

Top Of The News

## For Wall Street, Fines Are A Day's Pay

Dan Ackman, 04.29.03, 8:59 AM ET

At the press conference yesterday announcing the settlement with the major Wall Street banks, New York Attorney General **Eliot Spitzer** compared his work to that of President **Theodore Roosevelt**, and the U.S. Securities and Exchange Commission called the deal "historic." But there are reasons for skepticism.

First, the fines, while large in absolute terms, are tiny compared to the big banks' revenue. **Merrill Lynch** (nyse: [MER](#) - news - people), for instance, will pay \$200 million. But last year, the company reported revenue of \$28 billion (down from \$45 billion in 2000). That works out to \$112 million a day, not counting weekends. So the total fine, only half of which is a penalty, represents 1.8 days of Merrill's revenue. Since the conduct Merrill and the others are accused of took place over at least four years, it's fair to say that Merrill is paying less than a day's pay for its transgression. The **Salomon Smith Barney** unit of **Citigroup** (nyse: [C](#) - news - people) will pay a bit more relative to revenue, as will **Bear Stearns** (nyse: [BSC](#) - news - people). **Morgan Stanley** (nyse: [MWD](#) - news - people) and **Goldman Sachs** (nyse: [GS](#) - news - people) will pay a bit less. (The amounts of the fines are supposed to reflect generally the degree of wrongdoing, but none of the banks admitted fault.)

The evidence disclosed as part of the settlement will certainly aid private litigation against the banks, which could lead to greater payouts--though plaintiffs will still not have an easy case. (See: "[Bill Donaldson](#), [Meet Frank Galvin](#).") The fines themselves, though, are something like a day's pay. It's as if a man earning \$50,000 was fined \$200 two years in a row. That's a speeding ticket.

Of course, the settlement wasn't just about money. There are also what the regulators call "sweeping structural reforms." New York Stock Exchange Chairman **Dick Grasso** summarized those reforms in a statement: "This historic settlement establishes a clear bright line--a banker is a banker and an analyst is an analyst. The two shall never cross," he said.

But the separation of research from banking has always been the rule--supposedly. There's nothing new here. This is a reform in the way "Thou Shall Not Steal" is a reform. While new specific regulations enforcing this long-held idea may be welcome, no one should be allowed to get away with saying they didn't know that rules already in place (even if by custom rather than law) were being routinely ignored.

In a conference call with reporters yesterday, **Melvyn Weiss**, the lawyer leading the class-action lawsuits concerning allegedly fraudulent IPOs, made this point. If Wall Street and the public believe that yesterday's deal was historic, that will hurt, not help, small investors seeking compensation for damages.

The third problem is the reliance on e-mails. Finding private statements that contradict public pronouncements is all very dramatic. But was all this sleuthing really necessary? Research analysts will now be prohibited from participating in efforts to solicit investment banking business, including pitches and road shows, the SEC says. But during the boom, the analysts were doing exactly that openly and notoriously. It's not as if the regulators didn't know it. All the sophisticated players knew it. People like **Jack Grubman** bragged about it.

Equally obvious was the fact that whenever a company was brought public, the analysts routinely and loudly hailed its prospects. While analysts like **Henry Blodget** might have warned of a coming shakeout in general terms, when it came to particular stocks, the universal cry was "buy!"

You don't need the e-mails. None of this was secret. Yet these same regulators now engaged in historic work looked the other way.