

**Testimony of
Professor Howell E. Jackson,
James S. Reid, Jr., Professor of Law
Harvard Law School**

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Chairman Lieberman and Ranking Member Collins, I am delighted to have this opportunity to speak before your committee this afternoon and to participate in what I hope will be the beginning of a long overdue process leading to the transformation and modernization of financial regulation in the United States.

Let me begin by commending the staff of the Government Accountability Office in presenting a thorough and lucid overview of the shortcomings of the country's current system of financial regulation.¹ As the GAO study explains, our extraordinarily decentralized and fragmented system of financial regulation is poorly suited to supervise the financial services industry of the 21st Century. Jurisdictional divisions and subdivisions based on traditional financial sectors and subsectors create regulatory gaps and piecemeal, inconsistent solutions to common problems.² The result is a redundant and wasteful system of supervisory oversight, particularly ill-equipped to police a financial services industry in which financial conglomerates dominate. With the rest of the developed world having moved towards more consolidated financial oversight in recent years, our costly and inefficient regulatory system is a drag on American competitiveness.³ Within academic and policy circles, the weaknesses documented in the GAO report are both well understood and

¹ Financial Regulation: A Framework for Crafting and Assessing Proposals to Modernize the Outdated U.S. Financial Regulatory System (January 2009) (GAO-09-216).

² For an overview of problems associated with maintaining a fragmented regulatory system, see Howell E. Jackson, *Regulation of a Multisector Financial Services Industry: An Exploratory Essay*, 77 WASH. U. L.Q. 319 (1999) (avail. at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=166651).

³ See Howell E. Jackson, *Variation in the Intensity of Financial Regulation: Preliminary Evidence and Potential Implications*, 24 YALE J.REGULATION 253 (2007) (avail. at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=839250).

widely accepted to be a major shortcoming of our regulatory system. The GAO Report does an admirable job in documenting the existence and significance of these weaknesses. In my testimony today, I wanted to share with the committee my views on less well appreciated implications of the deficiencies identified in the GAO report.⁴

1. Oversight of systemic risk has been incomplete and inconsistent, based on anachronistic jurisdictional divisions and leaving no single governmental body with a comprehensive and informed view of all areas in which the financial services industry poses material risks to market stability.

A striking lesson of the current financial crisis is that no single regulatory body has a comprehensive view of all the sources of systemic risk within our financial system.⁵ As lender of last resort, the Federal Reserve has traditionally been responsible for overseeing systemic risks, but its regulatory powers were largely defined more than half a century ago when the banking system was considered to be the primary source of systemic financial risks. In the mid Twentieth Century, jurisdiction over bank holding companies and state-chartered member banks may have provided the Board sufficient jurisdiction to police systemic risks. But the sources of systemic risk has long since expanded beyond the banking sector. Major investment banks, large insurance companies, hedge funds and other participants in the burgeoning OTC derivatives markets, government sponsored enterprises like Fannie Mae and Freddie Mac, all have proven to be major sources of systemic risk beyond the scope of the Board's current supervisory mandate or in-house expertise.

While the precise manner in the Federal Reserve Board could and should be transformed into an effective monitor of market stability is a subject of debate,⁶ the weaknesses of the current

⁴ My remarks draw from two recent papers comparing US financial regulation to the more consolidated systems of financial supervision found in other developed countries, see Howell E. Jackson, *Learning from Eddy: A Meditation Upon Organizational Reform of Financial Supervision in Europe*, Conference Volume (Michel Tison, ed.) (Cambridge University Press forthcoming 2009) (avail. at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1325510), and proposing how the United States might approach the task of consolidation, see Howell E. Jackson, *A Pragmatic Approach to the Phased Consolidation of Financial Regulation in the United States* (Nov. 12, 2008) (avail. at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1300431 (forthcoming *Harvard Journal of Legislation* 2009)).

⁵ In a report released last Spring, the Treasury Department identified the need for a broadly empowered market stability regulator. See United States Department of the Treasury, *Blueprint for a Modernized Financial Regulatory Structure* (Mar. 2008) (avail. online at <http://www.treas.gov/press/releases/reports/Blueprint.pdf>) [hereinafter Treasury Blueprint].

⁶ For a recent overview of several options for integrating market stability oversight with other aspects of financial regulation, see Committee on Capital Markets Regulation Releases Recommendations for Reorganization U.S. Regulatory Structure (Jan. 14, 2009) (avail. at <http://www.capmktreg.org/pdfs/CCMR%20-%20Recommendations%20for%20Reorganizing%20the%20US%20Regulatory%20Structure.pdf>).

regulatory system includes five major areas of market stability oversight where reform is needed. First, rather than having to depend on cramped jurisdictional provisions drafted decades ago, the Board should be given an open-ended mandate to monitor the entire financial services industry to identify and help rectify sources of systemic risk before the risks manifest themselves into real losses. Second, the scope of the Board's lender of last resort powers should be clarified and expanded so that the Board does not have to concern itself with operating at the boundaries of legal authority in times of crisis.⁷ Third, the legal requirements for defraying the costs of systemic intervention should be made consistent throughout the financial service industry with at least a portion of those costs being imposed on the financial services industry itself both to promote responsible conduct and to limit the burden imposed on taxpayers and future generations.⁸ Fourth, the Board needs to develop its expertise in financial areas, such as insurance companies and derivative markets, where it has traditionally lacked authority and deferred to the oversight of others. Fifth and finally, as the most effective and efficient responses to systemic risks consists of prudent regulatory interventions before problems arise, the Federal Reserve Board should be given clear authority to require other front-line regulators to take appropriate corrective actions when financial industry behavior threatens the stability of the broader economy.⁹

2. The manner in which Congress has designed the regulation of the financial services industry – devising legalistic divisions of authority and relying upon independent agencies to resolve inter-agency disputes – is ill-suited to a complex and dynamic financial services industry and contributed to the current financial crisis.

Another important weakness in our current regulatory structure is the manner in which Congress has chosen to allocate federal jurisdiction over the financial services industry. The oversight of home financing is a good example. The Department of Housing and Urban Development has authority over mortgage closing documents, but the Federal Reserve Board is charged with policing disclosure of mortgage interest rates and subprime loans.¹⁰ No less than five separate agencies have authority over the safety and soundness of the mortgage loans that federally insured depository institutions make, including the propriety of mortgage underwriting standards.

⁷ See Sue Kirchhoff and Barbara Hagenbaugh, *In Fed We Trust, But Can It Get Us Out of this Mess? Bernanke's Team Takes Unheard-of Actions*, USA TODAY, Mar. 18, 2008.

⁸ See Howell E. Jackson, *Building a Better Bailout*, CHRISTIAN SCIENCE MONITOR, Sept. 25, 2008.

⁹ In many areas, systemic risks are best addressed before problems arise through higher capital requirements, more stringent investment restrictions, or better control over complex payment and clearing systems.

¹⁰ The inability of the Department of Housing and Urban Development to respond effectively to mounting evidence of customer abuse in mortgage originations is documented in Howell E. Jackson & Laurie Burlingame, *Kickbacks or Compensation: The Case of Yield Spread Premiums*, 12 STAN. J. LAW, BUS. & FIN. 289 (2007).

The SEC has been responsible for overseeing the disclosure documents and accounting treatment of the securitization process through which most American mortgages are financed, as well as over the credit rating agencies that have opined on the credit-worthiness of securitization transactions. In addition, the states have limited authority to establish fiduciary standards for mortgage brokers. On top of all of this, Congress this past year added a new federal entity to keep track of the licensing of mortgage brokers at the state level.¹¹ With this degree of fragmentation, it is no surprise that no one in the federal government foresaw the mortgage crisis coming and no one is being held accountable for the severe economic consequences that have resulted.

But fragmentation of responsibility is just part of the problem. In areas where federal agencies are given authority, the jurisdiction is often narrowly constrained and lacks the flexibility to allow agencies to intervene where they do see problems. The hedge fund industry is a good example. Earlier this decade, the Securities and Exchange Commission recognized the need to more carefully monitor the operations of hedge funds and proposed amendments to its regulation under the Investment Advisers Act to exert jurisdiction. Notwithstanding the strong policy arguments in favor of this reform, industry lawyers persuaded a divided panel of the District of Columbia Circuit that the initiative was beyond the Commission's statutory mandate and so the hedge fund industry was left largely beyond the SEC's supervisory control.¹² The federal reports abound with other examples of private parties challenging regulatory rulemaking, delaying reforms even when the courts reject the underlying claims.¹³ Often, as was the case of the hedge fund litigation, the source of the problem was that the agency in question lacked broad a jurisdictional mandate and had to rely on narrowly defined jurisdictional authority devised decades ago for a much simpler financial system.

The problem of ill-defined jurisdictional boundaries is most acute where two or more agencies contest jurisdictional authority. The boundaries between banking, securities, and insurance are notoriously fuzzy, and industry participants are expert in playing one agency off against another, often choosing to operate under the oversight of the regulatory with the most lax regulatory requirements and sometimes exploiting jurisdictional uncertainty to operate in a twilight zone free from any effective oversight. Although the dangers of these jurisdictional gaps have been well understood for many years, Congress has failed to resolve the difficulties. The boundaries between SEC and CFTC oversight of the lines between securities and commodities is a notorious example of an instance in which Congress has failed to devise clear and sensible jurisdictional boundaries, with one consequence being that the credit default swap market was allowed to grow to gargantuan

¹¹ The Secure and Fair Enforcement of Mortgage Licensing Act of 2008 was incorporated into the Housing and Economic Recovery Act of 2008, which President Bush signed into law on July 30, 2008.

¹² See *Goldstein v. Securities and Exchange Commission*, 451 F.3d 873 (D.C. Cir. 2006).

¹³ See Jackson, *Regulation of a Multisector Financial Services Industry*, *supra* note 2.

size without any effective oversight.¹⁴ But one could just as easily point to divisions between securities and insurance or insurance and banking as posing similar problems. And even where Congress has acted, the response has often been provisional and equivocal. For example, for a number of the key jurisdictional questions addressed in the Gramm-Leach-Bliley Act of 1999, Congress declined to give clear authority to any single agency, but rather instructed the courts to resolve jurisdictional disputes without deference to the expertise of any supervisor.¹⁵ In other cases, when faced with hard questions, Congress left it to the relevant agencies to work things out amongst themselves, in one case prompting a contested rulemaking process that stretch out over a decade, required an additional act of Congress to keep things moving, and resulted in promulgation of a byzantine regulation, which few can understand and with which no one is fully satisfied.¹⁶

The underlying problem here is that many financial products are functionally similar and well-advised financial services firms are capable of exploiting the legalistic boundaries of jurisdictional authority that characterize our system of financial regulation. Without broad jurisdictional mandates, our financial regulators will remain at a serious disadvantage in setting policy for new financial products and risks. Our reliance on multiple financial supervisors only exacerbates the problem. Each agency, after all, has its own bureaucratic imperatives – and a phalanx of lobbyists eager to defend those imperatives¹⁷ – and can be expected to defend its turf against competing sources of authority. By allowing these agencies to operate under independent mandates and by failing to specify an unambiguous hierarchy of authority, Congress has perpetuated a supervisory system prone to paralysis and incapable of keeping pace with the modern financial services industry.

3. The Fragmentation of Financial Regulatory Structure Impairs the Quality and Flexibility of Supervisory Oversight in the United States

In addition to problems of jurisdictional gaps and a lack of comprehensive oversight, our

¹⁴ See U.S. General Accounting Office, CFTC and SEC: Issues Related to the Shad-Johnson Jurisdictional Accord (April 2000) (GAO/GGD-00-09). See also Christopher Cox, *Swapping Secrecy for Transparency*, N.Y. TIMES, Oct. 18, 2008 (discussing need for SEC oversight of credit default swaps).

¹⁵ See, e.g., Gramm-Leach-Bliley Act, Pub L No 106-102, 113 Stat 1409 (1999), codified at 15 USC § 6714(e) (2000) (providing that in a dispute between federal and state insurance regulators over the preemptive effect of a federal statute, the court shall decide the issue “without unequal deference”).

¹⁶ This case involved the authority of the Securities and Exchange Commission to exercise jurisdiction over bank securities activities. See Regulation R: Definitions of Terms and Exemptions Relating to the “Broker” Exceptions for Banks, 72 Fed. Reg. 56,514 (Oct. 3, 2007) (codified at 12 C.F.R. § 218 and 17 C.F.R. §§ 240, 247).

¹⁷ For a theoretical explanation of why lobbyists may sometimes oppose policy reforms that would actually advance their clients’ interests, see Matthew C. Stephenson & Howell E. Jackson, *Lobbyists as Imperfect Agents: Implications for Public Policy in a Pluralist System* (Draft of Jan. 16, 2009).

fragmented regulatory structure impairs the quality and flexibility of financial supervision in the United States.¹⁸ Agencies with narrow mandates have more difficulty attracting and retaining high quality personnel. With their limited jurisdictional scope, fragmented agencies offer less attractive career opportunities for their personnel with fewer possibilities for promotion and professional development. Moreover, since political appointees provide the top level of leadership within each fragmented agency, there are less opportunities for high ranking positions – and greater turnover with each new Administration – than exist in more consolidated supervisory systems.

Our extreme decentralization of regulatory jurisdiction also complicates allocation of supervisory resources. The Federal Reserve System, for example, employs many of the country's most talented economists and conducts a wide range of top flight research. But its research efforts tend to focus on matters within the Board's jurisdiction, like bank mergers and capital requirements. So other areas of financial regulation – notably securities markets that fall within the jurisdiction of the SEC, which hire many more lawyers than economists – have not been carefully studied and it is now clear that key aspects of the securities markets, such as the liquidity risks of repurchase agreements and counter-party risks from OTC derivatives, were not well understood.¹⁹ The current financial crisis offers further examples of structural impediments of our regulatory system. When in late summer of 2008 the Federal Housing Finance Agency was confronted with the impending failure of Fannie Mae and Freddie Mac, the agency had to resort to borrowing personnel from federal banking agencies to examine the GSE's financial postures, lacking sufficient expertise on its own staff.²⁰ Similarly, when Bear Stearns encountered difficulties earlier in the same year, the SEC had to call on the Federal Reserve Bank of New York in order to come up to speed with the investment bank's deteriorating condition, and eventually had to rely on the Federal Reserve Board's lending authority to forestall financial crisis.²¹ Even though the United States maintained the world's largest and best funded regulatory system – both in absolute and relative terms²² – we lacked adequate analytical depth in sector after sector as the current financial crisis unfolded. A related problem concerns differential access to resources. The funding arrangements for federal supervisory agencies differ markedly. Some, like the Federal Reserve Board and the PCAOB, have a high degree of autonomy in setting budgets and gaining resources. But other agencies are more dependent on the annual appropriation process, and often find their access to resources fluctuating

¹⁸ For a discussion of the advantages of consolidated supervision on these issues, see Jackson, *Learning from Eddy*, *supra* note 2.

¹⁹ See Testimony of Erik Sirri, Director, SEC Division of Trading and Markets, Concerning Oversight of Risk Management at Investment Banks Before the Subcommittee on Securities, Insurance and Investment of the Senate Committee on Banking, Housing and Urban Affairs (June 18, 2008).

²⁰ See Statement of James B. Lockhart (Sept. 7, 2008) (avail. at <http://www.ofheo.gov/newsroom.aspx?ID=456&q1=1&q2=4>).

²¹ See Stephan Labaton, *Testimony Offers Details of Bear Stearns Deal*, N.Y. TIMES, Apr. 4, 2008.

²² See Jackson, *Variation in Regulation Intensity*, *supra* note 3.

with their political fortunes, creating further inconsistencies in supervisory practices.

Not only does our siloed approach to financial regulation produce an uneven regulatory structure, it makes individual agencies more vulnerable to regulatory capture.²³ When the sole task of a regulatory agency is to oversee a single subsector of the financial services industry, the agency is much more likely to interpret its mission as ensuring the survival and growth of the subsector it oversees. So, for example, the Pension Benefit Guarantee Corporation, which has as its sole mission to guarantee private defined benefit pension plans, has a strong incentive to relax the funding rules for these pension plans, even if this relaxation exposes the government to increased risks and encourages private employers to slough off obligations on the federal government. Similarly, in an effort to attract more depository institutions to federal charters, the Comptroller of the Currency and the Office of Thrift Supervision engaged over the past decade in what many regarded as the cavalier preemption of state consumer protection laws in order to provide national banks and federal thrifts a competitive advantage over their competitors with state charters.²⁴ In my view, the narrow jurisdictional mandates of these regulatory agencies contributed to an excessive degree of preemption, weakening protections for consumers and facilitating an explosion of ill-advised mortgage originations and excessive growth in consumer credit.

4. Our fragmented regulatory system also undermines the ability of regulators to protect consumers from financial fraud and to promote effective and comprehensive approaches to improving financial literacy.

A separate weakness of our fragmented regulatory system is the absence of a central locus for consumer protection and financial education. While many agencies have offices charged with some aspect of consumer protection, the overall result is a diffuse effort and one that often takes a back seat to prudential oversight and other matters.²⁵ Even the otherwise estimable Federal Reserve Board performed poorly with its consumer protection responsibilities over the past decade as its Division of Consumer and Community Affairs failed to appreciate the mounting risks of subprime credit and shied away from imposing meaningful constraints on non-prime credit until the housing crisis was well underway.²⁶ As mentioned earlier, the consumer protection efforts of the Comptroller of the Currency and the Office of Thrift Supervision were wholly inadequate, as were

²³ See Jackson, *Learning from Eddy*, *supra* note 4.

²⁴ See Howell E. Jackson & Stacy A. Anderson, *Can States Tax National Banks to Educate Consumers About Predatory Lending Practices?*, 30 HARV.J.LAW & PUB.POL'Y 831 (2007) (avail. at http://www.law.harvard.edu/students/orgs/jlpp/Vol30_No3_Jacksononline.pdf).

²⁵ See Jackson, *A Pragmatic Approach to the Phased Consolidation of Financial Regulation*, *supra* note 4 (discussing importance of establishing clear mandate for consumer protection functions and not allowing them to become peripheral concerns for organizations focusing on other tasks).

²⁶ The Board ultimately adopted more stringent rules this past summer. See Final Rules Amending Home Mortgage Provisions of Regulation Z, 73 Fed. Reg. 44,523 (July 14, 2008).

those of the Department of Housing and Urban Development, which coddled mortgage brokers for years despite ample evidence that large segments of the mortgage broker industry were abusing the trust of their clients and promoting unsafe and unsustainable borrowing.²⁷

But even if our regulatory agencies had genuinely wanted to promote consumer protection in recent years, the fragmented structure of our regulatory apparatus would have made that task difficult and costly. Effective consumer protection requires consistent regulation and comparable oversight for functionally similar products. With our divided regulatory structure, that consistency and comparability would be difficult to achieve. Money market mutual funds, regulated by the SEC, are functionally similar to bank deposits.²⁸ Equity index annuities, regulated by state insurance agencies, are substitutes for many securities products sold through SEC-registered broker-dealers.²⁹ In our current regulatory system, no government body has the ability to ensure that these functionally similar products are regulated and marketed in the same way. And regulatory agencies have little ability or inclination to coordinate amongst themselves to increase comparability and consistency. As a result, consumers do not get comparable disclosures about similar products and cannot be assured consistent legal protections for similar products across the financial services industry.

A further drawback of our federal regulatory system is its inability to promote financial literacy in a sensible manner.³⁰ While all financial regulatory agencies acknowledge the importance of financial literacy and many undertake some amount of financial education, the resulting patchwork of initiatives is inherently inadequate and ineffectual. The foundations of financial literacy include a basic understanding of compound interest, the relationship between risk and return, appropriate and inappropriate uses of credit, how to make a realistic life-time savings plan, the importance of comparing prices and services, and an appreciation of the conflicts that may compromise the recommendation of financial advisers. A sensible program of consumer education starts with these basics, and not the details of credit card terms or the closing terms of a home mortgage. Around the world, consolidated financial supervisors are gaining experience with national programs of financial education and the development of financial literacy teaching modules

²⁷ See Jackson & Burlingame, *Kickbacks or Compensation*, *supra* note 10.

²⁸ The Treasury Department's emergency efforts to devise an ad hoc federal guarantee program for money market mutual funds, akin to longstanding FDIC insurance for banks, arises out of an inconsistency in federal guarantees for functionally similar products. See Treasury Announces Guarantee Program for Money Market Funds (Sept. 19, 2008) (avail. at <http://www.ustreas.gov/press/releases/archives/200809.html>).

²⁹ For a recent SEC proposal attempting to restate the division between securities and insurance, see Proposed Rule on Indexed Annuities and Certain Other Insurance Contracts, 73 Fed. Reg. 37,752 (July 1, 2008).

³⁰ For a collection of excellent writings on the importance of financial literacy, I recommend the work of Professor Annamaria Lusardi of Dartmouth College and the NBER. See <http://www.dartmouth.edu/~alusardi/>.

for use in primary and secondary schools.³¹ In the United States, no such efforts are in evidence because no single government entity has the responsibility for promoting financial literacy.

5. Our fragmented regulatory system oversees an increasingly globalized financial services industry but is ill-equipped to coordinate with regulatory authorities in other jurisdictions and with the many multilateral organizations that coordinate regulatory affairs around the world.

A final and often overlooked weakness of our regulatory system is the difficulty it creates for coordinating with regulatory officials and organizations outside the United States. The absence of any federal authority responsible for overseeing American insurance companies is one obvious example of this deficiency,³² but problems in international coordination exist for other sectors of the financial services industry as well. The divided authority over securities and futures in the United States – an allocation of supervision not found in any other major economy – is one example³³ but so too is the division of federal authority over depository institutions, a complexity that compromised the ability of the United States to participate effectively in the multi-lateral negotiations leading up to the Basel II capital reforms, as federal banking regulators routinely took conflicting positions with respect to negotiations, often squabbling in public setting and delaying and complicating the negotiation process. In major foreign capitals – where financial supervision in most countries has been consolidated into one or two overarching agencies – it is a commonly noted source of frustration that the United States cannot speak with one voice and that interactions with U.S. authorities are notoriously difficult and time-consuming to coordinate.

Aside from complicating international negotiations, the fragmentation of regulatory authority in the United States adds real costs and diminishes supervisory efficacy. All of the major supervisory units maintain their own international divisions, each of which must liaise with foreign counter-parts, negotiate memoranda of understandings to coordinate enforcement actions, and develop protocols for overseeing foreign firms and cross-border transactions.³⁴ All of the regulatory gaps and jurisdictional ambiguities that plague domestic oversight are replicated in the international

³¹ The British consolidated regulatory agency, the Financial Services Authority, has done particularly innovative work with comprehensive financial education initiatives. See, e.g., <http://www.moneymadeclear.fsa.gov.uk/>.

³² See Treasury Blueprint, *supra* note 5.

³³ For a discussion of how this divided authority has led to inconsistent treatments of foreign securities and futures exchanges, see Howell E. Jackson, Mark Gurevich, & Andreas M. Fleckner, *The Controversy Over the Placement of Remote Trading Screens from Foreign Exchanges in the United States*, 1 CAPITAL MARKETS LAW JOURNAL 54 (2006). (avail. at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=921435).

³⁴ See Howell E. Jackson, *Toward a New Regulatory Paradigm for the Trans-Atlantic Financial Market and Beyond: Legal and Economic Perspectives*, __ EUROPEAN BUS. ORG. L REV. __ (forthcoming 2009).

context, but the consequences can be even more severe. Especially where the U.S. imposes more stringent regulatory requirements, regulatory officials need to be in constant dialog with foreign authorities, otherwise transactions will simply move off-shore to escape US oversight. Moreover, the United States must speak with one consistent regulatory voice if it hopes to lead the world's economies in devising appropriately harmonized and efficiently integrated system of global financial oversight. Without effective and efficient international cooperation, US financial regulatory authorities are handicapped in preventing regulatory arbitrage across international boundaries and in maintaining the integrity of our financial markets.³⁵

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We are today in the midst of a severe financial crisis that tests the wisdom of our political leaders, the ingenuity of our businesses, and the patience and endurance of the American people. For the most part, our country's task is to regain economic ground lost and personal wealth dissipated over the past few years. But with respect to financial regulation, the current crisis offers a unique opportunity to correct the errors of the past and devise a new system of financial regulation that will sustain the American economy and safeguard the wealth of the nation in the years ahead. This is a rare and precious chance. I would urge the members of this Committee and your colleagues in Congress to seize the moment.

³⁵ One positive aspect of a dynamic global market is that other countries can now provide laboratories for regulatory innovation, as they have in the area of consolidated supervision. See Jackson, *Learning from Eddy*, *supra* note 4. Whereas the dual banking system and the division of federal regulatory authority once may have been useful in providing this dynamism within the United States, the global financial market is now a better source of regulatory competition.