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Symposium: Local to Global: Rethinking Spheres of Authority After a World Financial Crisis

Local to Global: Rethinking Spheres of Authority After a World Financial Crisis: An Introduction

*Franklin A. Gevurtz**

With the economy still suffering from the lingering effects of the 2008 global financial panic, and facing the prospect of another global panic if events in Europe continue on their present trajectory, the topic of regulating global financial markets and institutions is of critical importance. In October 2009, the University of the Pacific, McGeorge School of Law, and the Pacific McGeorge Global Center for Business & Development conducted a symposium to address the topic of who should impose rules to prevent, or, failing that, to cope with, an international financial crisis.

The issues addressed and the views expressed at the symposium were quite diverse. In terms of geographic focus, they included presentations with a European perspective by Harald Hau, a professor at INSEAD¹ in France, who set out the results of an empirical study of the poor performance of German state owned banks during the crisis, and by Paul Nihoul, a Professor at the Catholic University Louvain, who looked at the forces arrayed for and against a harmonized response to financial regulation in the European Union. They also included a presentation by Sabine Schlemmer-Schulte, of the University of the Pacific, McGeorge School of Law, who, drawing on her experience at the World Bank, examined the crisis from the perspective of the developing nations. In terms of scope, the presentations included broad examinations and proposals regarding the manner in which the principal international financial bodies act to prevent or cope with a global financial crisis by two leading scholars in international finance—John Head, of the University of Kansas, and Douglas Arner, of Hong Kong University. They also included some highly focused case studies—one built around the events at Citigroup completed by myself (looking at the Citigroup shareholder litigation) and Kate Baragona, a former senior attorney with Citigroup (who examined the impact of multiple regulators on the

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1. INSEAD was formerly an acronym for the Institut Européen d'Administration des Affaires, or European Institute of Business Administration.

ability of Citigroup to cope with the crisis), and another by Anupam Chander of the University of California, Davis, which focused on the development of credit default swap regulation in response to the crisis. A number of leading corporate and financial law scholars gave proposals for reforming the structure of regulating financial markets. James Cox of Duke University examined the comparative competence of federal financial regulators; Robert Ahdieh of Emory University undertook a conceptual examination of what agencies are best suited to cope with a financial panic; Charles Whitehead of Cornell University considered who should regulate financial institutions, markets and transactions given the shift of banking functions from banking institutions to less regulated settings; Christopher Brummer of Georgetown University explored the growth of international networks of regulators; and Miriam Cherry and Jarrod Wong of Pacific McGeorge examined clawbacks. Seeking input beyond the legal academy, the symposium also obtained the perspectives of Sharmila King, an economist at the University of the Pacific, who studies international markets, Fred Buenrostro, the former CEO of CALPERS, and Wayne Strumpfer, a former securities regulator on both the federal and state level.

Because of the time sensitivity of this topic, we decided to do something unusual when it came to publishing papers from this symposium. Rather than hold up publication until all papers were ready, we published three articles from the symposium in the Spring 2010 issue of the Pacific McGeorge Global Business & Development Law Journal. In this issue, we are publishing the following article by Charles Whitehead. In the Spring 2012 issue, we will publish the final article, by Paul Nihoul, of the symposium.