

# Justice and Financial Fraud: The Blanket Settlement with JPMorgan: A \$13 Billion Cover-up

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US newspapers on Sunday led with reports of a tentative settlement between JPMorgan Chase and the Obama Justice Department of numerous investigations into the bank's fraudulent sale of toxic mortgage-backed securities in the lead-up to the 2008 Wall Street crash.

The reports presented the deal, under which the nation's largest bank will pay \$9 billion in fines and provide relief to consumers worth \$4 billion, as a victory for the Justice Department and a major step in holding the banks responsible for the economic catastrophe they inflicted on the country and the world.

This is nonsense. JPMorgan and its CEO, Jamie Dimon, have pressed for such a blanket deal to allow the bank to pay a fine and obtain in return the equivalent of a general amnesty for illegal actions that have led to the impoverishment of countless millions of people. The systematic marketing of worthless securities enabled the bank to pocket tens of billions of dollars and further enrich top executives such as Dimon.

When the Ponzi scheme collapsed, the government used trillions of dollars in taxpayer money to bail out the banks and financial firms. Since 2009, it—along with governments all over the world—has been engaged in a savage offensive to recoup the debts taken on by the state by destroying social programs and the living standards of the working class.

The \$9 billion fine, the largest penalty ever imposed on a US corporation, is less than half the \$21 billion profit JPMorgan recorded in 2012. The bank is pulling in enormous profits despite having set aside \$28 billion since 2010 to cover legal costs.

It is necessary to place the size of the fine in the context of the economic damage resulting from the bank's practices. Reportedly, \$4 billion will go to settle a suit by the Federal Housing Finance Agency (FHFA) charging JPMorgan with knowingly making false statements and omitting material facts in selling \$33 billion in worthless mortgage bonds to the government-sponsored mortgage finance companies Fannie Mae and Freddie Mac at the height of the subprime mortgage bubble (2005-2007). That is about 2 percent of the \$188 billion in taxpayer money the government has spent thus far to prop up the firms.

In setting the fine, the Obama administration calculated that the bank could absorb the loss with minimal damage. At the same time, the size of the penalty indicates that the Justice Department has abundant evidence of illegality—on a massive scale.

Yet it has refrained from indicting Dimon, any other high-ranking JPMorgan executive, or the

bank itself. Instead, Attorney General Eric Holder, the country's top law enforcement official, has been spending much of his time in secret negotiations with Dimon over the precise wording of any eventual admission of wrongdoing, so as to minimize the criminal liability of the bank and its leading officers.

As the New York Times wrote on Sunday, "The government also prefers to settle with big companies rather than indict them, fearing that criminal charges could unnerve the broader economy." Last March, in testimony before the Senate Judiciary Committee, Holder acknowledged that the failure of the Obama administration to prosecute a single major Wall Street banker was part of a calculated policy.

He told the committee that the big banks are so large and powerful that "if we do bring a criminal charge, it will have a negative impact on the national economy, perhaps even the world economy."

What does this astonishing admission signify? First, that the financial elite is above the law. It, like the aristocracies of old, is immune from the laws that apply to the lower orders. In America, people are routinely sentenced to long prison terms for petty crimes that involve hundreds of dollars. The speculators and swindlers who steal millions and billions, however, do so with impunity. They control the government and both political parties.

Second, it shows that criminality is so pervasive within the corporate-financial establishment that to attack it threatens to undermine the foundations of the financial system.

JPMorgan is a case in point. Just last month, it agreed to pay close to \$1 billion to settle charges that it lied to investors and government regulators and committed accounting fraud to conceal \$6.2 billion in losses in derivatives bets last year. A 300-page report on the so-called "London Whale" scandal issued last March by the Senate Permanent Subcommittee on Investigations concluded that the bank used accounting dodges "to hide hundreds of millions of dollars of losses," and "misinformed investors, regulators, and the public about the nature of its risky derivatives trading."

The report also concluded that Dimon lied when he downplayed the losses. At the time when he called the matter "a complete tempest in a teapot," he "was already in possession of information about...sustained losses for three straight months" and "the exponential increase in those losses during March [2012]," the Senate committee wrote.

Yet Dimon and other top executives were exonerated of any intentional wrongdoing in the carefully drafted "admission" that accompanied the fine. Instead, the government claimed they were misled by subordinates and culpable only for insufficient oversight.

The London Whale and subprime mortgage probes are only two among a host of investigations into the bank's operations, concerning such offenses as credit card fraud, illegal debt collection practices, rigging of energy markets, complicity in the Bernard Madoff Ponzi scheme, illegal home foreclosures, bribing Chinese officials, and involvement in the Libor rate-rigging scandal.

JPMorgan is the rule, not the exception. Every major US bank is the subject of multiple investigations and lawsuits. In 2011, the Senate Permanent Subcommittee on Investigations issued a 630-page report on the financial crash detailing illegal activities by Washington Mutual, Deutsche Bank and Goldman Sachs that contributed to the global crisis. The report

also documented the collusion of the credit rating firms and government regulatory agencies.

The committee chairman, Senator Carl Levin, said at the time that the investigation had found “a financial snake pit rife with greed, conflicts of interest and wrongdoing.”

The Obama administration, both political parties, Congress and the courts have worked assiduously to cover up the snake pit and shield the snakes from prosecution. The role of the government in running interference for the banks and protecting the financial aristocracy is illuminated by one little-noted detail of the negotiations between Dimon and Holder.

While the press has reported that Dimon was joined by his bank’s chief counsel, Stephen Cutler, in the Friday night conference call where the agreement was reached, the media has failed to note that Cutler headed the enforcement division of the Securities and Exchange Commission between 2001 and 2005.

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