“The End of EU Financial Regulatory Internationalism?”

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I. Introduction:

This paper grapples with the issue of EU internationalism in the area of financial regulation. It first delineates between two dimensions of internationalism – integrationism and multilateralism – noting that since 2007 it is increasingly difficult to be internationalist in both senses. After discussing policymakers' confidence in EU internationalism as well as scholarly debates, we report on our own comparative study of nine regulatory areas, over time and with respect to the US and international soft law. Our findings suggest that compared to 2007 the EU and the US have become less integrationist – though they have done so in a coordinated fashion, at least through 2011, but less so afterwards; and the EU, contrary to its image as portrayed by EU officials, has also become less multilateralist, notably after 2010, in contrast to a US pattern of relative stability.

The explanatory sections of the paper thus focus on the inflection point between 2010 and 2011, preceded by high levels of Transatlantic coordination and followed by a decline of EU multilateralist behavior. We attribute both to a combination of three interrelated causal variables: public salience; UK-Continental relations; and the distance between EU preferences and transnational soft law. We provide empirical evidence in support of all three.

II. Internationalism as a Concept and Variable

Internationalism, as a term describing a polity's foreign engagement as well as internal policies that have external effects, has several meanings. At least two are relevant in the domain of financial regulation.

Internationalism as integrationism:

The purpose of this type of internationalist engagement would be to promote financial globalization (interdependence) by reducing cost differentials between domestic and cross-border transactions and otherwise eliminating the sources of home-market biases.[1] In terms of specific strategies, policymakers can select from various principles for enabling non-domestic firms to operate in or otherwise have access to home markets. They can give access on the basis of mutual recognition (usually with some equivalence determination mechanism) or they can make such access possible only on the principle of national treatment and non-discrimination. The use of rule harmonization and/or coordination, the acceptance of self-regulation, and the use of transparency to support market discipline for governing firms and markets are all part of the mix of integrationist principles that contribute to keeping regulatory costs low and fairly equal across jurisdictions and creating rules that prevent favoritism of local over foreign companies.

Whether intended or not, policies based on principles that lead to regulatory fragmentation across jurisdictions would be non-integrationist. Examples include

[1] In theory, lower overall transaction costs in a world with no domestic-international cost or interest rate differentials would not necessarily promote increased financial globalization. A more realistic scenario is that financial firms have home biases up to a particular threshold – so that the savings from a reduction of overall transaction costs would, contingent on the level of home market saturation, lead to an increase in financial globalization. [Sections from Panitch's book.]

provisions requiring clearing and settling of derivatives to take place in central counter parties located in a particular jurisdiction, requirements that credit rating agencies register and comply locally in multiple jurisdictions, and rules that mandate that foreign banks hold separate capital reserves for local affiliates.

As Figure 1 in the Annex suggests, combinations of principles can be scaled as more or less integrationist than others.

Internationalism as multilateralism:

Multilateralism is a form of cooperative policymaking characterized by two main principles: 1) Three or more jurisdictions agree to make policies jointly; and 2) participating jurisdictions make policies in accordance with agreed rule-based procedures.[2] A good internationalist in the multilateralist sense would thus support forums organized around these principles and adhere to the rules they generate (e.g. transnational soft law). In the world of financial regulation, supporting forums of this kind would include creating, sustaining and participating in the many transnational rulemaking and coordinating bodies. Adhering to transnational soft law refers to a tight correspondence between national (or regional) and transnational templates.

By this definition, as depicted in Figure 2 of the Annex, a jurisdiction's international engagement can be categorized as more or less "multilateralist." For example, questions are often raised about the extent to which local regulatory reforms are consistent with transnational standards. Unilateral or bilateral (e.g.

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[2] Ruggie refers to a generic type of institutional form based on specific underlying principles of behavior (Ruggie 1992). Keohane….Kahler…By our usage, multilateral rulemaking may include both bargaining and deliberation, as long as the participants follow agreed procedures.

when the US and EU use threats to coerce equivalence designations) determination of adherence would be less multilateralist than interpretations made via peer reviews or other monitoring processes that have become part of the global financial architecture. Likewise, rules emanating from bilateral US-EU processes (e.g. the path forward on derivatives) would represent a more multilateralist approach to the extent that the parties used transnational templates as benchmarks. What, then, determines the degree of this type of internationalism is not, per se, the principle of integration (mutual recognition, national treatment, etc.); rather, it is whether a polity's financial rules and rulemaking are embedded in joint, multiparty governance processes.

During the Bretton Woods era, a polity was internationalist in the multilateralist sense, if it participated in the GATT and complied with its trading rules and dispute resolution decisions. There was no comparable category for financial regulation.[3] Between 1975 and 2007, by contrast, a polity was internationalist in the multilateralist sense, if it supported the trade regime as well as the emerging array of transnational financial regulatory processes, such as those occurring in the BCBS, IOSCO, IASB, FATF and other Financial SSBs. In the 1990s and early 2000s, as these processes and bodies increasingly promoted the use of integrationist governance principles (mutual recognition, rule harmonization, equivalency provisions, etc.) and regulation via market discipline, self-regulation and transparency, there was not a contradiction in being both multilateralist and integrationist.

[3] The IMF's authorities regarding cross-border capital flows is the exception...See Article 4?

Since 2007, a polity is internationalist in the multilateralist sense, if it supports the trade regime as well as the now more institutionalized set of G20/FSB/IMF rulemaking and monitoring processes and bodies and the transnational soft law they produce. As we detail in the discussion of our study, there has been some retrenchment from integrationist governance principles and rules that rely on self-regulation, market discipline and transparency – which means in the post-2007 order, it is increasingly possible to be internationalist in the multilateralist sense but not in the integrationist sense.

In sum, it is not always clear in the contemporary context what it means to be an internationalist. Whereas in the fifteen years prior to the crisis, polities that were multilateralist were also integrationist. Since the crisis – because of changing transnational norms about appropriate and effective regulation and integration – it is possible for a polity to be a good internationalist in one sense but not in the other. A jurisdiction could adhere to agreed transnational standards and monitoring mechanisms on the one hand, while adopting policies that increase the global fragmentation of financial markets on the other. In the post-crisis era, in short, what it means to be internationalist in the integrationist sense has not changed. But what it means to be an internationalist in the multilateralist sense has.

III. Confusion over the EU's Internationalist Status

Is the EU a financial regulatory internationalist in either or both senses of the term?

Based on public statements and interviews, European Union policy makers appear to have believed the latter before 2007 and have held onto the conviction in recent years. In 2004, after describing the EU's massive, turn-of-the millennium regulatory overhaul, for example, Alexander Schaub, the then-Director-General of DG Internal Markets, gave voice to the EU-as-internationalist belief before a U.S. Congressional committee. His testimony underscored the EU's internationalist credentials in both the integrationist and multilateralist senses. With respect to the former, he said: "There are no fortresses, castles, walls or frontiers to foreign competitors. On the contrary, we believe that increased competition leads to increased strength and depth"(Schaub 2004, 3). With respect to the latter, he went on to identify regulatory spillover as "an inevitable part of finance in the 21st century," requiring "upstream cooperation, particularly by the two biggest players: the EU and the US" and implored the U.S. to embrace interdependent decision-making processes: "We have a duty to tackle issues together rather than trying to go it alone. We need to do this early rather than late. If we fail in this duty, we risk penalising investors and companies, with a consequent impact on jobs and economic growth" (Schaub 2004, 4). Later in his testimony, moreover, Schaub used internal EU cooperation as a model of good internationalism: "We have proven within the EU that such cooperation is possible between countries. Some over here [in the U.S.] might underestimate the sheer difficulty of what we have been attempting in the EU. Sometimes we make it look too easy. Anyone who follows the internal debate will tell you that finding a way through is far from easy. But we have had to find a way. The EU has spent the past forty years – and particularly the last five - developing approaches to resolve the access of service providers from one jurisdiction to potential customers in another across 25 different jurisdictions"(Schaub 2004, 4-5).

Schaub's successors have similarly described the EU as a financial regulatory internationalist. In an April 2013 letter to US Federal Reserve Board Chairman Ben Bernanke, for example, Michel Barnier, Commissioner of International Market and Services (European Commission) contrasts EU multilateralist and integrationist actions to what he sees as unilateralist and territorialist tendencies in US rule proposals concerning affiliates of foreign banks. Highlighting the EU's multilateralist credentials, he writes: "If we have to maximize the effectiveness of the new international standards, it is more essential than ever to direct our common efforts towards ensuring their timely and consistent implementation in each jurisdiction, avoiding potential adverse cross-border effects. The EU is fully committed to this goal." With respect to the EU integrationism, he writes: "As a consequence, in order to avoid unnecessary administrative burdens and duplicative regulatory costs on foreign institutions active in the EU, the EU framework exempts foreign banking subsidiaries from certain requirements, particularly in the area of consolidated supervision, provided, in the home jurisdiction, they are subject to a regulatory and supervisory framework equivalent to that of the EU" (Barnier 2013)

It is not only policy makers who depict EU's internationalism in such terms. In the research on EU as a global actor, Europe's promotion of international cooperation and multilateralism is a common theme that often cuts across otherwise contrasting approaches and has deep roots in Constructivist international relations theory (Ruggie 1992). For instance, one finds the theme not only in Robert Kagan's Realist argument that the Europe prefers cooperation because of weakness (relative to the US), but also in the literature about "normative" and (to a lesser extent) "civilian" Europe (Kagan 2002; Manners 2006; Telò 2007). Gráinne de Búrca's notion of the EU's governance approach to international relations captures this common thread (de Búrca 2012). She puts forth two claims about the distinctiveness of EU foreign policy. The first is that the EU tends to pursue its goals by collective and often multilateral means. The second builds on a body of research showing that EU representatives seek to reproduce, at the international level, their polity's own modes of cooperative governance, developed over years to manage similar problems (De Búrca, 6-7). Zeitlin and his collaborators (including de Búrca), moreover, explore the extent to which the EU's multilateralist governance framework, which they call an experimentalist architecture, has extended beyond the EU to the international level (Zeitlin forthcoming). The upshot is that much scholarly work on EU foreign engagement mirrors the practitioners' confidence that the EU tends to be multilateralist.

Not all research agrees with these conclusions. Many independent studies across issue areas find a more instrumental EU. Here, EU success in influencing transnational standard setting and forums is attributed to power resources derived from the development of the EU's common market. Thus, rather than depict a multilateralist EU, scholars frequently characterize the polity as a strategic opportunist, using its newfound resources and capacities to pressure other jurisdictions to adopt its rules and otherwise shape the behavior of political and market actors (Bach and Newman 2007; Lavenex and Schimmelfennig 2009, Bradford 2012; Damro 2012). Specifically in finance, Pagliari's 2012 study of three core areas of regulation questions the EU's post-crisis multilateralist credentials (Pagliari, 2012).

Also within the academic literature, the EU's status as a good integrationist – and thereby a promoter of an open international economy – is far from clear. Analyses tend to vary by issue area. With respect to the EU's approach to finance, most observers of the pre-2007 period do not find protectionist policies within Europe or between the EU and other jurisdictions. Rather, they find the combination of a largely liberal regulatory approach and policies that enable relatively easy access for foreign companies with fairly compatible home regulation (Mugge 2010; Posner and Véron 2010; Posner 2007; Quaglia 2010) – a pattern consistent with Schaub's depiction.

Since 2007, some scholars and analysts have noted more continuity than change (Moschella and Tsingou 2013). However, others have questioned the EU's recent internationalist record. Pagliari's research, for instance, contends that the EU has moved away from market-based regulation in three important cases (Pagliari 2012), and Rottier and Véron note more EU unilateralism (Rottier and Véron 2010).

It is thus unclear from the current research whether the EU's external engagement measures up to official portrayals. What is missing is a systematic empirical analysis to establish the pattern of EU internationalism in the area of financial regulation.

IV. A Coding & Comparing Exercise of EU Internationalism

This section strives to fill the gap. It describes the results of our empirical study of EU financial regulatory reform across nine issue areas, over time, compared to the US and relative to the changing content of international soft law.

To identify the pattern, we use the above categories of multilateralist and integrationist and apply a 0-3 score for each. Our coding decisions require a good deal of judgment, and we strive to give more nuance than what is currently available. We treat each of the regulatory areas on its own terms. For auditing regulation, to give one example, integration is about how policy may enable or prevent a globally integrated audit approach; whereas, multilateralism is about the promotion of and compliance with international standards of auditing (ISA) and engagement in the international Forum of Independent Audit Regulators (IFIAR). For the regulation of credit rating agencies, to give a second, integration is the extent to which regulation enables or prevents global consistency of ratings, and multilateralism measures the support of and adherence to IOSCO's guidelines. Wherever possible, we look beyond the adopted regulation and rules, into implementation and enforcement. Such a task, while challenging, is facilitated by the addition of new monitoring procedures by SSBs and the FSB, the vitalization of IMF/WB surveillance program and one of the author's own direct interactions in the policy domain. Thus, the study draws from legislation and related official documentation, monitoring and other reports by transnational standard setters and independent organizations, secondary sources and firsthand observations of and participation by the authors.

Table 1 is a summary of our findings. (See the Annex, which is attached, for an elaboration of our coding decisions.). We consider these nine areas of financial regulation because of their importance in the governance of firms, markets and systemic risk. The first column provides integrationist and multilateralist scores at t_1 (mid-2007) for both the U.S. and the EU. The second column gives the same information at t_2 (end-2014). The third column reports score changes from t_1 to t_2.

Table 1: EU Internationalism across financial regulatory areas, over time and relative to the U.S.

	Coding at t_1 (mid-2007): Was the EU multilateralist, integrationist or neither compared to the U.S.?	Coding at t_2 (end-2014): Was the EU multilateralist, integrationist or neither compared to the U.S.?	t_1 to t_2: Change over time in US and EU internationalism
1. Accounting	US: Integ. 2, Mult. 1 EU: Integ. 2.5, Mult. 2.5	US: Integ. 1; Multi. 0.5 EU: Integ. 2.5, Mult. 2.5	US: Integ. -0.1, Mult. -0.5 EU: Integ. 0, Mult. 0
2. Auditing	US: Integ. 2, Mult. 1 EU: Integ. 3, Mult. 2.5	US: Integ. 2, Mult.1.5 EU: Integ.1, Mult. 2	US: Integ. 0, Mult. +0.5 EU: Integ. -2, Mult. -0.5
3. Bank Structure and resolution frameworks	US: Integ. 3, Mult. 3 EU: Integ. 3, Mult. 3	US: Integ.1, Mult. 2 EU: Integ. 2, Mult. 2	US: Integ. -2, Mult. -1 EU: Integ. -1, Mult. -1
4. Capital and Liquidity (Basel accords)	US: Integ. 2, Mult. 1 EU: Integ. 3, Mult. 3	US: Integ. 1, Mult. 2.5 EU: Integ. 2, Mult. 1.5	US: Integ. -1, Mult. +1.5 EU: Integ. -1, Mult. -1.5
5. Compensation	US: Integ. 3, Mult. 3 EU: Integ. 3, Mult. 3	US: Integ. 3, Mult. 3 EU: Integ. 1.5, Mult. 2.5	US: Integ. 0, Mult. 0 EU: Integ. -1.5, Mult. -0.5
6. CRA	US: Integ. 2, Mult. 3 EU: Integ. 3, Mult. 3	US: Integ. 1.5; Mult. 3 EU: Integ. 1 ; Mult.2.5	US: Integ. –0.5, Mult. 0 EU: Integ. -2, Mult. -0.5
7. FTT	US: Integ. 3, Mult 3 EU: Integ. 3, Mult. 3	US: Integ 3, Mult. 3 EU: Integ. 1, Mult. 1	US: Integ. 0, Mult. 0 EU: Integ. -2, Mult. -2
8. Hedge Funds	US: Integ. 3, Mult. 3 EU: Integ. 1.5, Mult. 2.5	US: Integ. 2.5, Mult. 3 EU: Integ. 2, Mult. 3	US: Integ. -0.5, Mult. 0 EU: Integ. +0.5, Mult. +0.5
9. OTC Derivatives/CCP	US: Integ. 3, Mult. 3 EU: Integ. 3, Mult. 3	US: Integ. 2.0, Multi. 2.5 EU: Integ. 2.0, Multi. 2.5	US: Integ. -1.0, Mult. -0.5 EU: Integ. -1.0, Mult. -0.5

Summary of findings:

Starting with integrationist scores, we find a clear pattern of reduced internationalism. For every area of regulation with the exception of EU hedge fund policies (which were slightly more integrationist), the US and EU show no change or less integrationist policies. Table 2, which reorganizes the display of data from Table 1, captures this trend by showing that the average US integrationist score decreased between t_1 and t_2 from 2.44 to 1.78, while that of the EU fell from 2.78 to 1.72.

Table 2: Averages

	Integrationist				Multilateralist			
	t_1		t_2		t_1		t_2	
	US	EU	US	EU	US	EU	US	EU
1. Accounting	2	2.5	1	2.5	1	2.5	0.5	2.5
2. Auditing	2	3	2	1	1	2.5	1.5	2
3. Bnk Str/res.	3	3	1	2	3	3	2	2
4. Capital & Liq.	2	3	1	2	1	3	2.5	1.5
5. Compensation	3	3	3	1.5	3	3	3	2.5
6. CRA	2	3	1.5	2	3	3	3	2.5
7. FTT	3	3	3	1	3	3	3	1
8. Hedge Funds	3	1.5	2.5	2	3	2.5	3	3
9. OTC derivatives & CCPs	3	3	2	2	3	3	2.5	2.5
Average Score	2.56	2.78	1.89	1.78	2.33	2.83	2.33	2.17

On the one hand, this evidence is consistent with some recent research. For example, it corroborates Pagliari's findings that U.S. and EU governance over hedge funds, credit rating agencies and OTC derivatives has shifted from market-based to direct government regulation (Pagliari 2012, 2013). It also supports a belief widely held among financiers that regulation has become more rigorous, costly and less favorable to their industries (Lewis et al. 2012).

On the other hand, we suspect some policymakers, in Europe and beyond, will be unconvinced of an overall decrease in integrationist policies. Likewise, many researchers will remain skeptical because of scholarship on historical patterns of regulatory capture and regulatory-industry communities (Blom and Underhill 2013). For this reason, we compared our integrationist results with other indicators of integration. [To be added in future drafts. What should we use here? Bank capitalization, liquidity, leverage levels, % of cross-border business, de-financialization of economies. Could we update the Rottier and Véron data?]

The evidence from our study combined with those of others should help to diffuse two areas of skepticism. The first concerns the likelihood that the crisis would bring about substantial change in financial regulation. To be clear, we are not making an argument that reforms have been commensurate with stated public policy goals to sever implicit ties between the financial sectors and national treasuries or eliminate other unwanted risks or distributional biases. We are pointing out that, at least in the Transatlantic corridor, the evidence indicates a substantial accumulation of reforms that is likely to add to the regulatory costs of financial services companies. It is at least possible to contemplate industry-wide deleveraging that would reduce the rate of or even reverse the financial internationalization trends of the decades before 2007.

The second lies in projections that international financial regulatory cooperation would become much harder and less effective in the face of populist responses to public bailouts of banks and recession, on the one hand, and the rise of multipolarity, on the other (Helleiner and Pagliari 2011; Rodrik 2011; Rottier and Véron 2010). Instead, our evidence (discussed in the Annex where we elaborate on our scoring decisions) points to significant EU and US convergence in six of the nine areas. The three exceptions are accounting standards, compensation and the financial transaction tax. There is always the possibility of independent paths to the same outcome. Two pieces of evidence, however, suggest that parallel but autonomous processes were unlikely and that, instead, US-EU cooperation accounts for the observed convergence. First, in our data, the actual rules adopted on both sides of the Atlantic have been extremely close, at least through 2010. It is hard to imagine messy internal policymaking processes generating such results in the absence of cooperative interdependent decision-making. And, second, a complex web of coordinating mechanisms, in place before 2007 and effective because of the sustained US and EU commitment to multilateral regulatory cooperation.[4] Thus, from this evidence and the observed convergence of integrationist policies, we infer continued cooperation after mid-2007 and a connection between integrationist and multilateralist trends (see below).

Again, we do not think our findings about financial integration necessarily indicate sufficient improvements. Nor, in this paper, do we take a normative stance

[4] The latter includes the many structured relationships associated with the Transatlantic Financial Regulatory Dialogue as well as the Financial Stability Forum, the Joint Forum and other transnational bodies.

but instead note that there could be several possible perspectives on our integrationist findings in addition to the entirely critical argument that few material reforms have been undertaken: One might view the new US and EU approaches as pragmatic, as opposed to dogmatic, regulatory liberalism, and thereby a closer and more sustainable balance between financial activity and politically and socially acceptable risks (Mügge 2011); Another view, by contrast, would see a potentially damaging curtailment of the international allocation of financial resources.

Turning, then, to the multilateralist scores and beginning with the aggregate figures of Table 2, there is no change in the U.S. score, but the EU's average fell considerably after 2007. Again, contrary to some expectations, even with the EU slippage, we note that the pattern of relatively high multilateralist scores suggests considerable cooperative and interdependent policymaking, as opposed to unilateralism. At closer inspection of EU scores, however, we find a wide variance among the regulatory areas. The EU becomes more multilateralist in its approaches to hedge funds but less multilateralist in its approaches to auditing, banking structures and resolution frameworks, capital and liquidity requirements, compensation, CRAs, the financial transaction tax and OTC derivatives.

Moreover, as Table 3 illustrates, the EU's multilateralist scores have tended to decrease increasingly over time. Legislative reforms and other actions in the regulation of hedge funds, in 2009, improve the EU multilateralism score; whereas measures either carried out from 2011 – in the regulation of compensation, CRAs, derivatives, compensation, bank structure and resolution framework, capital adequacy and liquidity requirements, the financial transaction tax and auditing –

decrease the score. There is no corresponding chronological pattern in the U.S., though its biggest drop did come in 2014 with the new rules governing bank structures (i.e. foreign banking organizations). One reason for the difference could be that the contours of most U.S. reforms can be found in the massive 2010 Dodd Frank Act (e.g. CRAs, OTC derivatives, hedge funds and banking structure, to give three examples). Yet capital adequacy and liquidity reforms, which improved the US multilateralist score, were deliberately left out of the 2010 law so that U.S. regulators could coordinate with foreign counterparts within the Basel III discussions.

The multilateralist score, to repeat, reflects the extent to which the EU is committed to joint- and rules-based decision-making processes and to adherence to transnational soft law. This data suggest the centrality of EU multilateralist policies to the observed pattern of U.S.-EU coordination through 2010. At least between 2007 and 2010, one could posit that financial internationalization was compatible with more rigorous and better regulation –because EU and US coordination held the promise of minimizing the duplicative costs and thus offsetting higher regulatory costs. The decline in EU multilateralist scores – and thus rise in EU (in some cases manifested through member state) unilateralism – signals more difficult future Transatlantic and international coordination and, by extension, increased costs of conducting financial activity across borders.

Table 3: Change over time in EU multilateralism, in chronological order of latest change

	Date of post-2007 major reform	t_1 to t_2: Change over time in EU multilateralism
1. Accounting	No change	EU: Mult. 0
8. Hedge Funds	2009	EU: Mult. +0.5
6. CRA	2011	EU: Mult. -0.5
9. OTC Derivatives/CCP	2012	EU: Mult. -0.5
5. Compensation	2013	EU: Mult. -0.5
3. Bank Structure and resolution frameworks	2014, ongoing	EU: Mult. -1
4. Capital and Liquidity (Basel accords)	2014, ongoing	EU: Mult. -1.5
7. FTT	2014, ongoing	EU: Mult. -2
2. Auditing	2014	EU: Mult. -0.5

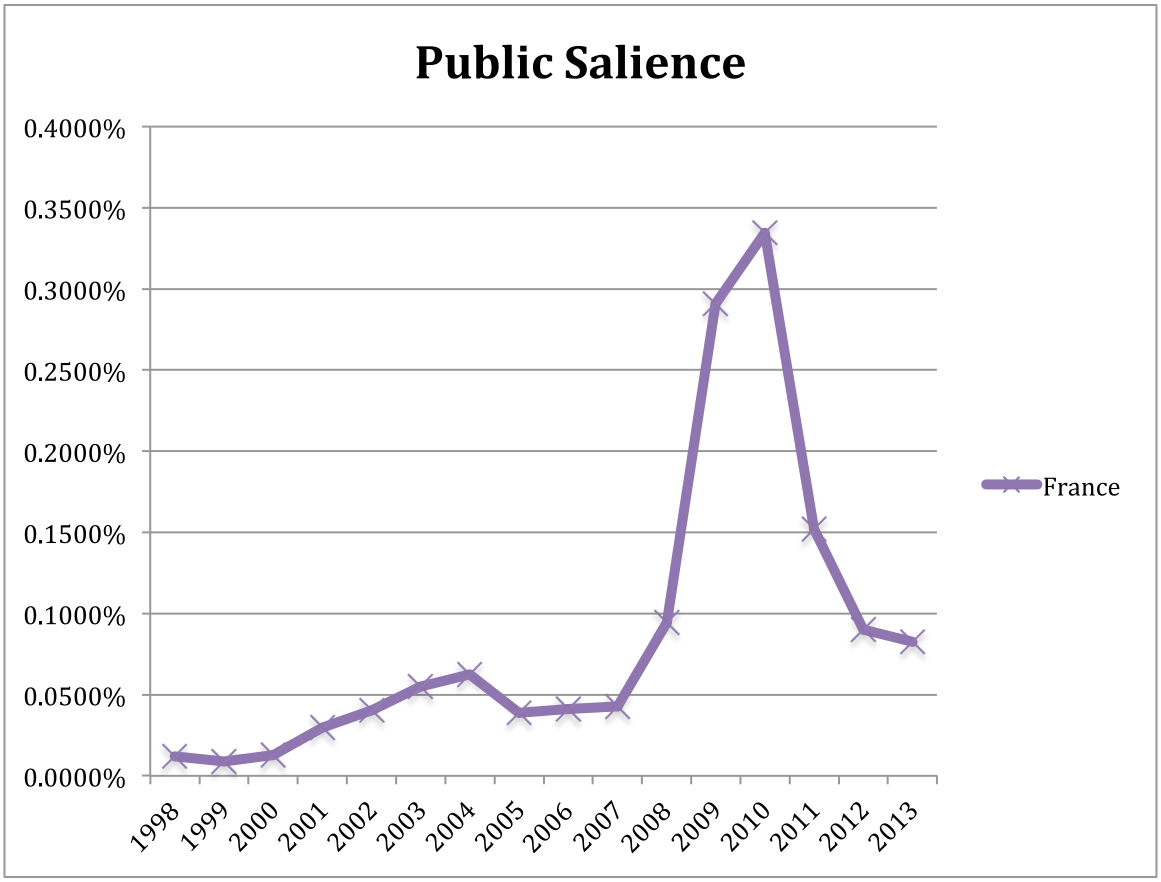
V. Explaining the observed empirical trends

What explains these empirical observations, especially the post-2010 decline in EU multilateralist policies? We highlight change in three interrelated causal variables: (1) public salience; (2) UK-Continental relations; and (3) the distance between EU preferences and transnational soft law.

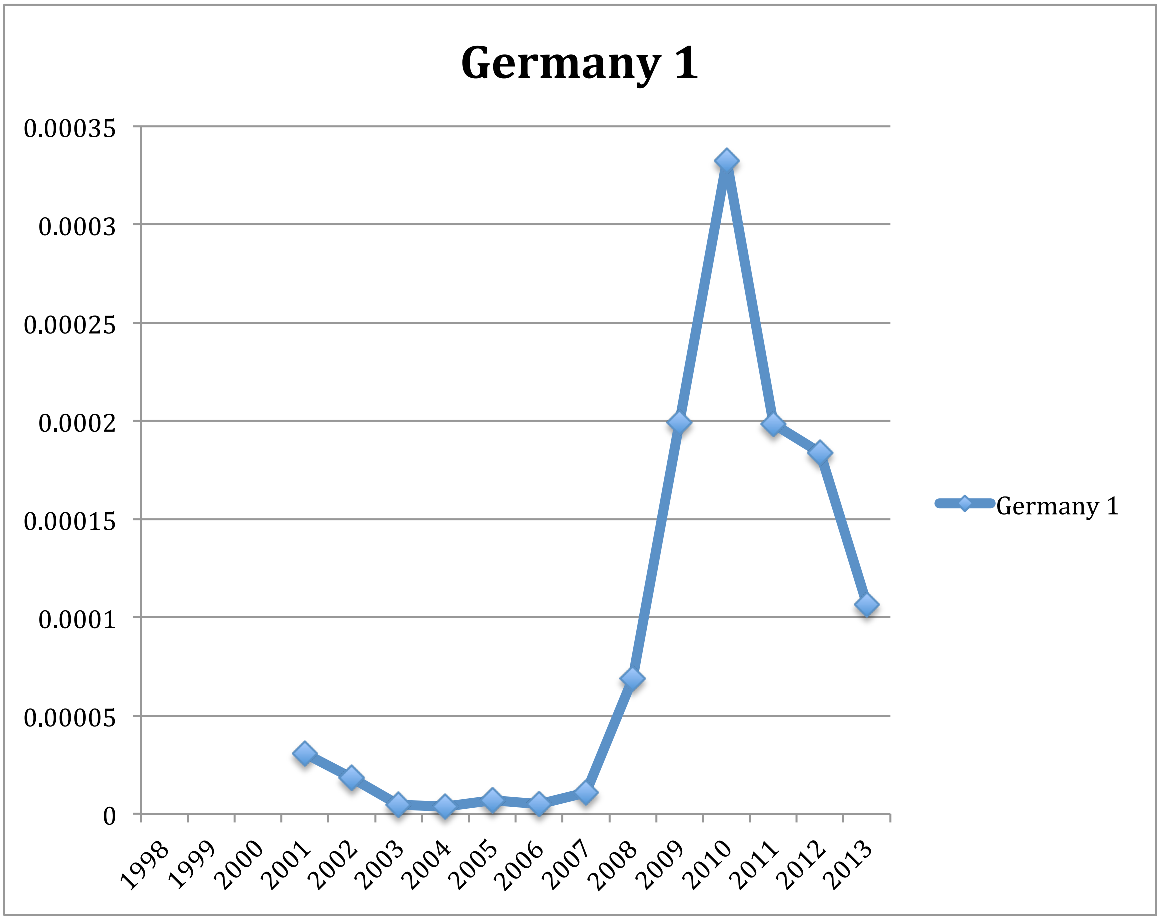
Public Salience:

The first and most intuitive causal variable is political salience. Borrowing from research on the politics of financial regulation, we argue the observed pattern in EU internationalism is, at a core level, the outcome of crisis-induced changes in public salience, a concept deeply intertwined with Europe's democratic political systems. Pubic salience is the importance the general public attributes to a policy area. The central idea is that the level of public attention has significant bearing on elections, the relative influence of politicians, regulators and interest groups, and ultimately type and timing of adopted regulation (Pagliari 2013. 100-101). Pagliari argues that crises and other external shocks do not speak for themselves. Rather, their impact on public policy is conditioned by levels of public salience (Pagliari 2013, 107). When the public is paying attention, the politics surrounding financial regulation is expected to be different from the "default" periods when participation is limited to a narrow cast of bureaucrats and industry groups. His 2013 study concludes that prolonged high levels of public salience, measured by media coverage, explain the 2007-2010 shift in Europe and the U.S. from market-based regulation to direct public oversight of OTC derivatives, ratings agencies and hedge funds.

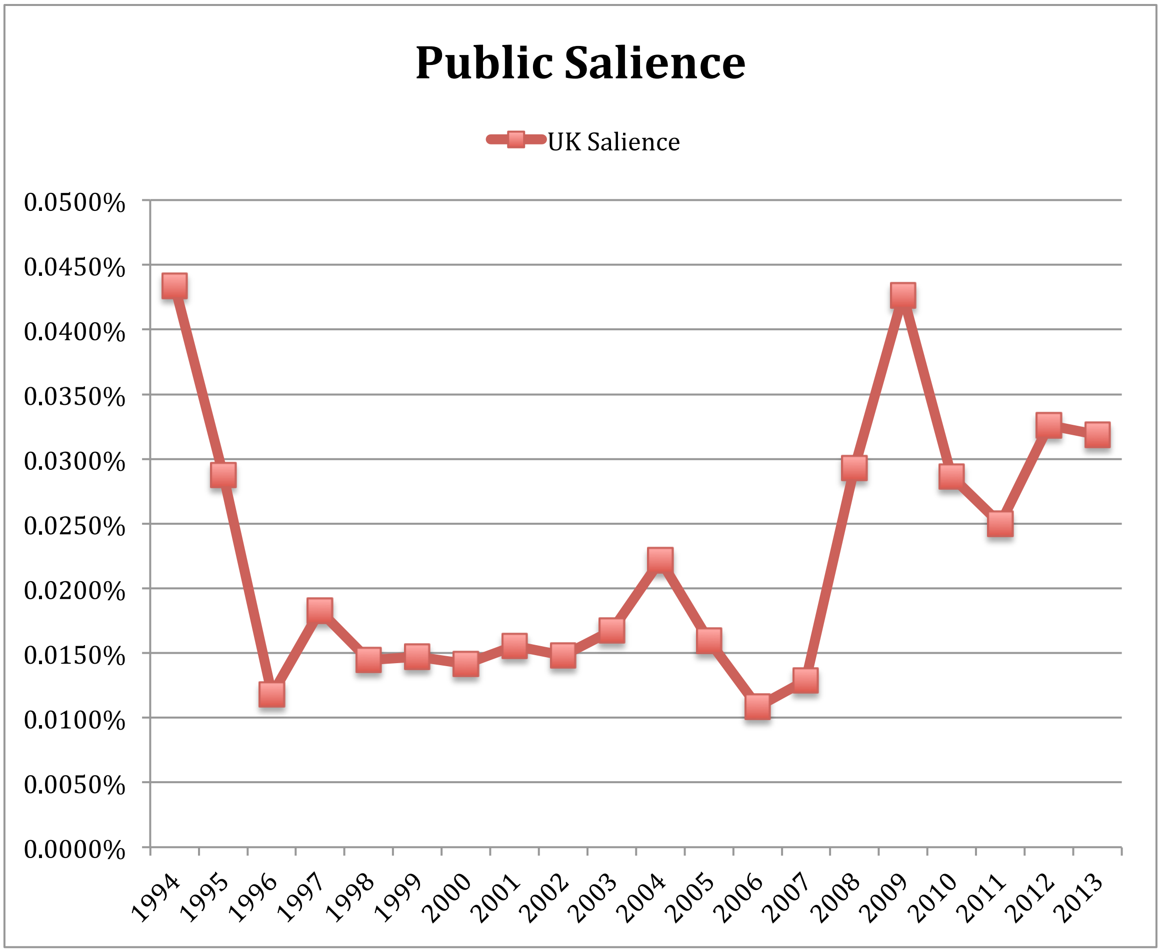
The link between public salience and EU internationalism is straightforward. When levels are high, a wider scope of actors, including politicians, is expected to engage in the creation of more stringent regulation that reflects the idiosyncratic politics of each jurisdiction. The resultant regulation should be harder to coordinate across borders, at once forging a more challenging environment for integrationist and multilateralist policies. We replicated parts of Pagliari's study and extended them through June 2013. [We still need to explain properly the content analysis methods used. Basically, we had Factiva search for all the times the major newspapers mentioned financial regulation. And a note of caution, not to take these numbers too literally, but rather as picking up something that needs further investigation.]



[This was the most disappointing because for some reason Factiva wouldn't search Le Monde or Liberation, even though I had them listed. The other publications were the one's Pagliari used. Though he had Liberation but not Le Monde, which makes me think the latter's archives aren't on Factiva. We searched: régul* w/5 financ*.]

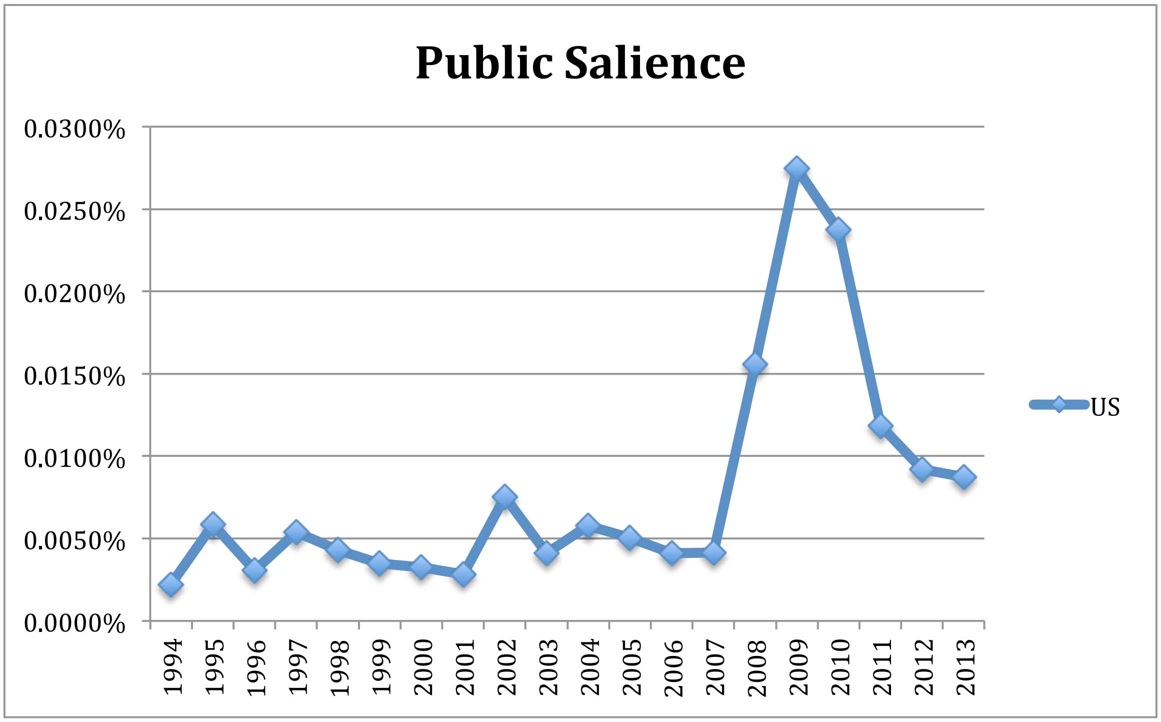


[We searched: finanzmarktregulierung]



[We searched: regulat* w/5 financ*]

[Ideally, if we could standardize them, we could put all four in a single picture.]



[We searched: regulat* w/5 financ*]

First, our findings suggest public salience corresponds fairly well with the EU and US pattern of internationalism. Salience levels shot up everywhere in 2008, 2009 and 2010 and remained historically high, albeit off their peaks, through June 2013. This data give some empirical support to our suspicion of a widely felt outrage in the US and especially in Europe of prolonged failure to address financial system fragility. In such an environment, we would expect more stringent regulation and thereby lower levels of integrationist policies, which is what we find in the previous section. The data is also consistent with the expectation that coordination would become more difficult with time, as the particularities of national and regional regulation are confronted in transnational coordinating bodies.

These observations also give further hints about why the divergence in Transatlantic multilateralist scores has mostly to do with change inside the EU. In the US, salience levels dropped precipitously in 2011 and 2012 from their 2008-2010 peaks. In Europe, the levels remained relatively higher through 2012. The pattern suggests that as the eurozone crisis heated up in 2010, public pressure on politicians to address long-neglected financial regulation mounted – just as the politics of finance in the US was cooling down following the passage of the Dodd-Frank Act. Even more suggestive, however, is the divergence between the UK and the two Continental powers, France and Germany. In the UK, salience levels peaked in 2009, stayed relatively high in 2010 and 2011 and then rose again in 2012 and 2013. In France and Germany, public attention peaked in 2010 and has dropped significantly since then. These numbers lead to our second causal variable, the growing tensions between London and the Continental capitals.

UK-Continental Relations:

Financial regulatory arrangements ultimately rest on political relations between the powerful actors in a particular context (Zysman 1983). In the EU of the late 20th and early 21st century, the UK-Continental tie is the key relationship underpinning EU financial regulatory arrangements. Before 2007, similar priorities and outlooks led to an intensification of EU financial regulatory integration and enabled the polity to be an influential financial regulatory internationalist -- in both senses of the term. As the differences in post-2010 salience levels suggest, a rift in relations, in part traceable to differential political pressures felt by eurozone and non-eurozone governments, is altering the foundations of the EU financial regulatory project and making it difficult for the EU to be a good multilateralist.

<u>UK-Continental Relations and EU internationalism:</u>

In the late 1990s, a UK-Continental alignment of preferences enabled the EU to move ahead with the long-stalled "single financial market." A political bargain, with four explicit and implicit principles, underpinned the project. Nearly every piece of EU financial legislation introduced before 2007 (whether concerning rulemaking procedures [and therefore the inter-institutional balance of power] or the content of regulation) was contentious (Quaglia 2010). Nevertheless, agreement over core principles sustained a period of internal regulatory cooperation and external internationalism. We use this political bargain as the baseline for measuring the extent to which relations since 2007 have frayed and, as a result, affected EU internationalism.

Table 2: UK-Continental Political Bargain

	Foundational Principles of EU Financial Regulatory Arrangements			
	Single Rulebook	Content of Regulation	Location of Supervisory Authority	Burden-Sharing/Fiscal Federalism
Before 2007	Agreement in favor of single rulebook Effect: Improved bargaining power internationally	Agreement in favor of transnational best practices (and thereby British approaches) Effect: Bolstered EU internationalism in both senses of the term.	Agreement in favor of national supervisors Effect: Perception of coordinated national enforcement improved bargaining power internationally	Agreement against burden-sharing & other fiscal federalist schemes
After 2007	Disagreements over content of regulation has diminished prospects of a single rulebook Effect: Makes it more challenging for EU to be internationalist in both senses of the term.	The UK has been out voted on some pieces of legislation and will remain outside others Effect: Makes it more challenging for the EU to be internationalist in both senses of the term.	UK will not cede supervisory authority to the ECB. Effect: Perception that firms will be able to access eurozone from London diminishes bargaining power internationally	The UK will remain outside the ESM and other burden-sharing schemes, such as the ECB's QE.

First, in the late 1990s, London and the other EU financial centers agreed that EU financial regulation, unlike monetary arrangements, was not to be multispeed. The goal was a single rulebook for all members. Since 2010, because of different priorities in London, Berlin and Paris, it has become possible to imagine two tempos for EU financial regulatory integration. The eurozone countries and others are moving forward with far-reaching bank regulatory reforms (known as banking union) as well as with plans for a financial transaction tax (Barker 2013, author). The UK will not participate in banking union, rejects the idea of a financial transaction tax and has been outvoted in other regulatory legislation.

Second, in the late 1990s agreement, two implicit principles were to guide the development of new harmonized regulation. No proposal would go forward without the support of the UK, the region's leading financial center. And the problem of coordinating conflicting regulation of member states was to be resolved, to the extent possible, by borrowing transnational soft law, developed in standard setting bodies. While portrayed as technocratic and neutral (as in non-French, non-British, non-German and non-American), the soft law mainly reflected the approaches of jurisdictions housing the two leading financial centers, the US and UK (Mügge 2011; Newman and Posner 2015). Adopting transnational standards was thus an unspoken gesture towards the City. Since 2010, and especially since December 2011 [something on Cameron's position at the Fiscal Compact council], there is a new willingness to out vote the UK on financial regulatory matters and no longer an imperative to borrow from transnational standards in order to keep the UK on board. [Put in the voting records.]

Third, despite more centralized regulation-making procedures (via comitology, delegated rulemaking authority, with new roles for committees of national regulators), the 1990s agreement preserved implementation and enforcement as a national responsibility. Rather than a supranational authority such as the ECB, national supervisors would develop methods for consistent application of agreed EU rules. As part of the new banking union, eurozone and other countries now cede significant supervisory powers over banks to the ECB, a power transfer coming on top of the creation of three EU financial authorities with some, albeit modest and untested, financial decision-making powers (Ferran 2011). Again, the UK has kept its distance from these deeper forms of regulatory integration and thus will remain outside of the ECB's jurisdiction. It fought to water-down the powers of the new authorities and preserve its influence in the post-banking union EBA (citations).

Lastly, in the late-1990s agreement, there were to be no burden-sharing arrangements (that is, no fiscal federalism). National governments and central banks were to be the sources of bailouts and emergency liquidity. Since 2010, the EU has introduced fiscal federalist mechanisms, albeit modest ones. The UK has stayed out of the ESM, a burden-sharing arrangement and other related agreements (i.e. Fiscal Pact), and is not directly affected by the ECB's programs, including the promised implementation of so-called quantitative easing (Gocaj and Meunier 2013).

In sum, the four-part political bargain of the late 1990s drew the UK into an ambitious regulatory framework with its EU partners, enabling the City to be part of the project without having to choose between Europe, on the one hand, and the British approach and competitiveness vis-à-vis New York, on the other. Since 2007 cross-Channel differences in objectives and priorities have put severe strains on the prior foundations of European financial regulatory integration. As expected, these tensions have also made it more difficult for the EU to be a good internationalist.

Before 2007 expectations by foreigners that the EU would have a single rulebook and highly coordinated enforcement gave the polity a powerful role in international regulatory forums. As in other regulatory areas like chemicals, competition, food safety and data privacy (Bach and Newman 2007, 2010; Newman 2008, Damro, Young), the development of internal regulatory capacities improved the region's ability to ensure foreign companies had equivalent home regulation (Posner and Véron 2010; Dür 2011; Mügge 2011b; Quaglia 2013b). Thus, as a spillover, the EU's improved bargaining position vis-à-vis the U.S. recast the former's role from ruletaker to rulemaker, at once giving rise to a rough EU-US power parity, shifting global rulemaking away from US and sometimes US-UK preeminence, and making it possible for the EU to contribute substantially to international soft law and multilateral processes. These contributions were especially observable in the growing number of forums where EU officials, along side or instead of national ones, were the representatives – such as in the multiple forums of the Transatlantic Financial Regulatory Dialogue, inaugurated in 2002.

The widespread adoption of transnational soft law – to resolve internal coordination problems and draw the UK into the regional regulatory program – also bolstered the EU's internationalist credentials in other ways. Because the content of the borrowed soft law largely reflected the neoliberal principles of British and US approaches, the EU's regulation was equally integrationist. By virtue of using transnational soft law, moreover, the EU's policies were also inherently multilateralist.

The rising tensions in UK-continental relations and consequential fraying of the financial regulatory bargain have contributed to the decline in EU internationalism. As noted above, more stringent regulation in the EU, as in the US, has led to lower internationalist scores in the integrationist sense. What stands out in the EU is how the growing cleavages between the UK and the Continent are contributing to the EU's declining ability to be a good multilateralist. With the loosening of bonds between the UK and the Continent, both the eurozone countries and Britain have acted independently and not always in step with transnational best practice. In bank structure and resolution frameworks, the UK acted on its own with the introduction of the Vickers approach – which, arguably, is not consistent with Basel principles of supervisory cooperation – and by teaming up with the U.S., respectively. Likewise, eurozone countries have also acted in unilateralist ways. They moved ahead with a financial transaction tax, a measure that does not adhere to transnational best practice. France and Germany, moreover, re-opened prior international agreements on capital reserves in the internal debates over how to transpose them into EU law (BCBS 2012a).

Finally, the fact that the UK-Continental differences have manifested in the transnational bodies themselves has also contributed to the decline in EU multilateralism. The UK may have lost more influence inside the EU than at the international level. As implied above, the pre-2007 imperative for deeper regional financial integration, which led to the adoption of British-like transnational soft law, favored the UK and required more adjustments on the part of Germany, France and other continental countries. With the tensions between London and the continent and cases of the UK being out-voted, Britain may not be able to play its traditional role of ensuring EU regulation is consistent with that of the US as well as international best practice.

At the same time, however, the UK's standing – compared to that of the EU – in transnational arenas has improved. The post-crisis centrality of the FSB and other standard setters in coordinating and monitoring implementation and creating new international soft law favors national representatives. Unlike before the crisis, when the most important forums were part of the Transatlantic Financial Regulatory Dialogue with EU representatives (that is, the European Commission, CESR, etc.), the FSB's key participants, because of the new attention to implementation, have been national authorities. (This changed in 2014 in the area of banking for EU countries that adopted the ECB as their supervisor). Even with the banking union in the Eurozone, the new forum makes it easier for EU member governments to adopt different positions and, indeed, in some areas, such as resolution frameworks, the UK and US have formed alliances and have worked closely together.

Distance between EU preferences and transnational soft law:

That the UK and eurozone countries sometimes pursue regulatory measures without the other and contrary to international best practice is not the only factor making it challenging for the EU to be multilateralist. There is also evidence of a growing distance between EU preferences and transnational soft law.

As the table illustrates, EU representation in transnational financial bodies has tended to decrease since 2007. One needs to be cautious about drawing conclusions. Numbers of representatives do not necessarily translate into degrees of influence over rulemaking processes. Each organization in the table has its own governance framework, voting rules and rulemaking procedures (Brummer 2011). In addition to numbers of representatives, other factors obviously affect a jurisdiction's influence – such as recognized expertise and relative size of markets (especially the international sectors).

Yet it is highly likely that the over-representation (based on population and GDP) of Europe in transnational bodies makes it easier to ensure a relative correspondence between EU and transnational regulatory approaches, and thus for the EU to support and adhere to soft law. Likewise, the relative decline of representation, as we have seen since 2007, could be expected to expand the differences between EU preferences and transnational soft law and make it more challenging for the EU to be a good multilateralist.

Membership of Global Financial Authorities

Body	Created	Location	Scope	Total		EU (incl. Croatia)		EU/ Total	
				2013	2007	2013	2007	2013	2007
BIS[1]	1930	Basel	Member central banks	60	55	27	27	45%	49%
			Board of Directors	18	19	12	13	67%	68%
BCBS[2]	1974	Basel	Committee members	27	13	8	8	30%	62%
CGFS[3]	1971	Basel	Committee members	23	20	10	10	43%	50%
CPSS[4]	1980	Basel	Committee members	25	14	8	8	32%	57%
FSB[5]	1999	Basel	Jurisdictions represented	25	12	7	6	28%	50%
			Board Members from jurisdictions	54	27	17	14	31%	52%
			Steering Committee[11]	36	-	13	-	36%	-
IAIS[6]	1994	Basel	Members	149	129	31	28	21%	22%
			Executive Committee	24	21	7	6	29%	29%
IASB[7]	1973	London	Monitoring Board[12]	4	-	1	-	25%	-
			IFRS Foundation Trustees	21	22	7	8	33%	36%
IMF[8]	1945	Washington	Member quotas (Mio. SDR)	238,118	217,726	76,193	n.a.	32%	n.a.
			Executive Board	24	24	7	7	29%	29%
IOSCO[9]	1983	Madrid	Ordinary members	115	109	32	31	28%	28%
			Executive Committee	19	19	5	5	26%	26%
OECD[10]	1948	Paris	Members	34	30	21	19	62%	63%
World Bank	1945	Washington	Votes	1,886,450	n.a.	529,584	n.a.	28%	n.a.
			Executive Board	25	25	8	7	32%	28%
Population				*6.8bn*	*6.6bn*	*0.51bn*	*0.49bn*	*7.5%*	*7.4%*
GDP (Purchasing-Power Parity)				*$83trn*	*$67trn*	*$14trn*	*$13trn*	*15.6%*	*19.4%*
GDP (market exchange rates)				*$72trn*	*$58trn*	*$16trn*	*$17trn*	*22.2%*	*29.3%*
Gross financial assets				*$137trn*	*$128trn*	*$56trn*	*$64trn*	*40.8%*	*50.0%*
Number of countries (UN members)				*193*	*192*	*28*	*28*	*14.5%*	*14.6%*

Sources: membership data: authorities' websites and annual reports; population and GDP (2012 estimates): IMF, World Bank; financial assets: McKinsey Global Institute, authors' calculations. Notes: [1] Bank for International Settlements [2] Basel Committee on Banking Supervision [3] Committee on the Global Financial System (Euro-Currencies Standing Committee until 1999) [4] Committee on Payment and Settlement Systems [5] Financial Stability Board (Financial Stability Forum until 2009) [6] International Association of Insurance Supervisors [7] International Accounting Standards Board (International Accounting Standards Committee until 2001) [8] International Monetary Fund [9] International Organization of Securities Commissions [10] Organization for Economic Co-operation and Development (Organization for European Economic Co-operation until 1961) [11] formed in 2009. Full-time employees of global organizations (BIS, IASB, IMF) not counted [12] formed in 2009 [13] includes countries regularly *invited to Committee meetings. Longxiu Tian's research assistance for the preparation of this table is gratefully acknowledged.*

The data in the table is not sufficiently complete or fine-grained to carry out a careful examination of each issue area to see if the evidence supports the representation argument. However, evidence from two key areas where the EU multilateralism score declined significantly since 2007 – bank structure/resolution frameworks and capital/liquidity requirements – lends some credence to the hypothesis. In the Basel Committee on Banking Supervision, which creates soft law for both areas, EU representation went from 62% in 2007 to 30% in 2013. This drop in representation certainly corresponds to the fall in the multilateralism scores for the two areas of regulation (See Table 3) and thus supports the possibility that Europe's declining portion of representations – that is, the institutionalization of multipolarity – has led to gaps between EU and transnational approaches and made it harder to be multilateralist.

VI. Conclusion

To be written.

ANNEX MOVED TO A SEPARATE DOCUMENT.

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“The End of EU Financial Regulatory Internationalism?”

Elliot Posner and Nicolas Véron

ANNEX

The coding of cases included in Table 1

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Figure 1: Conceptualization and general coding guidelines for internationalist in the integrationist sense

Less Integrationist **More Integrationist**

0.0 **3.0**

Principles:

National treatment/non-discrimination	Mutual recognition/substituted compliance/comity: equivalency provisions and compliance determined by the respective jurisdictions. National treatment/non-discrimination with ample use of exemptions and exceptions	Mutual recognition/substituted compliance/comity: transnational soft law used to establish acceptable minimum standards & compliance w/transnational soft law determined by third party (peer review or other mechanism)	Mutual recognition/substituted compliance/comity: with no equivalency provisions Unilateral recognition of other jurisdictions' rules
Minimal transparency obligations			Stringent transparency obligations
Little cross-jurisdictional rule coordination	Cross-jurisdictional rule compatibility	Cross-jurisdictional rule harmonization/convergence	Cross-jurisdictional rule standardization
Direct Regulation	Delegated self-regulation with oversight powers	Self-regulation with monitoring device	Self-Regulation

Figure 2: Conceptualization and general coding guidelines for internationalist in the multilateralist sense

Multilateralism is one form of cooperative rulemaking, wherein three or more jurisdictions agree to make policies jointly and in accordance with agreed rule-based procedures. A jurisdiction's rulemaking is more or less multilateralist depending on the answers to these two questions: Does the polity 1) support forums organized around multilateral principles, and 2) adhere to the financial regulations these forums generate (i.e., transnational soft law)? Supporting forums of this kind would include creating, sustaining and participating in the many transnational rulemaking and coordinating bodies. Adhering to transnational soft law refers to a tight correspondence between national (or regional) and transnational templates.

Less Multilateralist 0.0 — More Multilateralist 3.0

Supports multilateralist forums?	Little or no support of multilateral forums and processes. Multilateral forums do not exist in the issue area. Great power rulemaking in bilateral forums, uncoordinated with multilateral processes.	Rulemaking in bilateral forums, coordinated with multilateral forums, but the two jurisdictions themselves, via power-based bargaining, determine whether there is adherence to transnational soft law.	Creates a multilateral forum for coordinating national regulations and devising transnational standards and other forms of soft law. Participates in, helps to sustain and promotes soft law generated by a multilateral forum. Rulemaking in bilateral forums, to improve or ensure adherence to transnational soft law, as determined by third parties.
Adheres to rules generated by multilateralist forums?	There is little or no adherence to transnational soft law. There is very underdeveloped or no transnational soft law.		Tight coherence between a polity's regulations and transnational soft law.

1. <u>Accounting</u>

For the periods under study, what it means to adopt an integrationist and multilateralist approach to accounting standards are largely the same. Over time, IFRS became the only practical avenue for achieving global integration. Thus, by th later period, we do not differentiate between integrationist and multilateralist policies. To be the former is to be the latter. We assess both (albeit simplistically) in terms of IFRS adoption, implementation and enforcement.

Mid-2007: International accounting standards (labeled IAS, then IFRS), developed i the IASB (originally IASC), reflected a transparency model broadly similar to those used in the U.S. and UK. Mügge (2011) classifies IFRS as dogmatic regulatory liberalism (Mügge 2011a), suggesting the standards help to sustain cross-border economic and financial integration. By the late 1990s, IASB's work was conducted increasingly in the shadow of EU-US power dynamics – reflected in battles over IASC/IASB governance structure. (Author).

US: Integrationist 2.0.
US: Multilateralist 1.
There was a long-held commitment to standards that enhance transparency of companies' finances and stepped-up promotion of consistency across jurisdictions. Since 2002, expectations of global convergence to US GAAP diminished, but the US has not adopted IFRS either. The U.S. standard setter, FASB, established a program of convergence discussions together with IASB, but the implementation has proven difficult. The SEC accepted reporting in IFRS for listed foreign companies in 2007, but (unlike most other economically significant jurisdictions) did not commit to a timetable for IFRS adoption or significant convergence of US GAAP towards IFRS.

EU: Integrationist 2.5.
EU: Multilateralist 2.5.
Beginning in 2002, the EU embraced IFRS as a way to promote accounting standard based on a transparency model with consistency across jurisdictions. In 2002 it decided to require adoption of IFRS by EU listed companies via an endorsement mechanism, supported the convergence project with the US and accepted US GAAP as equivalent. IFRS adoption was effective from 2005 on. However, the EU's commitment to international standards and joint-decision making processes was sullied by the carve-out of IAS 39.

End-2014:

US: Integrationist 1.0.
US: Multilateralist 0.5.

Since 2008, the US has appeared to backtrack in its support of standard consistency and compatibility across jurisdictions. The SEC did not deliver on what in 2007-08 appeared as momentum towards extending IFRS use to US companies (http://www.sec.gov/spotlight/globalaccountingstandards.shtml). This step back from IFRS adoption (which could reflect differences in the Schapiro and Cox SECs) came at the same time as an increasingly frayed relationship between IASB and FASB and the increasingly evident conclusion that the IASB/FASB convergence program would not be completed.

EU: Integrationist 2.5.
EU: Multilateralist 2.5.
No major change of EU policy between mid-2007 and mid-2013, as 2013 revision of equivalence mechanism in relations to third-country Generally Accepted Accounting Principles (http://europa.eu/rapid/press-release_MEX-12-0412_en.htm?locale=en).

2. <u>Auditing</u>
Integration is about how policy may enable or prevent a globally integrated audit approach; multilateralism is about promotion of and compliance with international standards of auditing (ISA) and best practices for oversight of auditors, engagement in the International Forum of Independent Audit Regulators (IFIAR) and management of regulatory conflicts between the US and the EU within the transnational framework, which is substantially weaker than in accounting, banking and securities.

Mid-2007: Beginning in 2004, the International Auditing and Assurance Standards Board conducted an overhaul of International Standards on Auditing. It completed the Clarity Project in February 2009 with 36 standards (http://www.ifac.org/auditing-assurance/clarity-center). The International Forum of Independent Audit Regulators (IFIAR) was created in September 2006 in the aftermath of the 2002 creation of an independent auditing authority in the U.S. and subsequent proliferation of similar entities in other jurisdictions (https://www.ifiar.org). The EU and US sought to make their new auditing regimes compatible (Eberle and Lauter 2011)(author) (Dewing and Russell 2014).

US Integrationist 2: Provisions in the 2002 Sarbanes-Oxley Act created a new auditing regime that included direct public oversight of auditors of publically listed companies. This act had extraterritorial effects, but in practice the joint work of the PCAOB with foreign counterparts on joint inspections (or direct inspections by the PCAOB in some jurisdictions) arguably led to an initial convergence in practice – at least within the transatlantic corridor.

US Multilateralist 1: U.S. acted unilaterally in creating the new regime (Romano 2005) even though it coordinated closely with the EU to manage the conflict arising from the extraterritorial effects. The US did not endorse ISA but had delegated authority agreements with other countries that did accept ISA.

EU Integrationist 3: EU promoted cross-border consolidation of audit partnerships through its auditing legislation and did not introduce specific barriers. Adoption of IFRS has in itself reinforced incentives to integrate within international audit networks.

EU Multilateralist 2.5: IFIAR largely originated in the EU, with initial UK leadership and early participation of most EU member states, and the EU generally spearheaded the creation of a transnational auditing regime. In 2006, EU passes Audit Directive, which gives the European Commission the authority to endorse International Standards on Auditing.

End-2014: Beginning in 2009, the IAASB introduced an implementation monitoring process (http://www.ifac.org/auditing-assurance/clarity-center/isa-implementation-monitoring & http://www.ifac.org/about-ifac/membership/compliance-program/basis-isa-adoption).

US Integrationist 2: No major change from previous period. The US has finalized agreements with most (not all) key EU member states for cooperation on audit oversight and joint inspections, including the UK, Germany and France. Despite efforts to manage conflicts arising from the extraterritoriality of the 2002 US law, it remains an unsettled question whether joint inspections will continue beyond the initial MoU's. In terms of standards, the US still does not endorse ISAs but the two sets of standards are quite similar and converging, according to a July 2009 report commissioned by the European Commission (http://ec.europa.eu/internal_market/auditing/isa/index_en.htm).

US Multilateralist 1.5: The US has become more actively engaged in IFIAR (A PCAOB board member is currently the chair) and works closely with authorities from other jurisdictions, especially European ones and the EU, to limit the extraterritoriality of US law. The US still does not endorse ISA.

EU Integrationist 1: A more restrictive regulation was passed in 2014. The new measure imposes more direct regulation over the auditing industry and makes a globally integrated approach to auditing more difficult, in particular through the impact of mandatory audit rotation requirements and a strong black list of services that auditors cannot offer their clients. In 2013, the EU grants the US equivalence and the PCAOB adequacy status, even though the US has extended limited reciprocity (to eight EU members).

EU Multilateralist 2: The EU is moving towards adoption of ISA. The EU remains engaged in IFIAR, and EU officials work closely with US counterparts. In 2009 EU legislation gives funding to the Public Interest Oversight Board.

3. Bank Structure and Resolution Frameworks
The Integrationist score gauges how much regulation (and what kind) enables or prevents internationally integrated banking models. The multilateralist score is based on the degree of support of processes within the BCBS, FSF/FSB and other forums that generate transnational guidelines and norms and the extent of adherence to them. Bank structure is deeply intertwined with international norms concerning home v. host regulation and supervision. A series of BCBS documents published since 1975 reflect the development of the latter norms: http://www.bis.org/list/bcbs/tid_24/index.htm

Mid-2007

Multilateralist Norms: In a 2003, document, BCBS claims its underlying principles continue to follow the Basel Concordat: "In essence, home country supervisors are responsible for consolidated supervision and host country supervisors are responsible for supervision on an individual or sub-consolidated basis for entities operating in their country" (BCBS, "High-level Principles for the Cross-Border Implementation of the New Accord," August 2003.)

US Integrationist 3: There was a gradual breakdown of New Deal era regulation that had separated lending operations from capital market activities (Pierson and Hacker 2010). The trend brought the structure of US banks closer to models in the EU. The Federal Reserve Board oversaw a fairly permissive supervisory regime for U.S. affiliates of EU-domiciled banks (Norris 2013; Tarullo 2012, 2-3). Among other aspects such as leaving the choice of affiliate structures to the foreign bank, the U.S. regime allowed for consolidated supervision by home authorities when the latter's regulation was deemed sufficiently equivalent.

US Multilateralist 3: By accepting the prudential regulation of a bank's home supervisor (to the extent the latter was deem to have equivalent supervision) and the principle of national treatment, the Fed adhered to international norms established by the 1975 Basel Concordat and its subsequent revision (BCBS 1992) and updates (BCBS 2003). In 2004, the SEC created a new holding company to allow U.S. investment banks to comply with the EU's Financial Conglomerates Directive without having to accept supervision of an EU competent authority.

EU Integrationist 3: There was a wide range of bank structure models in the EU. Within the EU and between the EU and foreign countries, foreign banks primarily operated across borders in accordance with the principles of mutual recognition when home consolidated supervision is equivalent (for branches) and national treatment (for subsidiaries).

EU Multilateralist 3: Like the US, the EU broadly followed the BCBS guidelines.

End-2014: The international norms are going through a period of contestation. The US and UK, host to extensive operations of foreign banks, are moving away from mutual recognition and other elements of the pre-crisis regime. Their unilateral moves are a direct challenge to G20/BCBS/FSB efforts to rely on harmonized rules, peer review, supervisory colleges and other forms of cooperation to sustain global integration of banking. Corresponding EU policy reactions to the crisis are still unsettled. In response to the Liikanen Report of October 2012, the European Commission has proposed its own regulation. It is unclear the extent to which the transnational/multilateral norms are shifting in the direction of the US and UK.

US Integrationist 1: The Federal Reserve, implementing sections of the Dodd-Frank Act, adopted a ring-fencing model for US operations of foreign banks (Tarullo 2012, Fed proposal December 2012;)(Put in final rule); in addition, the SEC, also implementing sections of the Dodd-Frank Act, adopted the Volcker rule that, like the FRB's FBO rule, had provisions that were likely to further fragment finance along national lines (Lavelle 2013).

US Multilateralist 2: The direction of US policy toward the US operations of foreign banks and its unilateral nature have been criticized as not consistent with norms underpinning Basel III and G-SIFI regimes (FSB's 2011, *The Key Attributes of Effective Resolution Regimes for Financial Institutions*). The latter are based on the idea that rule harmonization, monitoring and cooperation (in supervisory colleges) are sufficient to meet stability concerns.

EU Integrationist 2: There is a possibility of intra-EU ring-fencing and of two or more EU banking regimes. In addition, the UK has pursued, unilaterally, a ring-fencing model, known as the Vickers rule, (adopted in the 2013 UK Financial Services [Banking Reform] Act) and it is possible the EU as whole will adopt a similar model, following the 2012 Liikanen Report (European Commission proposed a regulation in January 2014 reflecting the report's main recommendations). At the time of writing, however, the EU, despite the UK's new policies, continued to promote a mutual recognition regime in cases with equivalent consolidated supervision (Barnier 2013).

EU Multilateralist 2: The EU continues to espouse the norms embodied in the G20/FSB/BCBS regime. The UK's policies, however, are similar to those of the US and have been pursued unilaterally.

4. Capital Adequacy and Liquidity (Basel III Accord):
As in the case of banking structure, the integrationist score approximates how much regulation (and what kind) enables or prevents internationally integrated banking models. Rules increasing the amount of capital reserves and liquidity provisions that banks must put aside challenge such models. The multilateralist score assesses support for the Basel Committee and FSB transnational processes and adherence to its transnational guidelines and norms created by the Basel Committee and FSB.

Mid-2007:
US Integrationist 2: By imposing their own set of regulations on deposit-taking institutions, US authorities created limits to the adoption of integrated business practices by banking groups.

US Multilateralist 1: Implementation of Basel II in the US was a drawn-out, incomplete and contentious process (Lavelle 2012, Foot and Andrew 2010).

EU Internationalist 3: Few limitations imposed by EU legislation beyond Basel II.

EU Multilateralist 3: There was a smooth transposition of Basel II into EU legislation (Mügge 2011a; Quaglia 2013b).

End-2014:

US Integrationist 1: New capital and liquidity requirements (creation of intermediate holding companies for foreign banking organizations) run against a globally integrated banking model.

US Multilateralist 2.5 The US is "largely" but not fully compliant with Basel III, according to the BCBS (2014). The US is supporting the FSB regime for GSIBs/TLAC.

EU Integrationist 2: New capital and liquidity requirements run against a globally integrated banking models. Yet the EU appears to be adopting a more flexible regime than the U.S.

EU Multilateralist 1.5: The EU is "materially non-compliant" with the Basel III accords, according to the BCBS (2014).

5. Compensation

Mid-2007: In 1999 and 2006 BCBS includes guidance on compensation policies in its recommendations for "Enhancing Corporate Governance for Banking Organizations" (http://www.bis.org/bcbs/publications.htm?q=&mp=any&search=Search&pi=title&a=1&tid=136). This guidance drew from principles developed by the OECD . Until the crisis, compensation arrangements were not widely seen as a potential contributor to systemic risk. The vague language in these documents left jurisdictions and banks wide discretion over compensation policies making it easy to adhere to multilateral standards.

US Integrationist: 3
US Multilateralist: 3
EU Integrationist: 3
EU Multilateralist: 3

End-2014: International coordination and the development of soft law has taken place within the FSB, following the G20's adoption of a 2008 FSF report.

US Integrationist: 3
US Multilateralist: 3

EU Integrationist: 1.5. The EU agreed to a ceiling on bonuses in March 2013 as part of CRD IV (http://europa.eu/rapid/press-release_MEMO-13-272_en.htm?locale=en).

EU Multilaterist: 2.5. The new EU rules go beyond FSB guidelines by prescribing specific ceilings on bonuses.

6. CRA:
Integration assesses extent to which regulation enables or prevents global consistency of ratings. The multilateralism score gauges adherence to international soft law.

Mid-2007: In 2004, IOSCO recommended self-regulation in accordance with its "Code of Conduct Fundamentals for Credit Rating Agencies." The IOSCO codes reflected U.S. regulator's principles (Pagliari 2013, 184).

US: Integrationist 2: In addition to supporting self-regulation by industry, the US, in 2006, required registration of SRO's and imposed regulations and repercussions for non-compliance (CRA Reform Act 2006).

US: Multilateralist 3: The U.S. was largely compliant with the loose IOSCO recommendations to rely on industry-led regulation but the Credit Rating Agency Reform Act of 2006 went beyond the IOSCO guidelines, according to Pagliari's analysis (From NRSRO status to Statistical Rating Organization).

EU Integrationist 3: After 2005, the EU adopted the US model of supporting self-regulation by the industry.

EU Multilateralist 3: CESR advises supporting IOSCO Code of Conduct and self-regulation and the European Commission accepted that advice (Mügge 2011a).

End-2014: First, IOSCO revised its Code of Conduct in 2008. Then, G20 recommends in November 2008 that CRAs have to register, reflecting a new US rule. In 2010, the FSB introduced principles for reducing reliance on CRAs and in 2012 a "roadmap" to quicken and monitor implementation.

US Integrationist 1.5: In June 2009, the SEC enhances oversight. The Dodd-Frank Act of July 2010 creates an Office of Credit Ratings within SEC and imposes internal governance arrangements – but does not challenge previous acceptance of internal methodologies and content of credit ratings, thus limiting the regulatory tightening (Pagliari 2013, 204-7).

US Multilateralist 3: In June 2008, the SEC incorporates some principles from IOSCO's amended codes into its rulebook amidst a general coordination with IOSCO; The new US regime complies with G20 guidance, IOSCO reforms and the FSB roadmap.

EU Integrationist 1: The EU switches to direct regulation in a 2009 regulation (EU Regulation No 1060/2009). CRAs must register with appropriate EU authorities. Successive CRA regulations introduce more intrusive regulatory framework in May 2011 (Regulation - amending Regulation (EC) No 1060/2009) particularly on the governance of CRAs and some aspects of their ratings behavior (e.g. pre-established timetable for sovereign rating announcements), with the potential of leading to the fragmentation of ratings methodologies or practices (Quaglia 2013a).

Multilateralist 2.5: In 2009, the EU adopted rules similar to the US regime of 2006 and G20 also adopted similar recommendations. Then, in May 2011, the amended EU regulation took the EU beyond IOSCO recommendations. The new rules include disclosure requirements for sovereign country ratings and a rotation requirement for private issuers (Pagliari 2013, 222). The new measures allow private investors to sue for negligence (http://ec.europa.eu/internal_market/securities/agencies/index_en.htm).

7. Financial Transaction Tax

Mid-2007: Internationally coordinated financial transaction taxes had been proposed, discussed and ultimately rejected in multiple contexts, including as part of the discussions surrounding the Millennium Development Goals.

US Integrationist 3:
US Multilateralist 3:
EU Integrationist 3:
EU Multilateralist 3:

End-2014: Despite proposals, the G20 does not recommend internationally coordinated transaction taxes.

US Integrationist 3: Since 2009, Congressional bills for financial transaction taxes have been defeated.
US Multilateralist 3:

EU Integrationist 1: Introduction of FTT in a subset of EU countries is likely to reduce cross-border financial linkages and imposes burdens on third-party jurisdictions that transact with European counterparties. Discussions still ongoing at the time of writing. Strong signal already sent to international investors, and there is confusion over how a FTT would cohere with the Capital Markets Union initiative.
EU Multilateralist 1: FTT discussions advanced in spite of lack of international agreement and increasing criticism from non-participating jurisdictions both inside and outside of the EU.

8. Hedge Funds:

Mid-2007
In 2000, the Financial Stability Forum did not recommend direct regulation and instead supported an indirect approach (focusing on providers of credit to hedge funds) and industry–led governance (Fioretos 2010; Pagliari 2013). In 2007, FSF revisited the approach on Germany's urging to put in place direct regulation. UK and other EU finance ministers and US officials rebuffed the initiative. The compromise was to put heavy-handed pressure on industry to develop better codes and guidelines and other industry-led governance mechanisms. Before the crisis, there had not been much change since 2000.

US Integrationist 3: In 1999, the Presidential Working Group on Financial Markets supports enhancing industry regulation, especially focusing on regulated banks that provide credit to hedge funds.

US Multilateralist 3. The US was the first mover. The original FSF approach reflected the US regime.

EU Integrationist 1.5: The UK had an approach similar to that of the US. Other countries, however, had regulations in place. Hedge funds, for instance, were banned in Germany until 2004 (Quaglia 2011).

EU Multilateralist 2.5. Despite the rebuff of the 2007 German initiative by the UK and US, Germany compromised. The EU worked through FSF and supported the new regime, which required codes of conduct and self-regulation.

End-2014: In November 2008, IOSCO helps industry with website. In 2009, G20 statements start to reflect EU language that hedge funds must have direct regulation. IOSCO's June 2009 recommendations reflect US (and UK) rules.

US Integrationist 2.5: In 2010, Dodd Frank act brings hedge funds under public oversight by requiring registration. The law gave the FSOC discretion to impose prudential regulatory requirements if a hedge fund posed systemic risks. Thus, there was some regulatory tightening.

US Multilateralist 3: Given that the G20 guidelines were largely modeled on the US approach, it was generally in compliance.

EU Integrationist 2: The EU initially acted in 2009 with a proposed Alternative Investment Fund Managers Directive (AIFM) that was passed after many alterations in 2011(Directive 2011/61/EU). In the new regime, all financial participants that might contribute to systemic risk must be regulated by public authorities. The UK's position changed, making the new approach possible (Pagliari 2013) and bringing defeat to McCreevy's efforts to preserve industry self-regulation. The final text allows officials to set leverage limits only in extraordinary situations and does not include earlier provisions that penalized third-country hedge funds. It includes the third country passports. In short, there was a limited regulatory tightening, which was more than compensated by the removal of national barriers.

EU multilateralist 3: The EU's compromise, as stated above, brought it roughly in line with G20 guidelines and the US regime.

9. OTC Derivatives/CCPs

Mid-2007: In 1994, IOSCO and BCBS recommended that national authorities support the enhancement of self-regulatory organizations as mechanisms for governing markets and participants. The emphasis was on disclosure and self-regulation. There was no recommendation for direct regulation by national authorities, official efforts to coordinate national rules were relatively minimal, and standard-setting by industry associations (e.g. the International Swaps and Derivatives Association Master Agreement) was relatively robust (Pagliari 2012, 2013; Mügge 2011 and 2014; IOSCO 1994; BCBS 1999).

US Integrationist 3: The self-regulatory approach was solidified in the Commodity Futures Modernization Act of 2000, which completed the dismantling (beginning with the UK Financial Services Act of 1986) of legal provisions that had made purely speculative derivatives unenforceable (Stout 2011) and made financial derivatives exempt from CFTC and SEC oversight.

US Multilateralist 3: There is strong coherence between international soft law and the US approach, as its officials, overseeing the world's largest OTC derivatives markets, had forged and backed a largely self-regulatory approach in international soft law.

EU Integrationist 3: The EU, largely reflecting the UK (which had, beginning with the legal enforceability of purely speculative derivatives [UK Financial Services Act of 1986] and then the absence of direct regulation [UK Financial Services and Market Act 2000] adopted an approach similar to the US one) did not support direct government regulation of derivatives (Mügge 2014; Stout 2011).

EU Multilateralist 3: Supporting the IOSCO model, CESR outflanked those seeking to impose direct regulation Mügge 2011 and 2014.

End-2014: Beginning in September 2009, the G20 recommended comprehensive reform of derivatives market regulation. There is general agreement on clearing of standardized contracts through central counterparties, reporting of contracts to trade repositories, trading of standardized derivatives on exchanges or electronic trading platforms (where appropriate), and mandating higher capital and minimum margin requirements for non-centrally cleared contracts. The emerging regime covers the development of principles, best practices and other soft law in five areas (governing trade reporting, central clearing, capital requirements, minimum margins and exchanges and trading platforms) and involves BCBS, CGFS, CPSS, FSB and IOSCO.

US Integrationist 2.0: The Dodd Frank Act of 2010, Title VII, reverses the 2000 law that prohibited the oversight of OTC derivatives. Dealers, other participants, clearinghouses and trade depositories must register with authorities who have new responsibilities to regulate. Many classes of OTC derivatives moved to central clearing houses; remaining classes must be reported to repositories. There are also new margin requirements. In response to EU challenges, adjustments to extraterritorial elements (e.g., Dodd-Frank definition of "US persons") continue to be made as US and EU authorities have inched toward a mutual recognition/substituted compliance regime.

US Multilateralist 2.5: Regulatory tightening was introduced in compliance with G20 guidance, which largely reflected US and EU preferences (Mügge 2014, 60-66). Despite intensive efforts to coordinate implementation (Ibid.), transposing G20 guidance into EU and US laws resulted in a series of clashing rules with extraterritorial reach (Dodd-Frank definition of US persons, EU EMIR provisions on clearing house capital charges and margin rules, EU proposed regulation of indices). The EU and US have sought to resolve these conflicts via bilateral discussions that have vacillated between power-based strategic bargaining and brinkmanship, on the one hand, and good-faith efforts to reduce market fragmentation, make respective rules more compatible and strengthen the new international regime, on the other hand.

EU: Integrationist 2.0: The EU directive, EMIR, adopted in March 2012, (as well as measures in CRD and MAD and a 2014 revision of MIFID) resemble the relevant provision in the US Dodd Frank Act. Efforts to use EMIR to move derivatives markets to the euro-zone were rejected in an internal EU compromise over where clearing must occur. (N.B., Germany alone in the EU put in place prohibitions on naked trading of CDS on Eurozone sovereign debt. May 2010.) The US and the EU have gradually moved closer to a mutual recognition/substituted compliance regime.

EU: Multilateralist 2.5. In the end, the regulatory tightening that was introduced in the EU was compliant with G20 guidance, and the European Commission supported EU-US convergence (Quaglia 2013a). Despite extensive efforts to coordinate implementation (Mügge 2014, 60-66), transposing G20 guidance into EU and US laws resulted in a series of clashing rules with extraterritorial reach (Dodd-Frank definition of US persons, EU EMIR provisions on clearing house capital charges and margin rules, EU proposed regulation of indices). The EU and US have sought to resolve these conflicts via bilateral discussions ("Path Forward," US CFTC Release PR6640-13, July 11, 2013). These discussions have vacillated between power-based strategic bargaining and brinkmanship, on the one hand, and good-faith efforts to reduce market fragmentation, make respective rules more compatible and strengthen the new international regime, on the other hand. As of January 2015, the EU had not recognized the US regime for central counterparties as equivalent to EMIR.