

Deutsch banks decade of ‘lying, cheating and stealing’

From Zerohedge, 6 May 2015

SEC Commissioner furious at Deutsch banks decade of lying, cheating and stealing

Last week we [commented on the latest travesty](#) in the legal system when Deutsche Bank paid \$2.5 billion to settle charges that it had manipulated LIBOR, EURIBOR and various other -BORs. As usual in situations such as this one, not a single banker went to prison, but there was some hope that Deutsche Bank's gross criminal conduct would at least land it on the SEC's "bad actors" list, which is like the Dodd-Frank equivalent of ‘time out’ and restricts the offender from participating in exempt securities offerings.

Not to worry: as we reported as part of its settlement, Deutsche Bank, as well as every other criminal financial institution, had - deep in the fine print - inserted language that exempted the offender from such stigma. As the WSJ noted, "the language allows the banks to avoid asking the SEC for a waiver—a process that has become fraught with uncertainty amid commissioner disagreements over whether to allow financial firms to avoid a “bad actor” ban..."

"It's good to be TBTF"

We concluded that "It's good to be TBTF" because clearly no matter how many laws are violated and how much money is stolen (LIBOR was the reference security for nearly \$1 quadrillion in global rate-sensitive derivatives), i) nobody ever goes to prison, ii) there are absolutely no negative consequences, and iii) the cost of running a criminal organization is tiny - the settlement usually amounts to far less than 1% of the gains reaped from years of illegal activities.

Frankly, at this point one should just sit back and watch in amusement, because until the revolution and/or war predicted by Paul Tudor Jones arrives and the guillotines start working overtime, nobody in a position of wealth or power will be held accountable.

That same message was, in rough terms, what prompted SEC commissioner Kara Stein, a Democrat, to write her "[dissenting statement](#)" regarding granting Deutsche Bank the waiver for ineligible issuer status.

As a result of its criminal misconduct...

Here are the choice excerpts:

I respectfully dissent from the Commission's Order ("Order"), approved on May 1, 2015, by a majority of the Commission. The Order grants Deutsche Bank AG a waiver from ineligible issuer status triggered by a criminal conviction of its subsidiary, DB Group Services (UK) Ltd. (collectively with Deutsche Bank AG, "Deutsche Bank"), for manipulating the London Interbank Offered Rate ("LIBOR"), a global financial benchmark. This waiver will allow Deutsche Bank to maintain its well-known seasoned issuer ("WKSI") status, which would have been automatically revoked as a result of its criminal misconduct absent a Commission waiver.

*With these WKSI advantages comes a modicum of responsibility. **WKSI**s must meet the very low hurdle of not being ineligible. This means that, among other things, they have not been convicted of certain felonies or misdemeanors within the past three years. In granting this waiver, the Commission continues to erode even this lowest of hurdles for large companies, while small and mid-sized businesses appear to face different treatment.*

This criminal scheme involving LIBOR manipulation was designed to inflate profits, and it was effective. It created the impression that Deutsche Bank was more creditworthy and profitable than it actually was. Accordingly, the conduct affected its financial results and disclosures. Because LIBOR plays such an important role in the worldwide economy, manipulation of it goes to the heart of many aspects of Deutsche Bank's disclosures. Interest rates represented to clients and the public also were clearly false. Based on this conduct, I do not find any basis to support the assertion that Deutsche Bank's culture of compliance is dependable, or that its future disclosures will be accurate and reliable.

Even the SEC is shocked

Even the SEC is shocked that the CFTC is an organization that caters exclusively to keeping criminal bankers out of prison, rather than getting them in it:

In addition, the Commission adopted rules disqualifying felons and other "Bad Actors" from Rule 506 offerings on July 10, 2013. Based on the criminal conduct in this case, I expected to receive a request from Deutsche Bank AG for a waiver from the automatic disqualification contained in Rule 506. After all, the final CFTC order was "based on a violation of any law that prohibits fraudulent, manipulative, or deceptive conduct." It should therefore trigger an automatic disqualification absent a waiver.

However, based on a loophole contained in Rule 506(d)(2)(iii), the CFTC has intervened and prevented the bad actor disqualification question from even coming before the Securities and Exchange Commission. The CFTC saw fit to opine on the SEC's Rule 506 jurisprudence about whether Deutsche Bank AG should receive a waiver from automatic disqualification under SEC rules. It is unclear to me what, if any, analysis went into this decision and what prompted the CFTC to insert language into its final order stating that a bad actor disqualification "should not arise as a consequence of this Order." The implications of the CFTC's actions here — and in other actions — are deeply troubling. The Commission should closely review this provision and how it is being used.

Don't worry: former CFTC chief Gary Gensler will soon be US Treasury Secretary - then it will be his job to make sure no criminal with a net worth over a few million dollars ever has to face the US "judicial" system.

In the meantime, the CFTC will **never** do its actual jobs and root out manipulation and rigging in precious metal markets...