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## **Ex-Finance Secretary Francisco Gil Faces Investigation on Corruption Charges**

*by LADB Staff*

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The Secretaria de Funcion Publica (SFP) has launched an investigation into whether ex-finance secretary Francisco Gil Diaz violated Mexico's anti-corruption and conflict-of-interest laws by accepting a post as an independent member of the board of directors of the British-based banking group HSBC Holdings plc. Allegations have surfaced that HSBC received special treatment from Gil Diaz and the Secretaria de Hacienda y Credito Publico (SHCP) when the British financial institution acquired controlling interest in Grupo Financiero Bital in 2002 (see SourceMex, 2002-09-11).

### ***Critics question appointment to board of British bank***

The SFP launched the investigation in response to complaints from members of Congress, particularly from the opposition center-left Partido de la Revolucion Democratica (PRD), who argued that the former finance secretary obtained the post in exchange for favors to the British bank. The PRD said the government should investigate whether Gil Diaz violated the federal anti-corruption law (Ley Federal de Responsabilidades Administrativas de los Servidores Publicos).

The law states that federal employees "under no circumstances will use their position in government to advance their own personal interests or use any information obtained while in office to benefit a private party." The SFP did not say when the investigation would be concluded. Gil Diaz immediately denied the allegations. "Some have suggested that HSBC Holding's invitation to me is because HSBC Mexico received some prerequisite, special treatment or favorable rulings," he said. "Never, not with HSBC or any other company or individual, have I exchanged decisions for any favor."

Beyond the allegations of improprieties, Gil Diaz's decision to take a job with a private company is not unique. Many former finance secretaries and other officials have used their experience in government to obtain positions with private companies or multilateral institutions. Most prominent among them is Jose Angel Gurria Trevino, who headed the SHCP during the administration of ex-President Ernesto Zedillo (1994-2000). Gurria rose to the top position at the Organization for Cooperation and Economic Development (OECD) in 2005 (see SourceMex, 2005-11-20). Pedro Aspe, finance secretary during the administration of former President Carlos Salinas de Gortari (1988-1994), was appointed a trustee for the Carnegie Corporation in New York in 2004. Ex-finance and economy secretary Jaime Serra Puche, who served under both Salinas and Zedillo, is chairman of SAI Consulting.

What critics are questioning is the extremely short period between the time Gil Diaz left his post on Nov. 30, 2006, and the announcement of his appointment at HSBC in January. The federal anti-corruption law stipulates that former officials should observe a waiting period of at least one year before they take a job that could be perceived as being in conflict with their former function.

The Mexico City daily newspaper Milenio Diario noted that Gil Diaz's quick involvement with HSBC could also violate Article 12 of the 2003 UN Convention Against Corruption, which Mexico signed in Merida in 2003. "According to this provision, all signatories Mexico included pledge to 'prevent conflicts of interest by implementing appropriate restrictions for a reasonable period on the professional activities of ex-public officials,'" said the newspaper.

HSBC denied that there was anything improper in the hiring of Gil Diaz. "Our understanding is that there is nothing to prohibit Jose Francisco Gil Diaz [from] choosing to join the Board of HSBC Holdings Plc in a non-executive capacity," the bank said in a statement. "He brings extensive commercial experience to HSBC at a regional and emerging-markets level and we welcome him as a valued independent member of our Board."

### *Foreign banks said to have milked Mexican taxpayers*

Some critics said Gil Diaz's cozy relationship with HSBC is an example of ex-President Vicente Fox's policies toward the banking sector. Fox came under fire for offering banks, the majority of which have some foreign affiliation, favorable treatment beyond that provided by his predecessor Zedillo, who was president when foreign institutions such as Spain's Banco Bilbao Vizcaya Argentaria and Canada's Bank of Nova Scotia entered the Mexican banking market via mergers with domestic banks (see SourceMex, 1996-02-21 and 2000-06-14).

Some mergers such as those involving HSBC-Bital and Citibank-Grupo Financiero Banamex were begun under Zedillo and concluded during the Fox administration (see SourceMex, 2001-05-23 and 2002-09-11). Critics say Mexico's largest banks obtained high profits while maintaining overly strict loan policies (see SourceMex, 2001-03-28, 2002-03-20, and 2003-03-12). "The banking sector accumulated close to 200 billion pesos (US\$18.2 billion) in net profits, the majority of which came from commissions, tax breaks, market speculation, and other government favors at a time when Gil Diaz was in charge of the finance secretariat," said Carlos Fernandez-Vega, a columnist for the Mexico City daily newspaper La Jornada.

While Mexico's leading banks, which are primarily in the hands of foreign institutions except for Monterrey-based Banorte, were profiting through government breaks, they also continued to reap the benefits of the bank-rescue programs, which were created to avert a financial crisis after the 1994 devaluation of the peso (see SourceMex, 1995-03-08 and 1995-03-15). Critics say the banks used the Fondo Bancario de Proteccion al Ahorro (FOBAPROA) and its successor, the Instituto de Proteccion al Ahorro Bancario (IPAB), to attain benefits beyond those allowed in the original rescue plan, including the illegal transfer of nonperforming debt to the government (see SourceMex, 2001-08-15 and 2003-09-24).

Fernandez-Vega said the SHCP, led by Gil Diaz, entered into secret agreements with the banks, hiding any information about questionable transactions from Congress and the public.

Some members of Congress say Gil Diaz was involved in other activities that could be interpreted as being in conflict with his position at the SHCP. As an example, said PRD Deputy Javier Gonzalez Garza, Gil Diaz hired the property-management company J.E. Roberts to collect on debt from the Mexican bank Bancrecer when he was serving on the US firm's advisory board. Gonzalez Garza also

accused Gil Diaz of giving preferential treatment to Banamex, which is a 51% owner of the Mexican long-distance telephone company Avantel, where the ex-finance secretary was once an executive.

"These examples go beyond conflict of interest," said Gonzalez Garza. "These are the corrupt practices of a public servant who took advantage of his position to favor companies with which he had had some affiliation."

The Mexico City daily newspaper El Universal also reported allegations that Gil Diaz used his position in government to favor six relatives in customs operations at the Mexico City airport. These allegations go back to 1990, when Gil Diaz was a deputy finance secretary during the Salinas de Gortari administration.

### *Congress also criticizes ex-secretary*

Gil Diaz also drew criticisms from the Partido Revolucionario Institucional (PRI). Even though he is a long-time PRI member, he served in the administration of Fox, a member of the center-right Partido Accion Nacional (PAN). The PRI went so far as to issue a statement distancing itself from Gil Diaz and urging him to resign from his HSBC post. "I would respectfully urge Gil to reconsider," said Deputy Emilio Gamboa Patron, the PRI's floor coordinator in the Chamber of Deputies. "I do not know whether his association with a foreign bank is subject to legal sanctions, but we want to go on record that we oppose such ties."

Deputy Alejandro Chanona Burgete of the Partido Convergencia por la Democracia (PCD) said Gil Diaz had held a key position in government, allowing him to share information that could be considered privileged with a private party. "This could probably be considered a matter of national security," said Chanona. The PAN also expressed its opposition to Gil Diaz's association with HSBC. In the Chamber of Deputies, PAN floor coordinator Obdulio Avila Mayo called the association with the British bank "not only immoral but also an act that could be subject to legal sanctions."

PAN Sen. Ruben Camarillo Ortega, a chief proponent of an ethics-and-conflict-of-interest law for the Mexican Congress, said Gil Diaz's decision "leaves a bitter taste in one's mouth." Said Camarillo, "This case is a perfect example of why we have to strengthen laws governing the public sector, whether it is members of the executive branch or federal legislators."

Other critics agreed that Gil Diaz's activities are contrary to the Fox government's pledge to fight corruption (see SourceMex, 2000-08-09, 2002-10-02 and 2006-05-17). "The government of Vicente Fox was unable to incorporate the question of conflict of interest into its agenda to fight corruption," said the anonymous Juan Ciudadano column published in the Mexico City daily newspaper Reforma. Juan Ciudadano is a pseudonym for a group of citizens promoting the right of free information. Gil Diaz is expected to use all legal means to defend his position.

"The attorneys of the former secretary will know how to find the loopholes to overcome the Ley Federal de Responsabilidades de los Servidores Publicos," the Juan Ciudadano column noted.

Finance Secretary Agustin Carstens declined to comment directly on the allegations against Gil Diaz. Instead, he expressed confidence that the SFP would conduct an impartial investigation. "I'm

sure that the [investigative] process will yield good results," said Carstens. Gil Diaz has his share of supporters in the business sector and in the media.

Marco A. Mares, who writes a column for the Mexico City daily newspaper La Cronica de Hoy, said Gil Diaz was appointed by HSBC as an "independent" director, meaning that the company does not employ him nor does he answer to the HSBC executive council. The role of the independent director is to watch over the interests of stockholders and ensure that a corporation meets appropriate ethical and legal obligations. "Paco Gil will be serving in the parent company, not the Mexican subsidiary of HSBC," said Mares in his argument that Gil Diaz was not violating any conflict-of-interest laws.

Mares and others said Gil Diaz's appointment brings a higher profile to Mexico. "We should be proud that such a talented Mexican, with strong credentials as an academic, economist, and public servant, is invited to join an institution that is often looking for the 'best person for the job,'" said Juan Pablo Roiz, a columnist for the Mexico City daily newspaper El Economista. Mares noted that Gil Diaz would be serving on the HSBC board with other prominent independent directors, including a former Hong Kong energy secretary and two former members of the Bank of England. [Note: Peso-dollar conversions in this article are based on the Interbank rate in effect on Jan. 17, reported at 10.94 pesos per US\$1.00] (Sources: [www.carnegie.org](http://www.carnegie.org); [www.sai.com.mx](http://www.sai.com.mx); Notimex, 01/04/07, 01/08/07, 01/09/07; Agencia de noticias Proceso, 01/04/07, 01/08-10/07; La Cronica de Hoy, 01/04/07, 01/05/07, 01/08-10/07; Excelsior, 01/08-10/07; The Herald-Mexico City, Bloomberg news service, 01/10/07; El Financiero, 01/05/07, 01/08/07, 01/10/07, 01/11/07; Milenio Diario, 01/05/07, 01/08-11/07; El Economista, 01/08-11/07; Reforma, 01/03-05/07, 01/08-11/07, 01/15/07; La Jornada, 01/04/07, 01/05/07, 01/09-12/07, 01/15/07; El Universal, 01/03-05/07, 01/09/07, 01/10/07, 01/15-17/07)

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