



Record Fine for France's Biggest Bank

Nicolas Véron discusses the ramifications of the \$8.9 billion fine on BNP Paribas and why the French government tried to intercede with the Obama administration to soften the blow.

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Steve Weisman: The biggest bank in France has just been fined and pleaded guilty to evading US sanctions and will be paying a record sum for a bank accused of doing business with countries that are under sanction by the United States. Nicolas Véron of the Peterson Institute and Bruegel is here to discuss the case against BNP Paribas. This is Steve Weisman.

Nicolas, I just outlined what happened, but give me a few more details about this case.

Nicolas Véron: BNP Paribas was a bank for a number of currency and also trading transactions primarily in Geneva and in other financial centers through its local banking operations there with counter-parties that were involved in Sudan, Iran, and Cuba, three countries with which of course, the US has restrictions. And these transactions came under the jurisdiction of US authorities to the extent that there were dollar transactions incurred on US-based dollar financial market infrastructure, which is the whole debate about territoriality or extraterritoriality.

BNP Paribas had an involvement in those transactions that was not compliant with US rules and regulations. Even so by general agreement it was compliant with France or European rules and regulations. And they continued to do that even after the US authorities had contacted them and started an investigation. So the negotiation with the US authorities was apparently not entirely smooth and cooperative from the beginning.

Now they have pleaded guilty. BNP Paribas accepts that inappropriate behavior has taken place. They have paid a huge fine, \$9 billion. They have also accepted restrictions on their ability to intermediate dollar transactions next year, which creates additional costs and in some case makes it impossible for them to serve certain categories of clients and certain categories of transactions. So it's pretty severe—and they have accepted that a number of executives would have to go. And indeed a number of executives have left BNP Paribas as a consequence of this.

So it's a pretty severe transaction. It's a pretty severe settlement. The bank has pleaded guilty, which is unusual. It's a very big amount and that's where we are.

Steve Weisman: You mentioned the word extraterritorial. The Treasury Department and the US Government have been able to enforce sanctions in an extraterritorial way on banks around the world because they need dollars. How much is this causing concern in Europe?

Nicolas Véron: It remains to be seen how other European banks will be affected in the same ways. There are ongoing investigations that are public knowledge on some other European banks that haven't led to a settlement yet. So how much of this is a precedent for other situations remains to be seen.

I think what distinguishes the case of BNP Paribas is that they intermediated those transactions, continued to intermediate those interactions, while being fully aware that this was not compliant with US rules. And BNP Paribas is a big player in the US in retail and wholesale markets. I don't know how much this extends to other banks and how much the extraterritoriality argument really applies to this specific case because, again, those transactions were cleared through Clearing House and Fedwire, which are US-based financial infrastructures. So it's not just that dollars were used, there was the involvement of US-based infrastructure, which is the whole point of the case.

It's difficult to answer your question about the future because it does have something to do with the structure of the global monetary system. Will the dollar remain the currency of preference or will the euro and the renminbi or the renminbi take a bigger role in the future? If you imagine a multi-polar currency system, you could imagine that there would be different ways to route major transactions on an ongoing basis. But at this point, the dollar is central in the global financial system. So to the extent that the dollar is a global currency, there is no real extraterritoriality because it's a global infrastructure.

Steve Weisman: The French Government--and I believe--including the French President, were concerned about this discussion and fine. What was the basis of his concern and what did he do?

Nicolas Véron: He raised the issue with the President Obama, I think, repeatedly. And this was also the case in other bilateral relationships--Finance Minister with Secretary of the Treasury, Central Bank with Fed. So there was a concern expressed by the French authorities on behalf of the French nation.

Why is that? It's a good question because you could make an argument that BNP Paribas is a private sector bank, that if something happens to it, it doesn't really create a problem for the French economy. And I think actually that's exactly what we're observing because BNP Paribas is paying a big fine. So shareholders are suffering. So business may suffer but other banks can pick up their business, French or foreign banks. It doesn't affect the French economy.

And ironically that's exactly the message that the French government has been peddling in the past two days, because it says now this is all about the past and everything is fine and the future is bright so-

Steve Weisman: What was their concern? Was it just patriotism or...?

Nicolas Véron: Yes, I think it's difficult to understand if you don't enter this deeply ingrained belief in France. As it was said, what was good for General Motors is good for the US. There's this deeply held belief that the fate of national champions of the large companies, even fully private sector companies as is the case of BNP Paribas, their fate is somehow aligned with the fate of the French nation.

Steve Weisman: The European Union is always advocating sanctions as opposed to military action in the case of, especially Iran. Weren't they concerned that these sanctions were being circumvented?

Nicolas Véron: Again, these were US sanctions and this predated more significant involvement of the European Union in the discussion about Iran, which is more recent. Most of what we're

talking about [with] BNP Paribas happened between 2002 and 2005 and at the latest around 2009. Even so, I think you're right. Let's put it this way. The position the French Government gave at several times in the stories, impressions that this or that, whatever faults BNP Paribas had made, whatever mistakes or inappropriate behaviors they had entered into, this was immaterial to the concern about the impact on either BNP Paribas or the French economy.

I don't think you can really defend this thesis. If a bank is committing fraud on a vast scale and again, BNP Paribas has pleaded guilty and has recognized that inappropriate behavior has taken place, it would be strange for the French Government to justify just because BNP Paribas is a big French bank.

Steve Weisman: Didn't the French view this as kind of case of too big to jail?

Nicolas Véron: The French economy minister is colorful and talented. Arnaud Montebourg, has made his declaration where he said, "No matter the mistakes or faults of the bank, there should be no death penalty inflicted on any business," which is very strange declaration because-

Steve Weisman: Well at least the Europeans are consistent about the death penalty.

Nicolas Véron: Yes, I think that's what he wanted to convey. But even so, I fully share the European view of death penalty when it comes to individuals. The idea is that there is no limit to the fraud or fault that a company can enter in to and there has to be a limit to the penalty that the judge can inflict. This is a very strange idea and in a way very troubling.

I think to be fair to the French Government, there was also a view that this was a transatlantic competition issue and that this was a way to undermine a French bank that is competing with the American banks on a number of markets. And in a way that's a more classic mercantilist argument. I see no evidence that this motivated the US authorities. I see no evidence that BNP Paribas was treated more harshly than a US bank would have been. But of course, it's difficult to have a firm conclusion on this sort of matter because every case is different and we will never know exactly how a US company, which would have entered the same transactions as BNP Paribas has, would have been sanctioned or not.

Steve Weisman: And of course you know now in the United States, corporations are people according to the Supreme Court.

Nicolas Véron: But the funny thing is that Arnaud Montebourg, who is considered left wing, has endorsed this view and has said, "Well, I'm against the death penalty and therefore, no bank should be too big to jail or too big to kill," which is again, troubling.

Steve Weisman: Nicolas, thank you very much.

Nicolas Véron: Thank you, Steve.

