

Too big to fail, too powerful to jail? On the absence of criminal prosecutions after the 2008 financial meltdown

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Abstract Various explanations have been offered regarding the causes of the current global economic crisis that was spawned by the collapse of mortgage-based securities in the U.S. that were sold world-wide and that contained "toxic assets" comprised of subprime loans. There is ample evidence that such loans were originated through fraud. Firms recorded huge profits, and executives were awarded large bonuses even though some had led their companies into bankruptcy and plunged both the U.S. and global economies into the greatest recession since the Great Depression. This paper assesses the reasons why there have been no major prosecutions to date, and compares the U.S. government's response to that in the savings and loan crisis. It analyzes the influence of large financial institutions on lawmaking, regulation, and the allocation of enforcement resources, the continued general lack of understanding of financial fraud including control fraud, and problems related to the higher status and power of potential defendants.

The global meltdown that began in 2008 was influenced by a number of factors, including flawed financial policies, law-breaking, greed, irresponsibility, and not an inconsiderable amount of concerted ignorance and outright stupidity. To date, the greatest attention regarding that criminality has focused on the \$65 billion Ponzi scheme perpetrated by Bernard Madoff, a scam that resembled tactics of con men, not big time corporate financiers [33, 36]. Prototypical corporate frauds such as those perpetrated by Wall Street behemoths American International Group (AIG), Countrywide, Lehman Brothers and Bear Sterns received much less attention [1, 20, 24, 25]. These companies, had balance sheets that were saturated with securities containing toxic subprime mortgages. They collapsed, were bought by competitors, or were bailed out by the federal government with huge infusions

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