

**Fall 2009 Workshop on Behavioral and Institutional Research
and Financial Services Regulatory Reform**

Friday, November 6, University of Pennsylvania Law School

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Recent events in the global financial markets suggest a need for a better understanding of financial institutions and, possibly, a different approach to their regulation. Whatever the outcome of the immediate crisis and response, a more sophisticated understanding of regulation—more empirically rooted in the institutional detail of regulatory practice, more engaged with the full range of theories of market activity and its regulation, and more cognizant of the global nature of markets and their regulation—is needed. The objective of this workshop is to encourage a new stream of scholarship that will help understand, and potentially address, current problems of stability and fairness in the global financial markets.

Toward this end, a small number of legal scholars have begun to conduct more detailed empirical studies of financial regulation—intensive interview-based research and participant-observation that helps to elucidate aspects of market practice that have largely eluded legal analyses of financial markets regulation. At the same time, a number of sociologists, anthropologists and economists specializing in financial markets have begun to take a more fine-grained interest in the details of regulatory practice. At the cross-roads of financial law and regulation, behavioral economics, institutional sociology and the anthropology of finance, a number of critical questions are emerging for analysis:

- How can markets be structured to promote competition that corrects, rather than exploits, behavioral biases? Are there markets that do this? What distinguishes them? What are the limits of market-based debiasing?
- What conditions enable effective regulatory institutions to remain so over time?
- What factors most determine the public credibility of a regulatory agency or strategy?
- How do individual lawmakers or regulators make decisions? What are the institutional features and behavioral biases that undermine, or enhance, their effectiveness?
- How do regulators in different jurisdictions cooperate? What are the key impediments to regulatory cooperation and what solutions are available? Under what conditions is regulatory arbitrage across different jurisdictions most likely to occur?
- What new private regulatory approaches and private-public regulatory coordination are emerging?

These questions in turn have practical application to a number of pending policy debates including:

- What should be the content of any new global financial regulatory regime (so-called Basel III)?
- What elements of market design (capitalization requirements, exchange-based trading, standardization of derivatives contracts, the division of authority among regulators, etc)

should be incorporated into new financial markets regulation in the United States and elsewhere?

- Can regulatory competition be harnessed to promote more efficient and stable financial institutions and, if so, how?
- How can the interpretation of existing legal doctrines by judicial and administrative authorities (conflict of laws rules, standards of care, etc.) contribute to market stability and fairness?

This workshop will bring together scholars with detailed knowledge of the financial markets and scholars developing new empirical tools to begin to address these questions and to lay the foundation for a new approach to financial law and regulation. Participant affiliations to-date include: University of Pennsylvania Law School, Department of Psychology, and Wharton Insurance & Risk Management; Harvard Government Department; American University School of Law; MIT Department of Sociology; Cornell University School of Law, and Anthropology; SUNY Binghamton Anthropology, among others. The objective is to assemble of a group of academics, including a small number of former academics who are now policymakers, for a one-day workshop that will include presentations of relevant work in progress, a session on methodological and substantive developments in financial institutions research, and a session with the policymakers on suggested questions and new directions for financial institutions research.