

# Summary -- Key Comments and Exhibits

Hearings on the Proposed  
Exemption for Credit Suisse AG  
Before the  
Office of Exemption Determinations  
U.S. Department of Labor

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Columbia U. Center for Sustainable Investment

Washington D.C.  
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# Summary

- ¶ Host of specific lawyer-like concerns (standards, data, independent monitoring, incentives, role of pension funds)
- ¶ **Big picture: our system for penalizing misconduct by the world's largest banks is simply broken**
- ¶ **Similar overall patterns**
  - ¶ Long history of flagrant behavior per organization across many years, jurisdictions, and types of crime (CS: 35 since 1998, \$6.8B in penalties)
  - ¶ Balkanization of sanctions among agencies and countries (countries, agencies)
  - ¶ Heavy reliance on financial penalties
  - ¶ Few senior execs lose jobs, pay fines or go to jail
  - ¶ Waivers and exemptions routinely granted (US Fed; US Treas; SEC; NYS; DOL?)
  - ¶ Appearance of improper influence
- ¶ **Solutions? Start by denying this exemption**

# Tax Justice Network

- **2015: 81 NGOs, 37 countries;**
- **“Impossible” demands now on the agenda:**
  - Global automatic information exchange -> OECD, EU, G20
  - Beneficial ownership registration – companies and trusts → UK, EU, etc
  - Country x country reporting for MNCs → select EU
  - Reform of arms-length pricing standard – OECD (BEPS)
  - Global formulary principle for MNCs
  - Tax treaty revision → Kenya, India (Mauritius treaty),
  - End to tax competition/ greater tax collaboration
  - Stateless taxes on anonymous assets
  - More effective cross-border financial regulation
  - Tougher enforcement and penalties for “pirate banking”
- **Investigative Economics**
  - Havens: Financial Secrecy *index* (2009, 2011, 2013), *Treasure Islands* (2011).
  - Corporate Tax Dodging: Transfer pricing abuse (Helsinki 2012), intellectual property transfers;
  - BEPS Monitor Group (2012-); “Swissification (2013);” ICIJ Lux project;
  - Pirate Banking: “Price of Offshore Revisited” (2012), “Enablers” Project, *Pirate Bankers* (2014)
  - Odious Finance: *Blood Bankers* (2005); *Finance Curse* (2014)
  - Human Capital Flight: Haiti Remittance Project (2014-)
  - Development Finance: Shift from “aid, investment, and debt” to “sustainable public finance”
- **Media**
  - ICIJ, Guardian partnerships
  - Leading films: “We’re Not Broke” (Sundance, 2012); “The Price We Pay” (TIFF, 2014); etc
  - Taxcast podcast in 100+ countries
  - Journalist training (>150 journalists since 2012)
- **Academia**
  - Increasing # of grad degree candidates on offshore-related topics
  - Affiliated researchers/ profs
- **NGO Partners:** *Oxfam, ActionAid, Attac, ATAF, CCFD, ChristianAid, EuroDad, Global Witness, LatinDadd, Friends of the Earth, Fin Integrity Coalition (including GFI)*

3.

**Tax havens**

# The missing \$20 trillion

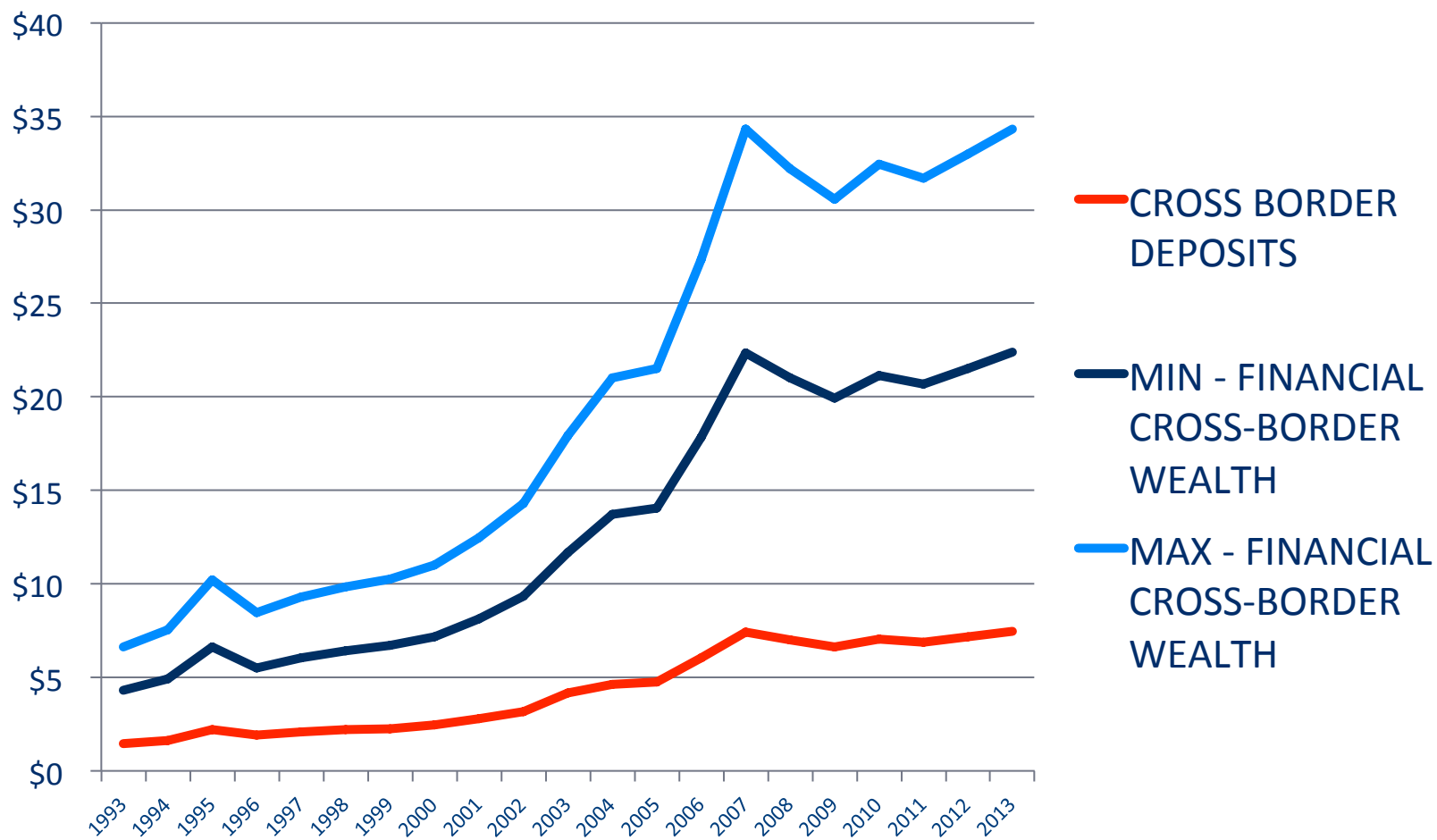
How to stop companies and people dodging tax, in Delaware as well as Grand Cayman

Feb 16th 2013 | From the print edition

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## 6. Global Offshore Haven Financial Wealth, 1992-2014 (\$Trillions)



Source: BIS (2014) data, JSH analysis

## Global Distribution, Net Financial Assets

		Total Number	Ave. Net Financial Worth Per Capita (\$MM)	Total Liquid Net Worth (\$Tr.)	Of Which: "Offshore" (\$Tr.)	% of All Global Net Financial	% of All People
"Happy Few"	>\$30 MM	91,186	\$183.1	\$16.7	\$9.8	30.3%	0.001%
"Just Rich"	>\$5-\$30 MM	839,020	\$12.8	\$10.7	\$5.1	19.4%	0.01%
"Barely Rich"	>\$1-\$5 MM	8,419,794	\$2.1	\$17.4	\$4.7	31.6%	0.13%
GLOBAL ELITE	All >\$1 MM	9,350,000	\$4.4	\$44.8	\$19.6	81.3%	0.14%
EVERYONE ELSE		6,643,863,592	\$0.0016	\$10.3	\$1.0**		99.86%
TOTAL		6,653,213,592	\$0.01	\$55.1	\$20.6	100%	100%

\*\* Foreign currency (mainly dollars and euros)

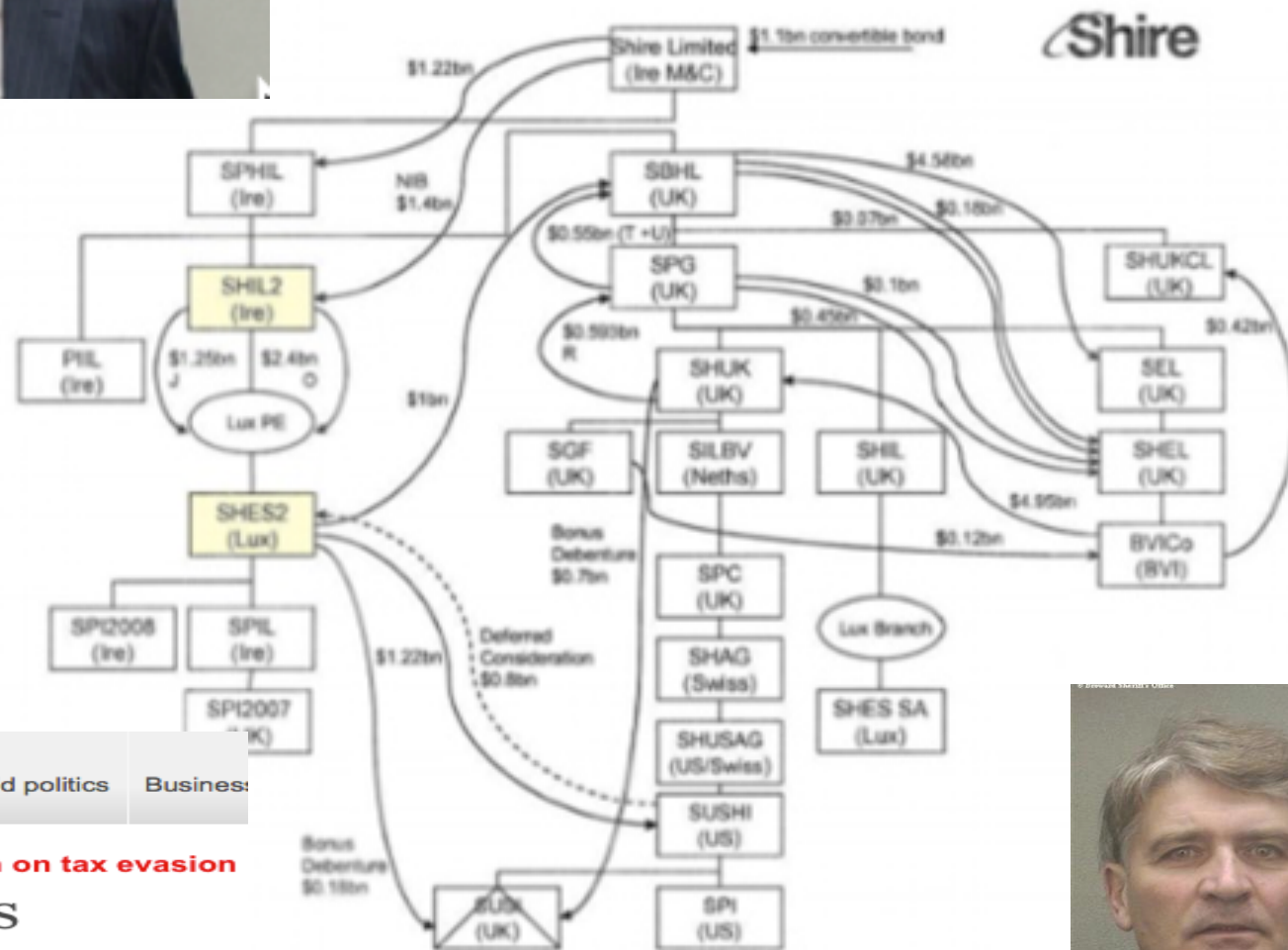
Source: ML/Cap Gemini (2001-09); World Bank data; UN Wider (07); US Treasury (09); our analysis

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# Luxembourg tax files: how tiny state rubber-stamped tax avoidance on an industrial scale

Leaked documents show that one of the EU's smallest states helped multinationals save millions in tax, to the detriment of its neighbours and allies



The Economist

World politics Business

America's crackdown on tax evasion

## Weil walks

A big Swiss cheese is acquitted



## 7.

## CREDIT SUISSE - PUBLIC FINES, RESTITUTION, AND SETTLEMENTS -- FINANCIAL MISBEHAVIOR, 1998-2014

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(US \$Millions)

Charged	Date	Offense	Plaintiff	Assessments** (\$MMs)	Source	
			<b>TOTAL, 1998-2014</b>	<b>\$6,755.3</b>		
1	Credit Suisse	12/12/14	Conflict of interests - investment research	US FINRA	\$5.0	<a href="http://www.cityam.com/205537/barclays-among-10-banks-fined-abusing-research-win-deals">http://www.cityam.com/205537/barclays-among-10-banks-fined-abusing-research-win-deals</a>
2	Credit Suisse	10/21/14	Price fixing - Swiss Fr Deriv	EU Comm	\$11.6	<a href="http://europa.eu/rapid/press-release_IP-14-1190_en.htm">http://europa.eu/rapid/press-release_IP-14-1190_en.htm</a>
3	Credit Suisse	6/16/14	Fraud - Misleading sales pitches	UK FCA	\$4.1	<a href="http://www.fca.org.uk/news/fca-fines-credit-suisse-and-yorkshire-building-society-for-financial-promotions-failures">http://www.fca.org.uk/news/fca-fines-credit-suisse-and-yorkshire-building-society-for-financial-promotions-failures</a>
4	Credit Suisse	5/19/14	Tax dodging	US DOJ/ FED/NYS DFS	\$2,403.5	<a href="http://www.justice.gov/opa/pr/credit-suisse-pleads-guilty-conspiracy-aid-and-assist-us-taxpayers-filing-false-returns">http://www.justice.gov/opa/pr/credit-suisse-pleads-guilty-conspiracy-aid-and-assist-us-taxpayers-filing-false-returns</a>
5	Credit Suisse	3/21/14	Fraud-mortgage- RMBS	US FHFA	\$885.0	<a href="http://www.bloomberg.com/news/2014-03-21/credit-suisse-pays-885-million-to-settle-fhfa-mortgage-lawsuits.html">http://www.bloomberg.com/news/2014-03-21/credit-suisse-pays-885-million-to-settle-fhfa-mortgage-lawsuits.html</a>
6	Credit Suisse	2/21/14	Unreg invest services	US SEC	\$196.5	<a href="http://www.sec.gov/News/PressRelease/Detail/PressRelease/1370540816517#.VGjcc1ZSWFE">http://www.sec.gov/News/PressRelease/Detail/PressRelease/1370540816517#.VGjcc1ZSWFE</a>
7	Credit Suisse	12/19/13	Fraud-mortgage- RMBS	US - AGs -States	\$1,000.0	<a href="http://www.bloomberg.com/news/2013-12-19/credit-suisse-fraud-exceeded-1-billion-n-j-s-hofman.html">http://www.bloomberg.com/news/2013-12-19/credit-suisse-fraud-exceeded-1-billion-n-j-s-hofman.html</a>
8	Credit Suisse	6/11/13	Control failures	HK SFC	\$0.2	<a href="http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=13PR58">http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=13PR58</a>
9	Credit Suisse	11/16/12	Fraud-mortgage- RMBS	US SEC	\$120.0	<a href="http://www.sec.gov/News/PressRelease/Detail/PressRelease/1365171486012#.VGgXQ1ZSWFE">http://www.sec.gov/News/PressRelease/Detail/PressRelease/1365171486012#.VGgXQ1ZSWFE</a>
10	Credit Suisse	3/13/12	Tipping clients w inside info re bond issues	UK FSA	\$0.3	<a href="http://www.theguardian.com/business/2012/mar/13/credit-suisse-salesman-fined-fsa">http://www.theguardian.com/business/2012/mar/13/credit-suisse-salesman-fined-fsa</a>
11	Credit Suisse	12/27/11	Failure to supervise - short sales	US FINRA	\$1.8	<a href="http://www.finra.org/newsroom/newsreleases/2011/p123731">http://www.finra.org/newsroom/newsreleases/2011/p123731</a>
12	Credit Suisse	10/25/11	Inadequate controls - SCARP products	UK FSA	\$9.5	<a href="http://www.fsa.gov.uk/library/communication/pr/2011/087.shtml">http://www.fsa.gov.uk/library/communication/pr/2011/087.shtml</a>
13	Credit Suisse	10/19/11	Fraud-CDOs	US SEC	\$2.5	<a href="http://www.sec.gov/litigation/admin/2011/33-9268.pdf">http://www.sec.gov/litigation/admin/2011/33-9268.pdf</a>
14	Credit Suisse	9/19/11	Tax Dodging	GER	\$206.0	<a href="http://uk.reuters.com/article/2011/09/19/creditsuisse-idUKL3E7KJ0H020110919">http://uk.reuters.com/article/2011/09/19/creditsuisse-idUKL3E7KJ0H020110919</a>
15	Credit Suisse	9/6/11	Fraud-mortgage- RMBS - WAMU	Suit - investors	\$10.4	<a href="http://www.structuredfinancelitigation.com/2011/09/06/wamu-settles-multidistrict-shareholder-class-action-for-105-million/">http://www.structuredfinancelitigation.com/2011/09/06/wamu-settles-multidistrict-shareholder-class-action-for-105-million/</a>
16	Credit Suisse	6/3/11	Fraud-mortgage- RMBS	Suit - investors	\$9.4	<a href="http://www.structuredfinancelitigation.com/2011/06/30/wamu-settles-shareholder-class-action-for-208-5-million/">http://www.structuredfinancelitigation.com/2011/06/30/wamu-settles-shareholder-class-action-for-208-5-million/</a>
17	Credit Suisse	5/26/11	Fraud-mortgage- RMBS	US FINRA	\$4.5	<a href="http://www.finra.org/Newsroom/NewsReleases/2011/P123731">http://www.finra.org/Newsroom/NewsReleases/2011/P123731</a>
18	Credit Suisse	8/13/10	Inapprop repricing of asset-based securities	UK FSA	\$8.7	<a href="http://www.fsa.gov.uk/library/communication/pr/2008/092.shtml">http://www.fsa.gov.uk/library/communication/pr/2008/092.shtml</a>
19	Credit Suisse	4/8/10	Failure to provide timely reports	UK FSA	\$6.4	<a href="http://www.fsa.gov.uk/library/communication/pr/2010/062.shtml">http://www.fsa.gov.uk/library/communication/pr/2010/062.shtml</a>
20	Credit Suisse	12/16/09	Sanctions	US OFAC	\$536.0	<a href="http://www.treasury.gov/resource-">http://www.treasury.gov/resource-</a>
21	Credit Suisse	8/10/09	Failure to post timely indep IPO research	US FINRA	\$0.3	<a href="http://www.finra.org/newsroom/newsreleases/2009/p119753">http://www.finra.org/newsroom/newsreleases/2009/p119753</a>
22	Credit Suisse	8/13/08	Illegal trading -- failure to manage traders	UK FSA	\$10.5	<a href="http://www.fsa.gov.uk/pages/library/communication/pr/2008/092.shtml">http://www.fsa.gov.uk/pages/library/communication/pr/2008/092.shtml</a>
23	Credit Suisse	6/13/08	Fraud - securities (Parmalat)	Suit - investors	\$263.9	<a href="http://uk.reuters.com/article/2008/06/13/parmalat-idUKL1367032620080613">http://uk.reuters.com/article/2008/06/13/parmalat-idUKL1367032620080613</a>
24	Credit Suisse	7/17/06	Inadequate disclosures in research	US FINRA	\$0.3	<a href="http://www.finra.org/newsroom/newsreleases/2006/p016962">http://www.finra.org/newsroom/newsreleases/2006/p016962</a>
25	Credit Suisse	5/10/06	Fraud-accounting - Enron	Suit - investors	\$60.0	<a href="http://articles.latimes.com/2006/may/10/business/ft-enron10">http://articles.latimes.com/2006/may/10/business/ft-enron10</a>
26	Credit Suisse	3/5/05	Fraud - securities - Worldcom	Suit - investors	\$12.5	<a href="http://www.nytimes.com/2005/03/05/business/05worldcom.html?_r=0">http://www.nytimes.com/2005/03/05/business/05worldcom.html?_r=0</a>
27	Credit Suisse	2/2/04	Failure to provide best IPO price	US FINRA	\$0.8	<a href="http://www.finra.org/newsroom/newsreleases/2004/p002855">http://www.finra.org/newsroom/newsreleases/2004/p002855</a>
28	Credit Suisse	4/28/03	Conflict of interests - investment research	US SEC	\$200.0	<a href="http://www.sec.gov/litigation/litleases/lr18110.htm">http://www.sec.gov/litigation/litleases/lr18110.htm</a>
29	Credit Suisse	12/19/02	Misleading Japanese regulators	UK FSA	\$6.4	<a href="http://www.fsa.gov.uk/library/communication/pr/2002/124.shtml">http://www.fsa.gov.uk/library/communication/pr/2002/124.shtml</a>
30	Credit Suisse	8/15/02	Overcharges - hot IPOs	US FINRA	\$0.5	<a href="http://www.finra.org/newsroom/newsreleases/2002/p002918">http://www.finra.org/newsroom/newsreleases/2002/p002918</a>
31	Credit Suisse	1/22/02	Improper IPO allot to clients	US SEC	\$100.0	<a href="http://www.sec.gov/litigation/litleases/lr17327.htm">http://www.sec.gov/litigation/litleases/lr17327.htm</a>
32	Credit Suisse	3/8/01	Vio securities laws/ concealed docs	Japan - JFSA	\$0.3	<a href="http://edition.cnn.com/2001/BUSINESS/asia/03/08/japan.creditsuisse/">http://edition.cnn.com/2001/BUSINESS/asia/03/08/japan.creditsuisse/</a>
33	Credit Suisse	8/13/98	Stealing money from Holocaust victims	Suit - victims	\$625.0	<a href="http://www.nytimes.com/1998/08/13/world/swiss-banks-reach-holocaust-accord.html">http://www.nytimes.com/1998/08/13/world/swiss-banks-reach-holocaust-accord.html</a>
34	Credit Suisse	5/9/98	Fraud - securities - Orange County	Suit - investors	\$52.5	<a href="http://www.nytimes.com/1998/05/09/business/credit-suisse-first-boston-settles-suit.html">http://www.nytimes.com/1998/05/09/business/credit-suisse-first-boston-settles-suit.html</a>
35	Credit Suisse	1/30/98	Fraud - securities - Orange County	US SEC	\$0.9	<a href="http://www.nytimes.com/1998/01/30/business/first-boston-to-pay-fine-in-orange-county-bond-offering.html">http://www.nytimes.com/1998/01/30/business/first-boston-to-pay-fine-in-orange-county-bond-offering.html</a>

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\*\* "Assessments" = announced fines, restitution, back interest, and disgorgement, in the case of regulatory proceedings; announced settlement amounts in the case of law suits by investors, customers, or employees



## 8. Top 22 Global Private Banks – Incidence of Corporate Crime, 1998-2014

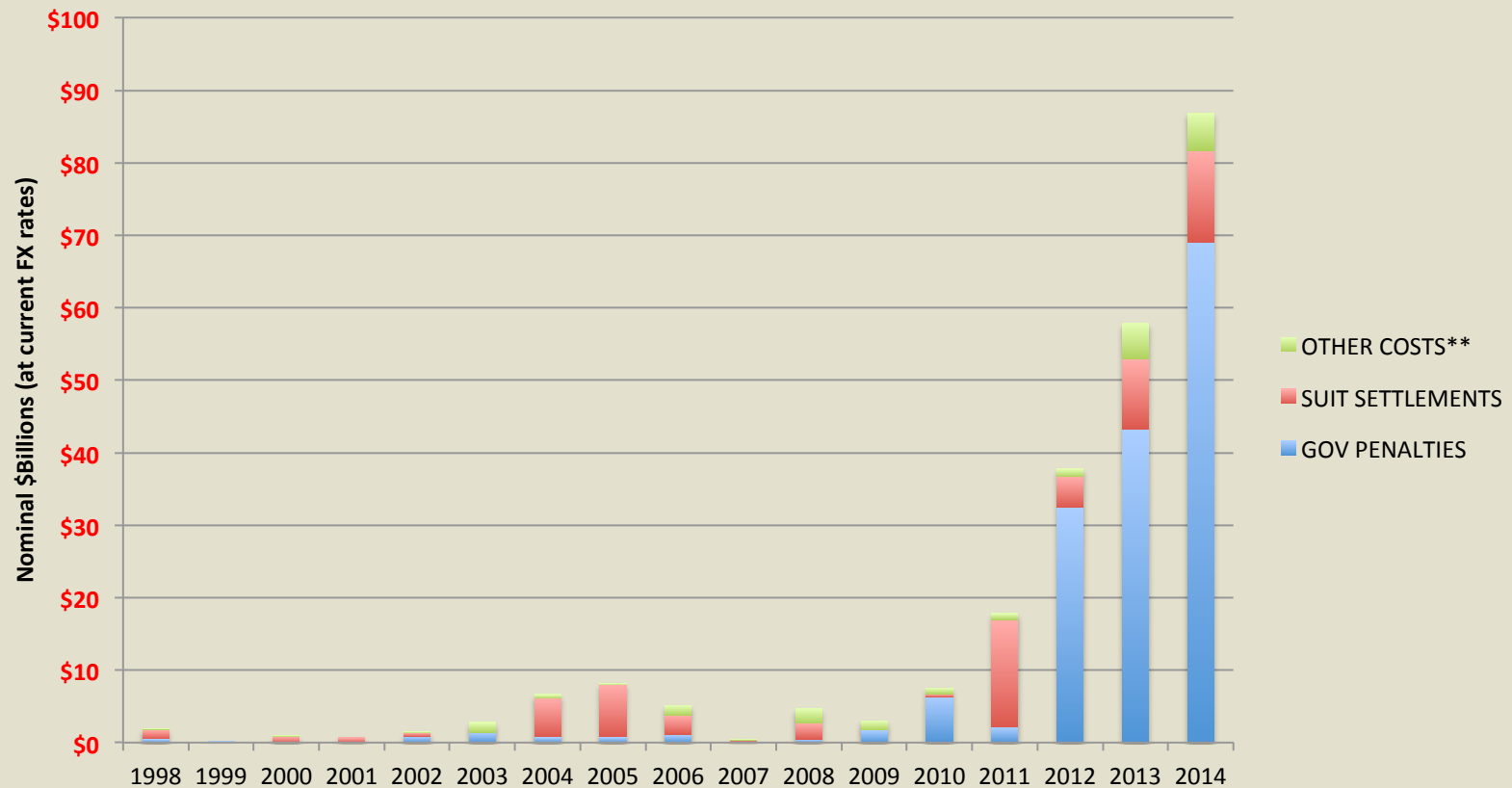
	Asset (\$B)		2000-14	Lehman	Aiding	LIBOR	Money	Mort fraud -	"Rogue"	Sanctions	Wrongful	FX	MUNY	Securities	Energy/ Metals	Bribery	Lending	Card/ PPI	Offense	# of
	2000	2014	% rise	Underwriter	Tax Cheating	Rigging	Laundering	RMBS/CDOs	Trading	Busting	Foreclosures	Rigging	Fraud	Fraud	Rigging		Bias	Fraud	Categories	Offenses
HSBC	\$674	\$2,729	405%	•	✓	✓	✓	✓	Sander	✓	✓	✓		✓	✓			✓	11	28
Deutsche Bank	\$875	\$2,168	248%		✓	✓	✓	✓	Bittar/ Adoph	✓		✓				✓			8	40
JPMorgan Chase	\$715	\$2,527	353%		✓	✓	✓	✓	Iksil	✓	✓	✓	✓	✓	✓	✓		✓	13	68
BNP Paribas	\$640	\$2,624	410%	•	✓	✓	✓	✓	Crassier	✓		✓		✓					7	9
Barclays	\$473	\$2,218	469%		✓	✓	✓	✓	Diamond,etc	✓		✓		✓	✓			✓	10	22
Credit Agricole	\$477	\$2,196	460%		✓	✓	✓	✓	Zrihen	✓		✓		✓		✓			9	9
Bank America	\$642	\$2,124	331%	•	✓	✓	✓	✓	✓		✓	✓	✓	✓			✓	✓	12	97
Citicorp	\$902	\$1,883	209%	•	✓	✓	✓	✓	Eurobd Team	✓	✓	✓	✓	✓		✓	✓	✓	13	69
RBS/ ABN Amro	\$480	\$1,699	354%	•	✓	✓	✓	✓	Tsang	✓		✓		✓				✓	10	41
Soc Gen	\$429	\$1,638	382%	•	✓	✓	✓	✓	Kerviel	✓		✓				✓			8	8
Santander	\$154	\$1,574	1022%	•	✓	✓	✓	✓	✓										5	5
ING	\$580	\$1,257	217%	•	✓	✓	✓	✓	✓					✓					5	5
Wells Fargo	\$272	\$1,637	601%	•	✓	✓	✓	✓	✓	✓	✓		✓	✓			✓		10	46
Lloyds	\$338	\$1,391	412%		✓	✓	✓	✓	✓			✓						✓	7	8
UBS	\$674	\$1,103	164%	•	✓	✓	✓	✓	Kweku/Hayes	✓	✓	✓	✓	✓	✓	✓			12	50
Credit Suisse	\$399	\$999	250%		✓	✓	✓	✓	Serageldin	✓		✓	✓	✓	✓				10	35
Goldman Sachs	\$290	\$869	300%		✓	✓		✓	Tourre etc		✓	✓	✓	✓	✓	✓			10	33
Rabobank	\$340	\$858	252%		✓	✓	✓		✓			✓							5	6
Morgan Stanley	\$427	\$815	191%	•	✓	✓	✓	✓	Moryoussef		✓		✓	✓	✓	✓	✓		11	60
SCB	\$103	\$690	671%		✓	✓	✓		✓	✓		✓							6	6
BNY/Mellon	\$100	\$386	386%	•	✓	✓	✓	✓	✓	✓		✓		✓					8	8
Julius Baer	\$12	\$83	699%		✓		✓		✓			✓							2	2
<b>Total</b>	<b>\$9,996</b>	<b>\$33,467</b>	<b>335%</b>																<b>Total</b>	<b>655</b>
<b>AAGR%</b>			<b>9.7%</b>																	
<b>Incidence</b>					<b>22</b>	<b>21</b>	<b>19</b>	<b>18</b>	<b>13</b>	<b>11</b>	<b>10</b>	<b>9</b>	<b>7</b>	<b>5</b>	<b>4</b>	<b>5</b>	<b>3</b>	<b>1</b>	<b>148</b>	
					<b>22</b>	<b>22</b>	<b>22</b>	<b>22</b>	<b>22</b>	<b>22</b>	<b>22</b>	<b>22</b>	<b>22</b>	<b>22</b>	<b>22</b>	<b>22</b>	<b>22</b>	<b>22</b>	<b>286</b>	
					<b>100%</b>	<b>95%</b>	<b>86%</b>	<b>82%</b>	<b>59%</b>	<b>50%</b>	<b>45%</b>	<b>41%</b>	<b>32%</b>	<b>23%</b>	<b>18%</b>	<b>23%</b>	<b>14%</b>	<b>5%</b>	<b>52%</b>	

\* Including LIBOR, Euribor, ISDAfix ( benchmark for \$379 tr swaps market, and other regional interbank market

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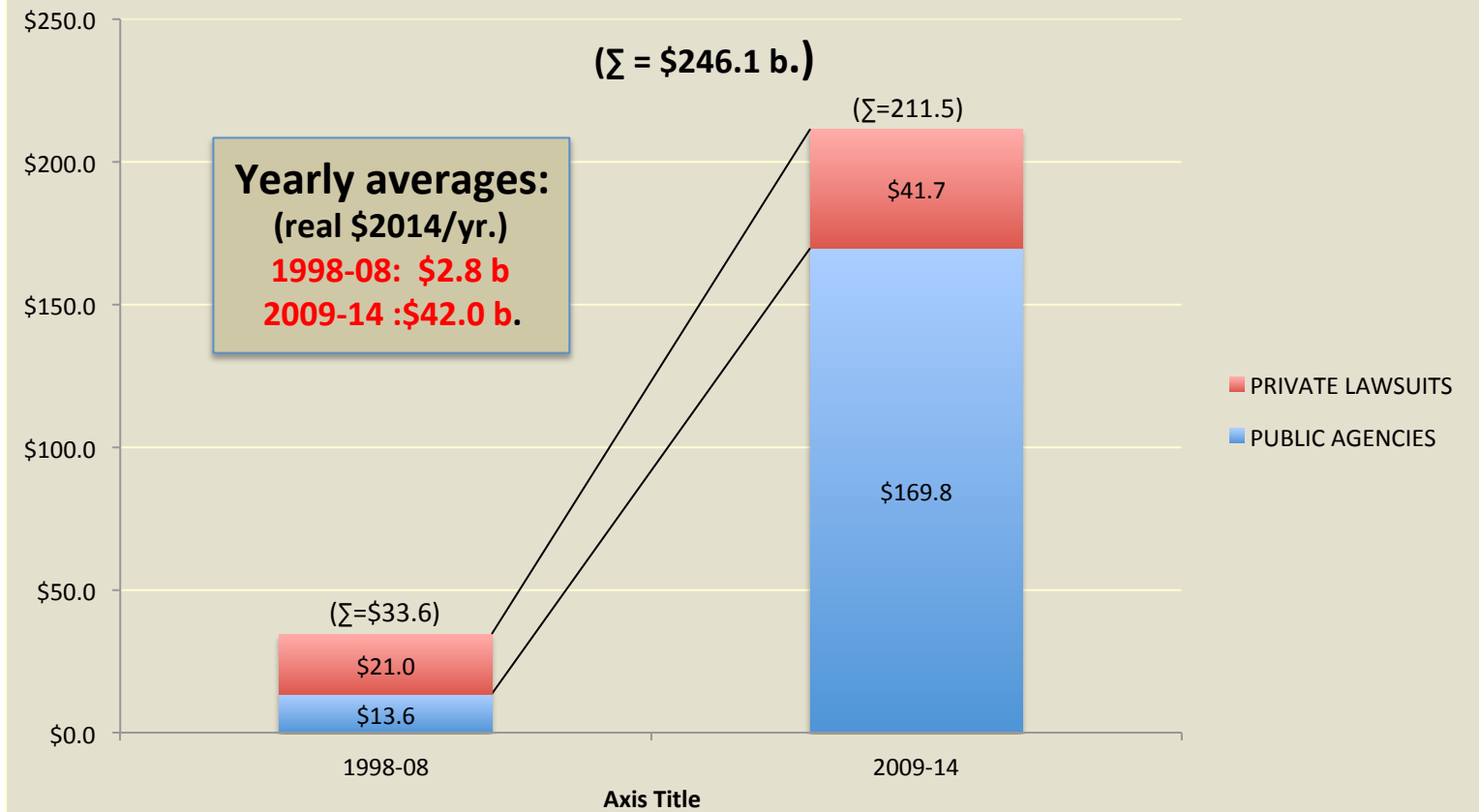
Source: Internet/ lit search, JSH analysis

## 9. Total Fines, Settlements, and Other Legal Costs – Global Financial Services Industry 1998-2014 ( $\Sigma = \$246.1$ Billion)



Source: JSH survey of 51 regulatory agencies+ author's comprehensive literature search; see text and JSH bank fines data base. \*\* =Restitution, back interest, and disgorgement

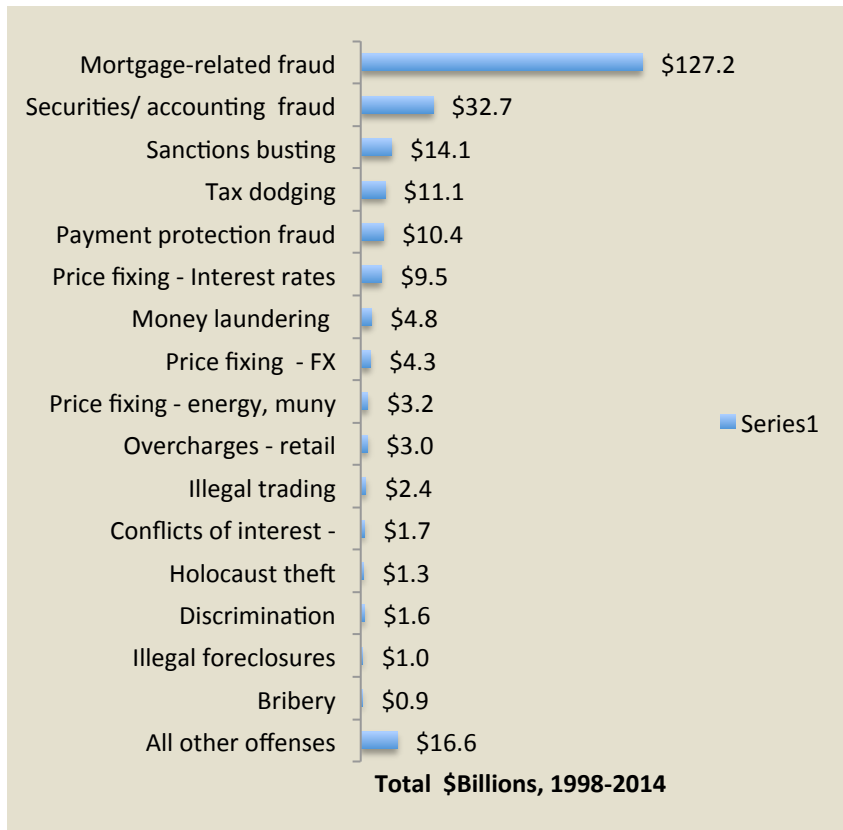
## 10. Regulatory Penalties Vs. Legal Settlements -- Global Financial Services Industry, 1998-2014 (\$B)



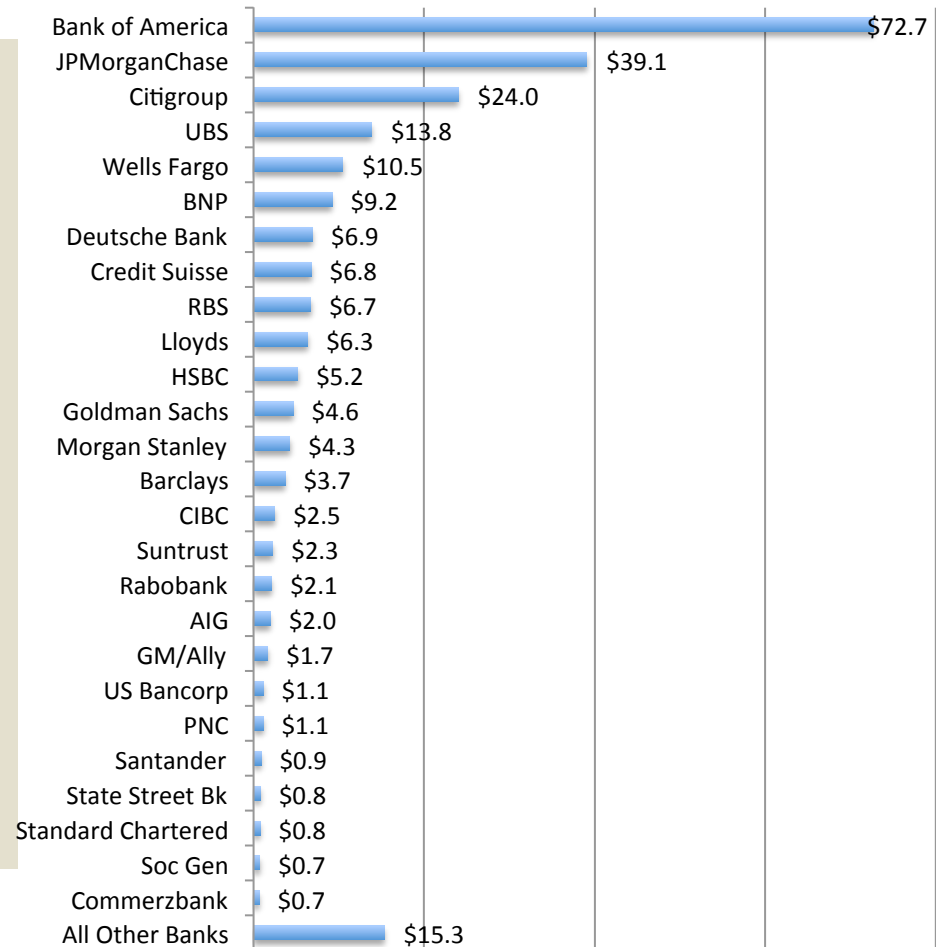
Source: JSH survey of 51 regulatory agencies+ author's comprehensive literature search; see text and JSH bank fines data base.

# 11. Total Assessments for Corporate Crimes By Offense and Bank, 1998-2014 (\$B)

## By Alleged Offense



## By Institution



Source: JSH survey of 51 regulatory agencies+ author's comprehensive literature search; see text and JSH bank fines data

## 11. Penalties And Settlement Costs -- Global Banks, 2014 :

( $\Sigma$  =\$87.0 b, 2014)

Date	(\$MMs)	Offense	Fin Institution	Plaintiff
12/18/14	\$1.50	Money laundering	Wells Fargo	US FINRA
12/16/14	\$2.44	Securities mispricing	BAC/ML	US FINRA
12/14/14	\$31.30	Overcharging - credit cards	ANZ	Suit - customers
12/12/14	\$4.00	Conflict of interests - analysts	BAC/ML	US FINRA
12/12/14	\$5.00	Conflict of interests - analysts	Barclays	US FINRA
12/12/14	\$5.00	Conflict of interests - analysts	Citigroup	US FINRA
12/12/14	\$5.00	Conflict of interests - analysts	Credit Suisse	US FINRA
12/12/14	\$4.00	Conflict of interests - analysts	Deutsche Bank	US FINRA
12/12/14	\$5.00	Conflict of interests - analysts	Goldman Sachs	US FINRA
12/12/14	\$5.00	Conflict of interests - analysts	JPMorganChase	US FINRA
12/12/14	\$4.00	Conflict of interests - analysts	Morgan Stanley	US FINRA
12/12/14	\$2.50	Conflict of interests - analysts	Needham	US FINRA
12/12/14	\$4.00	Conflict of interests - analysts	Wells Fargo	US FINRA
12/11/14	\$409.77	Invalid mortgages	Northern Rock	UK Cts
12/3/14	\$14.90	Mis-sale of interest rate swaps - rural customers	ANZ	NZ Comp Cmm
12/1/14	\$5.48	IT systems failure - world's largest	RBS/ Ulster Bank	IRE - CBnk
11/25/14	\$15.00	Improper analyst comms w corp clients	Citigroup	US FINRA
11/25/14	\$12.50	Tax dodging/ improper advice to US clients	HSBC	US SEC
11/21/14	\$88.00	IT systems failure	RBS	UK FCA/ PRA
11/18/14	\$315.00	Sanctions - Sudan/Iran - pressured Pwc cover up	Bank of Tokyo	US NY-DFS
11/13/14	\$250.00	Price Fixing - Fx market	Bank of America	US - OCC
11/13/14	\$310.00	Price Fixing - Fx market	Citigroup	US - CFTC
11/13/14	\$349.44	Price Fixing - Fx market	Citigroup	UK FCA
11/13/14	\$350.00	Price Fixing - Fx market	Citigroup	US - OCC
11/13/14	\$0.73	illegal incentives for loans	Franklin Loan	US - CFPB
11/13/14	\$275.00	Price Fixing - Fx market	HSBC	US - CFTC
11/13/14	\$339.69	Price Fixing - Fx market	HSBC	UK FCA
11/13/14	\$310.00	Price Fixing - Fx market	JPMorganChase	US - CFTC
11/13/14	\$348.79	Price Fixing - Fx market	JPMorganChase	UK FCA
11/13/14	\$350.00	Price Fixing - Fx market	JPMorganChase	US - OCC
11/13/14	\$290.00	Price Fixing - Fx market	RBS	US - CFTC
11/13/14	\$340.69	Price Fixing - Fx market	RBS	UK FCA
11/13/14	\$4.40	IT mismanagement	RBS/Ulster Bank	IRE - CBnk
11/13/14	\$290.00	Price Fixing - Fx market	UBS	US - CFTC

Source: JSH survey of 51 regulatory agencies+ comprehensive literature search

### 13. Penalties And Settlement Costs -- Global Banks, 2014

(b.)

( $\Sigma$  = \$87.0 b, 2014)

Date	(\$MMs)	Offense	Fin Institution	Plaintiff
11/13/14	\$367.07	Price Fixing - Fx market	UBS	UK FCA
11/12/14	\$139.00	Price Fixing - Fx market	UBS	SW - FINMA
11/11/14	\$34.74	Overcharges - late payment fees	NAB	Suit - customers
10/31/14	\$35.00	Selling insur to MNCs w/o a license	AIG	NY DFS
10/29/14	\$1,066.00	Price fixing - LIBOR	Rabobank	UK FCA/ Dutch/ DOJ
10/24/14	\$1,300.00	Price fixing - LIBOR	Deutsche Bank	US - DOJ
10/21/14	\$11.65	Price fixing - Swiss Fr Deriv	Credit Suisse	EU Comm
10/21/14	\$13.38	Price fixing - Swiss Fr Deriv	JPMorganChase	EU Comm
10/21/14	\$78.23	Price fixing - Swiss Fr Deriv	JPMorganChase	EU Comm
10/21/14	\$16.07	Price fixing - Swiss Fr Deriv	UBS	EU Comm
10/6/14	\$2.00	Unfair billing practices - identity protection	PNC	US - OCC
10/3/14	\$6,200.00	Tax dodging - facilitation	UBS	FRANC
10/2/14	\$4.74	Tax dodging - VAT - France - deposit	Julius Baer	FRANCE
10/1/14	\$0.04	Misleading ads	NAB	Australia ASIC
9/29/14	\$7.65	Reg Capital Overstatements	Bank of America	US SEC
9/29/14	\$37.50	Illegal foreclosures	Flagstar Bank	US - CFPB
9/26/14	\$12.70	Misuse of client data	Barclays	Suit - customers
9/25/14	\$48.00	Unfair billing practices - identity protection	US Bancorp	US - CFPB
9/24/14	\$4.00	Unfair billing practices - identity protection	US Bancorp	US - OCC
9/23/14	\$61.70	Failing to protect L16.5b of custody assets	Barclays	UK FCA
9/23/14	\$15.00	Systemic compliance failures	Barclays	US SEC
9/22/14	\$5.00	Fraud - altered docs	Wells Fargo	US SEC
9/15/14	\$0.28	Money laundering	Morgan Stanley	US - CFTC
9/12/14	\$550.00	Fraud - RMBS	HSBC	US FHFA
9/11/14	\$18.50	Improper Accounting	Wilmington Trust	US SEC
9/9/14	\$7.50	Discrimination - sex	Goldman Sachs	Suit - employee
9/3/14	\$0.22	Sanctions - Iran	Citigroup	US OFAC/DOJ
8/27/14	\$24.03	Poor advice - mort biz	RBS	UK FCA
8/26/14	\$1.20	Failure to supervise	Bank of America	US - CFTC
8/22/14	\$3,150.00	Fraud - RMBS	Goldman Sachs	US FHFA
8/21/14	\$245.04	Fraud - RMBS	Bank of America	US SEC
8/21/14	\$16,405.00	Fraud - RMBS	Bank of America	US - DOJ
8/21/14	\$7.83	Failure to accurate report CFD Equity Swaps	Deutsche Bank	UK FCA
8/20/14	\$23.00	Improper margin calls	Barclays	Suit - trustee

Source: JSH survey of 51 regulatory agencies+ comprehensive literature search

(c) JSH/ TJN 2015

## 14. Penalties And Settlement Costs -- Global Banks, 2014

(c.)

(Σ =\$87.0 b, 2014)

Date	(\$MMs)	Offense	Fin Institution	Plaintiff
8/19/14	\$25.00	PwC consultants hid data on BOT sanctions busting	PWC	US NY-DFS
8/19/14	\$300.00	Sanctions - violating def pros agreement	Standard Chartered	US NY-DFS
8/12/14	\$20.80	Fraud - mortgages - bait and switch	Amerisave	US - CFPB
8/4/14	\$0.50	Fraud - securities	Citigroup (x Dir)	US - CFTC
7/30/14	\$1,270.00	Fraud - RMBS	Bank of America	US - DOJ/ US Att NY
7/30/14	\$402.00	Tax dodging - facilitation	UBS	GER
7/29/14	\$0.65	Illegal trading - FTF	JPMorganChase	US - CFTC
7/28/14	\$86.00	Price fixing - LIBOR	Lloyds	US - DOJ
7/28/14	\$105.00	Price fixing - LIBOR	Lloyds	US - CFTC
7/28/14	\$178.50	Price fixing - LIBOR	Lloyds	UK FCA
7/25/14	\$5.00	Failing to protect customer data	Citigroup	US SEC
7/24/14	\$16.56	Sanctions - narcotics	Bank of America	US OFAC/DOJ
7/24/14	\$80.00	Fraud - Dept of Agr supplier credits	BNP Paribas	US - DOJ
7/24/14	\$275.00	Fraud - RMBS	Morgan Stanley	US SEC
7/14/14	\$7,000.00	Fraud - RMBS	Citigroup	US - DOJ
7/10/14	\$667.00	Sanctions - Iran	Commerzbank	US - DOJ/US Att NY / OFAC
7/3/14	\$49.00	Fraud - fin planning products	Commonwealth Bank	Suit - customers
7/3/14	\$225.00	Fraud - mortgages - HAMP program	Suntrust	US - DOJ
7/1/14	\$10.00	Overcharges - FHA mort service fees	HSBC	US - DOJ
6/30/14	\$8,963.60	Sanctions busting -Sudan,Iran, Cuba	BNP Paribas	US OFAC/ DOJ/FINMA
6/30/14	\$200.00	Violating FHA req	US Bancorp	US - DOJ
6/25/14	\$51.00	Misreporting non-accrual loans	Regions Bank	US FED/SEC/AG-Ala
6/19/14	\$172.50	Discrimination - race- mortgages	GE Credit	US - CFPB/DOJ
6/19/14	\$99.50	Fraud - RMBS	RBS	US FHFA
6/17/14	\$968.00	Fraud - mortgage origination	SunTrust	US DOJ/CFPB/49 States
6/16/14	\$4.08	Fraud - Misleading sales pitches	Credit Suisse	UK FCA
5/29/14	\$0.89	Excess exposure to one account	BMO	IRE - CBnk
5/23/14	\$43.81	Conflicts of interest - gold fixings	Barclays	UK FCA
5/22/14	\$0.21	Internal controls	Deutsche Bank	HK SFO
5/19/14	\$2,403.50	Tax dodging - facilitation	Credit Suisse	US DOJ/ FED/NYS DFS
5/8/14	\$0.28	Sanctions - Cuba	AIG	US Treas/OFAC
4/24/14	\$280.00	Fraud - RMBS	Barclays	US FHFA
4/22/14	\$0.21	Internal controls - unauth trading	RBS	HK SFO
4/16/14	\$950.00	Fraud - RMBS	Bank of America	Suit - insurer
4/16/14	\$99.00	Fraud - RMBS	Ernst & Young	Suit - investors

Source: JSH survey of 51 regulatory agencies+ comprehensive literature search

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## 15. Penalties And Settlement Costs -- Global Banks, 2014

(d.)

( $\Sigma$  = \$87.0 b, 2014)

Date	(\$MMs)	Offense	Fin Institution	Plaintiff
4/9/14	\$727.00	Overcharges - credit cards	Bank of America	US - CFPB
4/7/14	\$25.00	Unfair billing practices - identity protection	Bank of America	US - OCC
4/7/14	\$1,130.00	Fraud - RMBS	Citigroup	Suit - investors
3/31/14	\$60.00	Soliciting insurance biz in NY w/o a license	MetLife	NY DFS/ Manhattan DA
3/27/14	\$0.49	Failure to protect cust data	Morgan Stanley	US - CFTC
3/26/14	\$9,300.00	Fraud - RMBS	Bank of America	US FHFA
3/26/14	\$20.42	Misleading advice to investors	Santander	UK FCA
3/24/14	\$0.20	Illegal trading - Pos limits	Morgan Stanley	US - CFTC
3/21/14	\$885.00	Fraud - RMBS	Credit Suisse	US FHFA
3/18/14	\$0.44	Breach of risk controls	Unicredit	IRE - CBnk
3/12/14	\$0.83	Fraud - CDOs	Gs Goldman Sachs	US SEC
2/27/14	\$122.00	Fraud - RMBS	Societe General	US FHFA
2/26/14	\$275.00	Fraud - RMBS	Morgan Stanley	US SEC
2/21/14	\$196.50	Unreg invest services	Credit Suisse	US SEC
2/20/14	\$1,060.00	Retaliation vs outside investor	Deutsche Bank	Suit - victims
2/19/14	\$275.00	Fraud - RMBS	RBS	Suit - investors
2/18/14	\$7.90	Overdraft fee pumping	Citigroup	Suit - customers
2/7/14	\$1,250.00	Fraud - RMBS	Morgan Stanley	US FHFA
2/4/14	\$614.00	Fraud - Mortgages- false claims	JPMorganChase	US - DOJ
1/31/14	\$8,500.00	Fraud - RMBS	BAC/Countrywide	Suit - investors
1/31/14	\$37.56	Overcharging customers	State Street Bank	UK FCA
1/29/14	\$64.42	Overcharges - personal loans	ANZ	Australia ASIC
1/28/14	\$25.00	Fraud - RMBS	Jeffries LLC	US SEC
1/27/14	\$69.10	Overcharges - credit cards	Amex Bank	US - CFPB
1/27/14	\$9.50	Sanctions - Iran	Bank of Moscow	US OFAC
1/23/14	\$151.90	Sanctions - Iran	Clearstream	US OFAC
1/23/14	\$12.62	Money laundering - PEPs	Standard Chartered	UK FCA
1/7/14	\$537.00	Fraud - Madoff	JPMorganChase	Suit - trustee
1/7/14	\$1,700.00	Money laundering - Madoff fraud	JPMorganChase	US - DOJ
1/6/14	\$350.00	Money laundering - Madoff fraud	JPMorganChase	US - OCC
1/2/14	\$0.25	False statements	SMP (Russia)	US - CFTC

Source: JSH survey of 51 regulatory agencies+ comprehensive literature search



# Bank misbehavior: “Cheating customers” vs. “helping customers cheat”

**Distribution of \$246.1 b. in Global Banking Industry Fines, Settlements, and Other Legal Levies, By Activity, 1998-2014**



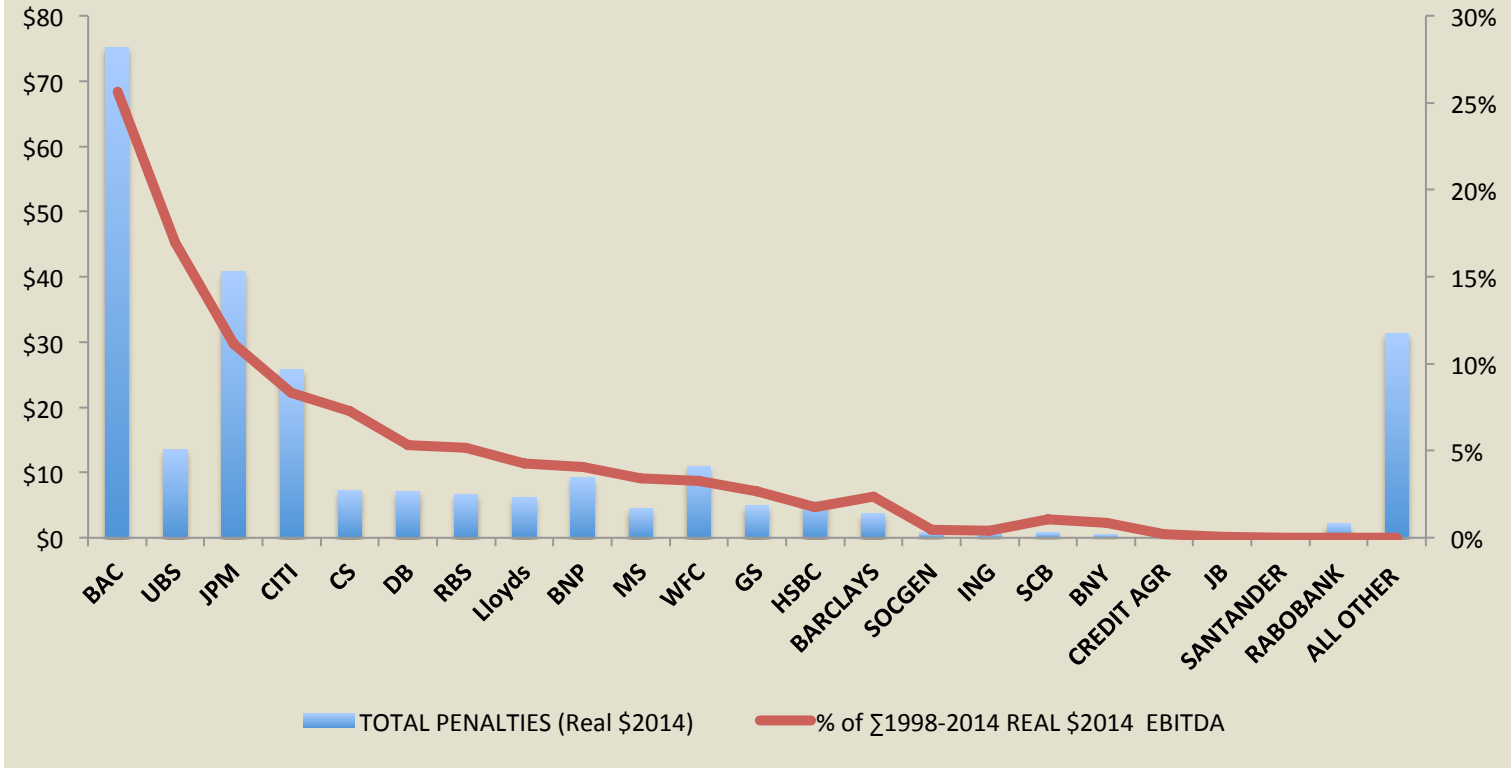
Source: JSH survey of 51 regulatory agencies+ author's

comprehensive literature search; see text and JSH bank fines data

(c) JSH/ TJN 2015

\*\* After HSBC's well-known ad campaign

**Top 22 Global Banks: Penalties\* Vs.  
Cash Flow,\*\*  
Cumulative Real Value, 1998-14  
(%, Real \$2014 B.)**



Source: SEC and company reports, for EBITDA; JSH database on bank financial Penalties (fines, disgorgement, interest, restitution, and settlements; JSH analysis

18.

**GLOBAL PRIVATE BANKING INDUSTRY: "DOES CRIME PAY?"**

	Total Assets (\$B.)		Penalties,* Corp Crimes 1998-2014 (\$B)	% of 2014 Assets	% of 2014 SH Equity	% of 2014 Mkt Cap	% of Δ Assets (2000-14)	% of Real Σ EBITDA, 1998-14
	YE 2000	QIII 2014						
HSBC	\$674	\$2,729	\$5.2	0.2%	3%	3%	0.3%	1.8%
BNP Paribas	\$640	\$2,624	\$9.2	0.4%	8%	13%	0.5%	4.0%
JPMorgan Chase	\$715	\$2,527	\$39.1	1.5%	17%	17%	2.2%	11.2%
Barclays	\$473	\$2,218	\$3.7	0.2%	4%	6%	0.2%	2.4%
Credit Agricole	\$477	\$2,196	\$0.2	0.0%	0%	1%	0.0%	0.2%
Deutsche Bank	\$875	\$2,168	\$6.9	0.3%	8%	17%	0.5%	5.3%
Bank America	\$642	\$2,124	\$72.7	3.4%	30%	39%	4.9%	25.7%
Citicorp	\$902	\$1,883	\$24.0	1.3%	11%	15%	2.4%	8.4%
RBS/ ABN Amro	\$480	\$1,699	\$6.7	0.4%	7%	10%	0.5%	5.2%
Soc Gen	\$429	\$1,638	\$0.7	0.0%	1%	2%	0.1%	0.4%
Wells Fargo	\$272	\$1,637	\$10.5	0.6%	6%	4%	0.8%	3.3%
Santander	\$154	\$1,574	\$0.9	0.1%	1%	1%	0.1%	0.0%
Lloyds	\$338	\$1,391	\$6.3	0.5%	8%	8%	0.6%	4.2%
ING	\$580	\$1,257	\$0.7	0.1%	1%	1%	0.1%	0.4%
UBS	\$674	\$1,103	\$13.8	1.3%	26%	22%	3.2%	16.9%
Credit Suisse	\$399	\$999	\$6.8	0.7%	15%	17%	1.1%	7.3%
Goldman Sachs	\$290	\$869	\$4.6	0.5%	6%	6%	0.8%	2.6%
Rabobank	\$340	\$858	\$2.1	0.2%	na	na	0.4%	na
Morgan Stanley	\$427	\$815	\$4.3	0.5%	6%	5%	1.1%	3.4%
Standard Chartered	\$103	\$690	\$0.8	0.1%	2%	2%	0.1%	1.1%
BNY/Mellon	\$100	\$386	\$0.4	0.1%	1%	1%	0.1%	0.9%
Julius Baer	\$12	\$83	\$0.1	0.1%	1%	1%	0.1%	0.1%
Top 22 banks**	\$9,996	\$33,467	\$219.6	0.7%	5.8%	6.0%	0.5%	6.2%
All Others	na	na	\$26.5	na	na	na	na	na

\* Regulatory Fines, profit disgorgement, interest, restitution, and public suit settlements, 1998-2014

\*\*EBITDA excludes Rabobank, a coop bank

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Source: Company 10-Ks, JSH data base on corporate financial sanctions, compiled from survey of 51 regulatory agencies in 35 countries

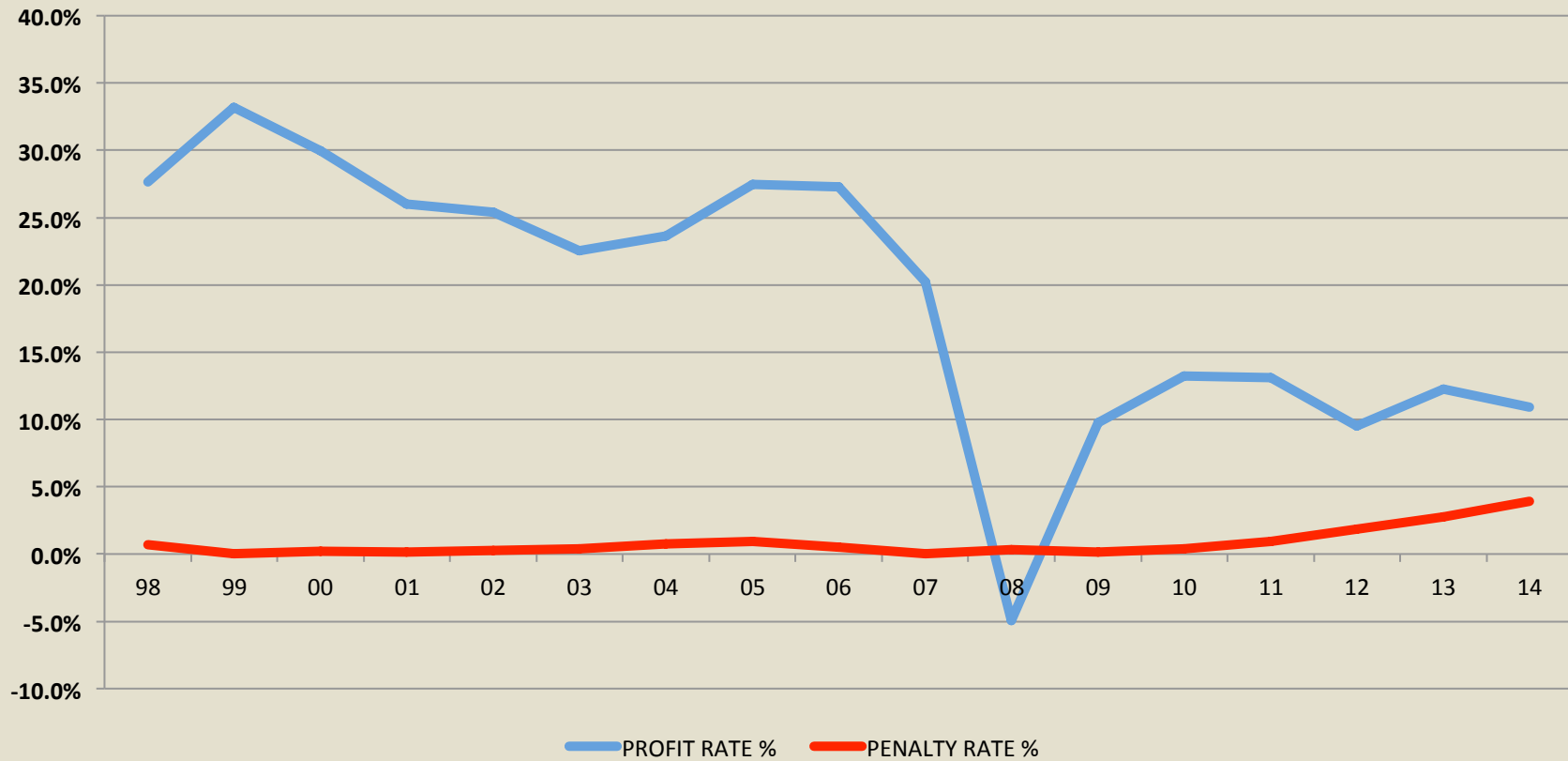
## 19. Global Haven Industry: Cash Flow Vs. Penalties,\*\* 1998=2014 (22 Global Haven Banks, Current \$Billions)



\*\*Earning before interest, taxes, and depreciation (“EBIDTA”); “penalties” = total fines, restitution, back interest, disgorgement, and reported private settlements, as of the date reported.

Source: SEC financial data and company reports by bank, 1998-2014; database on all reported penalties from regulatory Press releases and financial press reports compiled by the author, 1998-2014; JSH analysis

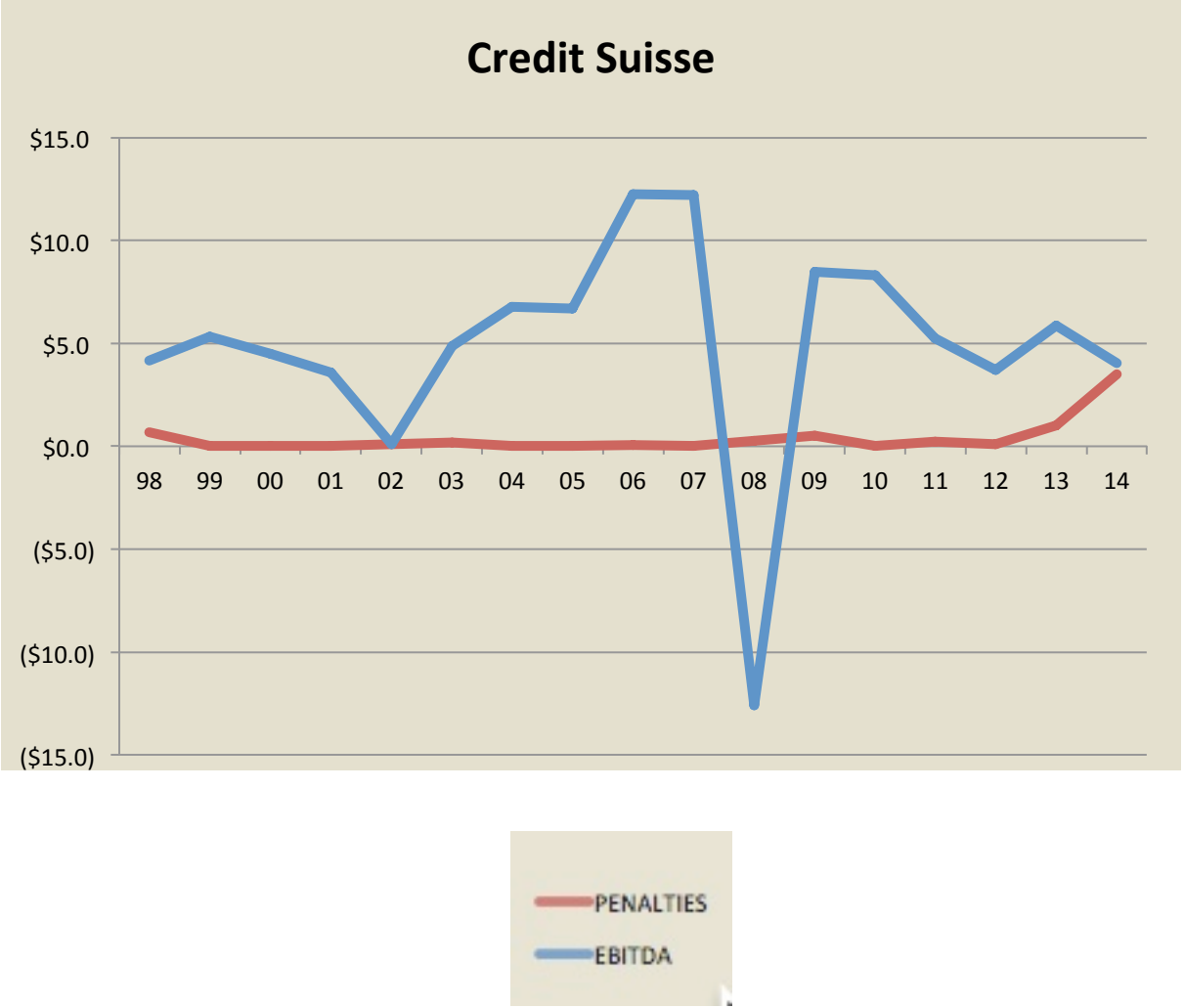
## 20. Profit Rate vs. Penalty Rate\*\*: 22 Global Banks, 1998-2014 (% of book equity)



\*\*"Profit Rate (%)" = EBITDA / Book equity, 22 global banks, 1998-2014E; "Penalty Rate" (%) = fines, other penalties, and settlements reported divided by book equity.

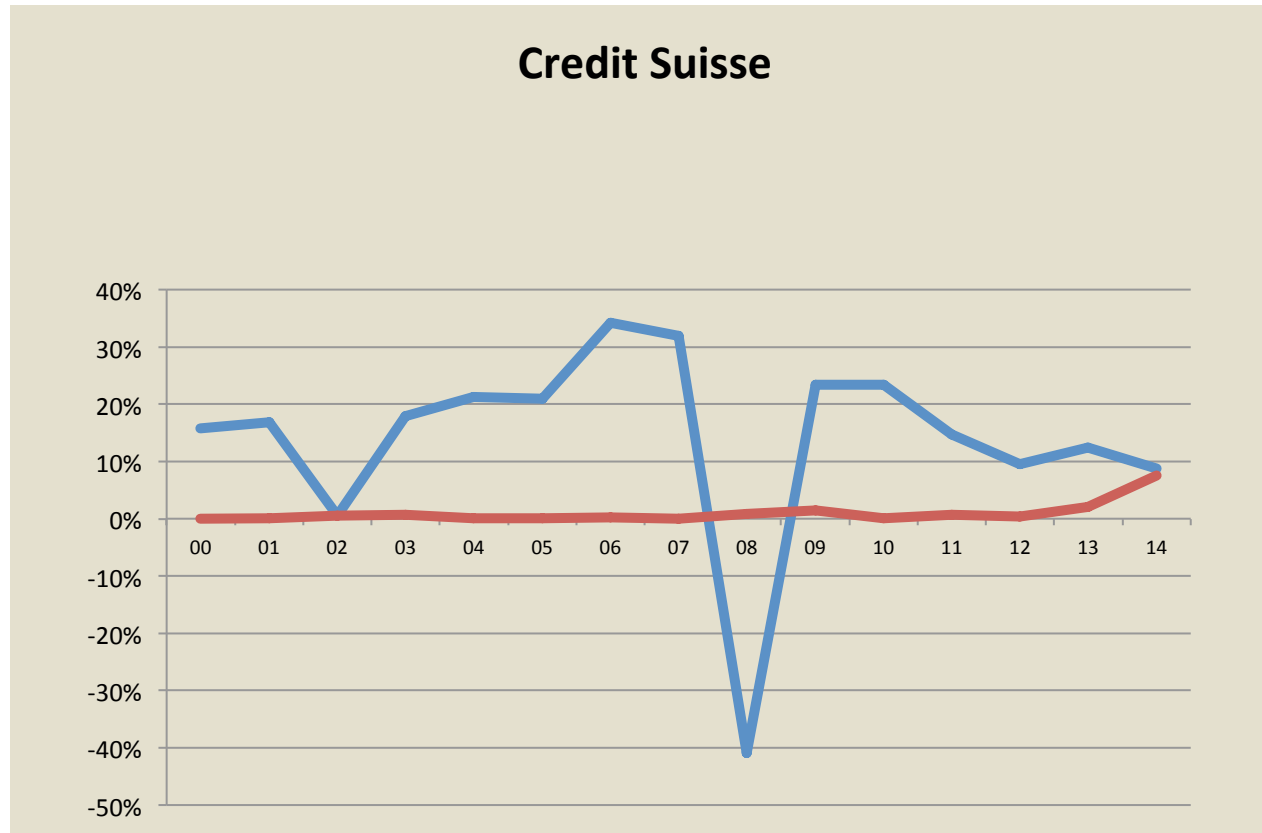
Source: SEC and company financial reports, financial data by bank, 1998-2014; JSH database on fines and settlement JSH analysis

# 21. Cash Flow (\$B) vs. Penalties (\$B), Major Banks 1998-2014 (Current \$B.)



Source: SEC reports, financial data by bank, 1998-2014; JSH database on 2015  
 fines and settlements; JSH analysis © JSH 2015

## 22. Profit Rates\*\* vs. Penalty Rates, 1998-2014 (%)



\*\*"Profitability (%)" = EBITDA/ Book equity, 22 global banks, 1998-2014E

Source: SEC reports, financial data by bank, 1998-2014; JSH database on fines and settlements; JSH analysis

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ON THE OTHER HAND,  
MAYBE TRANSPARENCY  
WOULD JUST DEPRESS ME...



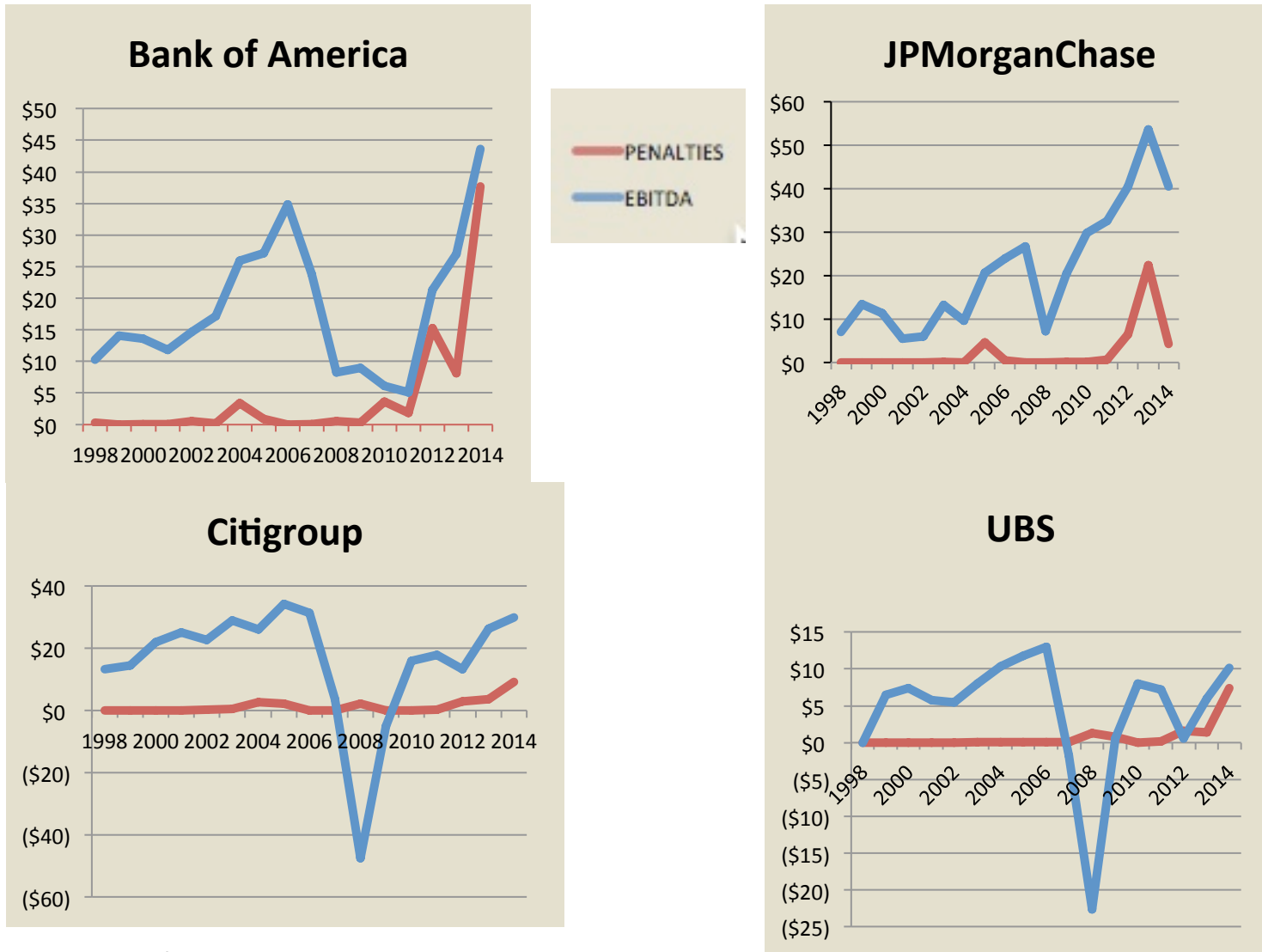
MEGA  
BANK

UNEMPLOYED  
PLEASE HELP



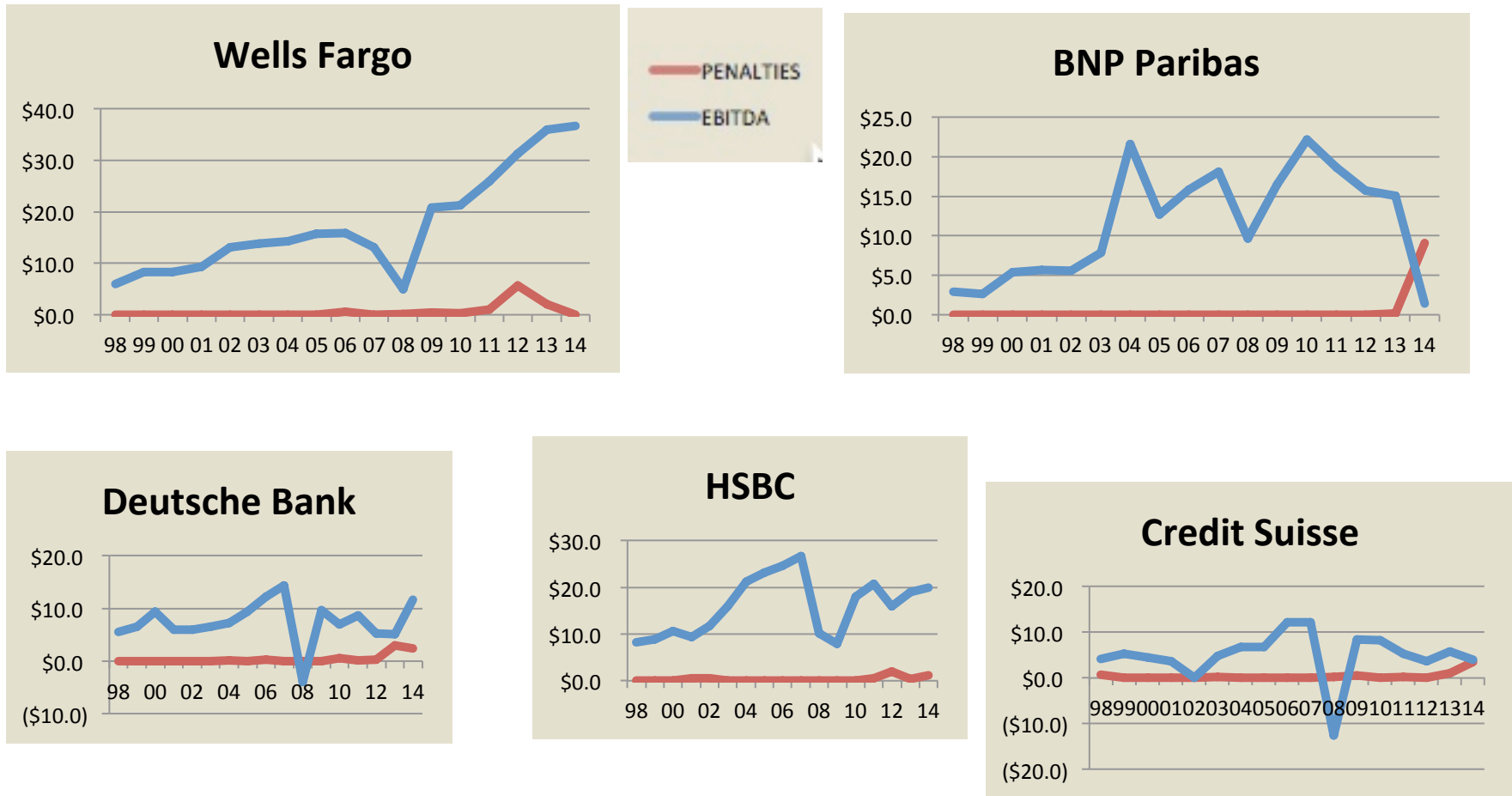


## 25. Cash Flow (\$B) vs. Penalties (\$B), Major Banks 1998-2014 (Current B.)



Source: SEC reports, financial data by bank, 1998-2014; JSH database on fines and settlements; JSH analysis © JSH 2015

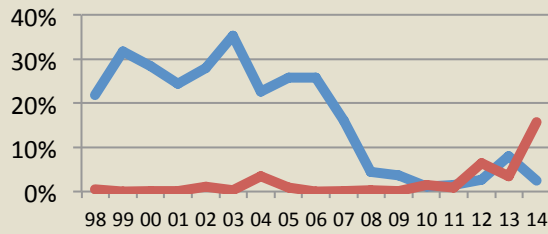
## 26. Cash Flow (\$B) vs. Penalties (\$B), Major Banks 1998-2014 (Current \$B.)



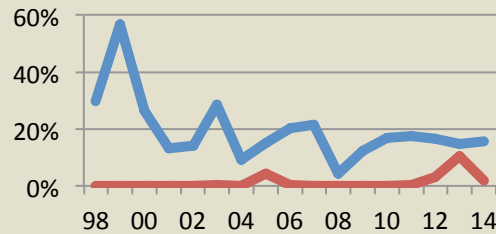
Source: SEC reports, financial data by bank, 1998-2014; JSH database on fines and settlements; JSH analysis © JSH 2015

## 27. Profit Rates\*\* vs. Penalty Rates, 1998-2014 (%)

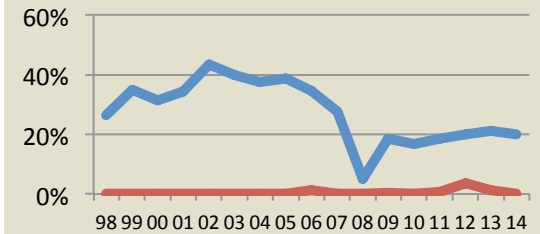
### Bank of America



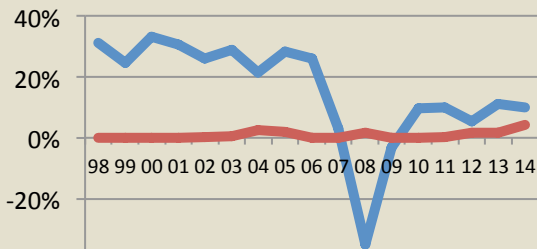
### JPMorgan Chase



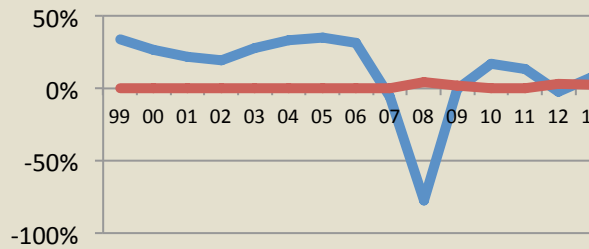
### Wells Fargo



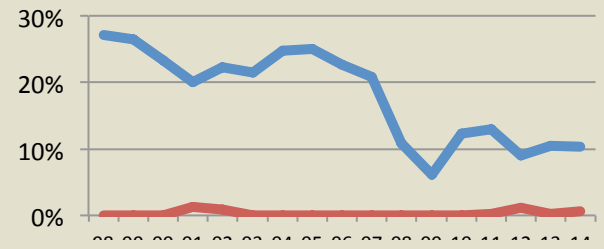
### Citigroup



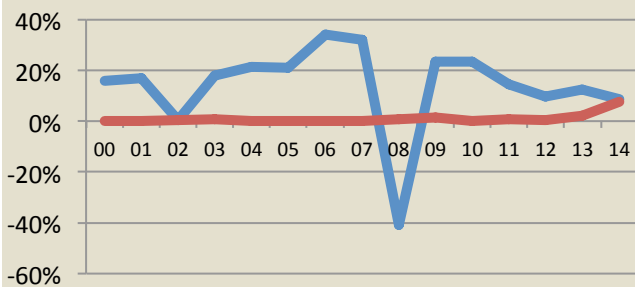
### UBS



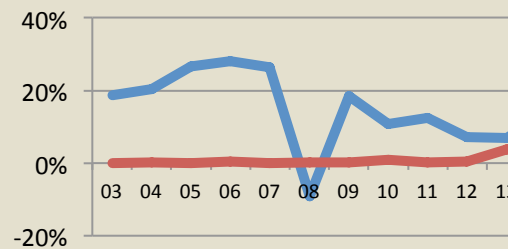
### HSBC



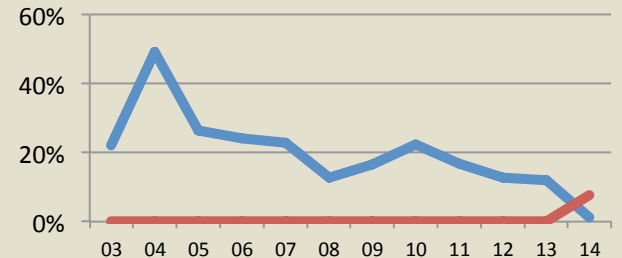
### Credit Suisse



### Deutsche Bank



### BNP



Profit Rates (%) = Net Income / Total Assets; Penalty Rates (%) = Total Fines and Settlements / Total Assets; \*\* based on book equity, all global banks, 1998-2014E  
 Source: SEC reports, financial data by bank, 1998-2014; JSH database on fines and settlements; JSH analysis  
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