

Principles of Banking Regulation

An accessible, comprehensive analysis of the main principles and rules of banking regulation in the post-crisis regulatory reform era, this textbook looks at banking regulation from an inter-disciplinary perspective across law, economics, finance, management and policy studies.

It provides detailed coverage of the most recent international, European and UK bank regulatory and policy developments, including Basel IV and Brexit, and considers the impact on bank governance, compliance, risk management and strategy.

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Principles of Banking Regulation

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Preface

Banks are important because they bring communities together by accepting deposits from savers and lending to borrowers to start businesses, buy houses, pay university fees or engage in a number of other socially useful activities. In doing so, banks provide credit and liquidity for their customers which supports the economy. To do this effectively, banks must manage financial risks, including credit, market, liquidity and operational risks, which if managed effectively, benefit society economically, but if mismanaged may result in costs for society. Banking regulation is therefore important to ensure that banks manage these risks efficiently and that they do not create social costs. This book is about the regulatory principles, standards and legal frameworks that govern the banking business and why it is important to society.

Banking regulation has undergone dramatic transformation in recent years following the financial crisis of 2007–2008. International regulatory reforms have resulted in major changes in the regulation and supervision of the banking and financial services industries. Banks are now required to hold more loss-absorbent capital and liquid assets and to have more stable sources of funding. Banks are also required to have living wills (resolution plans) to ensure that if they fail they do so without imposing significant costs on society. Regulators now scrutinise more closely bank business strategies, including the financial products they sell to customers, and they approve the appointments of senior management and board positions and control certain aspects of their compensation. They require stricter stress tests and oversight of risk management practices. They also are concerned with the integrity of banks as organisations and the conduct of their staff. Moreover, banks are required to cap their overall leverage, and certain ‘systemically important’ banks are required to hold more capital depending on their size and interconnectedness with other institutions. Banking regulation has become more comprehensive and the relationship between banks and regulators since the crisis has become more adversarial. This book analyses the main principles and rules that govern this relationship and whether they are achieving their objectives.

Despite extensive reforms, regulators face uncharted waters. Across major economies (i.e. United States, China and Germany) house prices are increasing again and banks and non-bank lenders (so-called shadow banks) are lending much more to meet growing demand. Bank regulators are monitoring whether an asset price bubble may be growing that cannot be explained by underlying economic fundamentals, and although they do not foresee any imminent threat to financial stability, it is clear that they want to avoid the mistakes that regulators and policymakers made in the 1990s and 2000s that led to the last crisis.

This book examines some of the uncertainties surrounding the scope of banking regulation and whether post-crisis reforms are achieving their objectives. The topic of banking regulation has been written about from a number of perspectives. This book adds to the literature by explaining the rationale and economic and legal theories of banking regulation in an accessible format for the general reader with an interest in public affairs and for the student and specialist. The book analyses all of the main post-crisis regulatory reforms including the 2017 amendments to Basel III, known as Basel IV, regulatory initiatives concerning environmental sustainability and climate change, risk culture, financial technology, and misconduct and mis-selling. The book also ties together the post-crisis regulatory reforms with the newly emerging theory of financial regulation known as ‘macroprudential’ regulation and supervision. Indeed, most regulatory authorities are now empowered with macroprudential tools to monitor and minimise the risks of instability across the financial system. An effective application of these tools, however, requires that in globalised financial markets national regulators cooperate and agree on certain ‘rules of the game’ with their counterparts in other countries regarding how and to what extent the ‘rules’ should be applied. This book aims to analyse the ‘rules of the game’, that is, the principles, standards, norms and laws that govern the banking business.

An overarching theme in the book is that banking regulation has evolved from a focus on individual institutions that assumed that they could manage their risks efficiently to a broader focus on the banking systems as a whole, that is, its organisational and institutional structure and how it manages and controls systemic risks across the financial system. Although banking regulation has undergone significant changes since the crisis, it is submitted that the banking system may still be exposed to systemic risks from a number of new sources including shadow banking and environmentally sustainable activity. Banking regulation in its current form should not ignore the development of fundamental market failures that could likely lead to the next financial crisis.

This book attempts to provide an analysis of the concepts and practices of banking regulation that have emerged post-crisis and to analyse critically the new regulatory terrain as of January 2018 and whether it is achieving its objectives. The book will be especially useful for academics, students, regulators and practitioners.

The book has benefited from the inspiration and influence of many individuals and organisations. I am particularly grateful to Sir William Blair QC, Philip Wood QC and CBE, Dr Paul Fisher, Lord Eatwell, Niamh Moloney FBA, Danny Ralph, Christos Gortsos, Guido Ferrarini, Gudula Deipenbrock, Mads Andenas, Nikoletta Kleftouri, Danny Busch, Richard Herring, Alexandra Balmer, Rosa Lastra, Francesco de Pascalis and Steven Schwarcz, all of whose insights and comments helped hone my ideas. I am also grateful to the University of Zurich, especially Barбора Castell, Bruce Pollock, Aleksandra Gebicka, Leonardo Gelli, Vivienne Madders, Sara Hampel, Fabrizio Wyss and Annina Melliger. Special thanks to Cambridge University Press, including Valerie Appleby, Toby Ginsburg, Rosie Crawley and Denise Bannerman for their invaluable contribution to publishing the book. All errors and omissions are my responsibility. Finally, I would like to thank my family for their support and devotion, Kern IV, Natalia and Ruth Alexander.

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