Regulators collude in lawbreaking by Wall Street banks

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7 February 2012

The US Securities and Exchange Commission (SEC), the main federal regulator of banks and financial firms, routinely grants major Wall Street banks waivers from legal penalties as part of cash settlements in securities fraud cases, the *New York Times* reported February 3.

In its own study of SEC records over the past decade, the newspaper said it uncovered nearly 350 instances in which the regulatory body exempted banks such as JPMorgan Chase, Bank of America, Wells Fargo and Goldman Sachs from legal provisions stripping firms that violate securities laws of privileges worth billions of dollars in profits.

The article provides a glimpse of the corrupt relationship between Wall Street and the government that enables the financial elite to engage in fraud and swindling, knowing that it can count on the protection of the agencies that supposedly exist to police it. The *Times* report, which spans both the Bush and Obama administrations, points to the complicity of the entire political establishment in the orgy of speculation and criminality that led to the financial crash of 2008 and the devastating slump that followed.

The big Wall Street firms, as is clear from the article, wantonly and repeatedly break the law and factor in the cost of cash settlements with the SEC and other bodies as part of the cost of doing business.

Banks and executives who have been caught red-handed lying about the securities they market or other aspects of their business are not only shielded from criminal prosecution or civil trials, they are given waivers so they can continue to enjoy lucrative advantages in the sale and underwriting of stocks and bonds, the management of mutual funds and the raising of funds for small companies, while retaining immunity from shareholder lawsuits.

The *Times* quotes David S. Ruder, a former SEC chairman, as saying, “The ramifications of losing those exemptions are enormous to these firms.” Without the waivers, agreeing to settle charges of securities fraud “might have vast repercussions affecting the ability of a firm to continue to stay in business.”

The newspaper says it found 49 cases since 2005 where firms that settled fraud cases were granted waivers allowing them to fast-track stock or bond offerings, and only 11 instances where companies lost that privilege. There were 91 waivers since 2000 granting immunity from lawsuits and 204 related to raising money for small companies and managing mutual funds.

“Close to half of the waivers,” the *Times* explains, “went to repeat offenders—Wall Street firms that had settled previous fraud charges by agreeing never again to violate the very laws that the SEC was now saying that they had broken.”

It quotes Meredith B. Cross, the SEC’s corporation finance director, as saying, “The purpose of taking away this simplified path to capital [the fast-track privilege] is to protect investors, not to punish a company.” She fails to explain how giving a pass to companies that defraud investors and the public “protects” them.

JPMorgan Chase, the largest US bank by assets, has settled six securities fraud cases in 13 years. Nevertheless, it has been given at least 22 waivers since 2003, with most of the SEC settlements involving two or more exemptions. Last July, the bank agreed to pay $228 million (out of $2.9 trillion in total assets) to settle civil and criminal charges that it defrauded cities and towns by rigging bids with other Wall Street companies. It received three waivers as part of the deal.

The bank’s lawyers argued in letters to the SEC that the waivers should be granted because of JPMorgan’s

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"strong record of compliance with the securities laws."

Bank of America and Merrill Lynch, which merged in 2009, have settled 15 fraud cases and been given at least 39 waivers. In eleven years, Citigroup settled six fraud cases and received 25 waivers.

All of these banks, as well as other recipients of waivers in fraud settlements such as Wells Fargo, Morgan Stanley and Goldman Sachs, were handed billions of dollars in taxpayer funds in the 2008 bailout and have received many multiples of those sums in virtually free loans from the Federal Reserve and other government subsidies.

Not a single major bank or top echelon bank executive has been criminally charged for violations of the law in connection with the frenzied speculation in and false marketing of subprime mortgage-linked securities that precipitated the Wall Street crash. In 2010, the SEC agreed to cash settlements with Goldman Sachs and Countrywide Financial ex-CEO Angelo Mozilo for fraud in connection with the housing bubble rather than bringing their cases to trial.

Last April, US Senate Permanent Subcommittee on Investigations released a 639-page report providing detailed evidence of rampant mortgage fraud by the bankrupt savings and loan giant Washington Mutual and deceitful marketing of mortgage-backed securities by Goldman Sachs. The report documented Goldman's drive to sell off its large holdings of mortgage-backed securities and home loans beginning in 2007 and generate profits by betting against the very mortgage securities it was selling to investors.

The Senate report also detailed the complicity of federal regulatory agencies in Wall Street fraud and criminality and the role of the credit rating firms Moody's and Standard & Poor's in giving inflated ratings to subprime mortage-backed securities in order to boost their profits.

The Senate report, barely reported by the media at the time of its release, has remained a dead letter.

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