HOW CAN TRANSNATIONAL NETWORKS OF FINANCIAL REGULATORS BE MADE MORE ACCOUNTABLE?

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There is widespread agreement that the current global financial crisis has highlighted a number of problems of accountability. Much attention has been focused on the accountability of various private actors, ranging from mortgage lenders and investment bankers to credit rating agencies and chief executive officers. In our view, more attention needs to be paid to that of the transnational networks of financial officials which oversee the coordination of financial regulation at the international level. The crisis, after all, was generated not just by market actors but also by a failure of international regulation which was developed in these networks. Moreover, these same networks are now taking the lead role in international initiatives to reform financial regulation.

After briefly describing the importance of networked governance in international financial regulatory politics, we identify three distinct accountability problems associated with these networks: those relating to the uneven representation of countries, those relating to their overly technocratic character, and those relating to the risk of capture by the financial industry. The first section of the chapter highlights a number of official initiatives that have been launched since the start of the crisis to address the first problem. Although considerable progress has been made in this area, more needs to be done and we advance some specific proposals for reform. The second section of the chapter notes that policymakers have devoted much less attention to the second and third problems to date. In our view, this is unfortunate and we suggest a number of ways in which this relative neglect could be corrected.

Networked International Financial Governance

When policymakers discuss accountability problems relating to international financial institutions, they usually focus on the Washington-based Bretton Woods institutions. In the regulatory realm, however, the more significant institutions have been less well known ones such as the Basel Committee on Banking Supervision (BCBS), the International Organization of Securities Commissions (IOSCO), the International Association of Insurance Supervisors (IAIS), the International Accounting Standards Board (IASB), and the Financial Stability Forum (FSF). These institutions are relatively powerless in a formal sense; their official role is simply to facilitate networks of informal cooperation and information-sharing. And yet, financial officials working through these network-based institutions have constructed increasingly elaborate international common standards for national regulators to follow.

The standards established by these various bodies are usually simply “best practice” guidelines, “memoranda of understanding”, general “frameworks” and “principles” which are not legally binding between regulators, do not require ratification by legislatures, and allow significant flexibility of implementation at the national level. To a number of critics, the crisis has highlighted the weaknesses of this loose “soft-law” approach to international regulatory cooperation. What is needed now, they argue, is more precise and binding international commitments backed up by some kind of a new supranational authority, more along the lines of trade regime.

We believe, however, that the existing network-based, soft-law form of governance is likely to persist in the international financial regulatory realm. The forces of inertia and path dependency are one reason: regulatory cooperation along these lines has evolved since the mid-1970s and has generated an increasingly dense institutional environmental. This approach has also been consistently chosen for the functional reason that financial officials see it as more flexible and cost effective, and that it bears some similarity to administrative and regulatory agencies domestically.

Even more important, the strategic place of finance in domestic political economies means that the delegation of financial regulation to supranational authorities is politically sensitive. In this context, the resort to networks is understandable. It provides a way of reconciling the enduring commitment to national sovereignty in the regulatory arena with the need for some kind of international cooperation and accountability. While the enforcement and implementation of financial regulation continues to be done at the national level, transnational networks help to foster cooperation in the development of rules through persuasion, sharing of information and best practices, as well as deeper socialization processes that cultivate trust, mutual accountability, relationships and reputational concerns vis-à-vis norms of the network.[1]

If networked governance is here to stay, it is time for reformers to take it more seriously. In particular, the crisis has highlighted the need to explore new ways of making this form of governance more accountable for the quality of international financial regulation that is developed under its auspices. In our view, the current crisis has revealed and/or reinforced three distinct accountability problems: one involving relations between public authorities from different countries and intergovernmental organizations, and the other two involving the relationship between public authorities on the one hand, and business, and citizens on the other. While the first has attracted considerable attention already, the second and third have so far been more neglected on the international reform agenda.

Transnational Networks and State Representation

Let us begin with the issue that has attracted considerable attention already: the uneven representation of countries within the networks themselves. Many policymakers from developing countries have long resented the fact that the membership of many of the standard-setting bodies has been restricted to select groups of industrialized countries. Over the past decade, developing countries were increasingly pressured by markets and the Bretton Woods institutions to adopt financial standards and codes whose content they played little or no role in developing. Not surprisingly, the content of those standards and codes was often deemed inappropriate for local conditions and also designed to favour industrialized country interests.

The resentment of developing countries at being excluded from the decision-making processes only grew with the onset of the current crisis. It was not just that the crisis was triggering the development of an entire new set of standards which they would be asked to adopt.

[1] On networks, see more generally Anne-Marie Slaughter, *A New World Order* (Princeton: Princeton University Press, 2004). On the transnational financial networks see Tony Porter, *Globalization and Finance* (Cambridge: Polity, 2005).

Equally important was that fact that the global nature of the crisis highlighted the vulnerability of everyone to the poor regulatory practices of industrialized countries at the core of the world economy. Developing countries, it was plain to see, were affected by international standards even when they did not adopt them.

The Response So Far

In the current crisis, the frustration of developing countries with these accountability problems has generated some significant new change. The G20 leaders' summit in November 2008 urged that by 31 March 2009 the FSF must expand to a broader membership of emerging economies, and that other major standard setting bodies should promptly review their membership. In the subsequent months, there were a number of important reforms. In January 2009, the IASB expanded its members from 14 to 16 and guaranteed geographical diversity on its Board for the first time: four members from Asia/Oceania, four from Europe, four from North America, one from Africa, one from South America, and two others. The next month, the key body reviewing and initiating regulatory initiatives within IOSCO – its Technical Committee – invited securities regulatory authorities from Brazil, India and China to join a body that previously included only G7 countries, Australia, Hong Kong, Mexico, the Netherlands, Spain, and Switzerland. In March, it was the turn of the BCBS to expand its membership when it invited Australia, Brazil, China, India, Korea, Mexico, and Russia to join the existing members who had previously all been from developed countries (the G7 plus Benelux, Spain, Sweden, and Switzerland).

Most dramatic of all was the announcement that same month to expand the FSF to include all G20 countries (Spain and the European Commission were also included). Before this reform, the FSF's country membership had been restricted to the membership of the G7 plus Australia, Hong Kong, Netherlands, Singapore and Switzerland (the body also includes international financial institutions, international regulatory and supervisory groupings, committees of central bank experts, and the European Central Bank). This reform was particularly important because the FSF has played the lead role in coordinating the international regulatory response to the crisis so far. The decision to expand its membership to include all G20 countries reinforced a pattern established by the G20 leaders after the November 2008 summit when they set up four working groups, each chaired by one developed country representative and one developing country representative, to guide their initiatives (two of these groups dealt directly with regulatory issues).

The expansion has still left some unanswered questions. Before the expansion, there were two classes of countries: the G7 each had three representatives (finance ministry, central bank, and supervisory authority), whereas the other five countries were only allowed one representative. It is not yet clear how many representatives the new members will be assigned or whether the concept of different classes of countries will be rethought in some way. An explicit goal of the FSF is to bring different worlds of finance ministries, central banks and supervisors closer together. For this reason, G7 countries are likely to resist efforts to dilute their tripartite representation. At the same time, if all new entrants were to bring three representatives, the body would become very large. To address this issue, the London G20 summit in April 2009 announced that the FSF – which was now renamed the Financial Stability Board (FSB) – would create a smaller steering committee to guide the Board's work. In our view, it might be useful to bring regions more explicitly into such a structure, particularly given the way that Europe's position on regulatory issues is increasingly consolidated and negotiated at the regional level. East Asian countries are also considering the creation of an Asian FSF which could move that region in a similar direction.[2]

The reforms to expand the membership of these key bodies are important, but they do not fully address the representation problems. The uneven geographical expansion across the different standard setters is striking. So too is the fact that membership has generally been expanded to include only the largest or most systematically significant countries. Because of these patterns of expansion, there are still a large number of countries which are affected by the decisions of these bodies, but which remain outside of their membership. More voice within the networks needs to be given to them to ensure that there is no longer such a stark division between insiders and outsiders, between rule-makers and ruler-takers.

What More Can Be Done?

In general, there are two types of solutions to this problem. While both can be pursued simultaneously, we find the second to be the most promising in the short and medium term. The first solution is to expand the membership of each body to be much closer to a universal model. The IAIS, for example, represents regulators and supervisors from over 140 countries. To handle the practical problem involved in decision-making with such a large group, it has established an Executive Committee with representatives from different regions (which has included developing country representatives). Similarly, IOSCO's Technical Committee reports to the full membership of the organization which includes representatives from over 100 countries. Like the IAIS, IOSCO also has an Executive Committee which draws heavily on a principle of regional representation.[3]. These institutions provide possible models for how the BCBS or FSF could operate if they moved to a more inclusive and universal membership models. They could also draw on the example of the constituency system of the IMF Executive Board.

A second alternative is to make these bodies more accountable to other institutions that individually or collectively are more universally representative. This could be a single intergovernmental body such as a reformed IMF or a new Global Economic Council of the United Nations that the Stiglitz Commission and German Chancellor Angela Merkel have proposed. The Larosière report recommended the former, suggesting that the FSF report to the IMF's International Monetary and Financial Committee (particularly if that committee were transformed into a formal decision-making Council at the ministerial/governor level allowed for

[2] Eric Helleiner, "Reregulation and Fragmentation in International Financial Governance," *Global Governance* 16(1)(2009): 16-22.
[3] It includes the Chairs of the Technical Committee and Emerging Markets Committees as well as Chairs of four regional committees (Europe, Interamerican, Asia-Pacific, and Africa-Middle East) as well as one member elected from each region and nine members elected from the membership as a whole.

under the Articles of Agreement)[4]. At their London summit, the G20 leaders moved in this direction, recommending that the FSB will report to both the IMFC and G20 on issues relating to "build up of macroeconomic and financial risks and actions needed to address them".[5]

It is also worth considering the creation of lines of accountability to other bodies representing different constituencies, whether these are organized regionally, by level of development, or by policy preference. These constituencies could be informal parts of the network itself or more formal organizations. For instance, the BCBS has well-established relationships with regional groupings of bank regulators around the world and has also involved groups of non-members in specific projects. So far many of these relationships have been vehicles for incorporating emerging market regulators into initiatives controlled by the Basel Committee with its exclusive membership, but they could be converted into relationships that make the Basel Committee more accountable to non-members. The character of the accountability relationship could vary from a simple obligation to solicit comments and provide responses to them, to a requirement to obtain approval. The same could be true of the new FSB (which has already committed to "step up its regional outreach activities to broaden the circle of countries engaged in work to promote international financial stability"[6]). Since the growing significance of developing country officials in global financial markets stems not just from the size of home markets but also from role of their governments as major investors, perhaps the new International Working Group of Sovereign Wealth Funds—or its soon-to-be-created Standing Group—could also be involved in consultations in some way.[7] These proposals carry the well-recognized risk associated with multiple lines of accountability, namely the ability of transnational regulators to exploit the lack of unity among constituencies to enhance their autonomy. In our view, however, this drawback is outweighed by the greater advantages of the checks and balances that this introduces, and by the way that it can foster more autonomous capacity among the constituencies.

Even if the transnational networks are made more accountable to developing countries in these various ways, their capacity to influence the debates may still be constrained by the informal nature of networked forms of governance. In some ways, this informal quality is part of the appeal of a body such as the FSF to developing countries vis-a-vis the more formal and rigid decision-making structure of the IMF that has cemented the dominance of current great powers. Indeed, the flexibility of the FSF to become more inclusive of emerging powers simply by expanding its membership stands in contrast to the interminable debates about chairs and shares that have afflicted the IMF. However, powerful states can also manipulate informal settings where there are no clear rules or procedures to protect the weak. Without the same technical

[4] The High-Level Group on Financial Supervision in the EU, *Report* (Brussels: European Commission, 2009), p. 61
[5] Group of 20, *Declaration on Strengthening the Financial System*, London, 2 April 2009, p. 1
[6] Financial Stability Forum, "Financial Stability Forum Re-established as the Financial Stability Board," Press release, 2 April, 2009.
[7] The International Working Group was created in 2008 in the process of negotiating the Santiago Principles for sovereign wealth funds. It has 23 members: Australia, Azerbaijan, Bahrain, Botswana, Canada, Chile, China, Equatorial Guinea, Iran, Ireland, Korea, Kuwait, Libya, Mexico, New Zealand, Norway, Qatar, Russia, Singapore, Timor-Leste, Trinidad & Tobago, The United Arab Emirates and The United States. Permanent observers include: the OECD, Oman, Saudi Arabia, Vietnam and the World Bank. See http://www.iwg-swf.org/

capacity, developing country representatives may lose out in an informal setting where expertise can become a form of influence.

These risks could be partially reduced by creating stronger secretariats of existing bodies, particularly that of the FSF/FSB whose existing staff is very small given the roles it is now increasingly being assigned. Even more helpful would be to boost support staffs of multiple bodies that are more exclusively controlled by developing countries, such as the G24, in order to ensure that those countries can develop autonomous and effective voices in the bodies in which they participate. Some developing countries already have sufficient resources that by pooling their efforts they can significantly strengthen their influence. It should also be in the interests of wealthier countries to support the technical capacity of developing countries in order to make negotiations over technical matters more efficient. Competition among centres of standards development dominated by wealthier countries may also provide incentives for those countries to solicit support from groups of developing countries, since the standards with the widest support are likely to win out.

The benefit of pursuing the various reforms discussed in this section is not just that the transnational networks would become more widely accountable to all the world's states rather than a wealthy few. Equally important, this outcome would help to make all the world's states more accountable to global standards, since the standards would have been formulated with broader representation. To be sure, many have questioned whether networked arrangements can be as effective in ensuring the accountability of states to global standards as more formal centralized organizations. But there are many cases of powerful states abandoning the latter and, moreover, this kind of accountability is reinforced not by the capacity of the organization itself but rather by the degree to which the organization can count on the support of other members to sanction defectors. In our view, this is just as likely to be forthcoming in networked arrangements. Indeed, if the governance of transnational networks can be reformed more easily and more quickly in response to changing distribution of power in the world, it may prove more effective in generating this kind of support.

Transnational Networks and Society

Accountability problems highlighted by the crisis include the relationships not just among public authorities from different countries but also between officials in transnational networks and their constituencies outside the official sector. There are two interrelated aspects of this. The first is the concern that the networks increasingly resemble a kind of transnational technocracy that is non-transparent and unresponsive to the broader public interest. The second is that transnational networks of officials are especially susceptible to "capture" by the financial firms they are supposed to be regulating.

Unaccountable or Captured Technocracies

Many transnational officials have valued the insulation that allows them to devise optimal technical solutions free from the ill-informed compromises and opportunism that they see as associated with politics. The crisis, however, has starkly revealed deficiencies in technical solutions, such as the procyclicality of Basel II or mark-to-market accounting. The opacity of the highly technical public and private risk management systems that were developed has now become an issue. So has the narrowness of the experts' focus (for instance a massively complicated agreement for regulating banking combined with massive neglect of the shadow banking system) and an over-reliance on mathematical modelling as opposed to more institutional mechanisms for identifying or mitigating risk (such as audits or discussions between regulators and risk managers in firms). The transnational networks also focused too heavily on risks specific to the financial industry and not enough on the connection of these to broader economic and social risks such as a decline in house prices. These are all problems to which the inadequate accountability and excessive technocratic character of transnational networks of experts can be linked.

These problems of technocracy have been greatly exacerbated by their association with the second problem: capture of the regulatory process by the industry it is supposed to regulate. The loose, elite, and highly technical character of regulatory networks provide privileged access points for business. For instance, the Institute of International Finance, the leading global association of financial firms, worked very closely with the Basel Committee on Banking Supervision, successfully suggesting and promoting the use of the internal risk models that have proven to be inadequate in the current crisis, as well as consulting closely on other aspects of Basel II.[8] Non-governmental interlocutors other than representatives of the financial industry were almost entirely absent from the consultative process. Those involved may claim that this privileged access brings into the regulatory process the firms with the technical and practical knowledge that is needed to anticipate problems. But it is hard to see how this privileged access did not contribute to rules that failed to rein in the profitable but the reckless behaviour of the industry.

This problem of capture at the transnational level is amplified by the propensity for a similar problem between regulators and the industry at the domestic level. While this problem has been the subject of considerable study in developing countries, the current crisis has triggered widespread criticism of the same issue on Wall Street itself. There are many who perceive that the circular door between Goldman Sachs and other leading firms and government has led to ineffective regulation and privileged treatment for financial firms. As Simon Johnson, former chief economist at the IMF, put it: "the finance industry has effectively captured our government—a state of affairs that more typically describes emerging markets, and is at the center of many emerging market crises."[9]

In official responses to the current crisis, the problems of technocracy and capture at the transnational level have not received as much attention as the accountability questions addressed in the previous section. One place where they have been clearly identified, however, has been in connection with accounting With some prompting from the G20's November 2008 summit, the private IASB agreed to establish a new transnational public-sector monitoring board that will

[8] See IIF, *Institute of International Finance: The First 25 Years* (Washington: IIF, 2007), pp. 61-2 and Stijn Claessens, Geoffrey R.D. Underhill, and Xiaoke Zhang (2008) "The Political Economy of Basle II: The Costs for Poor Countries," *World Economy* 31(3), March, 313-344
[9] "The Quiet Coup," *Atlantic*, May 2009.

appoint the trustees who oversee its operations. At the subsequent London summit, the G20 also called for prudential regulators to be more involved in its activities.[10]

As for the official regulatory networks, multilateral political oversight of the technocrats has been strengthened and broadened beginning in the 1990s with the more aggressive involvement of the G7 (for instance through ongoing monitoring and guidance by leaders at the summits and direct involvement of finance ministers in the FSF), and then with an escalating role for the G20, at the financial and central bank level from 1999 and at the leader's level from 2008. The failures of the transnational regulatory networks in the current crisis, however, indicate the inadequacy of this type of oversight alone to address the problems of technocracy and capture. To be sure, the crisis has drastically intensified democratic scrutiny of the regulators' work – witness the degree of legislative and media scrutiny of international regulatory initiatives at the moment. But this is unlikely to work by itself as an ongoing mechanism of accountability once the crisis wanes. Similarly, some of the G20 initiatives—such as extending regulation to all systemically significant parts of the industry or restricting the use of offshore centres to escape regulation—will reduce the ability of the industry to pressure regulators by engaging in regulatory arbitrage. But greater reform of the regulatory process is needed to ensure that these new rules are implemented and updated effectively as time goes on.

What More Can Be Done?

How then can the design of the system be altered so that the twin problems of technocracy and capture can be managed in a more sustainable way? Four overlapping sets of initiatives would help. First, *countervailing public sector arrangements* could be constructed. One such arrangement might involve a peer review process of the operations of the network along the lines of the DAC Network on Development Evaluation, which initiated peer review of international organizations such as UNDP and UNICEF.[11] In the case of the financial regulatory networks, we are encouraged that the G20 at the London summit noted that all members of the new FSB have agreed to periodic peer review.[12] In our view, it would useful if the peers could include not just participants in the networks but also at least one reviewer from outside the financial policy area. The OECD, which invented transnational peer review, could provide advice, working together with an organization with more developing country representation.

Another countervailing public sector arrangement could be to encourage networks of legislators to collaborate more closely in monitoring the work of the regulatory networks, as the Parliamentary Network on the World Bank is attempting to do with regard to development.[13] Similarly, linkages between the non-financial ministries of the G20 should be established, as has occurred within the G7 and these ministries should be consulted on the broader implications of

[10] "Declaration", p. 6

[11] On the network see www.oecd.org/dac/evaluationnetwork. See also *Peer Review of the Evaluation Function of the Office of Internal Oversight Functions of the United Nations (OIOS)* (Bern: Swiss Agency for Development and Cooperation, 2009), which is the fifth peer review done by the network, available at http://www.oecd.org/dataoecd/55/12/42344367.pdf. A framework for professional peer reviews was established by the joint UNEG-DAC peer review task force.

[12] "Declaration", p. 1

[13] Slaughter, *A New World Order*

financial regulatory initiatives. It might also be useful to create a small multilateral body with the sole responsibility of identifying problems in transnational regulatory networks, similar to the role of an auditor-general in national politics, or the Independent Evaluation Office that was established to make the IMF more accountable. Finally, responsibility for particular projects could also be explicitly allocated to competing public organizations. For instance, in many cases, there are overlapping capacities between the regulatory networks, the BIS, the IMF, and collaborative networks established by the OECD and the World Bank. At present, they ostensibly are only committed to cooperate with one another, but in practice they can tacitly compete for mandates, and this could be explicitly encouraged.

A second set of initiatives would pay careful attention to the way that *markets can be designed to mitigate the problems of technocracy and capture*.[14] One option is to foster market actors that have a strong material interest in systemic stability and stronger regulation. These actors would then lobby against financial actors that profit from excessive risk taking or regulatory arbitrage and lax regulators that assist them. The insurance industry plays this countervailing role relative to the auto industry in vehicle safety regulation. If rules can be established to alter incentives in the insurance industry to convert its role from the disastrous one epitomized by AIG to the type of role it plays in vehicle safety, then it could be an effective countervailing force in finance as well.

The networks could also be subjected to a private-sector audit that certifies compliance with a set of process standards, perhaps managed by the International Organization for Standardization (ISO). Institutionalizing rewards for whistle-blowing, or what Braithwaite has labelled regulatory "bounty-hunting" are also worth considering.[15] So too are proposals to create a class of banks that are strictly precluded from risky or lightly regulated activities and that will therefore have an incentive to lobby against attempts of competitors to engage in regulatory arbitrage. In addition, the size of banks could be restricted to mitigate the risk of capture. More generally, when designing market rules, authorities should consider not just the effect on stability in the market itself, but the ways this can mitigate problems of technocracy and capture in the regulatory system. For instance, the clearing arrangements that the G20 is requiring for credit default swaps should be set up so that the bodies running them have an incentive not just to manage their own transactions prudently, but to identify and protest against regulatory initiatives that would create opportunities to undermine or bypass clearing arrangements. For this to be successful, some separation must be maintained between the ownership of the clearing arrangement and the firms that have an incentive to bypass or undermine it.

A third set of initiatives involves *the imposition of restrictions on the types of rules that can be developed or endorsed by the transnational regulatory networks, or that govern their own activity*. This can include deliberately keeping the system simple and only allowing activities that

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[14] John Braithwaite's notion of "flipping specific markets in vice into markets in virtue" in his *Regulatory Capitalism: How it works, ideas for making it work better* (Cheltenham: Edward Elgar, 2008, p. 60) is useful here as is John Kenneth Galbraith, *American Capitalism: The Concept of Countervailing Power* (Boston: Houghton Mifflin, 1952).

[15] Braithwaite, *Regulatory Capitalism*, p. 60. See also Walter Mattli, "Enforcement of global regulation through market mechanisms" (working paper 2009).

can be regulated in ways that can be understood by actors other than the financial firms that engage in the activities. The importance of such rules is recognized by the G20's call for risk-based capital requirements to be supplemented with "a simple, transparent, non-risk based measure which is internationally comparable"[16] as well as by those calling for credit derivatives to be traded on exchanges. Since there are strong indications that efforts will be made to revive structured finance and securitized markets[17], the issue of simple transparent rules will need to continue to be developed and promoted.

Another example of the use of rules has arisen in the pro-cyclicality debates where many people have argued that counter-cyclical bank regulation (e.g. dynamic provisioning, or varying capital charges) should not be left to the discretion of national regulators because they will inevitably be subject to private lobbying pressure in boom times not to tighten. Clear, simple, non-discretionary and transparent rules (e.g. GDP-linked, or linked to asset price growth) are offered as a solution.[18] Internationally agreed conflict of interest rules for regulators could also be established, such as mandatory public disclosure on the websites of regulatory bodies of all past and present industry ties of individuals on those bodies, and rules specifying a minimum number of years before regulators can shift to private-sector lobbying and vice versa.

The fourth and final set of initiatives involves mechanisms to enhance *the development of a "global public interest" and a "global public sphere."*[19] A problem with networks of regulators has been their failure to take the implications of their work for non-financial actors and interests sufficiently into account. Accountability to their home governments does not solve this problem because they tend to report back to parts of the government with responsibility for finance, and national mechanisms for reconciling these financial interests with broader public interest may be weak. A number of the standard-setting organizations have adopted notice-and-comment procedures in recent years, which has helped to provide new "access points" for citizens to provide direct input into their activities.[20] We are also encouraged by the FSF's April 2009 statement that the new FSB will "engage in stronger public relations outreach to raise the visibility of its work and role in the international financial system."[21] But to offset the risk of capture by private sector groups of the transnational networks, more needs to be done to provide what Walter Mattli and Ngaire Woods call "participatory mechanisms that are fair, transparent, accessible and open." As they have effectively argued, regulatory institutions that provide these mechanisms "are more likely to produce common interest regulation."[22]

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[16] "Declaration", p. 2.
[17] For instance the same G20 declaration calls for credit rating agencies to produce differentiated ratings for structured products (p. 6) and to implement Basel II with its reliance on banks' opaque internal risk models (p. 2).
[18] The G20 Working Group 1's final report endorses this principle as well. G20 Working Group 1, *Enhancing Sound Regulation and Strengthening Transparency*, 25 March 2009, p. x.
[19] Randall Germain, "Globalising Accountability within the International Organisation of Credit: Financial Governance and the Public Sphere," *Global Society* 18(3)(2004): 217-242.
[20] Walter Mattli and Ngaire Woods, *The Politics of Global Regulation* (Princeton: Princeton University Press, 2009), p. 18
[21] FSF, "Financial Stability Forum", p. 2
[22] Mattli and Woods, *The Politics*, p. 4.

Specific initiatives to address this problem could include the construction of a wider set of global public policy networks with NGO involvement and UN leadership, such as those advocated by Kofi Annan. The OECD and the World Bank—the two intergovernmental organizations that most explicitly have a mandate that integrates economic and social policy—could also be mandated to work with NGOs to consider on an ongoing basis the broader social implications of the level of risk permitted by transnational financial regulatory standards. Along the same lines, competing non-governmental shadow regulatory committees could be encouraged and publicly financed.[23] With public financing should come a requirement for diverse perspectives on such committees. Some of the other initiatives discussed above, such as audits of regulatory bodies, could involve experts from the NGO sector and provide NGOs incentives to upgrade their technical capacity in financial regulation.

Prospects for Change?

Because transnational networks are likely to continue to play a central role in international financial regulation, it is important to devote more attention to their accountability. As Anne-Marie Slaughter (now director of policy planning at the US State Department) put it more generally, "government networks are a key part of world order in the twenty-first century. But they are under-appreciated, under-supported, and under-used to address the central problems of global governance."[24] One aspect of their accountability has to do with the lack of adequate representation of many states, particularly developing countries, in the transnational regulatory networks. Some significant progress has been made in this area since the start of the crisis, but much more could be done. In the short-to-medium term, we have suggested the most promising reforms are likely to be those that make the transnational regulatory networks more accountable to a variety of other formal or informal bodies which individually or collectively would be more representative. We have also recommended a strengthening of the autonomous technical capacity of developing countries to put forward their interests and participate within this "checks and balances" system.

Two other overlapping accountability problems have received less attention in the international reform initiatives to date: the problem of exclusivity vis-a-vis societal actors created by heavily technical character of the networks, and the problem of capture when the regulators are excessively influenced by the industry they are supposed to be regulating. We have proposed four sets of initiatives that could help address these problems: the construction of countervailing public sector arrangements; the design of markets to mitigate the problems; restrictions on the types of rules that can be developed or endorsed by the transnational regulatory networks, or that govern their own activity; and enhancements of the development of a "global public interest" and a "global public sphere", for instance through greater involvement of NGOs and non-financial

[23] The most prominent shadow financial regulatory committee was established by the American Enterprise Institute (others have been established in other continents) but that committee's a priori stated preference "for market solutions to problems and the minimum degree of government regulation consistent with efficiency and safety" is too restrictive. See http://www.aei.org/research/projectID.15/project.asp.
[24] Anne-Marie Slaughter, "Disaggregated Sovereignty: Towards the Public Accountability of Global Government Networks," *Government and Opposition*. 39(2)(2004), p. 160.

officials. These four sets of initiatives are complementary with one another as well as with the mechanisms we identify to improve representation and accountability among public authorities.

What are the prospects for the implementation of the proposals for greater accountability that we have discussed? Certainly the severity of the crisis means the range of policy and regulatory options that are being seriously considered is far wider than would have been thought possible a short while ago. It is also certain that this policy window will begin closing once the crisis ebbs. In our view, greater accountability is not simply one of many goals to be hitched to the financial reform wagon. On the contrary, accountability problems were at the heart of the crisis and addressing them is crucial for ending the crisis and repairing global finance. In a great many areas of the economy and the political system, the types of accountability that we have advocated for transnational regulatory networks would be unremarkable. At the retail level, for instance, most banks would not question the need for strict conflict of interest policies. It is a measure of how very unaccountable global financial governance had become that measures such as these have only begun to make their way onto the reform agenda. If trust in the global financial system is to be restored, the transnational regulatory networks need to be able to raise standards of accountability in markets, but they too must be seen to be accountable.

The proposals that we have discussed pick up on mechanisms that are already present to varying degrees in global governance. They work with and not against the grain of the practices and rules that have been devised in this and other transnational issue areas to address extraordinarily complex, rapidly changing, and varied sets of global problems. They seek to make better use of existing institutions, markets, and relationships while proposing incremental changes that taken together will bring about very significant improvements in the regulatory arrangements. While these proposals' feasibility is important, working with the existing networked properties of global governance is not simply a second best alternative that less powerful states and citizens must reluctantly accept because of their lack of influence. It is instead the best way right now to work towards a system in which relatively small numbers of unaccountable elites will never again be able to bring down the world economy.