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OP-ED CONTRIBUTOR

How to Halt the Terrorist Money Train

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LAST month, HSBC admitted in court pleadings that it had allowed big Mexican and Colombian drug cartels to launder at least $881 million. The bank also admitted to using various schemes to move hundreds of millions of dollars to nations subject to trade sanctions, including Iran, Cuba and Sudan, in violation of the Trading With the Enemy Act. "On at least one occasion," according to a statement by Assistant Attorney General Lanny A. Breuer, "HSBC instructed a bank in Iran on how to format payment messages so that the transactions would not be blocked or rejected by the United States."

Those were some of the transgressions uncovered during a two-year investigation led by the Justice and Treasury Departments and acknowledged by HSBC in a settlement, known as a deferred prosecution agreement, that was filed in a federal court in December. Not a single executive was charged with a crime. Instead, the bank paid $1.9 billion in fines and forfeitures — or roughly 10 percent of the pretax profits it earned in just 2010, one of the more than five years during which it admitted to criminal conduct.

HSBC is hardly alone. Court filings show that, since 2006, more than a dozen banks have reached settlements with the Justice Department regarding violations related to money laundering. ING Bank paid a $619 million fine for altering records and secretly transferring more than $2 billion for entities trading with Iran and other nations under sanctions. American Express Bank International acknowledged that more than $55 million in drug proceeds may have been laundered through offshore shell accounts it maintained. The Justice Department has signed similar agreements, withholding prosecution in exchange for bank promises to tighten oversight, with Wachovia, Union Bank of California, Lloyds, Credit Suisse, ABN Amro Holding (now owned by Royal Bank of Scotland), Barclays and Standard Chartered. All admitted to criminal offenses; all were handed the equivalent of traffic tickets — pay a fine on your way out the door.

This has been the government's playbook in fighting terrorism and the drug trade. For make no mistake, without the ability to "wash" billions of dollars of money from illicit sources each year and bank the untraceable profits, both of these criminal enterprises would falter.

In November, the House Subcommittee on Oversight, Investigations and Management issued a shocking report documenting the collaboration between Mexican and Colombian drug cartels and Hezbollah in narcotics and human trafficking, smuggling and financial crimes in the United States and Latin America — a partnership that, in just the border region between Brazil, Paraguay and Argentina, produces an estimated $12 billion in cash each year.

Yet data from the Department of Justice Asset Forfeiture Fund and the United Nations Office on Drugs and Crime Research Report show that United States law enforcement tracks down and seizes no more than 1 percent of the drug fortunes generated each year by global cartels.

The rest isn't hiding in mattresses. It's being washed — stripped clean of information that would identify its source, then transferred from one account to another, and often moved surreptitiously through various business enterprises, until it can settle safely in a criminal's private offshore bank account. None of this happens without help from bankers, lawyers and businessmen.

I have seen this firsthand. I was a federal agent for 27 years and worked undercover as a money launderer within this murky realm for five of them. I worked on teams that put leaders of drug cartels behind bars. The largest and most sophisticated of these criminal enterprises don't trick banks into laundering their money — they partner with that small segment of the international banking and business community that recirculates drug profits and cash from other illicit trades, like black-market arms dealing.

The only way to stop the flow of this dirty money is to get tough on the bankers who help mask and transfer it around the world. Banks themselves don't launder money, after all; people do.

The standard of proof needed to charge and convict a bank officer of money laundering is simple. If the person knows that funds are proceeds of a crime and, thereafter, he attempts to disguise or conceal the true source of the funds, he has committed the criminal offense of money laundering. Any individual who intentionally provides financial services to criminal organizations should be dealt with as harshly as possible under the law.

Bank officers at HSBC branches in Mexico who facilitated the transfer of $881 million for the Sinaloa Cartel in Mexico, the Norte del Valle Cartel in Colombia and other narcotics traffickers — deposits that were often passed through teller windows in cash-filled boxes, some with hundreds of thousands of dollars in them — might contend that they were naïve about this money's source. But there's little incentive for them, or any bank officer, to be more vigilant when turning a blind eye comes with little or no penalty.

The stakes are simply too high for such a soft-glove approach on money laundering. As long as drug traffickers can wash the stain from 99 percent of their ill-gotten gains, as long as terrorists can move their cash freely around the world, we'll have no chance to halt their deadly trades. We can help put an end to both of these scourges by putting the bankers who facilitate them in jail.

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