Ideas, Learning, and Reputation: Politics of Post-2008 Systemic Risk Regulation in the United States

Walter M. James

Temple University
walter.james@temple.edu

ABSTRACT

Since the global financial crisis of 2008, the stringency of regulatory reforms designed to safeguard the stability of the financial system has varied across financial sectors and over time. Existing theories in comparative political economy are wanting in explaining this puzzle. By comparing the political dynamics of reform in the banking and asset management sectors in the United States between 2008-2018, this paper argues that two factors interact to shape regulatory stringency – regulators' ideas with respect to the role of financial regulation (policy orientation) and reputational pressures that regulators face vis-à-vis their various stakeholders, including elected politicians, the regulated industry, and civil society groups.

1. INTRODUCTION

The global financial crisis of 2008 demonstrated to policymakers the importance of safeguarding the stability of their financial systems. A new emphasis on financial stability regulation, often referred to as "macroprudential policy," rapidly gained acceptance within regulatory circles in the immediate aftermath of the crisis (Baker 2013, 2015). [1] The macroprudential approach to financial regulation holds that preventing systemic financial crises requires regulators to conceive of the financial system as an integrated whole and to closely monitor the accumulation of risks across disparate financial. In other words, the breadth of financial stability regulation must be cast as widely as possible across the entire financial system. Yet, a decade after the crisis, the stringency of macroprudential policies across financial sectors in major economies varies significantly. This variation is cause for concern, because gaps in policy measures between sectors were one of the oft-cited causes of the 2008 financial crisis.

These gaps are particularly evident in the American context. In the US banking sector, regulators imposed highly stringent policies early on, only to moderate them a few years later. Asset managers enjoyed relatively lax regulations for some time after the end of the financial crisis, but starting in 2015 were subject to an array of moderately stringent systemic risk policies.

Why do we witness such wide range of macroprudential policies, varying both across sectors and over time, in the country in which the financial crisis originated? Major theories in the political economy literature on regulation are incomplete in explaining these gaps. Instead, this paper advances a theoretical framework that accounts for cross-sectoral and temporal variation in the stringency of macroprudential policy. It argues that the primary explanatory factor is the regulatory officials' set of beliefs regarding the financial system and the role of regulation – what I term the regulators' *policy orientation*. Second, the threats that regulatory officials feel to their organizational reputation by their various stakeholders, including elected politicians, the regulated industry, and civil society groups, shape the political context of reform proposals. The interaction between these two variables explain much of the variation and fluctuation in sector-level regulation.

I empirically test these claims by comparing the political dynamics of regulatory reform in the two US financial sectors highlighted above. Subnational comparisons offer several analytic advantages. It holds constant national-level variables including regime type, electoral politics, and national model of capitalism. Looking beneath the national level also reveals the variation in regulators' policy orientation and the constellation of audiences across sectors and over time, allowing for an investigation of microprocesses between these actors (Hsueh 2016).

In each of the cases, I rely on publicly available speeches by regulatory officials, white papers, news reports, and minutes of Congressional hearings. To supplement documentary evidence, I conducted seventeen semi-structured interviews with officials in the federal government, regulatory agencies, and international organizations. These interviews took place in November 2018 and October 2019.

The next section surveys the dominant existing theories, and the third section elaborates on the framework advanced in this paper. The comparison of the American banking and asset management sectors is presented in the fourth chapter.

2. THEORIES IN THE POLITICAL ECONOMY OF REGULATION

A broad political economy literature on economic regulation offers three potential explanations. A commonsensical glance at variations in regulatory stringency suggests a "public interest" explanation, which holds that "regulation is supplied in response to the demand of the public for the correction of inefficient or inequitable market practices" (Posner 1974, 1). In the context of systemic risk policies, the public interest theory would suggest that regulators impose

stringent measures in anticipation of impeding financial risks to stave off impending crises. Thus, countries with tame financial sectors would be free of stringent regulations, while regulators overseeing more volatile banks and securities markets would implement highly strict policies.

A second view is the inverse of the public interest theory, suggesting that the variation in regulation is the result of the influence the regulated industries have over the decisions of regulators. This so-called "private interest" theory can be separated into two broad camps. The first of these, with its roots in law and economics – "regulatory capture" (Becker 1983; Laffont and Tirole 1991; Stigler 1971) and political science – "instrumental power" (Culpepper 2010; Lall 2012, 2015; Lindblom 1977; Woll 2014), points to the intentional actions, such as lobbying, by private firms to sway policymakers in their favor. The comparative implication is that regulation will be lax when the firms in a financial sector has greater lobbying resources and closer relationships with policymakers (Fairfield 2015, 29). The second camp of private interest theory assumes that democratic governments are *structurally* dependent on the investments and employment of private firms, and thus elected politicians and their delegated regulators must necessarily respect and bow to the whims of capitalists (Lindblom 1977; Przeworski and Wallerstein 1988). Recent revival of this structural power concept has significantly refined this theory (Culpepper and Reinke 2014; Woll 2016; Young 2015; Young and Pagliari 2017), but the implication for financial regulation remains that the larger and the more internationalized the financial sector, the more structural power it should be able to exert over decision-makers.

A third strand of political economy scholarship attempts to explain regulation outcomes by pointing to different models of financial systems across countries (Soskice & Hall 2001; Fioretos, 2011; Zysman, 1983). These scholars have identified three ideal-typical financial systems: the *liberal* variety, in which states and financial systems are separated by an arms-length distance, banks are predominantly privately owned, and there exist large equity markets; the *centralized* variety, with states playing a strong role in directing credit, publicly-owned banking sectors predominate, and equity markets are limited; and the *coordinated* variety, boasting both private- and publicly-owned banks and also limited equity markets (Fioretos, 2011, 18; Zysman, 1983). While financialization and economic liberalization since the 1970s have chipped away at this neat distinction, the board contours of these models remain relevant in much of comparative and international political economy research.

Yet for taking account of sectoral and temporal differences in macroprudential policies, these explanations are, at best, incomplete. With regard to the public interest theory, the link between material conditions that indicate impending risks and policymaker preferences is not straight forward. Detecting systemic risk involves adjudicating between countervailing indicators of risk, and the specific timing and setting of policy actions provoke some degree of disagreement among regulators. Similarly, the causal link between business influence and regulators is far more complicated than the capture theory or the instrumental and structural powers of business suggests (Bell and Hindmoor 2014; Fairfield 2015). Whether or not regulators succumb to business influence depends on institutional, ideational, and contextual factors. Lastly, the comparative financial systems explanation is a powerful theoretical framework in many respects, but it does not yield obvious a priori hypotheses when it comes to regulatory reform, especially in the wake of a crisis. If a bank-based economy encounters a slew of bank failures, would policymakers rush to institute stringent regulations to stabilize the system, or hesitate to burden their banks with heavy reforms that would stymie the economy so reliant on banks? Furthermore, the comparative capitalisms model is too blunt a framework when attempting to explain sub-national or temporal variation.

3. MACROPRUDENTIAL IDEAS AND REPUTATIONAL PRESSURE

Unlike these existing theories, the framework presented here focuses on the ideas held by officials within regulatory agencies. To understand why this focus is necessary, I first briefly sketch the challenges that financial regulators face in formulating macroprudential policies.

Macroprudential policy derives its label from the distinction between it and *micro*prudential policy. Microprudential policy aims to protect customers and depositors of financial institutions as well as investors by limiting the financial risks that afflict *individual* financial firms (Nier 2011). In contrast, the objective of macroprudential policy is to mitigate *systemic* risk, defined as the threat of "widespread disruptions to the provision of financial services that have serious negative consequences for the economy at large" (FSB-IMF-BIS, 2011, 4). Beyond this definition, there are two dimensions of systemic risk. The first is structural risk, or distribution of risks across the financial sector in a given point in time across different segments of the financial services industry, across various financial product markets, and across financial institutions. Enhancing the resilience of financial institutions (i.e. ending "too-big-to-fail") ensures

that the structural systemic risk is mitigated. The second dimension is cyclical risk, or the dynamic changes of systemic risk over time through the cycle of credit booms and slumps (European Systemic Risk Board 2016). Vanquishing cyclical systemic risk requires the sagacious use of time-varying, countercyclical policy instruments.

Despite this conceptual precision, the detection and mitigation of systemic risk are fraught with challenges. For one, it requires constant analysis of real-time and granular data on financial institutions' leverage, liquidity, and numerous other risk indicators, and the ability to draw meaningful conclusions about the thresholds of systemic risk that warrants regulatory action. Another challenge is that many macroprudential policy tools developed at the international and domestic levels are barely tested in the real world. Policy instruments such as supervisory bank stress tests, limits on mortgages, countercyclical capital buffers, and systemic risk buffers are relatively new in the regulatory arsenal of industrialized democracies. These challenges prompted one US government official to describe the policymaking process behind systemic risk regulation as a "wicked problem."[2] This analytical complexity means that regulators must navigate policymaking, in large part, by relying on guiding ideas.

3.1. Policy Orientation

Scholars have pointed to the role of ideas in determining political or policy outcomes in a variety of ways: they can be used as political weapons that discredit alternative ideas and to shape political agendas (Blyth 2002); they can pave the way for the spread of norms by changing key actors' preferences (McNamara 1998); and interact with pre-existing institutions to produce unique policy regimes (Hall 1989). Importantly, ideas can also help leaders make sense of uncertainty, define problems, and guide them toward policy solutions (Berman 2001, 2012; Mehta 2010). In explaining the shaping of macroprudential regulation after the 2008 financial crisis, I argue that the type of idea that matters is the regulator's *policy orientation*. Policy orientation is a set of beliefs regulators hold with respect to the financial sector[3], which can be divided into three dimensions: *ontology*, or beliefs about how the financial system works and the utility of regulation; *diagnosis*, or beliefs about why and how the crisis affected an economy; and *prescription*, or beliefs about what policy tools are necessary to prevent future crises.

Broadly, regulators can take on two distinct policy orientations: growth- and stability-orientation. Ontologically, growth-oriented regulators tend to see the financial system as

fundamentally efficient, and firms and individuals populating the system as essentially rational. There is an assumption, often unspoken but sometimes explicit, that while market failures are unavoidable, given enough time and in the absence of information asymmetries, market mechanisms prove to be self-correcting. They tend to diagnose the crisis as having been cause by external shocks, and that market participants responded hastily because they lacked accurate information about financial assets and credit ratings. Given this interpretation, growth-oriented officials prescribe stronger oversight of individual financial firms and credit ratings agencies (*micro*prudential regulation) and more transparency to better inform investors and depositors about assets or banks.

Stability-oriented regulators, on the other hand, see market participants as irrational and overly reliant on cognitive heuristics, financial firms as incentivized by moral hazard, and the overall system as vulnerable to underlying risks. They point to systemic risks accumulating within the financial system as the causes of the financial crisis, which in turn were generated endogenously by incentives to relax lending and rating standards, deteriorating risk management practices, and excessive household and corporate indebtedness due to cheap credit. Finally, stability-oriented regulators advocate correctives that are more systemic in nature: higher capital requirements for banks, mitigating moral hazard, and enhancing regulatory supervision across the entire financial system.

3.2 Policy Learning

Regulators' policy orientations are not static. Changes in regulators' beliefs can be explained by drawing on the literature on organizational and policy learning. Defined broadly as the "updating of beliefs," (Dunlop and Radaelli 2013, 600), public policy scholars have conceptualized several sources of learning. In the context of post-crisis financial reform, the "epistemic" mode of learning is the most relevant. Dunlop and Radaelli (2013) explain that, in the epistemic mode of learning, "knowledge is deployed by a limited set of expert actors to narrow discussion with the aim of reaching a technical policy solution" (p. 603). While the term *epistemic community* originally referred to transnational and politically independent networks of professional experts (Haas 1999), in the domain of domestic policy reforms, regulatory agencies act as their own epistemic communities through, with in-house departments of highly technical professionals constantly engaged in research, analysis, and dissemination of knowledge.

The most potent form of epistemic learning among these regulators is the examination and interpretation of their own experience, especially large-scale events like crises or volatilities in the sectors under their supervision. Yet, just as the causes of crises are interpreted through ideational lenses, lessons from direct experience must be translated and framed in order to affect behavioral change (Heikkila and Gerlak 2013; Levitt and March 1988). Thus, whether or not and how learning affects policy orientation is not determined by the underlying events and material conditions.

2.3. Reputational Pressure

A regulator's policy orientation is not the sole determinant of the stringency of macroprudential policy. Regulatory officials often have to contend with their political principals, industry interests, and civil society groups. Borrowing from organizational studies, I argue that in the domain of regulatory politics, what is at stake in the disputes between these actors is the regulatory agency's reputation. Following Daniel Carpenter, I define organizational reputation as "symbolic beliefs about an organization – its capacities, intentions, history, mission … embedded in a network of multiple audiences" (Carpenter 2010, 33). Building, guarding, and managing reputation is a chief concern for regulatory agencies because "achieving and sustaining a reputation for task performance helps an agency acquire financial resources, secure stable workforce, and build agency autonomy" (Moffitt 2010, 881).

Organizational reputation is a relational concept, held among an agency's multiple "audiences" consisting of elected politicians to whom the agency must answer, regulated firms and their investors, and often civil society groups interested in the outcome of regulation. Audiences can and often do take the form of coalitions of these actors, advocating for policies to enhance the stability or foster greater competitiveness of the financial system. These groups exert pressure on regulators by questioning or criticizing one or more of the four dimensions of the regulator's reputation: (1) *performative* – audiences' judgment of the quality of the regulator's decisions and ability to achieve stated objectives; (2) *moral* – whether or not the regulator has morally and ethically defensible means and ends, and whether the agency protects the interest of its clients, constituencies, and members; (3) *technical* – audiences' assessment of the scientific and technical expertise of the regulator in its policy domain; and (4) *legal-procedural* – whether the regulator followed commonly recognized norms of deliberation and procedures (Carpenter 2010, 45-47).

But just as the political influence of business depends on a variety of factors, the reputational pressure by an agency's audiences is not a constant. For one, contextual factors like issue salience (Culpepper 2010; Ziegler and Woolley 2016) can greatly amplify stability-oriented audiences while diminishing the force of growth-oriented audiences. Political principals of regulatory agencies are exert far more powerful reputational pressure than lobby groups or civil society groups, and the structure of regulation that prevailed before reforms were proposed can have an impact on how readily private firms accept the anticipated changes.

A regulator's policy orientation and the reputational pressures it faces from its various audiences interact to produce regulations of varying stringency. I hypothesize that when growth-oriented regulators face reputational pressure from growth-oriented audiences, the result is lax regulation, whereas when it faces reputational pressure from stability-oriented audiences, reforms of moderate stringency will prevail. On the other hand, when stability-oriented regulators encounter pressure from stability-oriented audiences, highly stringent policies will be instituted. Table 2 maps out these expectations and how the US banking and asset management (AM) sectors fit into the framework.

Table 1. Determinants of Regulatory Stringency

	Source of Reputational Pressure		
Regulator's Policy Orientation	Growth-Oriented Audiences	None	Stability-Oriented Audiences
Growth	**Low** US banking post-2017	**Low** US AM pre-2015	**Medium**
Stability	**Medium**	**Medium** US AM post-2015	**High** US banking pre-2017

4. COMPARISON OF US BANKING AND ASSET MANAGEMENT SECTORS

4.1. Banking 2010-2017: Stability-Oriented Regulators and Stability-Oriented Audiences

The American banking sector witnessed an early imposition of stringent macroprudential reforms following the crisis. The overwhelming national regulatory agenda after the crisis was twofold: implementing the provisions of the Dodd-Frank Act (DFA), an extensive financial reform package passed into law in 2010, and transposing the Basel III banking accord, an international regulatory standards for bank capital, leverage, and liquidity requirements promulgated shortly

after the crisis. Many of the measures that regulators actually applied to the banking sector, however, went further than the DFA and Basel III. Yet starting in 2017, these rules were relaxed. Beginning with exemptions from and simplifications to the stress test regime and lowered capital requirements non-systemically important banks, the scope of systemic risk regulations were narrowed to only the largest banks in the country (see the appendix for more details on these policies). This shift from highly to low stringency is explained, primarily, by the shift in regulators' policy orientation from stability- to growth-orientation. Additionally, in the period between 2010 and 2016, regulators faced a political environment in which the voices of stability-oriented politicians and civil society groups were amplified, and the influence of growth-oriented financial industry groups were muted. With reputational pressure from stability-oriented audiences, stability-oriented regulators were pushed to implement highly stringent reforms. Starting in 2017, however, policy learning and personnel turnover within the regulatory agencies led to ideational change to growth-orientation. Finally, the changes in the executive administration and Congress, and the decreased public salience of financial regulation empowered growth-oriented politicians and industry actors to push for moderating post-crisis reforms.

The bank regulators' orientation can be ascertained by their diagnosis of the crisis, ontological understanding of the financial system, and their policy prescriptions that flowed from these ideas. Diagnosing the crisis, the leaders of the US Federal Reserve Board of Governors (Fed) routinely attributed the subprime mortgage crash and the ensuing banking crisis to the irrationality of investors, excessive risk-taking by banks, over-indebtedness of households and consumers, and the predominance of microprudential focus on the part of regulators. Testifying before the Financial Crisis Inquiry Commission, Ben Bernanke, Chairman of the Fed during the crisis, pointed to "the prospect of significant losses on residential mortgage loans to subprime borrowers" that catalyzed a bank run-like rush of investors to pull funds from various financial markets, which in turn put pressure on major banks. Regarding vulnerabilities in the regulatory system, he identified the gaps in the fragmented US regulatory architecture and a "broader failing was that, for historical reasons, regulation and supervision were focused on the safety and soundness (or the practices) of individual financial institutions or markets." In other words, a *micro*prudential focus was at the root of regulatory failure.[4]

Bernanke was not alone in this assessment. Janet Yellen, future Chair of the Fed, explained the origins of the crisis through Hyman Minsky's theoretical lens of "asset price bubbles."[5] Daniel

Tarullo, member of the Fed responsible for systemic risk supervision over banks, also couched the crisis in a systemic narrative: “The crisis arose against the backdrop of a regulatory system that had not adjusted to the extensive integration of traditional lending with capital market activities, which had created new sources of systemic risk.”[6]

Their attribution of the crisis to systemic causes led these regulators to advocate for macroprudential measures that would bolster the resilience of the largest banks in the country. These measures included, first and foremost, stringent annual stress testing of banks and higher capital requirements of various kinds. These measures were needed, Fed officials (and officials at the other two regulatory agencies, the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC)) argued, to end the “too big to fail” problem. In this vein, Tarullo made his case:

> [T]he reform process cannot be judged a success unless it substantially reduces systemic risk generally and, in particular, the too-big-to-fail problem…Without better capital requirements, a horizontal approach to supervising the largest financial institutions, and a sophisticated macroprudential complement to traditional bank and bank holding company supervision, the regulatory system is unlikely to deliver on a promise of greater financial stability.[7]

Another member of the Fed, Stanley Fischer, voiced “the need to prevent future crises through the implementation of changes in laws and regulations, like the Dodd-Frank Act, which provide tougher and higher capital requirements for banks, a binding liquidity ratio, the use of countercyclical capital buffers, better risk management, the increasingly sophisticated use of stress tests…and improved and usable resolutions mechanisms.”[8] Tarullo signaled in 2014 that even stricter rules were in the works. “The agencies still have some work to do in adopting some regulations specifically required by Dodd-Frank. Moreover, the Fed has some additional work to do in filling out a regime of additional prudential requirements for systemically important financial firms,” including proposing capital surcharges for 8 US banks identified as globally systemically important banks (G-SIBs). These surcharges are requirements for banks to hold common equity “above Basel III levels…to improve their resiliency to take account of the impact their failure would have on the financial system.”[9] Thus, in the immediate post-crisis period, many of the top officials’ orientation tilted decisively toward enhancing the resilience of the most systemic banks.

American bank regulators' stability-orientation was pushed even further by an exceptional political environment in which the stability-oriented Democratic Party controlled the executive and legislative branches of the federal government, the voices of stability-oriented civil society reform groups were amplified, and the access of growth-oriented financial industry groups to regulators were essentially choked off. Regulators thus faced strong reputational pressure from stability-oriented audiences between the years 2010 and 2016.

There were two broad groups of actors whose reputational threat regulators acutely responded to: political principals including Senate Banking Committee with oversight over financial regulators, and reform-oriented civil society groups. On the other hand, regulators continued to engage with but discounted the views of growth-oriented actors, including the House Financial Services Committee and industry lobby groups. Regulators responded to the reputational threats by stability-oriented audiences for two reasons: (1) regulators' own stability-orientation predisposed them to pay particular attention to other stability-oriented actors, and (2) the exceptionally high-salience of financial reform in the immediate post-crisis period compelled them to take stability-oriented audiences more seriously than growth-oriented audiences.

Congressional Democrats routinely pressured bank regulators to implement the DFA. In a Congressional hearing, the Chairman of the Senate Banking Committee Tim Johnson told the Treasury Department's Under Secretary for Domestic Finance and the heads of all three banking regulators that "While progress has been made, it has been nearly 5 years since reckless financial firms put our economy in jeopardy and 3 years since the passage of the [Dodd-Frank] Wall Street Reform Act. It is time to finish implementing these reforms as quickly as possible to put an end to 'too big to fail' and to protect American taxpayers from ever again bailing out a failing financial company."[10] In these meetings, exchanges often take place in which lawmakers probe regulators on what progress has been made in rulemaking, and how quickly the remaining work can be done. The following is a typical example:

> [Senator Mike Crapo, addressing officials of all three bank regulators]: [C]an you provide an insight for us into what we can expect from the regulators on these issues and when?
>
> [FDIC Chair Mark Gruenberg, replying]: For the FDIC, in the capital area, the big outstanding work will be completing the rulemaking in regard to the leverage ratio… We really viewed it as an important part of moving to completion on the entire Basel III

package, and… we would hope to reach conclusion on that, I would think, by the end of the year…

[Senator Sherrod Brown, addressing Fed Governor Daniel Tarullo]: We clearly agree we need stronger, better capital standards. We would both like them to be higher than they are. I am particularly concerned, though, that banks can use risk weights and internal models to game their capital rules…What more should we be doing…to address this potential gaming of the capital rules that appear to be imminent?

[Tarullo, replying]: [I]n terms of what we have got to do, we have got to take account of the shortcomings of each of these [Basel I and II capital ratios], the potential for gaming, whether it is gaming of risk-based capital or … the potential for gaming leverage ratio, and to make sure that we have got a good risk-weighted approach, which I think we have now got in the Basel III package; a leverage ratio which is a strong complement and floor to that, making sure that you cannot game risk weighting to get too much leverage; and third, and from my point of view, this has this has been the real innovation in banking regulation in the last 4 or 5 years, is the stress testing that we are now doing for firms over $50 billion.[11]

In addition to being particularly sensitive to reputational pressures from congressional Democrats, regulators paid particular attention to interest groups that demanded implementation of tougher financial reforms. This observation comports with recent scholarship demonstrating that "noisy politics" – a political environment in which non-industry interests, such as consumer, labor, and other civil society groups, voice their demands – can put significant constraints on the instrumental and structural power of business (Culpepper 2010; Fairfield 2015; Kastner 2017; Young 2013; Ziegler and Woolley 2016).

In one account of the noisy politics surrounding DFA's implementation, a loose coalition of advocacy groups composed of labor and consumer groups, academics, and former policymakers arose to put pressure on regulators to continue the implementation of stringent regulations. In the post-crisis period, groups submitted sophisticated public comment letters to proposed rules put out by regulatory agencies, arguing for the need to end too-big-to-fail and maintain reform efforts in consumer protection (Ziegler and Woolley 2016). On systemic risk issues, a host of organizations

has become proactive since the financial crisis, submitting letters and frequently meeting with regulatory officials. These organizations include the Americans for Financial Reform (AFR), Systemic Risk Council, Better Markets, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), Public Citizen, and the Center for American Progress.[12]

Reinforcing regulators' receptiveness to these advocacy groups is the fact that financial reform in the post-crisis years was a high-salience issue. Figure 1 presents a rough measure of the salience of systemic risk reforms by charting the number of all news reports in the US containing the terms "too big to fail" and "systemic risk," using the Factiva database. News coverage that mention these terms clearly spiked in 2009 and 2010, when the financial crisis and the DFA were squarely in the public attention. These terms saw a steady decline in usage after 2010, but their usage did not drop to pre-crisis levels until around 2018.

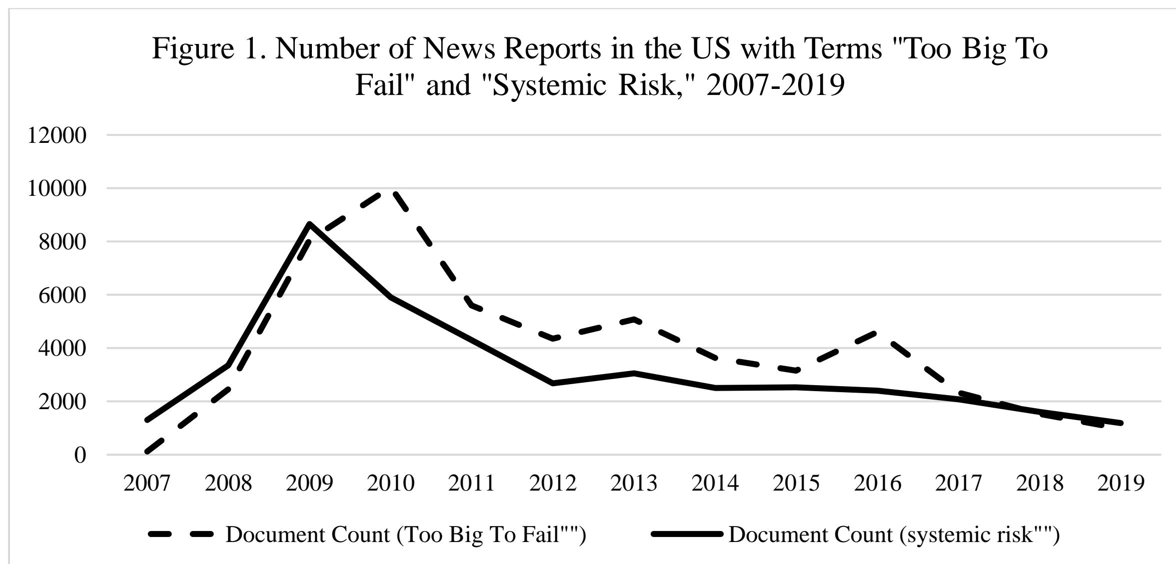

Figure 1. Number of News Reports in the US with Terms "Too Big To Fail" and "Systemic Risk," 2007-2019

High issue salience has profound implications for the politics of regulatory implementation. In the words of a staff member of AFR, one of the leading reform advocacy groups, when the DFA was being considered in 2010, "these issues were white hot and you were really able to get things and move things."[13] As a close observer of financial policy at the Government Accountability Office remarked of the political environment in 2013, "we were just recovering from the financial crisis, and people were worried about rolling back Dodd-Frank. It wasn't politically possible to suggest the rollback of key regulations, especially because one cause of the crisis was regulatory failure."[14] Regulators thus were tightly bound by reputational pressure from "noisy" politics and the stability-oriented audiences that such political context empowered.

If stability-oriented audiences held a privileged position in regulators' attention, then growth-oriented audiences were elbowed to the sidelines. One manifestation of this marginalization was that the lobbying strength of the financial industry was compromised. While the banking sector's efforts to lobby policymakers continued unabated, getting direct access to, not to mention persuading, regulatory officials became much more difficult. Kevin Young details how, in the context of high issue salience, "Not only has the credibility of financial industry views taken a serious blow, but there has also been a tangible perception among financial industry groups that their views in general matter less than in the past" (Young 2013, 463). While policymakers still regularly met with industry groups, they restricted their access and gave more access to other stakeholders, thereby diminishing the proportion of industry voice. Once in the room with regulatory officials, these interactions became much stiffer and more formal. As one staff member at the American Bankers Association put it, "Gone are the days of hand-shakes and getting beer together with regulators."[15]

Regulators' penchant for more stringent rules and greater reputational pressure from stability-oriented audiences were aided by the diminished structural power of the banking sector. For private businesses to exercise structural power, their threat to move their capital abroad or at least to withhold investment domestically must be credible to policymakers (Fairfield 2015). Banks operating in the US, from large to small, certainly argued that implementing the DFA and Basel III would impose excessive regulatory burden that would force them to curtail lending to businesses. Congressional Republicans and other opponents of the DFA also argued quite clearly that tighter regulation would harm the international competitiveness of US banks.[16] Yet, to the stability-oriented regulators in the post-crisis period, these threats and fears lacked credibility. This was because of three reasons.

First and most generally, while it is true that the American state and economy are structurally dependent on banks for their investments and credit for a well-functioning and growing economy, it is no less rue that the largest players in the American banking sector make most of their profit in the US. These banks are thus equally, if not more, structurally dependent on the goodwill of US regulators (Culpepper 2015, 399; Culpepper and Reinke 2014).

Second, the argument that post-crisis regulations would undermine domestic investments and international competitiveness rang hollow in light of several independent reports of the potential effects of DFA and Basel III. The Government Accountability Office (GAO), apolitically

independent office that conducts research on behalf of Congress, is mandated to investigate the regulatory impacts of the DFA on an annual basis. Its reports suggest that post-crisis reforms would enhance financial stability while imposing only negligible costs on banks to continue their investments and lending activities. The GAO reported that the law had "moderate to minimal initial reductions in the availability of credit" extended by community banks and credit unions, large US bank holding companies' "leverage generally decreased and liquidity generally improved since the act's passage," and the DFA "has had little effect on the funding costs of these companies and may be associated with improvements in some measures of their safety and soundness."[17] Assessing Basel III's impact on lending, the GAO concluded that "Although the U.S. Basel III capital requirements may increase compliance costs, they likely will have a modest impact on lending activity as most banks may not need to raise additional capital to meet the minimum requirements" because "the vast majority of bank holding companies and banks currently meet the new minimum capital ratios and capital conservation buffer."[18] To be sure, the GAO makes clear that these conclusions are tentative and the evidence is mixed – estimating the effects of rules so soon after they are implemented is difficult.[19] But on net, the early evidence promised enhanced stability and resilience of the banking system while incurring only modest costs on the economic activities of banks. Because these reports partly integrate research done by the regulatory agencies themselves, and because the drafts of these reports are sent to each of the regulatory agencies as well as to members of Congress, we can be confident that these conclusions were known to the regulators, the White House and legislators. Asserting a radical end of this view, the former Treasury Secretary Tim Geithner countered Republican opponents of the DFA by saying "There is no credible evidence to support the argument that these reforms are having a material negative effect on the ability of the economy to recover and grow. In fact, the evidence is overwhelmingly the opposite."[20] In the minds of regulators and proponents of post-crisis reforms, stability-enhancing consequences of these reforms generally outweighed their harm, undermining the credibility of bank structural power.

The third reason why banks' threat of disinvestment lacked persuasiveness is because American regulators and the Treasury were working to harmonize international regulatory standards. One source of business' structural power is the possibility that they can move their capital abroad to a jurisdiction with laxer rules – lower taxes, less stringent regulations, and less bureaucratic red tape. But in the immediate post-crisis period, US bank regulators and

administration officials proactively engaged foreign counterparts to equalize regulatory standards. In so doing, US leaders sought to preempt regulatory arbitrage. As Lael Brainard, then-Under Secretary of International Affairs in the Treasury Department, told the Senate Banking Committee, "I have participated in multiple international negotiations, both at the G20 and the FSB, where our goal has been to bring the world to convergence around the very strong protections put in place under Dodd-Frank in order to guard against a competitive disadvantage and also to protect the safety and soundness of our system."[21] At the same hearing, Fed Governor Tarullo explained to Senators that the regulatory areas in which there had been the most progress in forging international agreements were precisely the major macroprudential elements of bank regulation: capital surcharges for systemically important banks, other capital requirements, liquidity standards, and resolution mechanisms.[22] An IMF official confirmed in an interview that US regulatory agencies have been united in leading the development of international standards, particularly Basel III, so as to prevent a regulatory "race to the bottom" by governments and regulatory arbitrage by US banks which operate globally.[23] US bank regulators and political leaders, therefore, have preempted American banks' move to transfer capital abroad by creating a relatively uniform framework across borders.

4.2. Banking Post-2017: Growth-Oriented Regulators and Growth-Oriented Audiences

Once post-crisis reforms were well underway, bank regulators began modifying their views about the necessity of stringent systemic risk regulations. A form of "policy learning" seems to have taken place among these regulators toward the end of their tenure as heads of agencies. At the Fed, Tarullo, began to moderate his rhetoric. In the area of capital requirements, he floated the idea that smaller and less complex banks should face simpler capital rules.[24] Regarding stress tests, he doubted as early as 2014 that banks that are not large enough to be classified as "systemically important" should be required to incur the same costs as the largest banks in complying with the stress test requirements.[25] But it was in July 2016 that Tarullo explained that consultation with bank officials, market analysts, interest groups, and academics had led the Fed to reconsider the stringency of some stress testing for mid-sized and less complex banks. "We do not intend," he said in a speech, "for less complex firms to invest in stress testing capabilities on par with the most complex firms."[26] Yellen, by then the Chair of the Fed, also emphasized the importance of "tailoring" post-crisis regulations when testifying before the House Financial Services Committee:

"One of the Federal Reserve's fundamental goals is to make sure that our regulatory and supervisory program is tailored to the risk that different financial institutions pose to the system as a whole…The largest, most complicated firms must therefore be subject to prudential standards that are more stringent than the standards that apply to other firms. Small- and medium-sized banking organizations, whose failure would generally pose much less risk to the system, should be subject to standards that are materially less stringent."[27] Jerome Powell, who had been a member of the Fed Board of Governor since 2012 but whose earlier speeches focused mainly on monetary policy, now also shifted his attention to tailoring post-crisis reforms. In his June 2017 testimony to the Senate Banking Committee, he highlighted four guiding principles in assessing the effectiveness and efficiency of those reforms: protecting the core elements of capital requirements, stress testing, liquidity regulation, and resolution mechanisms for the largest banks; tailoring these requirements to the size, risk, and complexity of banks, paying particular attention to community banks; simplifying rules and reduce unnecessary regulatory burden without compromising safety and soundness of the financial system; and instill greater transparency in regulation.[28] Observers both inside and outside the regulatory agencies have attributed this shift in attitude to "learning" on the part of policymakers.[29]

As these DFA-generation regulators were beginning to shift away from staunch stability-orientation, a new cohort of officials were appointed to head the agencies. This generation of appointees, many of whom were not in leading positions in the regulatory community during the financial crisis, were far more amenable to the idea of tinkering with post-crisis reforms so as to permit greater competition in the banking sector and enhance economic growth by reducing regulatory burden. These regulators were, of course, nominated by the White House, and confirmed and overseen by Congress. But while their growth-orientation were closely aligned with the deregulatory rhetoric from their political principals, slight differences in how the agency leaders and their principals discuss the need for regulatory tinkering indicates that they were not simply pandering to their principals.

Randal Quarles was appointed as Vice Chairman for Supervision at the Fed in 2017 with direct responsibility for banking regulation. While never losing sight of the objective of systemic stability, Quarles' numerous speeches and testimonies make it clear that his priorities for adjusting post-crisis regulation were "efficiency, transparency, and simplicity."[30] His assumption was that a more transparent, efficient, and simpler regulatory regime would reduce compliance costs and

arbitrage, and ultimately lead to a greater flow of bank lending and economic growth. Quarles' perspective on a more efficient regulatory system consists of improving "the degree to which the net cost of regulation – whether in reduced economic growth or in increased frictions in the financial system – is outweighed by the benefits of the regulation."[31] With respect to his second priority, Quarles notes: "Transparency provides firms clarity on the letter and spirit of their obligations, it provides supervisors with exposure to a diversity of perspectives, and it provides markets with insight into the condition of regulated firms which fosters market discipline. Transparency increases public confidence in the role of the financial system to support credit, investment, and economic growth."[32]

If Quarles and Powell were at the helm of a cautiously growth-oriented Fed, the newly appointed FDIC Chair Jelena McWilliams professed similar beliefs in transparency, tailoring, and simplification, particularly with respect to small and mid-sized banks that the FDIC oversees.[33] Leadership in the OCC, too, was aligned with the objective to streamline post-crisis regulations. Keith Noreika, who, during his short stint as Acting Comptroller of the Currency (the highest office in that organization), "shared 17 ideas for Congressional consideration," including "proposals to minimize regulatory inefficiency, 'right-size' regulation, and provide regulatory certainty."[34] Thomas Otting, who took over as the Comptroller after Noreika, struck the same chord but in rosier language. Looking back at his first year at the OCC, Otting told his audience:

> In my view the safeguards put in place after the financial crisis had succeeded. It was time to reassess our regulatory approach and carefully determine what we could do to reduce unnecessary burden on banks so that they could be the engine of economic opportunity they were meant to be. Creating economic growth and opportunity is at the core of a banker's identity. Bankers, in ways, make dreams come true, helping others achieve things they could never accomplish on their own. As Comptroller, I want bankers to help customers realize their dreams by reducing the unnecessary burden and inefficient regulation.[35]

These calls for tailoring regulation to banks of different sizes and risk profiles, and making regulation simpler and more transparent are a far cry from the rhetoric by regulators in the post-2010 period who predominantly focused on mitigating systemic risk and ending too-big-to-fail. The new generation of regulators, to be sure, almost always appended the importance of maintaining safety and stability as a goal of regulatory reform. But without a doubt, these key

policymakers across the three bank regulatory agencies had shifted their policy priorities toward loosening post-crisis reforms to encourage economic growth.

This shift is attributable to policymakers' learning in response to changing material conditions. For one, there was widespread consensus that the US economy had fully recovered since the crisis and that the banking system had become significantly safer and more resilient as a result of post-crisis reforms.[36] But underlying financial conditions did not automatically change regulators' policy preferences; true to the ideational argument set out in this paper, there were disagreements among officials over the interpretation of these material conditions. One of the ways in which scholars in the ideational tradition have demonstrated the causal force of ideas is by showing that individuals within the same or similar organizational and material positions differed in their interpretation of the world around them. As Craig Parsons notes, "We could isolate ideas precisely if we found an extremely close comparison, contrasting actors in near-identical places in the objective world to highlight the purely subjective variations in their behavior. Such comparisons are available at the *individual* level, within groups. Close organizational peers share positions in the objective world; comparing their views of their groups' interests can separate variation in their ideas from variation in objective pressures" (Parsons 2002, 50-51).

One such individual whose ideational outlook diverged from her peers in the same organization is Lael Brainard, a member of the Fed Board of Governors. Formerly serving as the Under Secretary of International Affairs at the Treasury, Brainard was nominated to the Board of Governors in 2014. In a central bank that values consensus, Brainard has cast 11 dissenting votes among the 197 votes that the Fed took since 2017.[37] Brainard's votes centered around policy changes that would modify the stringency of systemic risk regulations, such as swap margin rules, resolution plan requirements, tailoring regulations for large banks, simplifying the Volcker rule, keeping the countercyclical capital buffer at 0%, and limiting the Fed's use of the qualitative objection in its stress tests. In an October 2019 statement accompanying her dissenting vote against a major package of final rules to tailor regulations for domestic and foreign banks, she wrote: "Today's actions go beyond what is required by law and weaken the safeguards at the core of the system before they have been tested through a full cycle. At a time when the large banks are profitable and providing ample credit, I see little benefit to the banks or the system from the proposed reduction in core resilience that would justify the increased risk to the financial stability in the future."[38]

Another regulatory leader who sounded the alarm at the regulatory moderation was none other than Tarullo, who resigned from the Fed in April 2017. Despite having shifted from a macroprudential hawk to being amenable to relaxing some of the DFA reforms toward the end of his time as a Governor, he nevertheless criticized the direction and extent of growth-oriented adjustments that were underway. In his farewell speech, he described the Fed's initiative to make its stress tests more transparent as an "unwise idea." Referring specifically to the banking industry's pleas to publicize the stress test model – a proposal that Vice Chair Quarles proved favorable to – Tarullo argued that

> there are very good reasons not to publish the model itself…[B]anks would use the models to guide changes in their behavior that do not change the risk they pose to financial stability, but do change the measured results of the stress test. Regulators and academics have long recognized that this type of behavior by banks, known as regulatory capital arbitrage, has been a persistent threat to financial stability. Additionally, given the firms the model will likely encourage increased correlations in asset holdings among the larger banks – a trend that increases systemic risk, since everyone will be exposed should those asset classes suffer reversals.[39]

Two years later, Tarullo continued to warn about the patterns of regulatory reforms. By then, his concerns becme more general. "There are things to be concerned about in many of the individual proposals on such matters as the leverage ratio, resolution planning, and foreign banking organizations," Tarullo told his audience in Washington, D.C. "It's the cumulative effect, though, that is truly worrisome."[40] After explaining the potential dangers of a laxer stress testing regime and capital requirements, Tarullo concluded: "I am not so cheery-eyed as to see a prospect that the current leadership of the banking agencies will consider raising capital requirements. But I had hoped they would not lower them for the biggest banks. Yet a few steps down this road have, regrettably, already been taken."[41] This divergence among individual officials within the same organizational positions suggests that ideas – or more specifically, regulators' policy orientation – mattered independently of changing material conditions in shaping regulators' preferences for less stringent systemic risk regulations.

Regulators began to face severe reputational pressure from growth-oriented audiences beginning in 2017. With a strongly deregulatory Republican Donald Trump in the White House, a Republican-controlled Congress, and the banking industry that regained market confidence as a

result of strong performance in consecutive rounds of stress tests, the political current toward weakening the DFA and related regulations were strong.

These pressures most often came in the forms of attacks on legal-procedural and moral dimensions of regulators' reputation (Carpenter 2010). On the legal-procedural front, regulators were criticized for exercising excessive discretion, enacting rules through administrative, rather than legislative means, and lacking transparency in their supervisory methods. On the moral front, leaders of regulatory agencies were urged by their audiences to ease the burden on small, medium-sized, and community banks struggling to meet the same types of regulatory requirements as the largest banks in the world.

No sooner than the dust had settled after the 2016 presidential election, the Trump Administration signed two executive orders in early 2017 that set the agenda for the entire financial regulatory system. The first called for a general reduction in regulations and regulatory costs: "It is important that for every one new regulation issued, at least two prior regulations be identified for elimination."[42] The second executive order proclaimed that the administration will regulate the financial system to promote, among other things,

- economic growth;
- competitiveness of American firms vis-à-vis foreign firms both domestically and internationally;
- American interests in international financial regulatory negotiations and meetings;
- efficient, effective, and appropriately tailored regulation.[43]

Following these executive orders, the Treasury published a series of reports titled *A Financial System that Creates Economic Opportunities*[44] that highlighted specific areas of regulation that should be adjusted to meet those objectives. While executive orders and Treasury reports do not have the statutory authority to compel regulators to take specific action, they certainly clarified the White House's preferences and exerted pressure on the rest of the government.

Taking the signal from the White House, Congress also began pressing regulators in a growth-oriented direction of reform. These pressures were particularly strong among Republicans in both the House and the Senate. Reputational threats came most clearly in the form of Congressional demands for greater transparency, easing regulatory burden for smaller banks, and the argument that stringent regulations may have a perverse effect of increasing systemic risk. In May 2019, for example, 26 Republican representatives sent a letter to the heads of six financial

regulatory agencies urging them to implement the Treasury reports' recommendations: "It is our belief that many of the recalibrations recommended would unlock billions of dollars of trapped capital that would in turn be deployed into the real economy to support job creation and economic growth…We feel strongly that you should move forward with implementation of these recommendations as soon as possible and that they be given priority alongside other ongoing workstreams." These recommendations highlighted the need for greater transparency in the Fed's stress tests and a reconsideration of the Basel III risk-based capital surcharge for US global systemically important banks in light of a "significantly enhanced resiliency of the banking system."[45]

In a separate letter addressed to Fed Chair Yellen, Senator Patrick Toomey specifically criticized the utility, legitimacy, and effectiveness of the CCAR, one of the Fed stress test programs. His compliant was threefold. First, that banks subject to the stress test "are spending hundreds of millions of dollars each for annual compliance with CCAR." Second, Toomey points out that CCAR is a regulatory process that is not grounded in Congressional statute, and that it is essentially redundant alongside a parallel stress test mandated by the DFA. Third and most seriously, the Senator argued that CCAR has the unintended consequence of increasing systemic risk by "correlating the risk profiles of the nation's largest banks." This means that banks subject to CCAR allocate their capital in similar patterns, underweighting their balance sheets in residential mortgages and small business loans which have higher risk weights assigned to them.[46]

But the most significant reputational pressure in the period of regulatory moderation was the Senate bill that became law in May 2018 – the Economic Growth, Regulatory Relief, and Consumer Protection Act (S.2155). Proposed by Republican Mike Crapo and passed with bipartisan support, the legislation was an embodiment of regulatory "tailoring" – its main purpose was to relax the most burdensome elements of living wills, stress tests, and Basel III risk-based and leverage capital rules applying to community and regional banks. Unlike Treasury recommendations, legislation by definition has the force of law to compel regulators to change the content of regulation.[47] Pressing the issue of regulatory loosening even further, the Senate Banking Committee sent a letter to the three bank regulators in July 2019, urging them to implement the provisions of the legislation.[48]

While much of the reputational pressure came from Republicans, some Democrats in Congress also began to voice the importance of loosening some regulations. For example,

Representative Maxine Waters, a ranking member of the House Financial Services Committee, pushed Yellen to explain how the Fed will "tailor" post-crisis reforms: "Chair Yellen, I am eager to hear about the Fed's progress in implementing Wall Street reform and how the Board's supervision practices have evolved over the last several years. Specifically, I am interested to hear more about how the Fed is using the flexibility embedded in Dodd-Frank to tailor regulations appropriate to the sizes and risk of different types of banks."[49]

The growth-orientation of the Administration, Congress, and regulatory officials, in turn, emboldened the financial industry. Whereas in the immediate post-crisis years, stability-oriented groups were vocal audiences for regulators, beginning in 2017, lobby groups for the banking sector amplified their voice. As a staff member of the American Bankers Association told me, "There was more opportunity to interact with regulators after the Obama administration…The current administration has more receptivity, but not in a capture-kind of way. It just feels like the officialdom is more receptive."[50] On the other hand, stability-oriented reform groups felt that their impact dwindled. "[T]here were a few notable examples where we had wins with the Obama regulators," said a staffer of one such advocacy group, "where we could say that we had a role in changing the direction of regulation. That is no longer on the table with the Trump regulators."[51]

4.3. Asset Management Pre-2015: Growth-Oriented Regulator and Misdirected Reputational Pressure

The asset management sector – a large pillar of the so-called "shadow banking sector" – in the United States remained virtually untouched by macroprudential regulation for several years after the 2008 crisis. With the exception of reforms of the money market funds (MMFs) and hedge funds, proposals to address systemic risk have come under intense criticisms from all corners. From 2015 onwards, however, a number of regulatory changes designed to stave off systemic risk from insufficient liquidity and fire sales were implemented, including limits on the use of derivatives by investment companies, requirements for investment funds to establish liquidity risk management programs, and greater disclosure requirements. This shift from low to moderate stringency came about because of the Securities and Exchange Commission (SEC or simply "the Commission"), the sole regulatory authority responsible for overseeing the sector, shifted from growth- to stability-orientation. Meanwhile, political and industry audiences largely accepted this move, resulting in very little reputational threat for the SEC.

Compared to the federal banking regulators, the SEC was remarkably growth-oriented. Created in 1934, the SEC's mission was to protect securities investors from fraud, to maintain fair, orderly, and efficient markets, and to facilitate capital formation. The five Commissioners, designated by the US President and confirmed by the Senate to sit at the pinnacle of the organization, have traditionally taken these mandates to heart.[52] The Commssion's main levers for fulfilling these missions are requiring companies to submit a myriad of reports to allow their investors to make informed decisions and enforcing securities laws by bringing civil actions or administrative proceedings against violators. The securities regulator's organizational apparatus is amplified by the cooperation of a dense web of market institutions, including self-regulatory organizations and credit rating agencies. But taken in its totality, the SEC's scope and powers, and US securities laws more broadly, are rooted in a fundamental belief that markets can regulate itself within a robust transparency and legal framework.[53] The Commissioners' speeches and testimonies, as well as the Commission's post-2008 reform agenda show a persistent reliance on information disclosure by financial firms and confidence in investor rationality. Indeed, the discussion of "systemic risk," "too big to fail," "prudential" or "macroprudential" policy rarely surfaces in the rhetoric of SEC officials. When they do, Commissioners' stance toward them are either ambiguous or expressly hostile.

Ontologically, the SEC's understanding of the market closely approximated the Efficient Market Hypothesis, the idea that prices of financial assets reflect all available information about those securities, and that prices would then "provide accurate signals for resource allocation."[54] For SEC officials, greater information about corporations, their stocks, and all other financial securities would enable investors, in the aggregate and in the long run, to make rational decisions. The essential job of the regulator, then, is to provide that information which would, in turn, allow market mechanisms to reward successful enterprises with capital formation, and punish misjudgment with market discipline. Commissioner Troy Paredes' explanation of this logic is worth quoting in full:

> The essence of the disclosure philosophy of securities regulation is that, when armed with information, investors are well-positioned to evaluate investment opportunities and to allocate their capital as they see fit. By ensuring that investors have the information they need to make informed decisions, mandatory disclosure, in turn, leverages market discipline as a means of accountability that stands in contrast to more substantive

> government oversight of securities-related activities. Through their investment decisions, investors are able to bring pressure to bear on directors, officers, fund managers, and other market participants to serve investor interests. Market participants are incentivized to satisfy investor demands because investors "reward" and "punish" by how they choose to invest."[55]

This fundamental confidence in market forces does not mean that the SEC is naïve to the reality that investors can err. In the same speech, Paredes touches on insights from behavior finance, that investors are prone to cognitive biases and heuristics. Yet, SEC Commissioners hasten to insist that the same fallibility that can plague investor decisions is also inherent in any regulators' attempts to correct it. Tellingly, Commissioner Paul Atkins invoked the work of Friedrich Hayek to make this point: "Can regulators do the jobs of industry better than industry can? In his last book, *The Fatal Conceit: The Errors of Socialism*, Friedrich Hayek… labels as the 'fatal conceit' the idea that 'man is able to shape the world around him according to his wishes.' Hayek argues: 'To act on the belief that we possess the knowledge and the power which enable us to shape the processes of society entirely to our liking, knowledge which in fact we do not possess, is likely to make us do much harm.'"[56] Given that "businesses are better than governments at business," Atkins went on, "the role of regulators is to enforce contracts, protect property rights, and to strive for a transparent marketplace free of fraud"[57] and nothing more.

The way the SEC diagnosed the 2008 crisis – the second dimension of policy orientation – did not fundamentally alter its confidence in market forces. The resilience of SEC's growth-oriented beliefs is not unique to the post-crisis moment; legal scholars have long noted the path dependence of regulatory "theology" and "rhetoric" that shape the SEC's policymaking processes (Langevoort 1990; Kripke 1979). The crisis was a complex, multi-causal event, and the SEC's diagnosis pointed to disparate factors that did not challenge its faith in the market process. Commissioners, for example, pointed to the "considerable decline in loan underwriting standards over the past several years,"[58] "market participants' loss in confidence, especially with complex structures,"[59] "failures of credit ratings and credit rating agencies,"[60] and "issues in the OTC [over-the-counter] derivatives market,"[61] to name a few. Several of these items became the basis for post-crisis reform. But none of them would shake the SEC's fundamental belief in the self-correcting dynamics of market forces in the same way, say, that the crisis forced former Fed Chairman Alan Greenspan to admit the error of his confidence in a little-regulated financial

system.[62] To be sure, SEC Chair Mary Schapiro did list "A wide-spread view that markets were almost always self-correcting and an inadequate appreciation of the risks of deregulation" as one of the causes of the crisis in her testimony before the Financial Crisis Inquiry Commission.[63] But she did not elaborate on this statement, and her identification of market ethos as a root cause of the crisis was unique among Commissioners. On the contrary, the above-mentioned causes served to reinforce SEC's pursuit of its mission to enhance information disclosure to let markets function more efficiently and rationally. "Where unregulated instruments," Commissioner Casey said in 2008, "can have such an impact on financial stability or give rise to concerns of market manipulation by potentially driving the market in the underlying security, greater regulatory focus is required. There is no question that greater transparency would go far in helping mitigate these concerns."[64]

The SEC's ontological assumptions and diagnosis of the crisis directly shaped the third dimension of policy orientation – its policy prescription. The Commission had a full reform agenda in the aftermath of 2008: preventing naked short-selling, reforming credit rating agencies, corporate governance, improving accounting standards of financial institutions, OTC derivatives markets, etc. But for our analysis, two facets of the SEC's policy prescription are consequential. First, reform of the asset management sector, with the exception of MMFs, was off the table. Second, the SEC warily viewed the regulatory changes mandated by the Dodd-Frank Act, particularly anything having to do with macroprudential policy. These two elements of SEC's regulatory stance, in large part, explain the lax (indeed nearly nonexistent) macroprudential regulation of the US asset management sector.

Asset managers eluded immediate post-crisis reform discussions because, in the landscape of the SEC's growth-orientation, the asset management sector (especially mutual funds) occupied a special place as a particularly safe segment of the financial sector. For one, mutual funds had recently become a top choice for many ordinary Americans looking to invest their savings. As Commissioner Paredes praised his audience at the Mutual Fund Directors Forum, "It is hard to argue that the mutual fund industry, on the whole has been anything but a success for investors and our capital markets more generally."[65] Furthermore, large swaths of the asset management sector weathered the financial crisis relatively unscathed. "In the current environment of the subprime mortgage crisis, a weakened dollar, and rising oil and commodity prices," SEC Chairman Christopher Cox said in 2008, "the confidence of ordinary investors has been mightily

tested…And yet in the midst of these rough seas, many mutual funds have been a relative safe harbor of calm. The funds that are professionally managed, diversified, liquid, free of leverage, and highly transparent have served investors well in these trying times."[66]

SEC officials attributed asset managers' status as a "safe harbor" to their business models, but more importantly to the existing non-macroprudential regulatory framework to which they are subject. In 2014, when the issue of extending systemic risk regulation to the asset management industry was becoming more politicized, Commissioner Michael Piwowar said that "asset managers are subject to an existing, robust regulatory regime that already imposes a measure of stability by providing strong investor protections and maintaining fair, orderly, and efficient markets."[67] SEC Chair Mary Jo White's exchange with Jeb Hensarling, Chairman of the House Committee on Financial Services, reveal the same belief:

> Hensarling: "Many have called the asset management industry part of the shadow banking group, which is obviously a pejorative term. As Chair of the SEC, are asset managers regulated, from your vantage point?"
>
> White: "Yes, they are, and they have been for many years."
>
> Hensarling: "So, they are regulated?"
>
> White: "They are regulated."[68]

The second important element of the SEC's policy prescription was that its leading officials deeply distrusted Dodd-Frank and its emanations. Even before the ink had dried on the new law, Commissioners began criticizing its complexity, overreach, hastiness, and the burdens it places on financial firms.[69] But the most striking feature of the SEC's attitude toward the DFA is the vitriol with which it regarded its macroprudential provisions. In particular, the SEC aimed scathing reputational attacks at the Financial Stability Oversight Council (FSOC). A creation of the DFA, the FSOC is charged with coordinating macroprudential supervision by all ten federal financial regulators. It is also granted the authority to make policy recommendations to regulators and to designate large financial institutions as "systemically important," a label that subject the firms to enhanced supervision by the Fed. To SEC Commissioners, all of these mandates spelled unacceptable regulatory and legal trespassing. In a particularly colorful speech before the

American Enterprise Institute in 2014, Commissioner Michael Piwowar rattled off terms of opprobrium aimed at the FSOC: "The Firing Squad on Capitalism. The Vast Left Wing Conspiracy to Hinder Capital Formation. The Bully Pulpit of Failed Prudential Regulators. The Dodd-Frank Politburo. The Modern-Day Star Chamber. You get the point."[70] Turning to more substantive points, he went on to criticize the macroprudential committee for its alleged lack of accountability, skewed governance structure, lack of expertise, and encroachment into the SEC's regulatory turf. Commissioner Daniel Gallagher, too, in a speech suggestively titled "The Misguided Quest for Prudential Regulation of Asset Managers," decried the FSOC's governance and overreach: "the FSOC that emerged from the final legislation…is a federal bureaucracy dominated by an executive branch cabinet secretary and prudential regulators with unprecedented and extraordinary regulatory powers."[71]

If the SEC was decidedly growth-oriented and anti-macroprudential in the early post-crisis years, it also evaded reputational pressures from its various audiences. While the agenda of virtually all financial regulators was replete with policy mandates set out by the DFA, much of the asset management sector escaped regulatory scrutiny. Congressional committees repeatedly criticized the SEC for being "asleep at the switch" leading up to 2008 and its delay in implementing portions of the DFA.[72] But since the reform of the asset management sector was not specified in the post-crisis legislation, the broad pressure from Congress to speed up rulemakings did not impinge on the pace or content of asset management regulation. On top of this, starting in September 2013, much reputational threat was aimed not at the SEC but rather squarely at the FSOC in matters of asset management regulation. That month, the Office of Financial Research, a research arm of the FSOC, produced a report titled *Asset Management and Financial Stability*[73] which suggested that the highly concentrated asset management industry increased the impact that one firm's failure could have on the financial system. What followed was nothing less than a tidal wave of criticisms. In rare unison, groups from all corners voiced their concerns over the expertise, objectivity, and accountability of the report and the FSOC.[74] Five Senators from both political parties sent a letter to FSOC Chairman Jacob Lew, arguing that the "Study mischaracterizes the asset management industry and the risks asset managers pose, makes speculative assertions with little or no empirical evidence, and in some places, predicates claims on misused or faulty information."[75] These criticisms amounted to an assault on the expertise, legal-procedural, and moral dimensions of FSOC's reputation (Carpenter 2010). The upside for the SEC was that it

avoided threats to its own reputation, and perhaps even bolstered its own renown as *the* agency with expertise over matters of asset management.

The SEC's growth-orientation, the fact that FSOC took the reputational hit while the SEC was largely exempt from it explain much of the failure of macroprudential reform in the US asset management sector in the early post-crisis years.

4.4. Asset Management Post-2015: Stability-Oriented Regulator and Compliant Audiences

While the FSOC unsuccessfully called for an extension of macroprudential oversight over asset managers, the growing size and complexity of the asset management industry also caught the attention of the SEC, but in very different ways. The SEC's worries over the soundness of the sector was sharply provoked on August 24, 2015, when a flash crash in the US stock and securities markets showed that the values of investment funds (especially exchange-traded funds, or ETFs) can be extremely volatile.[76] Regulators' thinking behind these events and possible solutions were spelled out in two white papers published later in the year. The first of these, titled *Liquidity and Flows of U.S. Mutual Funds*, pointed to three reasons why SEC staff are concerned about funds' liquidity risk: (1) because statute makes it difficult for mutual funds to suspend or postpone investor redemption, large capital withdrawals from investors may lead to "fire sales"; (2) because of how a fund's net asset value is determined, investors who withdraw their funds first will have an advantage over investors who choose not to withdraw (the so-called "first-mover advantage"), which can also lead to fire sales; and (3) recent events – chiefly the global financial crisis, Europe's sovereign debt problems, the growth of funds that invest in emerging market and less liquid assets, and the August 24 volatility – have highlighted the importance of rigorous risk management practices by asset managers.[77] The second white paper drew attention to the growing use of derivatives by investment companies and, indirectly, to the dearth of granular and systematic data on the portfolio holdings of investment companies.[78]

These reports signified an ontological shift in how the SEC viewed the potential risks of the asset management industry, particularly with respect to mutual funds and ETFs. As SEC Chair White noted in early 2016, "the complexity of products, changes in market participant behavior, pervasive network technology, and systemic risks call for additional protections beyond those that can be achieved through disclosure alone."[79] Kara Stain, another Commissioner, also expressed her concerns about ETFs and "the growing complexity in our capital markets" that they represent.

As she told her audience of industry representatives and corporate attorneys, "one fact that is crystal clear about August 24 is this – many ETFs behaved in an unpredictable and volatile manner." After laying out her observations on the volatility of these products, she went on to argue that "we need to think about a roadmap for holistic regulation of ETFs and other exchange-traded products, given their explosive growth and evolution. We also need to anticipate how these products may interact in the markets."[80] Though not stated explicitly, these references to complexity, systemic risk, and interactions between disparate parts of financial markets indicate a shift in the SEC's policy orientation toward the need to enhance the stability of asset management companies to external shocks.

SEC thus put out several proposals in late 2015 which Chair White claimed were "the right set of initiatives for this stage of the development of the modern asset management industry."[81] The first of these proposals allow the SEC to "see like a state" (Scott 1999) by enhancing data reporting for both investment funds and investment advisers, especially data on investments in derivatives, the liquidity and valuation of their holdings, and their securities lending practices. The second proposal would require mutual funds and ETFs to implement liquidity risk management programs to mitigate risks of fire sales in the case of rapid investor withdrawals. And third, investment advisers would be required to conduct annual stress tests and to create transition plans to prepare for major disruptions in their business. Taken together, these reform proposals would result in systemic risk regulations of moderate stringency.

On the whole, the response by the SEC's various audiences were tame. The criticisms it received were through administrative letters submitted to the regulator with suggestions over technical minutiae. The most opposition was directed at the second proposal to limit the use of derivatives by investment companies, but even here, the major asset managers Vanguard and BlackRock, as well as the industry association Investment Company Institute were largely supportive of this proposal. The proposal to require liquidity risk management programs garnered the least amount of resistance. In fact, the Senate Banking Committee was enthusiastically supportive, noting in a letter to the SEC that "In light of the growth in assets under management in the investment fund industry, as well as the potential for market dislocations demonstrated by the liquidation of a fund, the SEC's proposed fund liquidity rule is a timely and necessary step to protect fund investors and safeguard financial stability."[82] Systemic Risk Council also thinks that this proposal would mitigate systemic risk.[83] Major asset management companies and their

industry associations were also largely supportive of this proposal. Their support can be ascribed to the fact that fund managers and investment companies have long been practicing similar liquidity risk management.[84]

5. CONCLUSION

The macroprudential approach marked a sea change in the way regulators view their role with respect to the financial system. Yet, the practical implementation of macroprudential policies is uneven across financial sectors and has fluctuated over time. By comparing the reform processes in the US banking and asset management sectors, this paper advanced a theoretical framework that puts regulators' policy orientation and reputation at the forefront of analysis.

The major theories found in the political economy literature are, on the other hand, incomplete in explaining these differences. Its focus on national-level institutional factors hinders the classic comparative financial systems framework from convincingly accounting for sub-national and temporal variations. A functionalist "public interest" explanation too easily assumes that market failures prompt regulatory action. But as the case of policy learning by the banking regulators demonstrated, the interpretation of such market failures and other indicators of material conditions is often contested, even among officials in the same organizational positions. Finally, theories that privilege the instrumental and structural power of business are useful analytic frameworks, but the cases presented here joins recent scholarship to show that business power is far from uniform. Political, ideational, and institutional contexts, such as the issue salience of financial reform and regulators' assessment of the trade-offs between regulatory burden and financial stability, play a major role in moderating the power of private industry.

While the ideational and reputational account spelled out may go some way in explaining the two cases examined in this paper, whether it can travel to other national contexts is an open question. In countries more deeply embedded in supranational regulatory coordination (EU member states, for example), it is unclear whether domestic regulatory agencies can act on their policy orientation with as much autonomy from regional institutions. The same can be said of policymakers in emerging economies that are dependent on the whims of the international economy or of major powers. There is evidence to suggest that states in "peripheral" countries adopt the macroprudential approach according to different logics (Mérő and Piroska 2017). Further, the nature of policy orientation and reputational pressures from audiences are bound to take on

entirely different characteristics in non-democratic regimes whose regulatory authorities are inseparable from the government, or in countries that did not experience a financial crisis in the recent past. All of these examples suggest that, at the very least, other political and economic factors must be incorporated into the framework. Only further research can tell.

APPENDIX: Summary of Systemic Risk Reforms in the US

Sector	Systemic Risk Reform
US Banking pre-2017	Increasingly demanding supervisory stress testing regime (DFAST and CCAR)
	Capital conservation buffers, SIFI capital surcharges, liquidity requirement and leverage ratio exceed those of Basel III
US Banking post-2017	Regional banks exempted from stress test
	Enhanced transparency and simplification of stress tests
	Lowered and simplified capital requirements and leverage ratios for non-SIFIs
US Asset Management pre-2015	Requirement for MMFs to sell and redeem shares based on a "floating" NAV
US Asset Management post-2015	Limits on use of derivatives by investment companies
	Requirement of enhanced risk management measures by investment companies
	Requirement for open-end investment companies to establish a liquidity risk management program and improves disclosure of liquidity information

Abbreviations: DFAST (Dodd-Frank Act Stress Test); CCAR (Comprehensive Capital Assessment Review); SIFI (systemically important financial institution); MMF (money market fund); NAV (net asset valuation)

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NOTES

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[1] I will refer to macroprudential and financial stability regulation interchangeably.
[2] Interview, GAO official, Washington, D.C., October 2019. The term "wicked problem" was coined by Rittel and Webber (1973).

[3] In a sense, policy orientation is similar to Steven Vogel's (1996, 20) "regime orientation," which he describes as "state actors' beliefs about the proper scope, goals, and methods of government intervention in the economy, and how this intervention affects economic performance," and Roselyn Hsueh's (2011, 34) "strategic value, defined on the economic dimension as "a sector's contribution to the competitiveness of other sectors and the rest of the economy [and] to the country's technological and infrastructural base."

[4] Federal Reserve Board. 2010. "Statement by Ben S. Bernanke, Chairman, Board of Governors of the Federal Reserve System, before the Financial Crisis Inquiry Commission," September 2.

[5] Janet L. Yellen. 2009. "A Minsky Meltdown: Lessons for Central Bankers." Speech to the 18th Annual Hyman Minsky Conference on the State of the U.S. and World Economies, Bard College, New York City. April 4. Minsky's work on financial economics formed the basis of the current macroprudential approach to financial regulation (Baker 2013; Casey 2015). See Hyman P. Minsky. 1992. "The Financial Instability Hypothesis." The Jerome Levy Economics Institute Working Paper No. 74.

[6] Daniel K. Tarullo. 2010. "Involving Markets and the Public in Financial Regulation." Speech at the Council of Institutional Investors Meeting, Washington, DC. April 13.

[7] Daniel Tarullo. 2010. "Financial Regulatory Reform." Speech at the U.S. Monetary Policy Forum, New York. February 26.

[8] U.S. Congress, Senate, Committee on Banking, Committee on Banking, Housing, and Urban Affairs, *Nominations of: Stanley Fischer, Jerome H. Powell, Lael Brainard, Gustavo Velasquez Aguilar, and J. Mark McWatters*. 113th Cong. 2nd sess. 2010, 88.

[9] U.S. Congress, Senate, Committee on Banking, Housing, and Urban Affairs, *Wall Street Reform: Assessing and Enhancing the Financial Regulatory System,* 113th Cong, 2md sess, 2014, 4.

[10] U.S. Congress, Senate, Committee on Banking, Housing, and Urban Affairs. *Mitigating Systemic Risk Through Wall Street Reforms*. 113th Cong. 1st sess. 2013, 1.

[11] U.S. Congress, Senate, Committee on Banking, Housing, and Urban Affairs, *Mitigating Systemic Risk Through Wall Street Reforms*, 113th Cong. 1st sess, 2013, 12-14.

[12] Interview, AFR staff, Washington, D.C., October 2019.

[13] Interview, AFR staff, Washington, D.C., October 2019.

[14] Interview, GAO official, Washington, D.C., October 2019.

[15] Interview, ABA staff, Washington, D.C., October 2019.

[16] "In a world in which capital knows no boundaries and competition is global," Representative Patrick McHenry argued during a House Financial Services Committee hearing, "the extent to which new financial regulations impose greater burdens on U.S. firms and financial markets relative to Europe, Asia, and other advanced economies will further harm the U.S. economy as foreign banks and capital markets grow at our expense." (U.S. Congress, House of Representatives, Committee on Financial Services, *The Growth of Financial Regulation and Its Impact On International Competitiveness*, 113th Cong., 2ns sess., 2014, 2.

[17] GAO. 2015. *Dodd-Frank Regulations: Impact on Community Banks, Credit Unions and Systemically Important Institutions*. Washington, D.C.,

[18] GAO. 2014. *Bank Capital Reforms: Initial Effects of Basel III on Capital, Credit, and International Competitiveness.* Washington, D.C. The Federal Reserve's own impact assessment also concluded that "the vast majority of banking organizations, including approximately 90 percent of community banking organizations, would not be required to raise additional capital because they already meet the proposed higher minimum requirements on a fully phased-in basis" (US Congress, House of Representatives, Committee on Financial Services, *Examining the Impact of the Proposed Rules to Implement Basel III Capital Standards,* 112th Cong., 2ns sess., 14. 2012, 14).

[19] Indeed, some experts interviewed by the GAO said that, "in response to reforms, financial institutions may pass increased costs on to their customers. For example, banks could charge more for their loans or other services, which could reduce economic growth" (GAO. 2013. *Financial Regulatory Reform: Financial Crisis Losses and Potential Impacts of the Dodd-Frank Act*. Washington, D.C.)

[20] Josh Boak. 2012. "Tim Geithner: 'no credible evidence' financial reform hurting recovery." *Politico44 Blog.*

[21] U.S. Congress, Senate, Committee on Banking, Housing, and Urban Affairs, *International Harmonization of Wall Street Reform: Orderly Liquidation, Derivatives, and the Volcker Rule*, 112th Cong., 2nd sess., 2012, 13.

[22] Ibid., 6.

[23] Interview, IMF official, November 2018.

[24] Tracey Ryan. 2016. "Tarullo: Change is Afoot for Big Banks." *Wall Street Journal* July 7, C.2.

[25] U.S. Congress, Senate, Committee on Banking, Housing, and Urban Affairs, *Wall Street Reform: Assessing and Enhancing the Financial Regulatory System,* 113th Cong, 2md sess, 2014, 17.

[26] Daniel Tarullo. 2016. "Next Steps in the Evolution of Stress Testing." Speech at the Yale University School of Management Leaders Forum, New Haven, Connecticut. Tarullo referred specifically to the Fed proposal to eliminate the qualitative element of the CCAR, which examines banks' capital plan, controls and governance processes, and whether previously identified weaknesses in management have been corrected. Yellen also discusses this process of policy learning in her September 2016 congressional testimony (U.S. Congress, House of Representatives, Committee on Financial Services, *Semi-Annual Testimony of the Federal Reserve's Supervision and Regulation of the Financial System*, 114th Cong., 2nd sess., 2016, 3).
[27] U.S. Congress, House of Representatives, Committee on Financial Services, *Semi-Annual Testimony of the Federal Reserve's Supervision and Regulation of the Financial System*, 114th Cong., 2nd sess., 2016, 3.
[28] U.S. Congress, Senate, Committee on Banking, Housing, and Urban Affairs, *Fostering Economic Growth: Regulator Perspective*, 115th Cong., 1st sess., 2017, 37.
[29] Interviews, ABA staff members, GAO official, Fed official, October 2019; OCC officials, November 2019.
[30] Randal Quarles. 2018. "Early Observations on Improving the Effectiveness of Post-Crisis Regulation." Speech at the American Bar Association Banking Law Committee Annual Meeting, Washington, D.C. January 19.
[31] Ibid.
[32] U.S. Congress, House of Representatives, *Semi-Annual Testimony on the Federal Reserve's Supervision and Regulation of the Financial System*, 115th Cong., 2nd sess, 2018, 6.
[33] Jelena McWilliams' remarks at the Office of Financial Research and the University of Michigan's Center on Finance, Law, and Policy, Washington, D.C. November 15, 2018; McWilliams. "Principles of Supervision." Speech at the American Bar Association Banking Law Committee Annual Meeting, January 11, 2019.
[34] Keither A. Noreika. 2017. "Remarks at the Midsize Bank Coalition of America Chief Risk Officer Meeting," October 5, 2.
[35] Joseph M. Otting. 2018. "Remarks at the Special Seminar on International Finance," Tokyo, Japan, November 14, 2-3.
[36] Randal Quarles. 2018. "The U.S. Economy after the Global Financial Crisis." Speech at the Institute for International Monetary Affairs, Tokyo, Japan. February 22.
[37] Author's calculation as of December 2019, based on FRB, "Board Votes."
[38] FRB. 2019. "Statement by Governor Lael Brainard." October 10.
[39] Daniel Tarullo. 2017. "Departing Thoughts." Speech at the Woodrow Wilson School, Princeton University, NJ, April 4.
[40] Daniel Tarullo. 2019. "Taking the Stress Out of Stress Testing." Speech at the americans for Financial Reform, Washington, D.C., May 21.
[41] Ibid.
[42] "Executive Order 13771 of January 30, 2019: Reducing Regulation and Controlling Regulatory Costs." Vol. 82, No. 22. *Federal Register* (February 3, 2017), p. 9339.
[43] "Executive Order 13772 of February 3, 2017: Core Principles for Regulating the United States Financial System." Vol. 82, No. 25. *Federal Register* (February 8, 2017), p. 9965.
[44] U.S. Department of Treasury. *A Financial System that Creates Economic Opportunities: Banks and Credit Unions*. Steven T. Mnuchin and Craig S. Phillips.
[45] Letter from members of Congress to financial regulators, May 14, 2019. It is striking that the letter only cites one study by the US Chamber of Commerce Center for Capital Markets Competitiveness, a conservative think tank and advocacy group, to make the claim that Basel III capital standards on large US banks are hurting business lending.
[46] Letter from Senator Patrick J. Toomey to Janet Yellen. February 9, 2017.
[47] Interviews, FRB officials, Washington, D.C., October 2019.
[48] Letter from the Senate Banking Committee to Jerome H. Powell, Joseph M. Otting, and Jelena McWilliams, July 30, 2019.
[49] U.S. Congress, House of Representatives, Committee on Financial Services, *Semi-Annual Testimony of the Federal Reserve's Supervision and Regulation of the Financial System*, 114th Cong., 2nd sess., 2016, 3.
[50] Interview, ABA official, Washington, D.C., October 2019.
[51] Interview, AFR staff, Washington, D.C., October 2019.
[52] The Securities and Exchange Act of 1934 that created the SEC dictates that the Commission remain non-partisan by limiting the number of Commissioners who belong to the same political party to three. To maintain a degree of independence from the political process, the Act does not grant the President the authority to fire Commissioners once they are appointed.

[53] "Critical to the model of self-regulation was trust. The regulator was supposed to be able to rely upon the reporting disclosures of the issuer…The SEC intended barebones agency regulation to avoid interference with natural market forces." (Weisman et al., 2014, 1052-3).
[54] Fama 1960, quoted in Deakin 2015, 18.
[55] Troy A. Paredes. 2009. "Remarks before the Symposium on 'The Past, Present, and Future of the SEC.'" Pittsburgh, Pennsylvania. October 16.
[56] Paul S. Atkins. 2008. "Remarks before the Global Financial Services Centres Conference." Dublin, Ireland. June 16.
[57] Ibid.
[58] Kathleen L. Casey. 2008. "An Agenda for Europe and the United States," speech at the Sixth Annual Symposium on Building the Financial System of the 21st Century, Armonk, New York, April 3.
[59] SEC. 2008. "Speech by SEC Commissioner: Remarks before the American Chamber of Commerce by Commissioner Paul S. Atkins" Rio de Janeiro, Brazil, April 14.
[60] Kathleen L. Casey. 2008. "Address to Institute of International Bankers." New York, NY. November 17.
[61] Luis A. Aguilar. 2008. "Remarks Before the 14th Annual Securities Litigation and Regulatory Practice Seminar," Atlanta, GA, October 31.
[62] "Greenspan Concedes Error on Regulation." *New York Times*, October 23, 2008.
[63] Financial Crisis Inquiry Committee. *Testimony Concerning the State of the Financial Crisis,* Jan. 14, 2010, Washington, DC, (statement of Mary L. Schapiro, Chair, SEC).
[64] Kathleen L. Casey. 2008. "Address to Institute of International Bankers." New York, NY. November 17.
[65] Troy A. Paredes. 2009. "Remarks before the Mutual Fund Directors Forum Ninth Annual Policy Conference," Washington, D.C. May 4.
[66] Christopher Cox. 2008. "Keynote Address to the Investment Company Institute 4th Annual Mutual Fund Leadership Dinner." Washington, D.C. April 30.
[67] Michael S. Piwowar. 2014. "Remarks at AEI Conference on Financial Stability." Washington, D.C., July 15.
[68] U.S. Congress, House of Representatives, Committee on Financial Services, *Oversight of the SEC's Agenda, Operations, and FY 2015 Budget Request*, 113th Cong., 2nd sess., April 29, 2014.
[69] "…to the degree that Dodd-Frank has overreached in its response to the crisis and increased the overall burden and cost on our financial markets without minimizing or effectively addressing real problems identified in the crisis, our competitiveness may be unduly harmed" (Kathleen Casey. 2011. "The Regulatory Implementation and Implications of Dodd-Frank." San Diego, CA. January 23); "I remain troubled that future regulatory initiatives – notably, the regulations implementing Dodd-Frank – will go too far, unduly burdening the financial system at the expense of economic growth" (Troy A. Paredes. 2010. "Remarks at the Security Traders Association 77th Annual Conference and Business Meeting." Washington, D.C. September 24);
[70] Michael S. Piwowar. 2014. "Remarks at AEI Conference on Financial Stability." Washington, D.C., July 15.
[71] Daniel M. Gallagher. 2015. "Bank Regulators at the Gates: The Misguided Quest for Prudential Regulation of Asset Managers: Remarks at the 2015 Virginia Law and Business Review Symposium," Charlottesville, VA. April 10.
[72] U.S. Congress, House of Representatives, Committee on Financial Services, *Oversight of the U.S. Securities and Exchange Commission*, 112th Cong., 2nd sess. April 25, 2012; U.S. Congress, House of Representatives, Committee on Financial Services, *Oversight of the SEC's Agenda, Operations, and FY 2015 Budget Request*, 113th Cong., 2nd sess., April 29, 2014.
[73] Office of Financial Research. 2013. *Asset Management and Financial Stability.* September. U.S. Department of the Treasury.
[74] Even Better Markets, a financial reform advocacy group, criticized the OFR report for its "inexcusable lack of transparency and disclosure regarding how and why the Report came about as well as how its analysis (such as it is) was conducted and with who's input and direction" (Letter from Better Markets to the SEC, November 1, 2013. https://www.sec.gov/comments/am-1/am1-24.pdf).
[75] Letter from Senators Mark Kirk, Thomas Carper, Patrick Toomey, Claire McCaskill, and Jerry Morgan to FSOC Chairman Jacob Lew, January 23, 2014.
[76] Bradley Hope. 2015. "Trading in Stocks, ETFs Was Halted More than 1,200 Times Early Monday." *Wall Street Journal*, August 24.
[77] SEC. 2015. *Liquidity and Flows of U.S. Mutual Funds*. Division of Economic and Risk Analysis, September.
[78] SEC. 2015. *Use of Derivatives by Registered Investment Companies*, Division of Economic and Risk Analysis. December.

The FSOC's 2015 annual report also pointed out the dearth of high quality data at regulators' disposal in the asset management domain, which then led to questions by its audiences of how it was able to arrive at its recommendations (FSOC. 2015. *Annual Report*. P. 120).

[79] Mary Jo White. 2016. "Beyond Disclosure at the SEC in 2016," February 19. Washington, D.C.

[80] Kara M. Stein. 2016. "What Lies Ahead?" Speech at the "SEC Speaks" Conference, February 19, Washington, D.C.

[81] Mary Jo White. 2014. "Enhancing Risk Monitoring and Regulatory Safeguards for the Asset Management Industry." Speech at the New York Times DealBook Opportunities for Tomorrow Conference, New York, NY.

[82] Letter from Sherrod Brown, Chairman of Senate Banking Committee, to SEC Chair Mary Jo White. July 6, 2016.

[83] Comment letter from Sir Paul Rucker and Sheila Bair of the Systemic Risk Council to the SEC. January 13, 2016.

[84] See, for example, Comment letter from BlackRock to the SEC, January 13, 2016. https://www.sec.gov/comments/s7-16-15/s71615-36.pdf; Comment letter from the ICI to SEC, January 13, 2016. https://www.sec.gov/comments/s7-16-15/s71615-59.pdf.