

Financial Crisis Essay Round 2
The f-raud word
Why won't they use it?

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New Fraud Literature

The image shows two book covers. The left one is 'FRAUD IN MARKETS: Why It Happens and How to Fight It' by Peter D. Gollmann. The right one is 'THE MONSTER: THE FUTURE OF FRAUD IN THE WALL STREET MARKET' by Peter D. Gollmann.

WHY ISN'T WALL STREET IN JAIL?
Financial crooks brought down the world's economy – but the feds are doing more to protect them than to prosecute them

By MATT LABBE

On the morning of Sept. 8, 2008, the world's financial markets were in a state of panic. The Dow Jones Industrial Average had fallen 778 points, its largest single-day drop in history. The S&P 500 had lost 4.4 percent, and the VIX volatility index had spiked to 54.4, its highest level since the 1929 crash. The news was grim: The world's financial system was in a state of collapse. The cause? Financial crooks. The blame? Wall Street. The question: Why aren't they in jail?

The answer, according to Matt Labbe, is that the federal government is doing more to protect them than to prosecute them. Labbe, a former Wall Street trader and author of the book 'The Monster: The Future of Fraud in the Wall Street Market', argues that the current regulatory environment is designed to protect the interests of the financial industry, not the interests of the public. He points to the fact that the SEC has a long history of being a 'toothless tiger' when it comes to prosecuting financial fraud. He also points to the fact that the DOJ has a long history of being a 'toothless tiger' when it comes to prosecuting financial fraud. In short, Labbe argues that the current regulatory environment is designed to protect the interests of the financial industry, not the interests of the public.

Labbe's argument is based on a number of factors. First, he points to the fact that the SEC has a long history of being a 'toothless tiger' when it comes to prosecuting financial fraud. He also points to the fact that the DOJ has a long history of being a 'toothless tiger' when it comes to prosecuting financial fraud. In short, Labbe argues that the current regulatory environment is designed to protect the interests of the financial industry, not the interests of the public.

SEC Investigates Investment Banks For Betting Against Their Products

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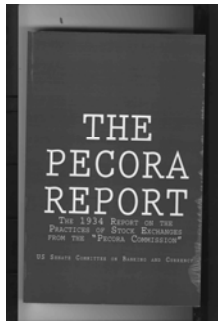
JPMorgan Is Said to Be Investigated Over Disclosures in Subprime CDO Deals

By Joshua Gelin and Dawn Kopecki - Nov 2, 2010 12:00 AM ET

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JPMorgan Chase & Co. is the subject of an investigation to determine if it failed to tell investors in a financial product linked to subprime mortgages that hedge fund Magnetar Capital helped select the underlying assets before betting against them, a person familiar with the matter said.

An Old Story



Overview

- **Objective: Highlight the role of fraud in the Financial Crisis**
- **Some Fraud History**
- **The Subprime Crisis**
- **The Mathematics of Fraud**
- **Conclusions**

**Francis-Prevosto "Data and Disaster", 2010
eForum**

- Explored role of data in the financial crisis
- Illustrate that data was available
 - Much of analysis was exploratory
 - Some data mining was illustrated
- Could have detected problems
 - Due diligence could have uncovered fraud
 - Provide warning of deterioration on mortgage quality

**Francis-Prevosto "Data and Disaster", 2010
eForum**

- **Two Case Studies of Use of Data to Detect Problems**
 - **Madoff Ponzi Scheme**
 - **Mortgage Crisis**

**Francis: "Banking On Robbery: The Role of Fraud
In the Financial Crisis"**

- Documented role of fraud in several financial crisis
 - S&L crisis
 - Madoff Ponzi scheme
 - Subprime bubble
- Source of some information in this presentation and the essay
- Published in CAS Fall 2010 e-forum: www.caact.org

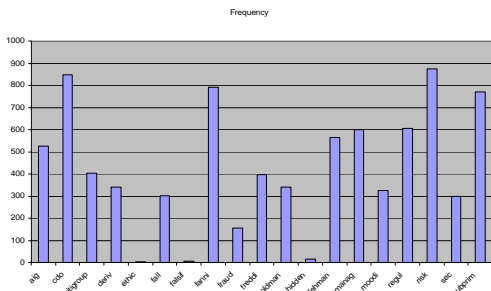
Financial Crisis Inquiry Commission

- The Commission provided many detailed examples, some of them quite incredible of fraud:
- “The record of our examination is replete with evidence of other failures: financial institutions made, bought, and sold mortgage securities they never examined, did not care to examine, or knew to be defective”
- “And the report documents that major financial institutions ineffectively sampled loans they were purchasing to package and sell to investors. They knew a significant percentage of the sampled loans did not meet their own underwriting standards or those of the originators. Nonetheless, they sold those securities to investors”

Financial Crisis Inquiry Commission (2)

- The report provides evidence of accounting chicanery: “the leverage was often hidden—in derivatives positions, in off-balance-sheet entities, and through “window dressing” (fraudulent accounting) of financial reports available to the investing public.”
- “Ruhi Maker, a lawyer who worked on foreclosure cases at the Empire Justice Center in Rochester, New York, told Fed Governors Bernanke, Susan Bies, and Roger Ferguson ... that she suspected that some investment banks—she specified Bear Stearns and Lehman Brothers—were producing such bad loans that the very survival of the firms was put in question. “We repeatedly see false appraisals and false income,” she told the Fed officials, who were gathered at the public hearing period

Text Mine of Report for word “fraud”

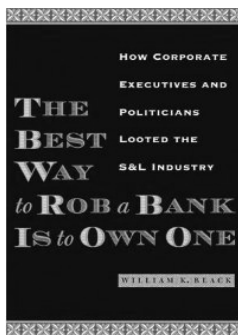


Causes of the Crisis per JRMS Financial Crisis

Essays

- systemic failure of regulatory system
- lack of confidence resulting from accounting opacity and gimmickry
- a liquidity crisis partially resulting from "mark to market" accounting
- a bubble of historic proportions that could have been predicted from information available to bank managers and regulators at the time
- lax underwriting standards
- companies that were too big
- too much leverage
- inappropriate use of models without consideration of their limitations and without scrutinizing their assumptions for reasonableness
- moral hazard resulting from transferring risk to others, through securitization, leading to a complete failure to underwrite and manage the risks
- compensation incentives that encouraged taking on imprudent risk exposures
- Lack of a reliable source of independent information.
 - In the case of subprime mortgages and the credit agencies, due to conflicts of interest, the information was not independent, and essentially only one view, an optimistic one was tolerated
- "excesses had been building up for a while throughout the financial system"
 - those who warned of the coming crisis were punished or ignored.

Fraud Kindergarten: The S&L Crisis



Control Frauds

- Coined term "control frauds"
- those committing the frauds have control of their company.
- They also control many other resources needed to keep the fraud going such as lawyers, accountants, appraisers and lobbyists.
- Perpetrators of the S&L frauds, such as Charles Keating, orchestrated an extensive lobbying effort against the regulators.
- Black documents the scheming that was used to restrain the Bank Board from intervening to close down the frauds. "One of the great advantages that white-collar criminals have over blue-collar criminals is the ability to use top lawyers even before criminal investigations begin"

Regulatory Interference in S&L Frauds

- After regulatory action against Don Dixon was initiated, Representative Robert Eckhardt phoned the FBI director to find out who authorized subpoenas against Vernon and to convey Speaker Wright's displeasure.
 - Another representative called the Bank Board and requested they not help the Justice Department.
 - The Vernon bankruptcy ultimately cost the taxpayers \$1B.
- Some of the additional regulatory interference that Keating and other S&L owners implemented was:
 - The Bank Board was coerced to block aggressive interventions against known frauds by field offices.
 - The Bank Board was forced to hire back an incompetent manager who was sympathetic to the control frauds. The Bank Board was required to give the employee a significant raise.
 - The Bank Board was forced to sign an agreement to cease and desist in its investigation of Lincoln Savings.

Statistics From S&L Crisis

	Total	Ca	Tx
Institutions Under RTC Control	686	59	137
Institutions Where A Criminal Referral Was Filed	455	42	85
Percent	66%	71%	62%
Referrals	2,265	175	631
Individuals Named on Referrals	4,559	223	1,350

From Table 2, p38, Big Money Crime by Calavita et al.

Characteristics of Control Frauds

- **Fast growth**
- **Extreme Leverage**
- **Lending to the uncreditworthy**
- **Misuse of accounting, in particular, inadequate reserves**

Some Observations

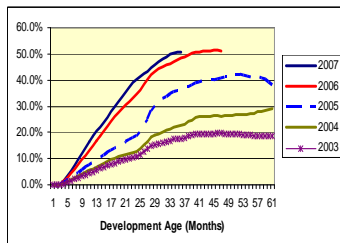
- Subprime mortgages had some high default rates before mortgage bubble
- Lewis (The Big Short) reports that two analysts obtained data from Moody's that showed high default rates
- The analyst concluded that the entire industry was distressed

Default Rate Estimates

Year	Current Year End Default Rate	Age To Ultimate	Ultimate Default Rate
	(1)	(2)	(3)=(1)*(2)
1999	0.293	1.068	0.253
2000	0.225	1.068	0.238
2001	0.228	1.080	0.246
2002	0.158	1.115	0.177
2003	0.114	1.190	0.136
2004	0.089	1.309	0.117
2005	0.136	1.702	0.231
2006	0.128	2.883	0.371
2007	0.040	16.779	0.673

Notes:
 (1) All rates adjusted to 12 month basis by dividing by 0.75

Delinquency Rates Updated



Data supplied by LoanPerformance.com

Default Rates

- Demyank (2009) notes that termination rates for subprime mortgages were relatively constant for origination years from 2001 through 2006.
- At 12 months of maturity, termination rates are about 20%, at 24 months they are about 50% and at 36 months they are about 80%.
- However, when housing price appreciation slows, defaults grow as a percent of the terminations and refinancings decline. Demyank's analysis also indicates that the subprime lending was a net loss to homeownership; that when foreclosures are subtracted

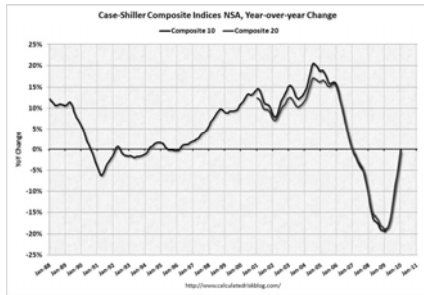
Lewis: *The Big Short*

- Hedge fund managers he highlights, such as Eiseman and Burry, believed that the companies involved in selling the subprime loans and derivatives such as the banks, investment companies, and credit rating agencies, were not only inept, but were unethical.
- He describes how the investment banks devised strategies to convince the credit rating agencies to assign A or better ratings to subprime pools that did not merit the high ratings.
 - These securities could then be packaged and sold to pension funds and ordinary investors as high-quality fixed investment products.
- He also cites the statistic that by 2005 the FBI claimed that mortgage fraud had increased by 600% and more resources needed to be dedicated to the problem (they in fact were not).
 - In 2004 CNN reported that the FBI warned of the potential for the mortgage fraud to become an epidemic (Frieden 2004).

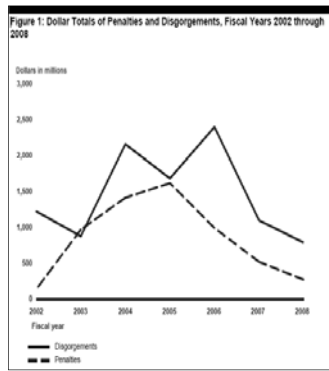
Bubbles

- Michael Burry in Lewis's *The Big Short* "It is ludicrous to believe that asset bubbles can only be recognized in hindsight"
- Financial Crisis Inquiry Commission: "• We conclude this financial crisis was avoidable. The crisis was the result of human action and inaction, not of Mother Nature or computer models gone haywire. The captains of finance and the public stewards of our financial system ignored warnings and failed to question, understand, and manage evolving risks within a system essential to the well-being of the American public. There was a big miss, not a stumble."

Housing Prices Never Go Down?



Regulatory Forbearance



2009 GAO Report

Akerloff and Romer: Mathematics of Looting

- Value = Assets - Liabilities
- $Value_{t+1} = Assets_t + (-) Income_{t+1} - Dividends_{t+1} - Liabilities_t$
- Objective: maximize value of bank
- Three period model

$$\max(V_0) = \max \frac{(\rho_2(A) - (1+r_1)(1+r_2)[L - \rho_1(A) - d_1] + d_1}{1+r_2}$$

subject to $0 < cA_0 < W_0$,

$\rho_1(A)$ = cash payments, d = dividends

Looting Mathematics cont.

$$\max(V_o) = \frac{\rho_2(A)}{1+r_2} + \rho_1(A) - (1+r_1)L_0$$

subject to $0 < cA < W_1$

$d_1 < M(A)$

$d_2 < \max\{0, \rho_2(A) - (1+r_1)[(1+r_1)L_0 - \rho_1(A) + d_1]\}$

$$\max(E) = \frac{d_2}{1+r_2} + d_1, E = \text{owner's equity}$$

Results of Looting Math

- The government allows management to pay itself $M(A)$, an amount that may be greater than or less than V .
- if $M(A)$ exceeds market value V , management is incented to invest in negative return projects in period 1, and default in period 2.
- If necessary, it will borrow in period 1 to fund management dividends.

Selected Write-In Survey Solutions

- Eliminating the revolving door between regulators and the regulated and instituting oversight independent of the Fed and financial institutions.
- "our regulators are almost all political appointees (mostly lawyers), are generally clueless and easily corrupted - anything else is an improvement"
- Several people wanted prior laws from the 1990s that imposed greater restrictions on financial institutions restored. Presumably this included the Glass-Steagall Act that prohibited investment banks from owning banks.
 - One person mentioned the older laws "prohibited gambling on mortgage backed securities".

Results: The evidence of bubbles and fraud was there

- abundant data was available to determine
 - that there was a housing bubble
 - that mortgages were deteriorating
 - that mortgage fraud was occurring and was rapidly increasing
 - that pools of subprime mortgages were granted high quality ratings that they did not deserve
- that Madoff was committing fraud

Results: What was willfully ignored or known

- An S&P email indicates that employees were specifically instructed not to request data.
- evidence that many fund managers suspected that Madoff was committing fraud, but they believed that the fraud would benefit them.
- Numerous authors, journalists and investigators supplied evidence that many people realized that subprime mortgages and the related pools of mortgages (Collateralized Debt Obligations) were unprofitable and that a significant increase in mortgage fraud was occurring.

Results: Looting

- "Looting" occurred during the S&L crisis.
- The S&L looting involved cooperation between bank managers, their service providers such as auditors, and the government. Members of congress were actively involved in passing legislation that prolonged the fraud and interfered in law enforcement investigations of the perpetrators of fraud.
- The evidence in this paper also suggests that "looting", i.e., devising and selling inherently unprofitable products was a key cause of the GFC.
- Interference with legislation helped to create the conditions for the GFC.
 - In 1990s, legislative process was used to eliminate last barriers (i.e., Glass Steagall eliminated with Gramm-Leach-Bliley) to reckless behavior by financial services companies.
 - Changes to the Commodities Futures laws allowed derivatives such as the CDOs and CDSs that caused the crisis

Conclusions

- **Systemic risk is a risk that affects a financial system, such as the Savings and Loan industry, that has the potential to affect a nation's economy (in the case of the S&L crisis) or the global economy in the case of the GFC.**
- **Financial Crisis Inquiry Commission presented evidence that fraud played a significant role in the crises.**

Fraud and Systemic Risk Regulation

- The evidence presented in this paper suggests that fraud regulation needs to be a key component of Systemic Risk Regulation.
- The SEC needs a "chief criminologist", i.e., someone experienced in fraud detection and prosecution.
- More FBI resources are needed to investigate and prosecute financial fraud.
- Regulators must search for and prosecute fraud.
- Increasing the emphasis on enforcement and on detecting fraud before it creates a system-wide crisis can be accomplished without any new legislation
- legislative changes in the late 1990s and early 2000s appears to have removed some barriers to fraud.
- if fraud is not addressed, future crises will occur.

Systemic Risk Data Collection Effort

www.ce-nif.org

The screenshot shows the website for the Committee to Establish the National Institute of Finance (CE NIF). The logo features 'CE' above 'NIF'. The main heading is 'Committee to Establish the National Institute of Finance'. Below this is a quote from Alan Greenspan, former Chairman of the Federal Reserve Board. A navigation menu includes 'Home', 'Sign the NIF Petition', 'About Us', and 'Contact Us'. The main content area is titled 'Why We Need A National Institute of Finance' and contains text explaining the need for a national repository of financial transaction and entity position data to address gaps in information and analytic tools.

Documentary *Inside Job*: the Trailer

- From Academy Award® nominated filmmaker, Charles Ferguson ("No End In Sight"), comes *Inside Job*, the first film to expose the shocking truth behind the economic crisis of 2008. The global financial meltdown, at a cost of over \$20 trillion, resulted in millions of people losing their homes and jobs. Through extensive research and interviews with major financial insiders, politicians and journalists, *Inside Job* traces the rise of a rogue industry and unveils the corrosive relationships which have corrupted politics, regulation and academia.



Plunder – The Crime of Our Time



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PLUNDER: THE CRIME OF OUR TIME A New Film By Danny Schechter

Plunder: The Crime of Our Time is a hard-hitting investigative film by Danny Schechter. The "News Dissector" explores how the financial crisis was built on a foundation of criminal activity uncovering the connection between the collapse of the housing market and the economic catastrophe that followed.

The film opens with the conviction of Ponzi King Dennis Madoff, whose acknowledged criminality drove a \$60 billion dollar pyramid scheme. It argues that the wrong doing committed by a few individuals distracts from the real story, implicating the



Questions?