

A contemporary review of the relationship between the global financial crisis, financial crime and white collar criminals'

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2008 Financial Crisis

Traditional Factors

- Weak banking regulation
- High levels of consumer debt
- Erosion of market discipline
- Flaws in credit rating agencies
- Weak credit regulation
- Culture of some banking practices
- Deregulation of consumer and banking laws

What is white collar crime?

Sutherland in 1941:

*“a crime committed by a person of **respectability** and **high social status** in the course of his occupation”*

White-collar criminals include:

- robber barons
- merchant princes
- captains of finance and industry.

A History Lesson

White collar crime has contributed towards:

- Wall Street Crash and Great Depression
- Savings and Loans Crisis
- The collapse of many large firms in the US
- The collapse of Polly Peck, BCCI and Barings Bank

2008 Financial Crisis and White Collar Crime

- Sub prime mortgages and mortgage fraud
- predatory lending
- ponzi frauds
- market manipulation and the
- 'Global War on Terror'

2008 Financial Crisis ctd

Subprime Mortgages and Fraud

A subprime loan:

- non-traditional or high risk loan offered for debtors with low credit scores
- Accounted for 26.1% of all US mortgages in 2006
- Evidence that lenders deliberately targeted high risk debtors

Mortgage fraud:

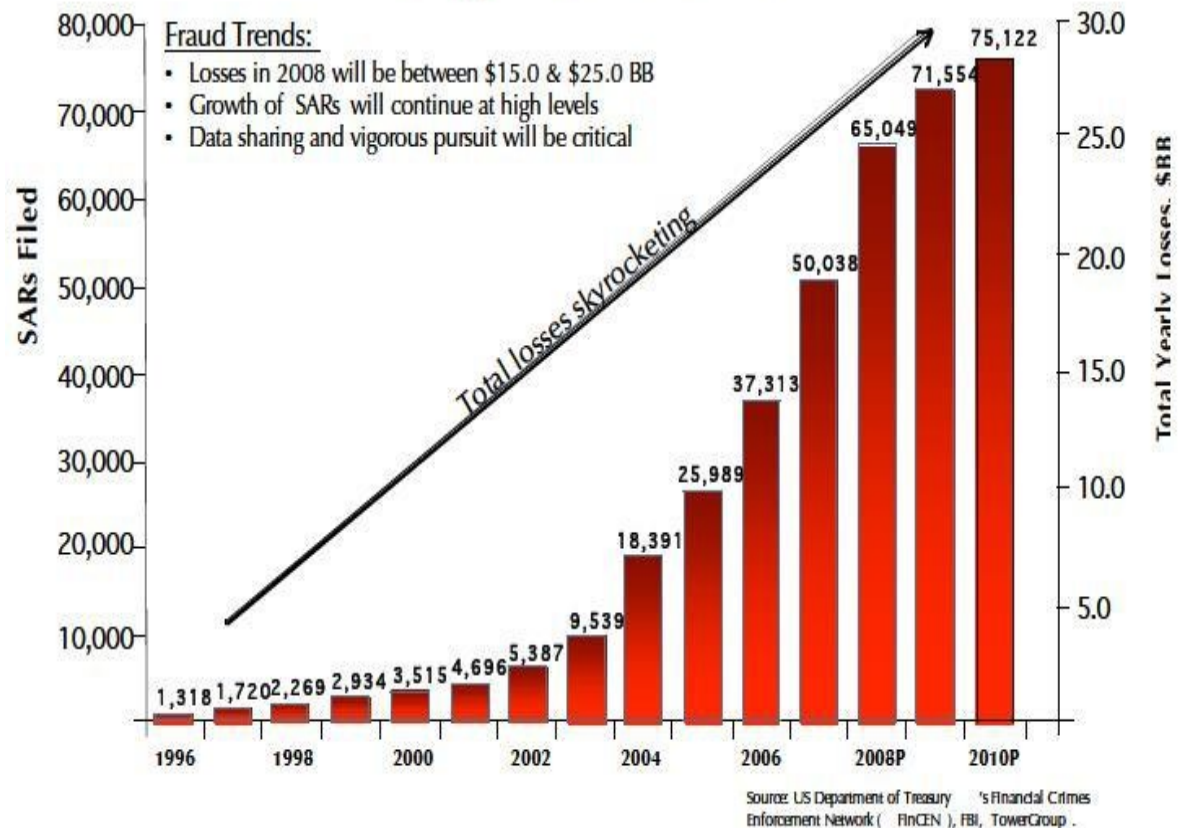
- intentional misstatement, misrepresentation, or omission to obtain finance to purchase property

Subprime Mortgages and Fraud

Annual level of mortgage fraud:

- 2006 – \$4.2bn
- 2007 – \$813m
- 2008 – \$1.4bn
- 2009 – \$14bn
- 2010 – \$10bn
- 2011 – \$12bn
- 2012 – \$13bn (FBI)

Mortgage Fraud is a Giant and Growing Cause of Losses



Suspicious Activity Reports and FinCEN:

- 1996 – 2006 FinCEN received 82,851 mortgage fraud related SARs
- 2006 – 2007 FinCEN received 37,313 mortgage fraud SARs
- 2010 FinCEN received 70,472
- 2011 FinCEN received 92,028
- Representing an increase of approximately 33 per cent from 2010

Federal Bureau of Investigation:

- Since 2008 a 400% increase in mortgage fraud investigations
- 84 mortgage fraud task forces
- approximately 2,000 investigations
- over 1,000 indictments
- over 1,100 convictions

Predatory Lending

This involves:

- “lenders engaging in deception or fraud”
 - “manipulating the borrower”
 - “taking advantage” (Department of Treasury, 2000)
-
- Direct link to subprime lending, subprime loans and illegal lending practices.

Predatory Lending ctd

Categories of predatory lending include:

- Flipping,
- Packing,
- Equity stripping, and
- Out right fraud.

Financial sanctions imposed:

- Household International \$484m,
- Bank of America \$335m, and
- Bank of America \$16.65bn (August 2014)

Ponzi Frauds

A fraudulent investment scheme that pays investors with money received from new investors **rather than** the profits from other,

- Pyramid Schemes
- Examples - Charles Ponzi, Bernard Madoff and Alan Stanford
- 150 Ponzi schemes with losses exceeding \$16.5bn exposed (2007-2009)

Ponzi Frauds ctd

Securities and Exchange Commission:

- increased its enforcement actions by 121% since 2008 against ponzi frauds
- In 2010 the SEC has brought more than 100 enforcement measures

Federal Bureau of Investigation:

- instigated over 1,500 ponzi fraud related investigations since 2008, an increase of 150% since 2008.

The Global War on Terror

- Largely an unseen factor
- Department of Justice altered its priorities from white collar crime to Homeland Security following 9/11
- Over 4,000 of its 11,500 agents were assigned to tackle terrorism
- FBI stated in 2004 that mortgage fraud will become an epidemic.

The Global War on Terror ctd

- 2007, only 150 FBI agents - over 54,000 allegations of mortgage fraud
- Fraud Enforcement and Recovery Act 2009 altered the imbalance created by President George Bush
- A key factor according to the Financial Crisis Inquiry Commission

Market Manipulation

- Deliberate intention to intervene with the operation of the market
- Insider dealing and market abuse
- Create artificial, false or misleading appearances of products, prices, securities, commodity or currency

Market Manipulation ctd

- LIBOR and FOREX
- Contracts attached to LIBOR are estimated to be worth between \$300tn and \$800tn
- Several banks have admitted manipulating LIBOR and conspiracy to defraud
- First conviction obtained by Serious Fraud Office
- At least 20 ongoing investigations
- Numerous large financial penalties have been imposed

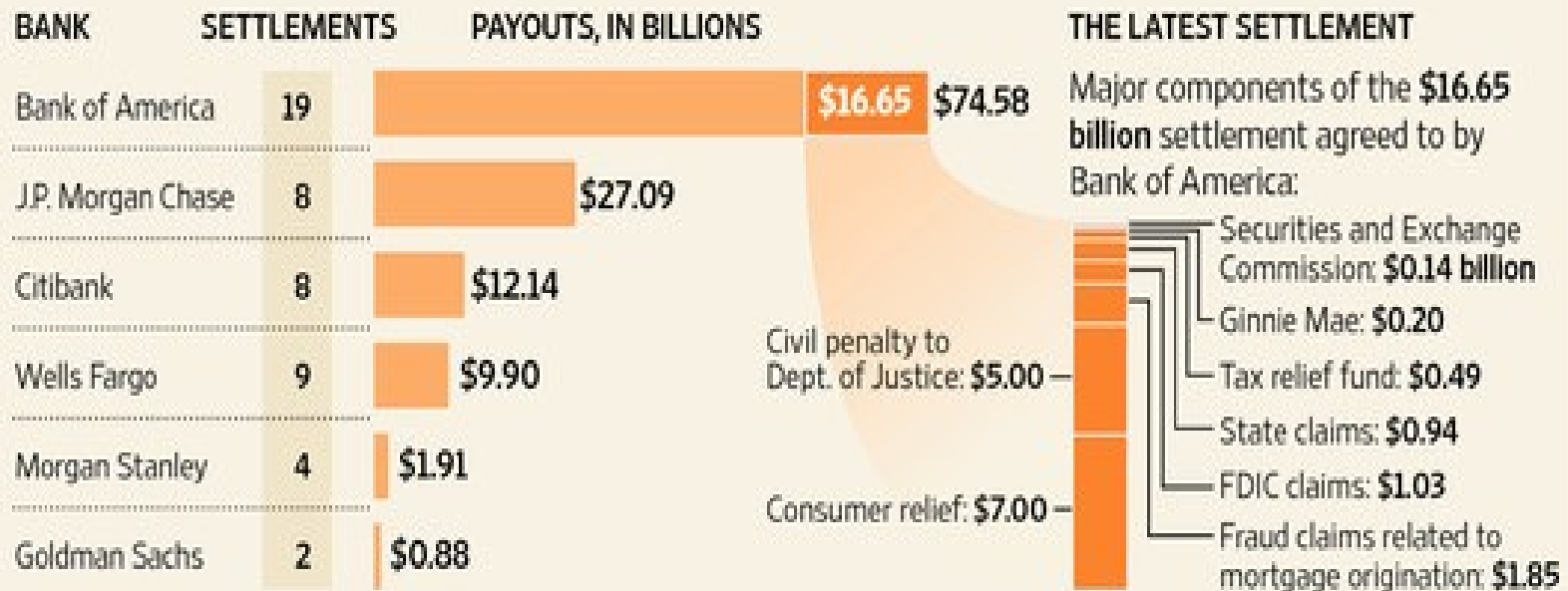
Response: United States of America

- Financial Fraud Enforcement Recovery Act 2009
- Dodd–Frank Wall Street Reform Act 2012
- Increased use of financial sanctions
- Increased use of deferred prosecution agreements
- **No** convictions of senior members of the sectors that contributed towards financial crisis.

Enforcement Activities

Cleaning Up After the Crisis

Large banks have agreed to pay almost \$127 billion to settle cases related to the 2008 credit crisis, including lawsuits over mortgages, foreclosures and some of the fire-sale deals made at the height of the meltdown.



Note: Data don't include settlements under \$100 million Sources: SNL Financial; staff reports; Dept. of Justice (breakdown) The Wall Street Journal

Enforcement Activities ctd

Number of Entities and Individuals Charged	175
Number of Individuals Who Have Received Officer and Director Bars, Industry Bars, or Commission Suspensions	40
Disgorgement and Prejudgment Interest Ordered or Agreed To	\$1.29bn
Total Penalties, Disgorgement, and Other Monetary Relief	\$3.95bn

Response: United Kingdom

- More legislation, the creation of new regulatory and new enforcement agencies
- Political rhetoric by Coalition government and the imposition of austerity measures
- One LIBOR related conviction (October 7 2014)
- Ongoing trial of Tom Hayes (June 2015)

Enforcement Activities

Year	Total Financial Sanctions
2007	£5.3m
2008	£22.7m
2009	£35m
2010	£66.1m
2011	£89.1m
2012	£311.5m
2013	£474.1m
2014	£1.4bn

Enforcement Activities ctd

Serious Fraud Office	Percentage of Convictions
2001 to 2006	61%
2006/2007	71%
2007/2008	68%
2008/2009	91%
2010/2011	84%
2011/2012	73%
2012/2013	70%
2013/2014	71%

Conclusions



Conclusions

- No individual or 'super-villain' has become the face of white collar crime during the financial crisis
- Underwhelming response by law enforcement agencies in US and UK
- Distinct lack of accountability and low level of prosecutions

Questions