

Margaret Hodge, the PAC and HSBC: questions needing ans.

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I have just spent over two hours watching Margaret Hodge and the Public Accounts Committee questioning Stuart Gulliver, Chris Meares and Rona Fairhead of HSBC. The Guardian's [running commentary on the event is available here](#). I tweeted on it quite extensively, but what I am now interested in is the questions that this hearing raises.

The first, and obvious, question is why the Rev Lord Stephen Green was not present? He was the man responsible for this bank at the time that the alleged tax evasion took place, and appears to be wholly unanswerable for his actions despite being a member of the House of Lords. I would have loved to have seen him appear, but presume that the Conservative members of the committee objected. The committee works on the basis of unanimity.

Second, Stuart Gulliver's credibility was in question throughout the hearing. As Margaret Hodge made him reveal, he has a British passport, he votes in the UK and has a home here, and as we already know, he educates his children here, and has spent a great deal of his life in this country and yet still maintained that he was domiciled in Hong Kong, and that was his home. Even he admitted that some might find that hard to believe. He also admitted that some might find it equally hard to believe that his salary was paid to a Panamanian company that accounted in Switzerland just for privacy reasons. I might be one of those, but he is of the opinion that we are all wrong. I think he knows how close the edge he is. I am not sure how he can survive this.

Chris Meares, who has been head of global private banking for HSBC also had a considerable credibility problem. His reliability as a witness was in doubt from the start when he kept refusing to answer a straightforward question of whether he accepted responsibility for what happened in the Swiss bank that reported to him, or not. He had obviously been trained to provide an answer which sought to evade the issue, and from then on everything he said appeared evasive, whatever it was. Whoever advised him got this response completely wrong. He should have said yes, and accepted the consequence, and he didn't, and from then on there was doubt to the point where at the end of the hearing one MP questioned whether he had been a reliable witness.

That said, for very many ways, my greatest concern was with Rona Fairhead, who as a non-executive director (but chair of HSBC USA) chaired the audit committee of the bank throughout much of the period of concern. There were a great many reasons why her evidence seemed to me to be indicative of serious failings.

The first was her lack of understanding of audit. She kept saying that one of the people she relied upon to make sure that there was no fraud was the external auditors. There is no way on earth that this was a reasonable assumption on her part: this tax evasion would never have misstated the accounts of HSBC as a whole, and as such it was quite unreasonable of her to think that they would report any error of this sort.

What she also kept saying was that tax evasion was illegal, and therefore HSBC should not have been doing it in Switzerland. For that reason she actually said she never asked directly about it because it had never occurred to her it might happen. But, she was completely wrong to think this. Tax evasion has not been illegal in Switzerland. It is not been a crime. And it has not been, certainly during the relevant period, what is called a predicate offence for money-laundering purposes, which means that no money laundering system in Switzerland was required to look for tax evasion. Her assumption that these systems would therefore provide her with assurance were, therefore, completely inappropriate, and I think she should have known that, especially given the amount that she was paid to know it.

Thirdly, she kept saying that when matters were drawn to the attention of the audit committee they took action. What she clearly did not understand was the fact that the audit committee is not there to be a reactive body, but is there to be a proactive body, consciously seeking to make sure from a position of non-executive authority that the systems in place in the bank are appropriate. There was, again, a fundamental lack of understanding in my opinion on her part when saying this.

Fourthly, and just as troublingly, was a continual claim that she was entitled to rely upon the systems of the bank and the information that they supplied. This appears to me to be wholly misplaced faith, especially in an audit role when there must always be reasonable doubt that data is wrong. It is also wrong as a non-executive because I believe that the role of a non-executive director is to question whether the systems are reliable, and the information that they produce is of use. The whole purpose of paying people a lot of money to be non-executive directors is to get them to apply their sound judgement to the data they get to test its credibility. It seems apparent she did not do this, and so it is reasonable to assume others did not do so either.

So, the conclusion for me was that HSBC had executives who were shifty and non-execs not aware of their role. And that's serious, because it not one perosn having these issues; many are being questioned.

In that case the obvious question is whether or not this is a bank that can survive.

And even whether it is a bank that deserves to survive.

The faults were not in the past. They are apparent now. And that's worrying.

Just as worrying is the fact that the Establishment clearly cannot manage such situations.

The possibility that capitalism is out of control is very real. And that's more worrying than any individual performance today.

PS For the record, Margaret Hodge was on form.