

For Better or Worse: The Politicization of Canadian Finance
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For Better or Worse: The Politicization of Canadian Finance¹

Financial services sector policymaking is often deemed to be made by political and economic elites as well as sector experts. The field is considered complex, not lending itself well to popular scrutiny. The internationalization of the policy sector appears to have accentuated this tendency as some very important policy decisions are now taken at the supra-national level, beyond the realm of democratic oversight.

In Canada, there appears to be scholarly agreement that the financial services sector is increasingly politicized (Harris 2004). There have been substantial changes in Canadian financial services sector policymaking over the course of the last forty years. Until the 1960s, Canadian financial services sector policy, as was the case globally, was largely domestic. The industries used to be separated according to pillars: banking, securities, insurance, and trusts. The separation occurred as a result of the constitutional division of powers in which chartered banks are regulated by the federal government, insurance is a joint jurisdiction, and securities and trusts are of provincial authority. At the federal level, thus, financial services sector policy was by in large banking policy. The internationalization and desegmentation of finance changed the policymaking landscape. Most importantly, the composition of the policy network has generally expanded bringing in new actors, including consumer groups, with diverse interests, putting a new range of pressures on decision-makers. The 1998 bank merger debate demonstrates the extent to which Canadians do not trust their banks. It also serves as an example of the fact that debates about financial services sector policymaking in Canada are quite public and contested.

How is it that the Canadian financial services sector policymaking is politicized? What does politicization mean and what does it entail? Has politicization lead to better or worse policies? In this paper, I answer these questions by comparing the policy process in the banking sector focussing on the adoption of Bill C8, the latest revision of Canada's Bank Act, and in the securities industry by analyzing the debates about the possible creation of a national securities commission. If politicization is taken to simply mean turning the apolitical into the political, than the politicization of the Canadian financial services sector entails an increasingly contested policy area. I argue that in both case studies politicization has led to compromised policy solutions. The policies in fact appear to represent 'the best solution under the circumstances'. Whether that is good enough, and the selected policy is optimal, is obviously up for debate. In banking, the inclusive policy process is applauded, but the end-policy is highly contentious. In the securities industry, the inter-jurisdictional disputes are well-publicized. A substantial reform of the regulatory apparatus, for those that believe that such reform is necessary, is difficult because of the decentralized decision-making process. However, the regulatory structure has, here as well, evolved through compromise leading to important changes in the regulation and operation of the Canadian securities markets.

The argument of this paper is divided in four parts. First I define politicization and its potential impact on policymaking in the financial world. Second, the paper provides an analysis of the process for banking policy in Canada. Third, a similar analysis

¹ The paper is the result of 21 interviews conducted with governmental and private officials involved in financial services sector policymaking in Canada in 2002-2003 during the course of my doctoral dissertation research. I would like to thank these individuals for their participation.

is conducted for securities policymaking. In the conclusion, the findings are generalized beyond Canada.

The Politicization of Finance

Although the concept of politicization is often referred to in political science, it is rarely ever described. A search through the literature reveals disparate use of the term with almost no effort to conceptualize the expression. It is often argued that actors are becoming more politicized. For instance, the term is often applied in public administration to speak of the politicization of the bureaucracy. As Dion (1986) notes, such politicization can either be seen as a form of patronage from the government in power, or it can be perceived as an approach to increase policy implementation effectiveness. Discussion has also been extensive on how to further politically engage different segments of the population. Politicization is also used to refer to a situation that was deemed apolitical, or largely technical, and that is now increasingly political. In the early 1970s, Lowi (1972) used the term to describe conflicts within American political science. Joan Spero (1989-1990) has argued that international finance is getting increasingly political - there are more possibilities for inter-state conflicts. Marquette (2004) argues that the World Bank's approach to corruption is more and more politicised - that is the organization is seen as increasingly participating in the affairs of states rather than simply providing neutral social and economic advice. In all of the examples above, politicization refers to the move from the apolitical, more or less politically neutral, towards actions of a political nature.

Kari Palonen is one of the rare authors that seek to offer a thorough description of politicization:

Politicization names a share of power, opens a specified horizon of chances in terms of this share, while politicking means performative operations in the struggle for power with the already existing shares and their redistribution. Polity refers to those power shares that have already been politicized but have also created a kind of vested interest that tacitly excludes other kinds of shares, while policy means a regulation and coordination of performative operations by specific ends and means (2003: 175).

Such a conceptualization poses some challenges, most obviously how shares of powers are created and distributed in the first place. Nonetheless, the conceptualization is valuable. The polity can be taken to refer to the metaphorical space for policymaking in the financial services sector; politicization can be said to speak to the distribution of power shares in the policy network; politicking can be argued to refer to the games played in the network; and, policy can be taken to refer to the legislative, regulatory and practices by which the financial industries are governed. For the purpose of this paper, politicization refers not only to power shares, but also to how conflict emerges in the exercise of those shares. In turn, it is expected that this conflict will affect policy options and the ensuing decision.

The question remains as to how a policy field becomes more politicized. Actors or situations are never entirely 'apoliticized'. In fact, the lack of politicization is actually a form of politicization. There are no public policy situations in which power shares are somehow not distributed and in which power is in no way exercised. As such, an increase

in politicization must be the result of a substantially different policy process. First, the policy network must undergo change, usually an expansion in the number of involved actors. A policy network is: "... a set of informal and formal interactions between a variety of usually collective public (state) and private actors, who have different, but interdependent interests" (Coleman 2002). The variable is easily measured by identifying the actors present in the network at different point in time. Second, there must be a redistribution of power shares among network participants, and the potential for a relatively inclusive and open, though admittedly contentious, policy debate must exist, whereas such debates were restrained prior to. Measuring power shares reflect a subjective judgment of how actors relate to one another in the policy network. Although the distribution of power does not have to be a zero-sum game, power is still relational. Third, the decision-making process is said to be more conflict-prone. In a politicized policymaking environment, the decision-making process and results are very much contested. Scharpf (1997) has identified four possible process of decision-making: unilateral action, hierarchical direction, negotiated settlement, and consensual decision-making. Using this continuum, the decision-making process has to move away from unilateral action and hierarchical direction, to negotiated settlement or consensual decision-making. Because the categories are so broad, it is however important to note that subtle changes within one of the categories could also represent a change in the politicization level. The politicization level can be said to increase only when taking into account all of the above variables.

Through this conceptualization and operationalization, politicization is both a dependent and an independent variable. The policy fields under study are said to be increasingly political, yet at the same time politicization influences the quality of the policy to be adopted. It is beyond the scope of this study to determine whether or not the 'right' policy was adopted in each of our case study. A policy evaluation would be needed to determine policy impact. A researcher could also determine the supposed optimal policy, a value judgment, and the extent to which the adopted policy resembles that optimal hypothetical policy. For instance, serious analysis can and has taken place on the issue of whether or not Canadian banks should be allowed to merge. The result of such analyses are based on how the research was conducted, the values that one believes ought to underline banking policy, and the preferences of the researcher - the same can be said as to whether or not Canada should establish a national securities regulator. When policies reflect compromise, they are not automatically sub-optimal. They may, in fact, represent the best of all possible options, though the policy is almost certain to displease a number of actors who feel that it does not go far enough in any one direction. It could, in fact, be argued that in such a situation the process becomes as important as the policy, providing a democratic forum where all stakeholders are able to express their views and potentially influence the policy decision. The policies in the Canadian banking and securities industries are often considered sub-optimal, but that is a value judgment based on what some of the involved actors perceive is in their best interest and that, according to them, of their industry and the country at large.

Banking Policy

In 1996, the federal government began assessment and reform of the legislative and regulatory environment for the Canadian banking sector. The sector had undergone

tremendous change over the course of the previous ten years and it was felt that it was time to evaluate the progress that had been made, the health of the sector in a globalizing marketplace, and the future prospects of the different finance industries. The Minister of Finance, Paul Martin, established the Taskforce on the Future of the Canadian Financial Services Sector to be eventually chaired by Harold McKay. The Commission consulted extensively in order to meet its broad mandate and its final report was made available in September 1998. The work of the Commission was in part sidetracked by the announcement in January 1998 of the potential mergers between the Royal Bank and the Bank of Montréal, with announcements thereafter of the potential merger between the CIBC and the Toronto Dominion Bank. The Minister rejected the mergers saying that they would not be considered until the legislative process was completed. The government produced a White Paper in 1999 and Bill C8, an *Act to establish the Financial Consumer Agency of Canada and to amend certain Acts in relation to financial institution*, was finally adopted in 2001. The legislation is wide-ranging touching a broad variety of topics across the financial services sector. For now, it suffices to note that the new law (scheduled to be reviewed prior to April 2007, with a new White Paper to be issued shortly) made changes in two key areas, increasing domestic and international competitiveness of the banking and insurance industries, and consumer protection. The legislation contained no measure for bank mergers, a topic that was only addressed in the annexed press release. Eight years after the merger issue came to the forefront of the political agenda the federal government has still not given the go-ahead to banks to undertake that particular market strategy.

The Policy Network: Composition, Interaction and Decision-Making²

There has been an increase in the number of actors in the financial services sector policy network at the federal level since the 1980s. Prior to this period, the policy network had remained rather stable (Coleman 1990). The network was composed of the Department of Finance, the Bank of Canada, and the Inspector General of Banks (the precursor to the Office of the Superintendent of Financial Institutions – OSFI). Because financial services sector policy was mostly banking policy, the only private actors involved in the process were the large banks and the Canadian Bankers Association (CBA). Although part of the agenda during this period was in reaction to pressures from the market to dismantle the four pillars segmentation and failures in the industry, especially as trusts faced great financial hurdles with a number of them going bankrupt, the policy process was largely driven by the federal government, as evidenced by the many governmental reports issued at the time. The 1992 legislative modifications that would let banks enter into the insurance industry through the operation of subsidiaries were almost ten years in the making, putting into practice many of the ideas found in a government report two years earlier, the *Reform of Financial Institutions Legislation: Overview of Legislative Proposals* (Canada 1990). In Scharpf's terminology, the decision-making process was that of hierarchical decision-making (Roberge 2004).

The policy network was transformed in the early 1990s with the dismantling of the four pillars policy. Because of the industry segmentation, federal policy had mostly

² Much of the data for this section can be found in parliamentary debates of the House of Commons and Senate after the report of the McKay Taskforce and in the discussion that preceded the adoption of Bill C8.

focussed on banking. Mark Yakabuski of the Insurance Bureau of Canada stated prior to the adoption of Bill C8:

We have had a financial sector that has been dominated by the banking sector. We have had financial policy dominated by the banking sector. For fifty years we had normally ten years reviews of the Bank Act. We waited for almost fifty years before the Insurance Act was even reformed, because financial policy in this country was largely dominated by the agenda of the banking industry (Canada 2000).

However, the policy network extended with desegmentation. Banks became increasingly involved in the securities and insurance sectors. On the other hand, actors that had previously been active at the provincial level now had increased interest federally. Coleman (2002b) notes that there has been an important process of centralization of policymaking in the Canadian financial services sector. OSFI has the responsibility to ensure that banks and all other federally regulated financial firms are solvent, which includes surveillance of all of their activities, even in non-traditional banking services.

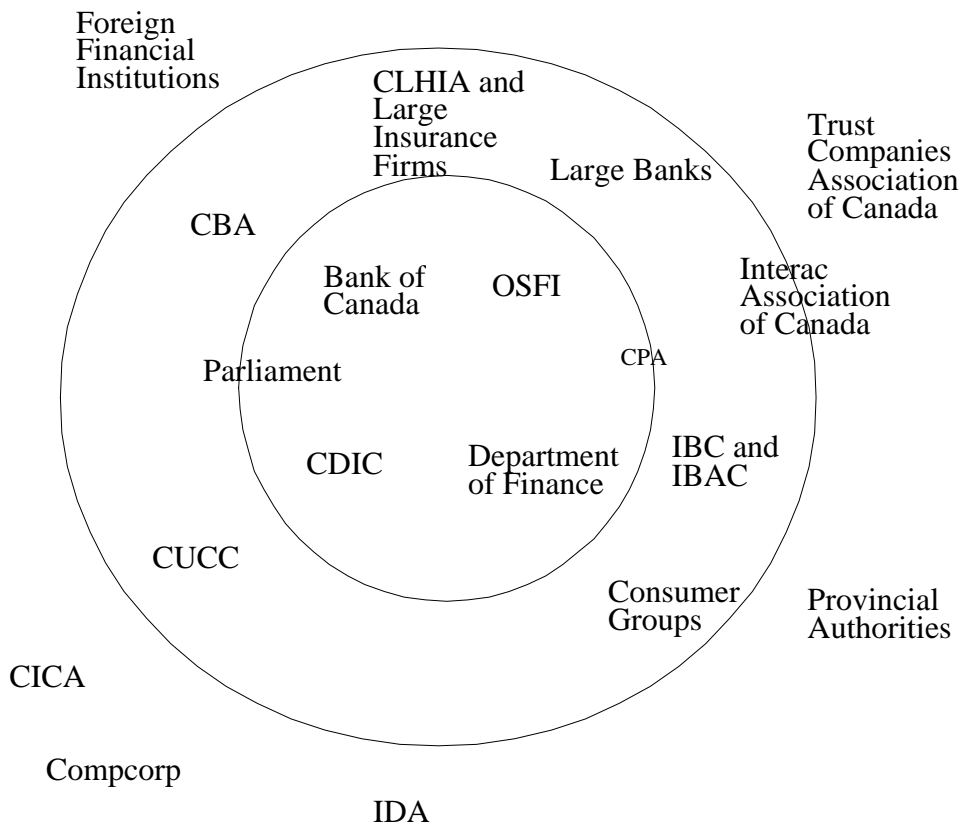
At the time of Bill C8, the insurance industry gained in importance within the network. Most importantly, the desire of banks to sell insurance products in branches drew strong rebukes from the Insurance Bureau of Canada and the Insurance Brokers Association of Canada. Insurance brokers who felt particularly threatened by such a possibility led a spirited campaign to ensure that banks not obtained this right. Recent newspaper reports suggest that this discussion has now been reopened in anticipation of the upcoming legislative review. It also needs to be pointed out that at the time of Bill C8 there was a process of demutualization in the life and health insurance sector. Legislation governing that industry thus had to be reviewed.

One of the noticeable network changes to have taken place for Bill C8 was the inclusion of consumer groups as legitimate network actors. Groups like *Options Consommateurs* in Québec conducted thorough research on Canadian banking and they disseminated their information widely. The *Canadian Community Reinvestment Coalition* participated actively in the bank mergers' discussion of 1998 and its spokesperson makes the point that the association helped partly refocused the debate away from international competitiveness to that of quality of services (Interview with the CCRC 2003). The important advocacy role played by these groups is evidenced in the focus that Bill C8 placed on consumer protection. The legislation contained a series of measures to protect consumers such as branch closure requirements, disclosure requirements, low-fee bank account requirements, and the prohibition of tied-selling. Banks themselves recognized the new role of consumer groups in the network. During the long road to Bill C8, banks negotiated with these groups for the elaboration of clear language contracts.

In other words, the bank lost their role as the government's primary intermediary. Other actors entered the network challenging many of the banks' claims and taking advantage of the mistrust that many Canadians felt towards their banks. A power shift thus can be said to have taken place during this period as banks' lost some of their access while other groups gained in credence. A graph of the policy network for Bill C8 can be found on the following page. The closer an actor is to the center of the graph, the more influence the actor is deemed to possess.

The decision-making mode for Bill C8 is still that of hierarchical direction. That is, there is no reason to believe that policy decisions reflect any kind of majority voting and of the government losing ground. But the policy making process is not bureaucratically-driven any longer. The federal government did not come into this process with a clear agenda. Rather the agenda and the issues to be addressed were dictated through discussion during the course of the five year exercise. I have made the claim elsewhere (Roberge 2005) that the federal government played an arbiter's role in the process. For instance, in private the banks speak of Bill C8 as representing a 'consumer round of reform'. As just stated, the bill clearly has a number of important consumer measures. It would however be a characterization to suggest that consumer groups obtained all that they wanted in the process. Consumer groups wanted a strong independent ombudsman that would cover the whole of the finance industries. They

Federal Canadian Financial Services Sector for Bill C8: Policy Network 1997-2001



(Adapted from Roberge 2004)

perceived the Ombudsman for Banking Services as the puppet of banks. The legislation does not create such an office. Rather, following the adoption of the legislation, an agreement between the government and the private sector created the Ombudnetwork (a loose affiliation between the Ombudsman for Banking Services and Investments, the Canadian Life and Health Insurance OmbudService and the General Insurance

OmbudService). Consumer groups also wanted an independent consumer protection agency, a true watchdog to hold to account financial intermediaries. In that sense, both consumer groups and financial services sector firms were displeased with the creation of the *Financial Consumer Agency of Canada* which most actors understood to be just another layer of bureaucratic and regulatory control. It should also be clear that banks made some important gains in this legislation, despite the fact that they lost on some key points such as that of in-branch selling of insurance and vehicle-leasing. For instance, a bank can now restructure itself in a holding company model, something that was strongly advocated by the CBA. The legislation also offers new investment opportunities for banks. Compromised measures can also be found in other parts of the legislation, such as those pertaining to the insurance industry and the Canadian Payments Association.

Although the policy is contested, the process that led to it was not. Every member of the network supported openly the policy process undertaken by the federal government. The work of the McKay Commission was praised, and the wide-ranging nature of the consultation of the Committee was appreciated. The creation of the Wise Persons Committee (WPC) in the securities industry two years after the adoption of Bill C8 was in part the result of the good work that had been done by the Taskforce on the Future of the Canadian Financial Services Sector in 1997-1998. Parliamentary committees travelled across the country when appraising the report of the McKay commission. In interviews, many members of the network expressed the clear wish that a similar process be followed the next time around. Although a long policy process as the one that took place for Bill C8 may appear burdensome, it allowed for an open and frank policy discussion.

Conclusion

Based on the analysis provided, policymaking for the banking industry has clearly been politicized. The number of actors involved in the policy network has increased substantially. The power shares within the network has changed, moving away from banks towards other sectors of the financial world and consumer groups, and the decision-making process has also evolved as the federal government appears to play more of an arbiter's role. The end-result is a compromised policy with features to please most actors, and others that can be deemed hurtful to particular interests. With a new government now in power in Ottawa, and a mandated review of the legislation to take place soon, time will tell whether the obtained equilibrium will remain or whether there will be a significant power shift in the network.

Policymaking in the Securities Industry

The Taskforce on the Future of the Canadian Financial Services Sector (1998) made it clear from the start that it would not delve into issues of provincial jurisdiction. The process of reform leading to Bill C8 therefore did not include much reference or participation by the securities industry. However, following on the recommendation of Harold McKay in a letter to the Minister in 2002, the Department of Finance established the WPC. The mandate of the Commission was to consult and report on the state of the securities industry in Canada. The Commission presented its final report in 2003. Entitled

Its Time the report sought to provide the necessary impetus for the creation of a national securities commission. Despite the positive response received in Ottawa and Ontario, the report was not sufficient to convince the reluctant provinces, Québec, Alberta and British Columbia to agree to a single national regulator. During this period, the Ontario government and the Ontario Securities Commission (OSC), in conjunction with the Toronto Stock Exchange (TSX), pushed hard for the creation of a national regulator. A Committee reviewing the legislative mandate of the OSC argued that the lack of such a regulator was the biggest challenge facing the securities industry in Canada (Five Year Review Committee 2002). More recently, the Crawford panel (2005) established by the Ontario government proposed a new model for the creation of a national securities regulator, one that recognizes the primary jurisdictional role of the provinces in regulating the securities industry.

At the same time that there were substantial efforts to bring about the creation of a single national regulator, a multitude of other initiatives came to fruition in the sector. Most importantly, all of the provinces except Ontario agreed to the adoption of the passport system in the summer of 2004 and have moved towards the implementation of such a system ever since. The passport model, adapted from a similar arrangement existing in the European Union, makes it so that once recognized by one of the provincial regulator an issuing firm has the right to operate cross-country. As well, the Canadian Securities Administrators (CSA), an organization that groups the provincial securities regulators, has moved to the harmonization of practices across the country, and has worked towards the adoption of a uniform securities legislation. At the federal level, Bill C-13 adopted in 2004 created a new criminal code offence for insider trading, a law that aimed in parts to reassure investors following the crisis in confidence that followed the Enron collapse. Canada is still the only major industrialized state in the world without a single national securities regulator. Nonetheless, the industry practices and regulatory structure has evolved in important ways over recent years.

It is important to note that the discussion in the upcoming section does not provide the arguments for and against the creation of a national securities regulator, something that can easily be found throughout the financial press and academic literature. There is also no attempt to assess the quality of the regulatory regime in place, something that is often challenged. Rather, I analyze the network that has emerged around the issue of a singly regulator and the open, public, debate that it has sustained.

*The Policy Network: Composition, Interaction and Decision-Making*³

The composition of the policy network in the securities industry has always been relatively broad and open. The field has also always been fairly politicized. In his doctoral dissertation, Harris (1995) traces the many debates surrounding the role of international firms in the Canadian securities markets. Most importantly, he explains the process by which under pressure from the provinces, the federal government reluctantly agreed that banks enter into the securities industry in 1987. Harris argues that throughout the 1970s, the OSC is captured by the Investment Dealers Association (IDA) impeding changes to the ownership regime of securities firms. The capture is said to end with the arrival of the Liberal government in 1985. Two years later, the Ontario government

³ The elaboration of the policy network for the securities industry was conducted in large part by analysis of the submissions made to the WPC.

announced plans to let banks operating in the province own a third of a securities firm. In Québec, a legal loophole allowed the Bank of Nova Scotia to fully-own a subsidiary in the securities industry. Under these circumstances, the federal government is provided with little choice but to let banks own subsidiaries in the securities field. Clearly, the impetus for the policy reform did not lay with the federal government. The thrust came from Ontario and Québec as they competed with one another, especially through their respective stock exchange, to create favourable conditions for the expansion of their securities markets. Policymaking took place under the precept of competitive federalism. The process was largely dominated by public actors, but at the provincial level where constitutional authority rests in the securities industry.

The Porter Commission (1964) recommended the creation of a national securities commission. More than forty years later, such a body still does not exist. While there are market rationale for a decentralized regulatory structure (Suret and Carpentier 2003), clearly it is politics that is preventing the creation of a national commission. The policy network in regards to this debate remains large.⁴ The heart of the network is composed of the four key provincial governments in this policy field and their securities regulators: Ontario, Québec, Alberta and British Columbia.

The federal government has sought to influence the debate, and has made it clear that it still favours the creation of a single pan-Canadian regulator.⁵ In fact, constitutional experts advised the WPC (2003) that if the federal government wanted to move on its own and establish a national securities commission, it could do so with or without the support of the provinces. The realities of federal-provincial politics in Canada, however, make it highly unlikely that the federal government would act alone in this field. It should also be remembered that because a number of securities firms are in the hands of the large banks, the federal government and OSFI do play an oversight role for many of the firms in the sector.

A number of private actors play a key role in the network. Self-regulatory organizations participate in regulating the Canadian markets. These organizations include the IDA, who is both a professional organization and the regulator for investment dealers. The Mutual Funds Dealers Association (MFDA) plays a similar role for that industry. Lastly, Regulation Services Inc. (RS) is a joint venture between the TSX and the IDA to regulate market activity on Canadian stock exchanges.

The exchanges themselves play a key role in the network. In 1999, The TSX became the premier exchange for securities trading, while the Montréal Exchange (ME) became Canada's exchange for derivatives trading, and the Canadian Venture Exchange

⁴ The WPC received eighty-eight submissions. Thirty came from financial services sector firms, twenty seven came from lawyer and private businesses mostly composed of firms from the mining and energy sectors, seventeen came from individuals (often people who felt that individual investors did not receive enough protection in the Canadian system), five came from regulators including one from one of the country's self-regulatory organization, four came from large investor groups, two from consumer groups and one submission came from a research centre. It also needs to be noted that sixty-two of the submissions supported the creation of a single national securities regulator, seven submissions were clearly opposed to such a regulatory structure and the rest of the submissions did not directly address that issue.

⁵ Recent newspaper reports suggest that the federal government may try to negotiate the creation of a national securities regulator in the larger discussion about the fiscal imbalance. 'Fixing' the fiscal imbalance would thus involve more than a transfer of financial resources including as well a realignment of responsibilities.

created out of the Calgary and Vancouver exchanges, raises venture capital. The delineation of the market has not eliminated the competition between exchanges. It is expected that once the agreement just described comes to an end in 2009, the TSX will enter into the derivatives market and compete with the ME (Yakabuski 2005).

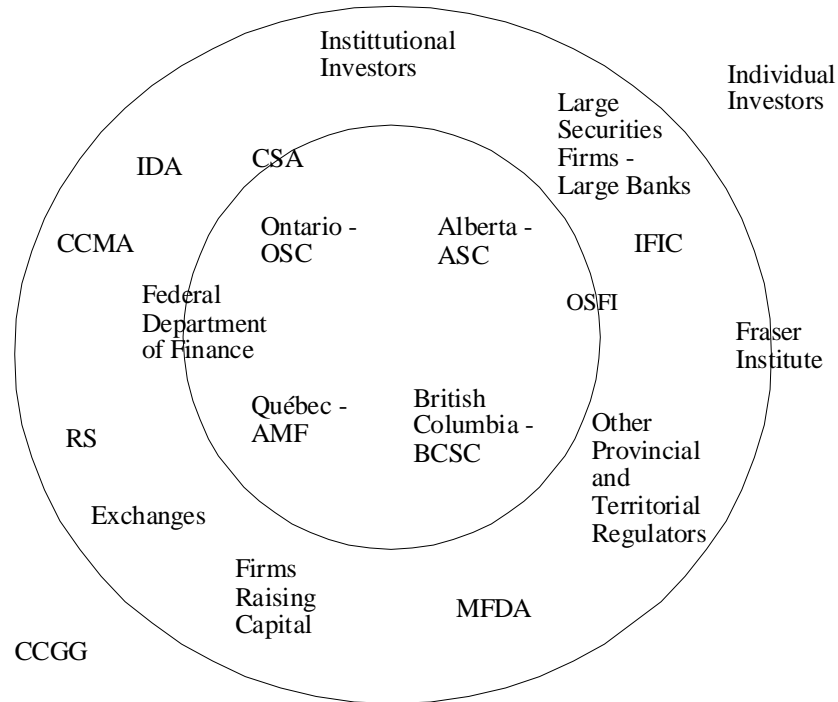
A few other network actors need to be mentioned. The securities market itself is quite centralized, dominated by a few large financial firms, mostly owned by the banks (Suret and Carpentier 2003). Large institutional investors such as the *Ontario Teachers Pension Plan* or the *Caisse de dépôt et placement du Québec* are important players in the industry and in the case of the latter has important political clout in the province. Last, I do want to point out that while small investors are not really influential in the Canadian regime, they have been vocal in expressing their concerns. Most importantly, small investors perceive provincial regulators to be lax and they would support a strong, powerful, national regulator. In a book highly critical of the Canadian investment industry, Reynolds (2005) suggests that there is currently almost no real redress for wronged individual investors in Canada. A graph presenting the network can be found on the next page. The closer an actor is to the center of the graph, the more influence the actor is deemed to possess.

The distribution of power shares in the network is highly contested. There is general agreement that Ontario is the centre of the country's securities markets because of the overall amount of activity on the TSX. Despite its supposed power based on its sheer size, Ontario has not succeeded so far in convincing the other provinces that a single national regulator is needed. In fact, strong support across most of the network participants has not been sufficient to bring about the creation of a national regulator. The WPC stated:

This is not the first time that Canadians and their governments have considered whether to reform Canada's securities regulatory structure. Unlike prior efforts, however, there is now an unprecedented opportunity - and a necessity - for change. Issuers, investors and financial intermediaries across Canada are united in their call for change. Markets around the world and their regulatory structures are rapidly changing. Other countries are finding ways to achieve competitive advantage through their securities regulatory structure. Canada should do no less (2003: 13).

The inability of Ontario (and of a majority of the network members) to create a national securities commission suggests a more subtle political distribution of power shares.

Canadian Securities Industry: Policy Network 2002-2005



I argue that the real barrier to the creation of a national securities commission is not Québec. The province would probably accept a scenario in which it keeps its *Autorité des marchés financiers* and the rest of the provinces create a single regulator model. In such an arrangement, Canada would have two regulators instead of the current thirteen.⁶ Therefore the real reluctance to the creation of a national securities commission is from Alberta and British Columbia because they perceive it as an Ontario initiative.⁷ There is a real concern that the country's regulatory structure would be Ontario-based, responding first and foremost to the players in that market to the detriment of other actors, especially in the mining and energy sectors, that operate in the West. From an economic point of view, the TSX represents Canada's premiere exchange unequivocally. From a political point of view, the situation is more complex.

⁶ The arrangement described here represents the current situation in the Canadian blood industry, where there is *Héma-Québec* in that province and where *Canadian Blood Services* works in the rest of the country.

⁷ An argument could be made that the OSC is by default the country's securities regulator. The creation of a national commission could in fact be seen by Alberta and British Columbia as a way by which to curb Ontario power. Maybe the real surprise is that Ontario argues so strongly in favour of the creation of a national single regulator and that Western provinces have taken the opposite position.

Many critical observers of Canadian securities markets argue that provincial securities regulators and self-regulatory organizations are weak and in many instances captured by market actors (it is the principal reason why small investors favor the creation of a national securities regulator). For instance, a long concealed OSC evaluation of the IDA, which the OSC only made public after being forced to do so by the Ontario Privacy Commissioner and the courts, demonstrates the difficulties encountered by the latter in fulfilling its dual role of professional organization and investor protection (OSC 2000). Scandals have equally plagued provincial regulators, such as allegations of corruption at the Alberta's Securities Commission (Tedesco 2005). Perpetrators of such market abuse as Bre-X have not been severely reprimanded. Canadian markets are often accused of being lenient on insider trading (McNally and Smith 2003). But if one solely focuses on the issue of the creation of a national securities commission, private sector firms tend to support the creation of a pan-Canadian body, just as small investors do. The pressure exercised by both sets of participants has not yet been sufficient to tip the scale towards the creation of a pan-Canadian regulator.

The decision-making process in the securities industry remains at the provincial level. It is decentralized and is largely based on consensus. Clearly, Québec, Alberta, and British Columbia have used their veto to impede the creation of a national securities commission. The policy network is not divided between governments on the one side, and all other actors on the other. Rather, the network division is inter-jurisdictional and issue-based. In terms of a national securities commission, there is the federal government and Ontario, along with a great majority of the other actors in the network, versus the recalcitrant provinces pushing for other solutions. The network fragmentation reflects the decentralized nature of regulation in the industry.

The evolution of the regulatory structure in Canada has therefore been more incremental. The passport model approved in 2004 has distinct advantages and disadvantages. The passport system has been perceived as the most realistic policy option in Canada. A number of common norms already exist across the country ensuring easy cooperation among provincial regulators. Issuers and investors are to face a simplified regulatory structure. The passport model also keeps many of the advantages of the current regime such as the need for local and flexible regulation. The WPC (2003) rejected the passport system judging that it was insufficient to resolve the burden and costs faced by the Canadian securities industry due to the current regulatory structure. Canada is currently represented on the international scene by provincial regulators, preventing the expression of a national unified viewpoint, an issue that is not resolved by the passport model. Although Europe uses the passport model, the system is seen as an instrument of integration, not an end in itself. There are advocates in Europe for the creation of a pan-European securities regulator, an equivalent to the Americans' Securities and Exchange Commission (Couppey-Soubeyran and Sessin 2001). As such, it is possible to ask why Canada should opt for a model that in many ways is meant to be temporary and transitory. A key interrogation remains as to just how successful the passport system can be without the support of the largest market in the country, Ontario?

The CSA has moved on a number of other initiatives which have received broad consensus across the network.⁸ The initiatives are often technical in scope but they are substantial from the perspective of market practices. These initiatives represent a real

⁸ The initiatives are described in details on the CSA website, <http://www.csa-acvm.ca>.

move towards jurisdictional harmonization. Do such efforts do enough to ensure the competitiveness of Canadian markets in a globalizing and highly competitive environment? The answer here as well is not evident. Technical types of project, however, represent for the moment what negotiations in the policy network have managed to achieve.

Conclusion

The analysis above does not allow the researcher to say that there is an increase in the level of politicization in the Canadian securities industry. Simply put the sector has always been heavily politicized. At the federal level, the financial services sector policy network is divided between the different industry pillars and consumer groups. The federal government plays the role of policy arbiter. In the securities industry, the battle is inter-jurisdictional. In both cases, the policy result is a compromise and the 'best option under the circumstances', which does not necessarily make it the best policy. Bill C8 responded to different concerns across network participants. The passport model has often been considered the most feasible regulatory reform. What is clear in both cases is that the policy debates are quite open and public. In each case, network actors have plenty of opportunities to express their policy preferences. Even in the securities industry, where it is generally assumed that small investors do not carry a lot of weight, they have exercised considerable voice in their support of a national securities commission. As stated many times, the optimality of the policies in each field is debatable. That being said, the policy decisions across the finance world in Canada are highly scrutinized. Although politicization carries many challenges, in the cases studied it has ensured a certain amount of responsiveness to the network and the public at large.

Beyond Canada

The paper started by a claim that financial services sector policymaking was largely dominated by political and market elites as well as experts. That being said, the trend towards the politicization of finance may not be unique to Canada. The closed nature of policymaking in this field may slowly be changing. Financial services sector policymaking appears to be increasingly publicly dissected in a number of states. Where the topic may be of utmost interest is at the international level, where it appears that the negotiations for Basel II were quite politicized. The negotiations of the 1988 Basel Capital Adequacy Accord were contentious. The Accord was in part the result of the political pressure exercised by the Americans and the British on the international community to impose a standard that was perceived as disadvantageous to Japanese firms (Oatley and Nabors 1998). The Accord negotiation remained in many ways the purview of states. The Basel Accord became a global standard, despite some of the technical flaws that would become apparent in the decade that followed its adoption. The renegotiation of the Accord, in turn, became quite politicized. Not only did it involve interstate conflict (especially between the United States and Germany), but it allowed for a large number of private sector actors, through the International Institute of Finance, to play a part in the negotiation process (Wood 2005). There were three open consultation documents over a five year policy process with significant private sector input at each stage. Substantial changes were made to the documents as a result of private sector intervention. The financial services sector press was consumed during this five year period with debates on

the merits and weaknesses of the Basel Accord proposals, and on the very existence of the Basel model. The debate was particularly intense. It is true that the Basel negotiations never really reached the broader public, and for better or worse the interest of small industry players were mostly represented through states, nonetheless the policy process for Basel II could be said to represent a significant change in the process of international policymaking.

The findings of our analysis about policymaking in a politicized environment recast anew old questions about the policy process. How are governments to govern in the best interest of all when confronted with an open and conflict-prone policy network? Just what role exactly do public and private actors play in the elaboration of policy? What does the broadening of the network and the increase in the openness of the debate really entail for democracy? Further research should focus on whether or not other policy fields in Canada, or elsewhere, are increasingly politicized. Such research could elucidate some of the questions just posed. In a heavily politicized policymaking environment, making policy just got a whole lot ‘messier’!

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