

Transgovernmental Networks as Regulatory Intermediaries: Horizontal Collaboration and the Realities of Soft Power

Jacint Jordana

Contact Information:

Universitat Pompeu Fabra and Institut Barcelona d'Estudis Internacionals
Ramon Trias Fargas, 25-27
Barcelona 08005, Spain
Tel: +34 935423017
Email: jacint.jordana@upf.edu

Abstract:

This article explores and elucidates the activities of transnational networks as regulatory intermediaries. Specifically, I examine their role in the regulation of banks, as far as they facilitate exchanges between global regulators (GRs)—such as the Basel Committee on Banking Supervision or the Financial Stability Board—and local regulators (LRs) such as national regulatory agencies or legislatures. I find that transgovernmental network intermediaries produce benefits both for GRs, which employ them to disseminate their rules; and for LRs, which use them to obtain influence, advice, and information. Networks promote collaborative intermediation horizontally, without compromising sovereignty; and require only soft organizational structures with low operational costs. Network intermediation is a key ingredient in facilitating local regulatory activities, and in providing tools and cognitive resources to LRs. Network intermediaries blur the global-local boundary, however, as some of their members operate as LRs and simultaneously participate directly in GRs.

Keywords:

independent regulatory agencies; banking regulation; regional integration; global finance; transnational networks; regulatory intermediaries

Short bio:

Jacint Jordana is director of the Institut Barcelona d'Estudis Internacionals (IBEI) and professor of political science and public administration at the Universitat Pompeu Fabra (UPF). His recent publications include a coedited volume (*Accountability and Regulatory Governance*, Palgrave), as well as chapters in edited books and articles in journals, such as *Regulation and Governance*, *Comparative Political Studies*, and *European Journal of Political Research*, on the diffusion of regulatory institutions, regulatory agency independence, and public policymaking in policy networks.

NOTE

Many thanks to Kenneth Abbott, David Levi-Faur, and Duncan Snidal. I am very grateful to the editors for their patience and for their generosity in providing ideas, suggestions, and multiple insights for this article. A previous version was presented in the workshop “Politics of Regulatory Intermediaries” at the Leonard Davis Institute, the Hebrew University of Jerusalem, in May 2014; many thanks to all the participants as well for fruitful discussions. In addition, I acknowledge the supportive funding by the Spanish Ministry of Economy and Competitiveness (project CSO2012-39693. The Political Economy of Regulatory Agencies).

Transgovernmental networks (TGNs) are increasingly active in global and regional arenas, especially within specialized sectors with significant technical components, such as pharmaceuticals, finance, or human rights (Kahler 2010; Djelic and Quack 2010). TGNs are a particular category of transnational network, grouping public entities that are often counterparts with similar responsibilities in their respective countries. They allow long-standing nonhierarchical relations among members by promoting multiple forms of cooperation and policy exchange. In contrast to international organizations with hierarchical control over resources and policy instruments, TGN members do not delegate control over shared resources and instruments. Although this limits the capacities of TGNs, it reduces their operational costs and enables them to engage in collective action without compromising sovereignty (Risse 2004; Kahler and Lake 2009; Levi-Faur 2012).

Networks often underprovide public goods due to free-rider problems, as far as they members' contributions use to be voluntary. However, when they perform well, their nonhierarchical and collaborative solutions can address the significant challenges of global and regional governance. Networks play multiple roles in regulatory governance. They can act as rule intermediaries, rule-makers, and even rule-takers, due to their "chameleonic" nature (Havinga and Verbruggen, this volume). This study focuses on networks that specialize in rule intermediation, and proposes a conceptual development regarding this role. To this end, I employ the RIT model (Abbott, Levi-Faur, and Snidal, this volume) as a tool for understanding transgovernmental networks as regulatory intermediaries, and apply it to the case of regional networks of banking regulatory agencies. In a similar vein, Blauburger and Rittberger (2015) employed this perspective in studying European regulatory networks, but more hierarchically, considering the European Commission as orchestrator and national regulatory agencies (NRAs) as targets.

As in many situations based on arms-length relationships, global regulators (GRs) often find it difficult to approach local regulators (LRs) to directly transmit new rules, regulatory proposals, and advice. A number of actors, such as regional development banks, may intermediate between them. However, transgovernmental networks, especially those with broader LR involvement, have distinctive advantages as intermediaries. They can provide information and advice for LRs without casting a coercive shadow, and can give their members some level of influence over GRs. These exchanges constitute “collaborative intermediation,” which is very different from the classical examples of rule-intermediation as verification or certification, but strongly facilitates rule adoption at the local level.

Both global and local regulatory actors have substantial interests in utilizing TGNs as intermediaries. GRs perceive them as pathways to disseminate their (soft) rules and facilitate their implementation, while LRs see them as sources of information and learning about new regulatory developments—including advice on how to deal with their targets. There are no policy commitments or sovereignty issues involved, only opportunities to engage in structured exchanges and obtain implementation tools. Collaborative intermediation occurs where information circulates through network channels. Unlike marketplaces, where interest exchange predominates, networks are sites in which deliberation, value formation, and policy learning are also possible simultaneously.

Transgovernmental networks act as regulatory intermediaries when they create outputs that enhance their members’ capacities to implement rules in their domestic environments. TGNs create many outputs of this kind, such as exchanging expertise on technical issues or building trust to increase the sense of community within the network. Thus, intermediary networks specialize in rule implementation, not in monitoring or enforcement; they can also contribute to ex post rule-assessment, by becoming communities

of practice. TGNs are distinctive regulatory intermediaries insofar as they provide structured interactions in cases where market- or hierarchy-based intermediaries find it difficult to operate (Abbott, Levi-Faur, and Snidal, this volume).

In the case study introduced in this article, the final targets (T) are banks and other financial entities, which are required by LR to follow their established rules in the territories in which they operate. The main GRs in this field are the Basel Committee on Banking Supervision (BCBS) and the Financial Stability Board (FSB), both of which are based at the Bank of International Settlements (BIS) and controlled by the G-20 countries. However, they are not authoritative rule-makers and, as in other areas, rule proposals come out from complex interactions between multiple actors at the global level (Lytton, this volume), including empowered private intermediaries (Kruck, this volume). As world regions are often convenient spaces for facilitating regulatory implementation and adaptation, regional networks can benefit from countries' proximity and multiple similarities. Thus, this article focuses on the capabilities of regional networks of national regulatory agencies (NRAs) to intermediate between local and global governance in the area of finance. More specifically, I explore the governance conditions under which regional TGNs can be stable and perform successfully as regulatory intermediaries.

I compare three regional TGNs of banking regulatory agencies (including central banks with responsibilities in this area) that have experienced dissimilar developments as intermediaries. These are the Association of Supervisors of Banks of the Americas (ASBA), the Committee of European Banking Supervisors (CEBS), and the Meeting of Central Bank Executives in East Asia and Pacific Working Group on Banking Supervision (EMEAP WG/BS). There are many more networks of banking supervisors¹, but I have chosen these three both because they illustrate different types of network governance, and because they are

located in regions with highly varied integration processes. It should be noted that the CEBS network was absorbed by the European Banking Authority (EBA) in 2011. However, this case of network “agencification” provides additional insight into the stability of the network form.

The following section presents a theoretical analysis of the operation of TGNs. The third section describes the global governance of finance, emphasizing the role of TGNs as regulatory intermediaries. The fourth section presents the three case studies of regulatory banking networks, and the final section indicates my conclusions.

Theoretical Lenses for Analyzing TGNs as Intermediaries

Assuming that “any actor can act as a regulatory intermediary” (Abbott, Levi-Faur, and Snidal, this volume), I suggest that TGNs can play important intermediary roles. TGNs can provide all four of the broad capacities that Abbott, Levi-Faur, and Snidal (this volume) identify. They can apply their operational capacities to facilitate targets’ implementation, and can provide expertise through the network and beyond. At the same time, they remain independent from GRs, and have strong legitimacy from the point of view of LRs, which participate as network members.

However, networks show difficulties on two fronts. First, it is often difficult to sustain their activities over time. Network connections usually evolve based on mutual trust and repeated contact, but in many cases these connections remain in danger of declining or failing (Miles and Snow 1992; Saz-Carranza and Ospina 2011). Second, TGNs may find it difficult to overcome free-rider problems, because they are reliant on voluntary member contributions to sustain their activities.

TGNs are nonhierarchical, although strong national members may dominate them. In fact, what makes them singular is their capability to provide collaborative intermediation.

TGNs facilitate cooperation among government agencies from multiple countries, but do not constitute international organizations based on international treaties or similar instruments (Slaughter and Hale 2011; Raustiala 2002). They usually exhibit weak governance structures, which force them to decide by consensus or by large majorities, but also are flexible enough to support multiple forms of collaboration among members. Despite their governance weaknesses, TGNs may function as informal international organizations to the extent that they have decision-making capacity. There is evidence that they contribute heavily to policy convergence among their members and promote institutional similarities through the interactions they bring about (e.g., Fernández-i-Marín and Jordana 2015; D. Bach and Newman 2010).

Berg and Horrall (2008) identify several primary activities that TGNs carry out in the area of regulation. These are: (1) organizing events and meetings for members; (2) formulating and disseminating joint public pronouncements; (3) preparing comparable data for benchmarking and technical studies; (4) organizing capacity-building activities for professional staff; and (5) sharing best practices on the drafting and implementation of laws, procedures, and rules.

From an output perspective, TGNs function as regulatory intermediaries when they empower their members to better implement rules provided by rule-makers. From an instrumental perspective, collaborative intermediation may include activities such as establishing joint interpretations of standards and promoting information exchange and deliberation on regulatory constraints or, more broadly, providing expertise to members while increasing the sense of community within the network, which increases trust among members.

Public organizations often establish TGNs to provide mutual support and give them a stronger voice at the global level on issues of common concern. In these cases, leaders from strong countries tend to be the network promoters, hoping to increase their influence on both GRs and neighboring LRs. Also, as many GRs lack coercive powers, expanding network intermediaries could be interpreted—from the GRs’ point of view—as tools for increasing the reach and impact of the soft rules that they adopt. Similarly, international organizations enthusiastically support network-like structures in many realms, as instruments through which to increase the influence of their policies and strategies.²

However, TGNs are not very stable. Their survival is exposed to many hazards, from members’ loss of interest to the emergence of alternative organizations and strategies. Thus, I focus here on the question of what governance capabilities networks require to achieve stability and to act as regulatory intermediaries over time. I build on the ideal types of network governance described in Provan and Kenis (2008), which provide a useful classification based on levels of shared governance, on one hand, and the presence (or absence) of external involvement in governance, on the other.

Based on these criteria, Provan and Kenis derive three principal forms of TGN organization. In two forms there is no external (nonmember) involvement; in one of these governance is broadly distributed among participants, while in the other a single participant or a subset of participants leads network governance. In the third form, the network is governed externally.

- The first type, the “participant governance” form, involves the direct participation of members without any specialized governance structure. In business, this form of shared governance can be observed in multifirm collaborations to develop new products or gain foreign markets.

- The second type, “lead organization governance,” involves a particular member organization operating as leader, administering the network and supporting the other members in their efforts to pursue network goals. This form appears, for example, when an interest group leads an initiative to revise a regulation and promotes a network of supporters to gain strength.
- Finally, the “network administrative organization” form involves a separate entity designed specifically to govern the network or to act as its facilitator or broker. The network administrative organization may be a formal organization with operating rules and staff, such as an association of professionals or scientists that mobilizes a larger network; or it may be single individuals who are committed to network management.

For networks acting as regulatory intermediaries, each of these forms of organization and governance would articulate a different RIT framework, and would support different intermediary functions, as we see in the empirical cases below. For instance, a participant governance network requires a high level of consensus to select and accept new members; it might be unable to provide strong collaborative intermediation to network members beyond developing bottom-up common views in regular meetings. Because a participant governance network produces such weak intermediation, other organizations (e.g., regional organizations) often operate as parallel intermediaries. Alternatively, GRs and LR may interact directly, without intermediaries, or GRs may establish connections with local intermediaries and targets.

The lead organization form generally requires no more than the implicit understanding of network members, as the lead member bears most of the intermediary burden, and all others benefit from its leadership. More powerful members may thus use the network as a

platform to disseminate their regulatory views and support implementation of the regulatory frameworks they favor. Members may benefit from this support, while keeping their sovereignty unaltered. In a multilevel context, lead organizations may also be involved at the global level; leading TGNs helps them to strengthen their position in global rule-making. The intermediation produced by this network mode tends to be more top-down than the other types.

Finally, under the network administrative organization model, new members can be approved without the need for high levels of consensus. A basic organizational structure that is minimally separate from the members' control, such as a secretariat, could perform most of the tasks expected of a regulatory intermediary, providing them as services to network members without the need for a hierarchical liaison. However, network members would need to trust the secretariat to act as their agent, giving advice on regulatory frameworks and suggesting the best strategies for implementing them domestically. Here collaborative intermediation may be balanced between top-down and bottom-up flows of information and demands.

These three network governance arrangements are useful for understanding the diversity of collaborative intermediation that does not compromise sovereignty. In all cases, however, deepening network structures may increase value-added knowledge and expertise for rule implementation. In addition, networks can provide legitimacy for LRs, and can promote adaptability among rule-takers in rule implementation. To provide empirical support for these theoretical expectations, the following section introduces a case study of the global governance of finance.

Global Financial Regulation and National Regulatory Agencies

The regulation of global finance is particularly challenging due to the unwillingness of states to create formal international organizations in the area. The absence of formal global regulation makes the role of TGNs quite relevant. Many issues thus emerge relating to how different types of networks may sustain a worldwide system of governance in banking regulation.

In recent decades, multiple banking crises have highlighted the significance of the international dimension, both for understanding the origins of these crises and for seeking solutions (Allen and Gale 2007). However, neither supranational institutions nor international organizations are strongly involved in regulating global financial markets. The Basel Committee and FSB, both linked to the BIS, are still primarily networks of selected central banks and regulators, not supranational authorities (Major 2012). In fact, they can be characterized as informal intergovernmental organizations (IIGOs), having regular meetings, explicitly identified members, and clear expectations about their duties, but only a small supportive secretariat and no instruments to implement their suggested policies (Vabulas and Snidal 2013).

The lack of strong international institutions stands in sharp contrast to the intensely transnational character of financial firms and transactions today, and with the well-organized structure of international associations created by private financial institutions. In fact, the preeminence of private actors in international financial regulation has been widely acknowledged (Underhill and Zhang 2008; Tsingou 2009). As a general observation, experts recognize that banking regulation at the global level has been insufficient in recent decades, in the face of the intense expansion of global financial markets. There have been repeated

calls since the 1990s to establish a stronger institutional architecture (Rogoff 1999), but all attempts have so far been unsuccessful (Abdelal 2007; Angeloni 2008).

The FSB, created in 1999 as the Financial Stability Forum (FSF), was intended to promote interaction among national supervisory authorities, including central banks, banking agencies, and ministers, in addition to several consultative bodies operating at the international level. In 2009 the FSF was transformed into the FSB and enlarged to include all G-20 members. It also received a wider—though still limited—mandate from the G-20 to become a GR and to coordinate a reform of global finance (Donnelly 2012). However, the structure of the FSB remained within a network logic, and is of the participant governance type, that is, it is not governed by any external organization and is without strong organizational support (Helleiner 2014). The FSB is essentially based on consensus among the major players, and when there is resistance at the domestic level, reform proposals stagnate and decay, as happened with proposed rules on over-the-counter transactions in financial derivatives (Knaack 2015).

The BCBS is also a TGN that acts as a GR. Its participants are senior officials of central banks and regulatory agencies that are responsible for banking supervision. They formulate broad supervisory standards and guidelines, in the expectation that national regulatory authorities around the world will take steps to implement them. In 2009, its membership extended to twenty-seven countries, including all G-20 members, but it remains a closed cluster. In the area of prudential banking regulation, the FSB requested the Basel Committee to provide a new set of rules. These rules, labeled “Basel III,” have begun to be adopted by G-20 countries.³

Some formal international organizations are involved in issues of global finance but have no formal regulatory authority. These include the International Monetary and Financial

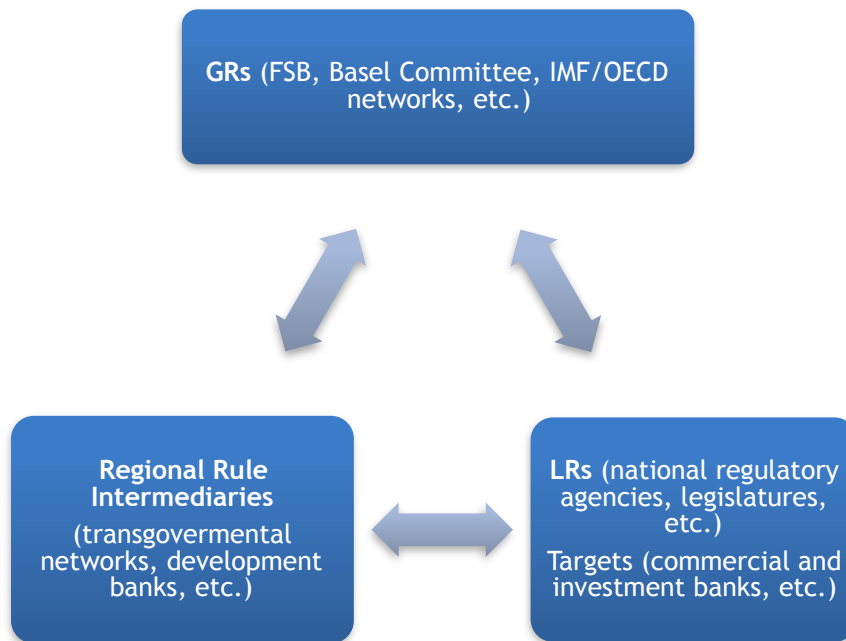
Committee of the International Monetary Fund (IMF) and the OECD's Committee on Financial Markets, both made up of central bank governors and ministers who meet several times a year.

Thus, in global banking regulation, IIGOs acting as GRs adopt soft rules, which are not reflected in international treaties ratified by states. Under these circumstances, networks operating as regulatory intermediaries are widely needed to advise and support LR in implementing soft rules, especially in countries that do not participate in global rule-making. As Figure 1 illustrates, moreover, these relationships represent a dynamic RIT model (Abbott, Fevi-Faur, and Snidal, this volume), where feedback flows from the local to the global level and vice versa. Some LR that are network members also participate in the FSB or the BCBS, and facilitate these feedback flows.

Several actors in addition to regional TGNs function as intermediaries. Agencies from leader countries can support particular LR directly. International financial institutions such as the World Bank and its regional equivalents can perform intermediary tasks as well. However, these actors have limited reach; LR may also perceive them as self-interested and resist the conditionality they impose. Therefore, TGNs operating as regulatory intermediaries appear to be a key ingredient for facilitating regulatory implementation in collaborative ways, without recourse to coercive instruments.

FIGURE 1

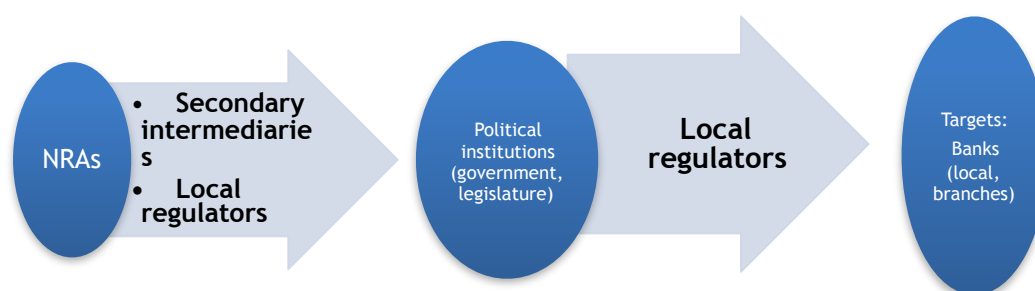
Global RIT Relationships in Banking Regulation



To better understand the logic of TGNs as regulatory intermediaries, it is important to also consider local RIT relationships (see Figure 2). Here, NRAs play different roles, according to the nature of the regulations to be implemented and the regulatory powers granted to them. NRAs as LRs are deeply entrenched in domestic administrative spaces, and simultaneously are members of regional TGNs. This facilitates the introduction of soft global rules, after the necessary adaptations, to local settings. However, NRAs also operate as secondary (local) intermediaries: once they receive support and advice from the regional TGN, they must often convince local legislators and government officials to enact hard rules, if the legal environment so requires.

FIGURE 2

Local RIT Relationships in Banking Regulation



The global spread of NRAs in recent decades means that these are now a tangible fact of life, which has transformed the nature of the administrative state in many countries (Jordana, Levi-Faur, and Fernández-i-Marín 2011). NRAs are important actors, often formally independent, and with sufficient technical resources to introduce and manage regulatory instruments. Acting as secondary intermediaries, they may also interact with other institutions, such as ministries or parliamentary chambers, which are also LR. There is wide variation across countries in the internal distribution of rule-making powers in banking among NRAs, the executive, and the legislature (Barth, Caprio, and Levine 2006). NRAs rely on their strong professional bureaucracies, which try to establish long-term organizational patterns with stable preferences, to become the most relevant LR in their areas of expertise (Jordana, Bianculli, and Fernández-i-Marín 2015).

Beyond their specific tasks, NRAs are important in reconfiguring state structures in the age of globalization (Slaughter 2004). In this sense, they can be understood as institutional solutions to problems related to the management of regulatory capitalism (Jordana and Levi-Faur 2005). Their strong professional patterns help to create regional or global regulatory regimes by spreading norms and practices through their professional and epistemic networks (Djelic and Sahlin-Andersson 2006). As a consequence, today's NRAs

are examples of nodal institutions, capable of articulating interactions between global and local actors, as well as between public and private ones. They thus contribute to better connecting regional and global regulatory regimes to their domestic contexts. For this reason, NRAs should be keen to create and sustain TGNs that can operate as intermediaries.

In the global governance of finance, the main functions of TGNs as regulatory intermediaries involve translating, processing, and/or adapting regulatory standards adopted by the Basel Committee in a collaborative way. Many NRAs require support and guidance to implement, adjust, and keep up-to-date with these regulatory frameworks, and so depend on network functions such as providing expertise, capacity building, and promoting trust.

Comparing Regional Networks of Financial Regulatory Authorities as Intermediaries

In the global governance of banking, with no strong international organization, regional networks of NRAs play significant roles as intermediaries. To undertake a comparative analysis of their intermediation activities, this section analyzes three different regional TGNs. The first is an example of a participant governance network, the EMEAP WG/BS; the second resembles a lead organization governance network, the European CEBS; while the third is closer to a network administrative organization, the Americas-wide ASBA.

EMEAP WG/BS: A participant governance network

The EMEAP WG/BS is a network of Asian central banks. It was established in 1991 and encompasses eleven countries, including most ASEAN+3 members plus Australia and New Zealand.⁴ In its early years, informal meetings of central bankers were held twice a year to exchange information and discuss economic and financial developments in the region. Frequent, regular contact helped to foster closer cooperation. In 1996, against the backdrop of the growing financial interdependence of markets in the region, EMEAP WG/BS was

transformed into a formal network, which included a yearly governors' meeting. Later, the network became a working group with a permanent status, and came to include representatives from the NRAs of some countries in which banking supervision is separated from the central bank.

The EMEAP WG/BS noticeably resembles a participant governance network. In terms of performance, however, it appears to produce few outputs. One can observe only occasional training activities and a few reports and publications, in addition to the annual meeting of central bank governors and some meetings of governors' deputies. In terms of pooled resources and efforts, the network has stagnated. It has not engaged in sufficient collaborative activities to become an effective banking regulatory intermediary in Southeast Asia, neither performing intensive coordinative activities among LRs nor creating linkages to GRs.

To some extent, the variety of NRAs for banking supervision in Asian countries may have prevented the establishment of a stronger system of collaboration (Goeltom and Harun 2010; C. S. Lee and Park 2009). But this is not a conclusive argument, as there is not much more variation than in other regions.⁵ An alternative explanation emphasizes the background of low levels of—or even aversion to—legalization among governance actors in South Asia (Kahler 2000). This suggests that the EMEAP WG/BS may never have a priority for its leading participants, perhaps because of its broad membership.

Calls for stronger regional collaboration and cooperation on financial regulation are frequent among financial analysts and experts (C. L. Lee and Takagi 2015). The Asian Development Bank and ASEAN Secretariat (2013) have made one specific proposal, and the Chiang Mai Initiative on support for countries' balance of payment problems (Sussangkarn 2011) represents another. The loss of momentum by the EMEAP WG/BS in the 2000s seems to have unfolded just as ASEAN was beginning to take a more active role in fostering the

homogenization and integration of financial regulation in Southeast Asia (Grimes 2015), in other words, becoming a competing rule intermediary.

The establishment of the ASEAN Economic Community in 2015 and the definition of a new regional integration strategy (ASEAN Secretariat 2015) provided a different path for coordinating banking regulation and facilitating the implementation of new regulatory developments (ADB 2013, Wihardja 2013). These moves were backed by ASEAN finance ministers and central bank governors, who met without nonmember participants for first time in 2015 (before that, their meetings had always included representatives from China, Japan, and Korea). In fact, this new initiative for financial integration is also based on a network model, but with its reliance on the coordination capacity of the ASEAN Secretariat and associated units, it appears to reflect a move to adopt a lead organization model of network governance, in an effort to increase effectiveness.

ASBA: A network administrative organization

ASBA is the most important transgovernmental structure on banking in the Americas. It gained a preeminent position in the regional governance of banking following the banking and debt crises that many countries in the region suffered in the 1980s and 1990s. ASBA evolved from simple participant governance to a network administrative organization mode of governance once a secretariat was created in the late 1990s.

In 1981, the first meeting of banking regulators in Latin America took place when the Commission of Latin American and Caribbean Banking Supervisory and Inspection Organizations (COSFBLAC, Comisión de Organismos de Supervisión y Fiscalización Bancaria de América Latina y el Caribe) met in Mexico.⁶ COSFBLAC met almost every year during the 1980s, and adopted a formal organizational design as early as 1982, during its second meeting. Its membership reached twenty-seven countries by 1984, and meetings were

open to experts and representatives from several international organizations. Representatives were also frequently invited from extraregional supervisory authorities, such as those in the United States or Spain. In addition to general meetings of agency heads or presidents, a number of technical committees started to operate on specific issues during the 1980s.

Organizational support from CEMLA remained in place until the late 1990s, when the network became self-sufficient and established its own permanent secretariat in Mexico, supported by the Mexican NRA. This allowed for its greater activity and the increased involvement of some banking agencies. At this time the organization was renamed ASBA, to signify the full inclusion of North American banking regulatory agencies. This also represented a transformation in the network model: from what had initially been a participant governance network, to a network administrative organization network with a separate administrative entity.

Following this change, ASBA intensified its collaborative intermediation. Its main task became disseminating the regulatory requirements of the Basel Committee throughout the region, helping to implement those requirements, and explaining their contents to NRA members. One major instrument was a large-scale training program with guest teaching staff from countries participating directly in GRs, such as from the United States, Canada, and Spain, and from within the region itself. Working groups (and subgroups) on regulatory issues formed a second instrument. These included one representative per NRA, who exchanged experiences and reviewed the implementation of Basel-based regulations in the region. The ASBA secretariat provides support for all high-level meetings of members, manages the training program, and implements specific support programs. Technical cooperation programs established by the Inter-American Development Bank have supported ASBA's efforts to provide countries with advice when needed. In this sense, the main

information produced and disseminated by ASBA relates to global standards, including assessments of their adequacy, practicality, and other details relating to country implementation.

Levels of implementation of the Basel I and Basel II regulatory requirements were very high in most countries in the Americas after the crises of the 1980s and 1990s, reaching about 80 percent in 2010 (De la Torre, Ize, and Schmukler 2012). ASBA was allowed to participate in some Basel Committee meetings, both so that it could obtain information directly, and so that it could provide BCBS with views from Latin America and the Caribbean. Such collaborative intermediation is a valuable club good for NRAs, particularly those from small countries. However, NRAs from larger countries have also benefitted from ASBA membership: on one hand, they have enjoyed increased influence in defining region-wide regulatory positions, and on the other, they have benefited from some level of regional regulatory harmonization, avoiding unregulated competition from their smaller neighbors. The mutually beneficial activities of ASBA as a rule intermediary facilitated its consolidation as a network administrative organization, despite the costs needed to sustain this form.

CEBS: A lead organization governance network

Our third case is an example of a lead organization governance network, one that has been facilitated by the European Union since its beginnings. The role of European regulatory networks has been extensively analyzed (Coen and Thatcher 2008; Eberlein and Newman 2008), including its bureaucratic dimension (T. Bach et al. 2016). The focus of these networks is facilitating a coherent implementation of EU regulations and policies; they contribute to nonbinding coordination among members by producing and circulating soft rules, such as recommendations, guidelines, and informal norm suggestions (Maggetti and Gilardi 2014). They thus act as regulatory intermediaries, circulating information and policy

views in two directions (from EU institutions to member states, and from member states to the EU). These regulatory networks represent a crucial setting in which NRAs can influence EU institutions, often more directly than through their own government representatives.

However, the literature on European networks also acknowledges a growing process of network “agencification,” in which newly created European agencies become a hub for NRA networks (Dehousse 1997). European networks developed bureaucratic capacities for coordinating national agencies, and so became progressively agencified (Levi-Faur 2011). In most cases the European Commission was the initial network broker, and it then served as the lead organization, funding and facilitating the activities of network members while centralizing and formalizing their collaboration. At a subsequent stage, these networks became European agencies, and received some greater regulatory authority (although most binding regulations must be endorsed by the European Commission to have legal force). Even as these networks transformed into autonomous agencies with their own capabilities as rule-makers, however, they aimed to maintain their role as intermediaries, promoting information flows in both directions.

Against this background, the establishment of a transgovernmental network of financial NRAs in Europe in November 2003 was not a deviant case. The EU, as a GR, established the CEBS as an independent advisory group on banking supervision, capable of acting as a regulatory intermediary. The network focused on coordinating national authorities to bring about convergence in the implementation of global rules and to facilitate peer review among LRs (CEBS 2005; Quaglia 2008). The CEBS was not a spontaneous initiative of a large group of NRAs, nor was it promoted by a few leader countries; instead, it was a top-down initiative from the European Commission following approval by the European Banking

Committee, an advisory body to the Commission made up of representatives from member state finance ministries.

Years later, following the pattern described above, the EU created a banking agency with a stronger organizational structure, the EBA, which started operations in 2011. The EBA inherited all tasks and responsibilities of the CEBS, but also obtained the authority to overrule national banking supervisors and to set technical standards, particularly in cases of competitive behavior between countries that might undermine common regulatory standards on banking. However, the EBA did not give up its role as a regulatory intermediary altogether. It remains active in promoting common approaches to implementing regulations, facilitating convergence in regulatory practices, and producing guidelines and recommendations in a collaborative fashion among NRAs. In this sense, the activities of the “colleges of supervisors,” as NRA networks promoted by the EBA,⁷ are clearly focused on keeping the intermediary role as alive as possible, with the EBA nurturing and sustaining the network model encapsulated within the agency.

Conclusion

The absence of well-established and inclusive formal institutions in the banking sector at the global level has made world regions more relevant as spaces for interaction among LRs. TGNs have thus emerged within regional areas as a way of intermediating soft rules between GRs and LRs through collaborative intermediation. This dynamic RIT structure offers a number of advantages for both sides. GRs see an opportunity to obtain more influence in global regulatory debates. In contrast, LRs, particularly those from countries excluded from GRs, see networks as intermediaries that enable them to build multiple collaborations, while sustaining less unequal relationships with GRs. Without compromising their sovereignty, LRs can obtain advice, technical support, and a certain voice in global regulatory settings. In this

way, TGNs have contributed to the introduction of global regulatory frameworks (e.g., Basel I, II, and III), although some have done so more stably and successfully than others. More research is necessary to measure in detail each network's contribution.

It is clear that regional networks have behaved very differently in pursuing their tasks, and have achieved very different results. The typology of governance network forms suggested by Provan and Kenis (2008) is useful in identifying a key source of variation:

- After a few years of operating as a network, the European CEBS became an EU agency with greater responsibility as a rule-maker, and its intermediary collaboration was thereby diminished. This is a case of a lead organization network adapting to the priorities of the governing entity.
- The EMEAP WG/BS, in contrast, has remained a participant governance network with a weak structure. It did not develop further intermediary collaborations or facilitate direct interactions between GRs and LR. The recent ASEAN initiative to coordinate banking regulation, although very limited, represents the emergence of a network based on lead organization governance, which aims to provide an alternative to the previous situation.
- Finally, ASBA has remained stable over several decades, performing the collaborative tasks expected of a network in an intermediary role, including aiding flows of information on rule assessment in both directions. It is not clear if the role of ASBA has been a determining factor, but there is a general consensus that Latin America has seen an improvement in financial regulation and banking policy in recent decades, despite multiple difficulties (De la Torre, Ize, and Schmukler 2012).

The case studies presented here have confirmed that transgovernmental networks may effectively perform collaborative intermediation, although in some cases their governance

structures and modes are not well suited to intermediary functions, becoming unstable and/or providing limited benefits to their members. Only the network administrative organization mode of governance, represented by ASBA, has been relatively stable over time, remaining capable of activating network collaborations among members that add significant value. The other two modes of network governance have been less successful. While CEBS showed significant network instability as a consequence of EU requests—making trust-based activities difficult—the reduced activities of the EMEAP WG/BS illustrates the resource limitations of the participant mode of governance for TGN as intermediaries.

More generally, it is worth asking under what circumstances TGNs can successfully play the role of collaborative intermediaries, and whether they compare well with other types of intermediaries within the RIT model. The analysis in this article suggests that successful collaborative TGN intermediation emerges where the particular configurations of global regulatory governance are feeble, fragmented, or lack inclusive structures, as in the banking case.

The analysis of banking regulation also shows that transnational and global rule-making are often about soft power, the instrumentation of interactions and shared regulatory spaces, reproducing the world's economic inequalities and countries' political rivalries. As a consequence, TGNs, as intermediaries specializing in rule implementation, materialize where LRs in most countries remain interested in global governance and are prepared to accept a secondary role in rule-making. As a consequence, TGNs emerge when other institutional options are not available at the regional or even the global level, e.g., where no global international organizations operate in a regulatory area.

There remain many questions regarding how TGNs operate as regulatory intermediaries. We know that, despite their potential instability, TGNs provide regulatory

advice, circulate best practices, and facilitate the implementation of regulatory frameworks defined at the global level. However, as a further step in developing the RIT model and explaining the role of networks as rule intermediaries, there is a need to scrutinize network relations with GRs, and also to compare the activities of agencies from leader countries that belong or do not belong to particular networks. This could help to identify the conditions under which top-down informal relations persist, or where horizontal self-sustained equilibrium emerges.

Likewise, network relations with other actors functioning as regulatory intermediaries are important. The most relevant members of this category are development banks and regional integration initiatives. They often coexist and support networks of LRs, but also can compete to gain intermediation exclusiveness, or eventually become regional regulators, as the European case exemplifies. These relations can be of great interest in identifying horizontal RIT structures.

The TGN “solution” for rule intermediation in global governance is probably not the most efficient one, nor the most stable or reliable one. All the same, TGN intermediation may work satisfactorily, either temporarily as a bridge to more stable intermediaries, or permanently, if network members manage to develop a sufficient mode of network governance. Articulating common and interconnected spaces in which to debate and facilitate intermediation around regulatory issues in global governance is not an easy task, and networks are a simple place to start.

References

- Abbott, Kenneth W., David Levi-Faur, and Duncan Snidal. 2017. Regulatory intermediaries in the age of governance. *Annals of the American Academy of Political and Social Science* (this volume).
- Abdelal, Ravi. 2007. *Capital rules. The construction of global finance*. Cambridge MA: Harvard University Press.
- Allen, F., and D. Gale. 2007. *Understanding financial crises*. Clarendon Lectures in Finance. Oxford: Oxford University Press.
- Angeloni, Ignazio. 2008. *Testing times for global financial governance*. Bruegel Essay and Lectures Series. Brussels: Bruegel.
- ASEAN Secretariat. 2015. *ASEAN integration report 2015*. Jakarta, Indonesia: ASEAN.
- Asian Development Bank (ADB). 2013. *The road to ASEAN financial integration: combined study on assessing the financial landscape and formulating milestones for monetary and financial integration in ASEAN*. Mandaluyong City, Philippines.
- Bach, David, and Abraham L. Newman. 2010. Trans-governmental networks and domestic policy convergence: Evidence from insider trading regulation. *International Organization* 64 (3): 505–28.
- Bach, Tobias, Fabrizio De Francesco, Martino Maggetti, and Eva Ruffing. 2016. Transnational bureaucratic politics: an institutional rivalry perspective on EU network governance. *Public Administration* 94 (1): 9–24.
- Barth, James R., Gerard Caprio, and Ross Levine. 2006. *Rethinking bank regulation. Till angels govern*. New York, NY: Cambridge University Press.

- Blauberger, Michael, and Berthold Rittberger. 2015. Conceptualizing and theorizing EUI regulatory networks. *Regulation and Governance* 9 (4): 367–76.
- Berg V. S., and J. Horrall. 2008. Networks of regulatory agencies as regional public goods. *Review of International Organizations* 3 (2): 179–200.
- CEBS. 2005. *Annual report 2004*. Brussels: CEBS. Available from <http://www.eba.europa.eu/cebs-archive>.
- CEMLA. 1993. *Cuarenta años del Centro de Estudios Monetarios Latinoamericanos 1952–1992*. Mexico City: CEMLA. Available from <http://www.cemla.org/old/pdf/cemla-080001.pdf>.
- Coen, David, and Mark Thatcher. 2008. Network governance and multi-level delegation: European networks of regulatory agencies. *Journal of Public Policy* 28 (1): 49–71.
- Dehouse, Renaud. 1997. Regulation by networks in the European community: The role of European agencies. *Journal of European Public Policy* 4 (2): 242–61.
- De la Torre, Augusto, Alain Ize, and Sergio L. Schmukler. 2012. *Financial development in Latin America and the Caribbean: The road ahead*. Washington, DC: World Bank.
- Djelic, M.-L., and S. Quack, eds. 2010. *Transnational communities: Shaping global economic governance*. Cambridge: Cambridge University Press.
- Djelic, M.-L., and K. Sahlin-Andersson, eds. 2006. *Transnational governance: Institutional dynamics of regulation*. Cambridge: Cambridge University Press.
- Donnelly, Shawn. 2012. Institutional Change at the Top: From the Financial Stability Forum to the Financial Stability Board. In *Crisis and Control. Institutional Change in Financial Market Regulation*, ed. Renate Mayntz, 263–277. Chicago: Chicago University Press.
- Eberlein, Burkart, and Abraham L. Newman. 2008. Escaping the international governance dilemma? Incorporated trans-governmental networks in the European Union.

Governance 21 (1): 25–52.

Fernández-i-Marín, Xavier, and Jacint Jordana. 2015. The emergence of regulatory regionalism: Transnational networks and the diffusion of regulatory agencies within regions. *Contemporary Politics* 21 (4): 417–34.

Goeltom, M. S., and C. A. Harun. 2010. Banking supervision and regulations in East Asia and the prospect of regional cooperative framework. In *Conference of the EU and East Asian regionalism in the reform of the international monetary system* 4:1–16.

Grimes, William W. 2015. East Asian financial regionalism. Why economic developments undermine political sustainability. *Contemporary Politics* 21(2): 145-160

Havinga, Tetty, and Paul Verbruggen. 2017. Understanding complex governance relationships in food safety regulation: The RIT model as theoretical lens. *The ANNALS of the American Academy of Political and Social Science* (this volume).

Helleiner, Eric. 2014. *The status quo crisis: Global financial governance after the 2008 meltdown*. Oxford: Oxford University Press.

Jordana, Jacint, Andrea Bianculli, and Xavier Fernández-i-Marín. 2015. When accountability meets regulation. In *Accountability and regulatory governance*, eds. A. Bianculli, J. Jordana, and X. Fernández-i-Marín, 1-22, Basingstoke, UK: Palgrave.

Jordana, Jacint, and David Levi-Faur. 2005. The diffusion of regulatory capitalism in Latin America: Sectorial and national channels in the making of new order. *The ANNALS of the American Academy for Political and Social Sciences* 598:102–24.

Jacint Jordana and David Levi-Faur (2014), "Regional Integration and Transnational Regulatory Regimes. The Polycentric Architecture of Governance in Latin American Telecommunications",. In *Leveling the Playing Field: Transnational Regulatory Integration*

and Development, ed. Laszlo Bruszt and Gerald A. McDermott, 271-294, Oxford: Oxford University Press.

Jordana, Jacint, David Levi-Faur, and Xavier Fernández-i-Marín. 2011. The global diffusion of regulatory agencies: Channels of transfer and stages of diffusion. *Comparative Political Studies* 44 (10): 1343–1369.

Kahler, Miles. 2000. Legalization as strategy: The Asia Pacific case. *International Organization* 54 (3): 549–71.

Kahler, M., ed. 2010. *Networked politics. Agency, power, and governance*. Ithaca, NY: Cornell University Press.

Kahler, Miles, and David A. Lake. 2009. Economic integration and global governance: Why so little supranationalism? In *The politics of global regulation*, ed. Walter Mattli and Ngaire Woods, 242-276 Princeton, NJ: Princeton University Press.

Knaack, Peter. 2015. Innovation and deadlock in global financial governance: transatlantic coordination failure in OTC derivatives regulation. *Review of International Political Economy* 22 (6): 1217–1248.

Kruck, Andreas. 2017. Asymmetry in empowering and dis-empowering private intermediaries: The case of credit rating agencies. *The ANNALS of the American Academy of Political and Social Science* (this volume).

Lee, Chee Sung, and Cyn-Young Park. 2009. Beyond the crisis: Financial regulatory reform in emerging Asia. Asian Development Bank Working Paper Series on Regional Economic Integration, Mandaluyong, Philippines.

- Lee, Choong Lyol, and Shinji Takagi. 2015. Assessing the financial landscape for the Association of Southeast Asian Nations Economic Community. *Asia & the Pacific Policy Studies* 2 (1): 116–29.
- Levi-Faur, David. 2011. Regulatory networks and regulatory agencification: Towards a single European regulatory space. *Journal of European Public Policy* 18 (6): 810–29.
- Levi-Faur, David. 2012. From “big government” to “big governance”? In *The Oxford handbook of governance*, ed. D. Levi-Faur, 1-20 Oxford: Oxford University Press.
- Lytton Timothy D. 2017. The taming of the stew: Regulatory intermediaries in food safety governance. *The ANNALS of the American Academy of Political and Social Science* (this volume).
- Maggetti, Martino, and Fabrizio Gilardi. 2014. Network governance and the domestic adoption of soft rules. *Journal of European Public Policy* 21 (9): 1293–1310.
- Major, Aaron. 2012. Neoliberalism and the new international financial architecture. *Review of International Political Economy* 19 (4). 536-561
- Miles, Raymond, and Charles Snow. 1992. Causes of failure in network organizations. *California Management Review* 34 (4): 53–72.
- Provan, Keith, and Patrick Kenis. 2008. Modes of network governance: Structure, management and effectiveness. *Journal of Public Administration Research and Theory* 18:229–52.
- Quaglia, Lucia. 2008. Explaining the reform of banking supervision in Europe: An integrative approach. *Governance* 21 (3): 439–63.
- Raustiala, Kal. 2002. The architecture of international cooperation: Trans-governmental networks and the future of international law. *Virginia Journal of International Law* 43:1–92.

- Risse, Thomas. 2004. Global governance and communication action. *Government and Opposition* 39 (2): 288–313.
- Rogoff, Kenneth. 1999. International institutions for reducing global financial instability. *Journal of Economic Perspectives* 13 (4): 21–42.
- Saz-Carranza, Ángel, and Sonia M. Ospina. 2011. The behavioral dimension of governing interorganizational goal-directed networks—managing the unity-diversity tension. *Journal of Public Administration Research and Theory* 21 (2): 327–65.
- Slaughter, Anne-Marie. 2004. *A new world order*. Princeton, NJ: Princeton University Press.
- Slaughter, Anne-Marie, and Thomas N. Hale. 2011. Trans-governmental networks. In *The SAGE handbook of governance*, ed. Mark Bevir, 342–51. London: SAGE Publications.
- Stoica, O., and Scântee, R. 2012. Financial supervision and banking competition in European Union. *Acta Universitatis Danubius. Œconomica* 8 (6): 56-67
- Sussangkarn, Chalongphob. 2011. Chiang Mai initiative multilateralization: Origin, development, and outlook. *Asian Economic Policy Review* 6 (2): 203–20.
- Tsingou, Eleni. 2009. Regulatory reactions to the global credit crisis: Analysing a policy community under stress. In *Global finance in crisis. The politics of international regulatory change*, eds. E. Helleiner, S. Pagliari, and H. Zimmermann, 21-36 London: Routledge.
- Underhill, Geoffrey, and Xiaoke Zhang. 2008. Setting the rules: Private power, political underpinnings, and legitimacy in global monetary and financial governance. *International Affairs* 84 (3): 535–54.

Vabulas, Felicity, and Duncan Snidal. 2013. Organization without delegation: Informal intergovernmental organizations (IIGOs) and the spectrum of intergovernmental arrangements. *Review of International Organizations* 8:193–220.

Von Bülow, Marisa 2010. *Building transnational networks: Civil society and the politics of trade in the Americas*. Cambridge: Cambridge University Press.

Wihardja, María Mónica. 2013. Financial integration challenges in ASEAN beyond 2015. ERIA Discussion Paper Series 27, Jakarta, Indonesia.

Notes

¹ For a list of fourteen international networks of supervisors, including short descriptions, see <https://www.bscee.org/groups/groups.html>.

² See for example Jordana and Levi-Faur (2014) for an analysis of telecom networks in Latin America, and von Bülow (2010) on the role of transnational networks in trade politics in the Americas.

³ Following the 2008 crisis, Basel III developed and built on a previous set of recommendations on banking law and regulations issued by the Basel Committee in 2004, known as Basel II. A much earlier agreement, called Basel I (1988) focused on minimal capital requirements and was adopted as a recommendation by network members. All three Basel recommendations have been adopted, to different degrees, by more than 100 countries throughout the world.

⁴ ASEAN is a regional international organization in Southeast Asia with ten member states. The three additional members are China, Japan, and South Korea.

⁵ In seven of the eleven ASEAN+3 countries, central banks are in charge of banking supervision. In Europe, this is the case in ten out of twenty-six countries (Stoica and Scântee 2012). Only in Latin America is the share of central banks involved in regulation lower (five out of eighteen).

⁶ The meeting was convened by the Center for Latin American Monetary Studies (CEMLA, *Centro de Estudios Monetarios Latinoamericanos*), a network of economists from Latin American central banks created as early as 1952 to provide training and technical advice. When central bank governors from Latin American and the Caribbean started to meet in 1964, CEMLA became its permanent secretariat (CEMLA 1993).

⁷ These are working groups of NRA representatives that operate under the umbrella of the EBA, an initiative created by the CEBS; they discuss and provide opinions and recommendations on many different banking regulation-related topics. See <https://www.eba.europa.eu/regulation-and-policy/colleges-of-supervisors>.