Five major banks to plead guilty to rigging currency markets

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Five major international banks are expected to plead guilty as soon as next week to criminal charges in the US related to their deliberate manipulation of global foreign exchange markets, which allowed them to rake in billions of dollars at the expense of retirees, university endowments and municipalities.

Citigroup, JPMorgan Chase, Royal Bank of Scotland Group, Barclays and UBS are expected to plead guilty to felony fraud and antitrust charges. They will pay fines totaling several billions of dollars, according to bank and regulatory officials who spoke anonymously with the *New York Times*, Bloomberg and Reuters.

The effect of the guilty pleas will be essentially zero, beyond the immediate costs of the fines levied on the institutions. As the *Times* put it, "life will go on, probably without much of a hiccup."

In the years since the financial crisis, federal regulators avoided bringing criminal charges against banks and their executives, opting instead for either cash settlements and so-called deferred-prosecution agreements, in which charges are delayed on the basis of the banks' compliance with certain conditions.

In 2012, it became clear that major global banks, including UBS and Barclays, were systematically engaged in manipulating LIBOR (London Interbank Offered Rate), the benchmark global interest rate on the basis of which hundreds of trillions of dollars of financial contracts are valued.

In June of that year, Barclays was fined $200 million by the Commodity Futures Trading Commission and $160 million by the United States Department of Justice. This was followed by UBS's agreement in December 2012 to pay regulators $1.5 billion in connection with the scandal and an agreement by Deutsche Bank in 2015 to pay $2.5 billion to regulators. Numerous other banks, including Citigroup and JPMorgan, were fined by European authorities.

UBS was offered a deferred-prosecution agreement in connection with the LIBOR scandal, but broke the terms of the agreement by manipulating the $5.3 trillion-a-day foreign exchange markets in the subsequent periods.

In late 2014, six banks—JPMorgan Chase, Citigroup, Bank of America, UBS, Royal Bank of Scotland and HSBC—agreed to pay $4.3 billion to federal regulators to settle civil charges.

The investigation charges also had a criminal component, which the Justice Department is now seeking to settle with guilty pleas from the banks. Unlike some previous cases, however, these guilty pleas are expected to come not merely from the subsidiaries of the banks, but from bank holding companies themselves.

Financial regulators have released voluminous records in connection with the foreign exchange scandal, showing how brazenly and openly bank traders discussed rigging currency rates, even as they knew their employers were being investigated for similar activities with regard to LIBOR.

Despite the unprecedented character of the pleas, the actual impact of the admissions of criminal wrongdoing by the banks is expected to be next to nothing.

As the *Times* reports, "Behind the scenes in Washington, the banks' lawyers are also seeking assurances from federal regulators—including the Securities and Exchange Commission and the Labor Department—that the banks will not be barred from certain business practices after the guilty pleas."

In particular the banks are seeking waivers to retain their status as "well-known seasoned issuers," allowing them to raise credit more easily, as well as the ability to operate mutual funds. The *Times* reports that "a majority of commissioners" of the SEC are in favor of granting such waivers.

In fact, for the biggest corporations, being convicted of a felony is increasingly becoming legally irrelevant, and just one element of their normal operations. As the *Times* points out, the guilty pleas are merely "an exercise in stagecraft."

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One former Justice Department official told the *Times* that an "underlying assumption" of the Justice Department is that "the bank is not a criminal operation." But the emergence of scandal after scandal, including the selling of toxic mortgage-backed securities that caused the financial crisis, the forging of foreclosure documents, widespread complicity in Bernard L. Madoff's Ponzi scheme, money laundering, and tax evasion by Wall Street testifies to the fact that the banks are, in fact, criminal outfits.

Since taking office shortly after the onset of the financial crisis, the Obama administration has sought not to hold the banks to account and prevent criminal wrongdoing, but rather to conceal their crimes and, when this becomes impossible, to issue wrist-slap punishments that allow the banks to go on largely as before.

In these cases, the fines levied by financial regulators remain a cost of doing business, and pale in comparison with the billions of dollars made by the major banks every year through criminal activities.

The guiding principle of the Obama administration, in the words of former Attorney General Eric Holder, is that the giant banks are "too big to jail." As the *Times* article explained, prosecutors are "mindful that too harsh a penalty could imperil banks that are at the heart of the global economy."

In exchange for their services, top financial regulators are almost universally provided with high-paying positions in Wall Street after their stints with the government.

Most notably, Ben Bernanke, the former Federal Reserve chairman who funneled trillions of dollars in government funds to Wall Street, announced last month that he has been hired by Chicago-based hedge fund Citadel LLC. This followed the announcement in November 2013 that former Treasury Secretary Timothy Geithner joined the hedge fund Warburg Pincus.

To this day, not a single executive at any major bank has been criminally prosecuted for helping to cause the financial crisis, or any of the crimes that followed.