete response to an administrative subpoena**; and, at the time of the first apparent violation, HBUS' compliance program did not screen all MT 199 messages for potential OFAC matches. OFAC further reduced the proposed penalty in light of HBUS' agreement to settle its potential liability for the apparent violations. [my emphasis]

Some of this is typical mumbo jumbo (though in this case, should be read with the awareness that Stuart Levey, who used to be Under Secretary of Terrorism Finance and Intelligence, got named HSBC's General Counsel in 2012, so the subsequent actions likely represent his involvement).

But the claim that HBUS hadn't had any substantially similar violations in the five years previous is just ridiculous. They had been busted for all sorts of very similar money laundering problems involving known drug kingpins and were uniquely important in providing cash that terrorists likely used for significant attacks. It's only not substantially similar because it is orders of magnitude worse, so much so DOJ got involved and the settlement was with a different agency!

And in response to a recidivist being caught again, OFAC fines a bank with $14 billion in profits $32,400.

Update: In a statement to WSJ, Treasury said this settlement with a recidivist is unrelated to the past settlement with the recidivist.

> But a Treasury spokesman said in an email that Tuesday's settlement is unrelated to the December 2012 agreement with OFAC and other federal and state agencies.
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> "This action is similar to other settlements OFAC has reached with regard to apparent violations committed by U.S. financial institutions," he said.