

US government lets JPMorgan off the hook for mortgage fraud

By Andre Damon and Barry Grey
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On Tuesday, the US Justice Department announced a long-awaited official settlement with JPMorgan Chase & Co., the largest US bank, on an array of charges by state and federal agencies related to the bank's sale of toxic mortgage-backed securities, which contributed to the 2008 financial crash.

US Attorney General Eric Holder touted the agreement, which includes \$9 billion in fines and \$4 billion in consumer relief, as a major victory for the public over the banks. "The size and scope of this resolution should send a clear signal that the Justice Department's financial fraud investigations are far from over," said Holder, adding, "No firm, no matter how profitable, is above the law, and the passage of time is no shield from accountability."

In reality, the settlement falls far short of holding JPMorgan accountable for its fraudulent sale of mortgage-backed assets, which netted the bank tens of billions of dollars in profits while exacerbating the sub-prime mortgage crash that led to over ten million foreclosures in the US and a global economic downturn that thrust many millions more into unemployment and poverty.

Holder himself, in an interview broadcast Tuesday by NBC News, said that, in his opinion, JPMorgan's actions played a direct role in the biggest financial crisis since the Great Depression. Yet in return for the settlement, the bank is released from a raft of lawsuits by the Justice Department, state attorneys general and three federal agencies.

The settlement's statement of facts asserts that "employees of JPMorgan... received information that, in certain instances, loans that did not comply with underwriting guidelines were included in the RMBS [residential mortgage-backed securities] sold and marketed to investors; however, JPMorgan... did not

disclose this to securitization investors."

New York State Attorney General Eric Schneiderman, head of the Obama administration's mortgage fraud task force, said the company "acknowledged it made serious, material misrepresentations to the public—including the investing public—about numerous RMBS transactions."

While JPMorgan endorsed as factual the government's claim that it knowingly sold defective mortgage-backed bonds to investors in violation of securities laws, the settlement does not include a direct admission of criminal wrongdoing by the bank. In months of closed-door negotiations between bank executives, including CEO Jamie Dimon, and top Justice Department officials, including Attorney General Holder, the bank resisted making such an acknowledgment of guilt, which would have opened it up to a wave of private lawsuits. In the end, the Obama administration complied with the bank's wishes.

The Justice Department said it was continuing a criminal investigation of JPMorgan's mortgage bond business, but there has as yet been no criminal indictment of Dimon or any other leading JPMorgan official.

This is in keeping with the administration's policy of shielding the Wall Street elite from prosecution for its criminal actions both before, during and after the financial crash of September 2008. Not a single top banker has been criminally charged, let alone convicted and jailed, despite detailed exposures of illegal actions made public two years ago by a special investigatory commission into the financial crisis and, in a separate report, the Senate Permanent Subcommittee on Investigations.

The settlement, hailed by the Obama administration and the media as a "breakthrough" in government

policing of the banks, is nothing of the kind. The headline figure of \$13 billion is deliberately deceptive. Only \$9 billion of the total is in cash, the rest taking the form of relief to troubled homeowners, partly through reductions in mortgage principals and partly through the lowering of interest payments. It is likely that JPMorgan was already planning to offer much of this \$4 billion in relief for business reasons.

Moreover, according to Reuters, \$11 billion of the total penalty is tax deductible. The news agency quoted Gregg Polsky, a law professor at the University of North Carolina, as saying the bank's fine would effectively be reduced by \$4 billion. The total cost to the bank for settling virtually all outstanding civil suits stemming from its fraudulent mortgage business prior to the crash will thus be about a third of its reported \$21 billion profit for 2012.

The deal worked out mutually between the US government and JPMorgan is calibrated to include a fine large enough to give the appearance of a sharp rebuke, while insuring the bank's continued viability and profitability. JPMorgan has, moreover, already set aside \$28 billion to settle the large number of lawsuits and investigations into its activities.

The very fact that top Justice Department officials have spent months cajoling Dimon to agree to a such a deal highlights the immense power wielded by Wall Street over the government and the entire political establishment. The victims of predatory loans sold by JPMorgan or packaged into securities sold by the bank, who were then unable to meet their mortgage payments, were accorded no such consideration before they were thrown onto the street and had their homes seized.

Following the Justice Department announcement on Tuesday, Dimon said in a statement: "We are pleased to have concluded this extensive agreement with the president's RMBS Working Group and to have resolved the civil claims of the Department of Justice and others."

The blanket settlement releases JPMorgan from civil investigations by the Department of Justice and the state attorneys general of California, Delaware, Illinois, Massachusetts and New York, as well as civil litigation by the Federal Deposit Insurance Corporation (FDIC), the Federal Housing Finance Agency (FHFA) and the National Credit Union Administration (NCUA).

The company's stock jumped by 0.74 percent following the announcement, even as other financial stocks closed lower for the day.

Multiple probes into the fraudulent sale of mortgage bonds constitute only one area of JPMorgan's activities that are currently under investigation. In September, the bank 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 sought "to hide hundreds of millions of dollars of losses," and that top executives, including Dimon himself, knowingly misinformed the public and investors.

According to the *New York Times*, the bank is currently being investigated by "at least eight federal agencies, a state regulator and two European nations."

The actions under examination include the bank's participation in the Libor-rigging scandal, allegations that JPMorgan facilitated Bernard Madoff's multi-billion-dollar Ponzi scheme, accusations by the Federal Energy Regulatory Commission that it manipulated energy prices, allegations that it bribed Chinese officials, and the bank's participation in the so-called robo-signing scandal, in which the employees of major mortgage lenders claimed to have reviewed foreclosure documents with which they were totally unfamiliar.

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