Untouchable Bankers: Too Big to Jail?

by Valentin Katasonov via jess - Strategic Culture Foundation *Monday, Apr 25 2016, 11:01pm*
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> The latest news from Wall Street: according to Fortune magazine, the 'Big Six' banks in the US – Bank of America, JP Morgan Chase, Citigroup, Wells Fargo, Goldman Sachs, and Morgan Stanley – paid a total of more than 30 fines, about $110 billion, for ripping off the mortgage market and thus sparking the 2007-2008 global financial crisis.

Former Goldman Sachs banker Oz PM Malcolm Turnbull, protecting his own

Another $5 billion will be paid in the near future... To these statistics can be added data from a Morgan Stanley report released in August 2015: the five largest banks in the US, plus 20 European banks, have paid $260 billion in fines and compensation for various types of deception and fraud since the 2007-2008 financial crisis. Bank of America owes the most legal fees – $65.6 billion, while JPMorgan is out $42.4 billion, and the British bank Lloyds – 26.6 billion pounds.

Con artist bankers

The years immediately following that global crisis saw a fierce debate in the West over how to prevent a recurrence of that disaster. There were proposals to increase the supervision over banks, toughen their capital requirements, break up the banking giants, stiffen the penalties for violations, make transactions in financial derivatives markets more transparent, and launch investigations to identify and punish those responsible for the crisis.

There were also attempts to take action. In the US, for example, the Dodd-Frank banking reform act was passed in 2010. But by 2011 the economic and financial picture in the US and other Western countries had stabilized, and many of the ideas espoused in 2009-2010 were happily forgotten.

Perhaps the only example of admirable industry on the part of Western financial regulators was their investigation into the unseemly conduct of large and leading banks. These inquiries were most far-reaching in the US. The series of investigations began by identifying the role of specific banks in the creation of the housing bubble. Then the government began a probe into banking shenanigans in the markets for various types of swaps, which are financial instruments that banks and companies use to ostensibly hedge the risks of defaults and sharp market fluctuations. The circle of the investigations began to widen. US regulators increasingly began to cast their gaze on City of London banks, as well as other European giants.

And financial regulators in Europe launched their own inquiries. Most of the duplicity originated in secret deals between the largest banks. Clues emerged pointing to the existence of international banking cartels and gross violations of antitrust laws, not to mention violations of laws designed to combat the financing of terrorism, drug trafficking, corruption, shady transactions, and tax evasion.

Almost every month the media reports that one or another bank of global significance has agreed to pay millions or even billions of dollars for their transgressions. Increasingly, these payments are not ordered by the courts, but are made as part of an settlement between the offending bank and supervisory agencies. The banks prefer to settle out of court. Bad publicity is worse than a fine. According to media reports, the penalties are either paid to the government or go into special funds to compensate the victims of the deception and fraud.

Bank of America is a top-ranking con artist

In 2013, the US government ordered JP Morgan to pay $13 billion to resolve claims related to the sales of mortgage-backed securities. In late 2013, as part of a similar investigation, Deutsche Bank accepted a settlement deal with US authorities and paid $1.4 billion. Citigroup agreed to pay the US government $7 billion in July 2014 to end an investigation into substandard mortgage-backed securities.

But Bank of America holds the record. In August 2014 that giant negotiated an agreement with the US Justice Department to pay a fine of $17 billion as recompense for its misdeeds involving securities prior to the financial crisis. Sharks from Bank of America had traded various types of residential mortgage-backed securities (RMBS) and collateralized debt obligations (CDO), all based on toxic home loans. As a result, Bank of America has committed to hand over $10 billion to the US Justice Dept., plus another $7 billion to provide a variety of financial assistance to US homeowners struggling with mortgage payments.

Last year the US and British governments ordered several banks to pay fines totaling $5.8 billion for manipulating the currency markets. That list included America's Citicorp and JP Morgan, the UK banks Barclays and RBS, and Switzerland-based UBS. The largest fine was paid by the British bank Barclays, which was penalized for $2.4 billion.

The Financial Times estimates that from 2007 to 2013 big banks paid US financial regulators a total of 200 fines amounting to approximately $100 billion, while $15 billion was shelled out by foreign banks. Assuming that the fines paid in 2014 and 2015 remained at the 2013 level, that would work out to at least $200 billion that US and foreign banks were forced to pay the US government between 2007 and 2015. Our guess is not far off from the numbers cited in that Morgan Stanley report.

The figures given are stunning. However, Wall Street and City of London banks have adapted to the new scenario fairly quickly. The bankers themselves admit that they see such payments as simply a new line-item expenditure. The profits that the banks receive from their secret cartel agreements and various games and misdeeds more than make up for these «expenditures». Even in 2014 when the crusade for fining banks was at a fever pitch, US banks were raking in record profits. For example, Citicorp, one of the principal defendants in many banking scandals in the first half of 2015, saw its net profits increase 130% compared with the same period in 2014.

Iceland has begun to put bankers behind bars

There are many indications that the battle to instill order in the US banking sector is just for show. For example, the Dodd-Frank Act merely represents a regulatory framework and is itself difficult or even impossible to apply directly. And banking lobbyists have blocked the drafting of a package of more specific legislation, which would have helped inaugurate serious reforms within the banking sector of the US economy. Under pressure from Wall Street banks, US financial regulators have decided that the new international capital requirements known as Basel III will not yet be mandatory within the American banking system.

In addition, although fines are being meted out to banks and the banks are paying them, the bank managers and employees who green-lighted the misconduct have until quite recently gone unpunished. That situation has only begun to change in the last few months.

In October 2015, courts in Iceland handed down sentences against five bankers who helped usher in the country's 2008 financial crisis. Among those convicted were three senior managers from Landsbanki Íslands and two senior managers from Kaupthing Bank. Then suddenly, without any particular hoopla, sentences were pronounced against even more bankers working in Iceland. A total of 26 have been convicted. This is the world's first ruling against the bankers responsible for the financial crisis of 2007-2009.

Is the jig up yet?

On Jan. 11 eleven former employees of Deutsche Bank, Barclays, and Société Générale appeared in a London court, charged with manipulating the Euro Interbank Offered Rate (Euribor), which sets interest rates on many financial products, including mortgages.

The Libor and Euribor interbank rates, which determine the cost at which banks lend to one another, are used to price more than $450 trillion of financial products. More than three years since the British bank Barclays admitted in 2012 that its traders had tried to manipulate the Libor and Euribor rates between 2005 and 2009, legal proceedings have begun. For many bankers the start of the trial in London was a genuine shock.

In the world of banking, where the London lawsuit is currently a hot topic, there are those who point out that only the managers of European banks are in the dock. And they hope that Wall Street banks are not next. Others claim that the trial in London is just the beginning. And finally, a third group is suggesting that it's not that hard to figure out which bank managers and employees are responsible for the misbehavior.

The long silence on the part of the banks and regulators can only be explained by well-established bonds of corruption. Financial regulators are always guided by two unwritten rules in their work. One rule applies to the banks as legal entities: Too big to fail. The other applies to the managers of large banks: Too big to jail.

The lawsuits in Iceland and London are the first exceptions to the second rule. The government's frantic reaction to the impending second wave of the financial crisis is a sure sign that the jig is up.

http://www.strategic-culture.org/news/2016/04/22/untouchable-bankers-too-big-jail.html

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