REGULATORY CHALLENGES IN THE AFTERMATH OF THE GFC 2007

SUBMITTED
BY
GHANI Shazia; PhD Student (3rd year):
EMAIL: shaziaghani@gmail.com

SUPERVISOR OF THE THESIS: ULGEN Faruk
Centre de recherche en économie de Grenoble
Université Pierre Mendes France, Grenoble ; France

ABSTARCT: My *PhD thesis investigates the Effects of the global financial Crises (GFC) of 2007 on the Emerging Market Economies and the Architecture of Regulatory Framework to have more stable financial markets. After the financial crises 2007, it is broadly argued that "self-regulations" of financial markets have failed and systemic regulatory reforms are required to cope efficiently with future episodes of crisis. Policy makers and academia both accept that mistakes in the regulation and supervision of financial markets were essential to the eruption of the crises of 2007. Regulatory reforms introduced so i.e. the Dodd Frank Act in the United States and the Basel 111 recommendations are engraved in the neoliberal thinking and would not be able to ensure well function of the financial markets. This consideration led us to the assertion that intrusive regulation and supervision in the financial sector and Minsky's framework can serve as a guideline in this regard. A Macroprudential approach towards and regulation and supervision is advocated for the stability of the financial system.*

Keywords : Financial Regulation, Financial Crises, Macro Prudential Policy
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INTRODUCTION: My PhD thesis investigates the Effects of the global financial Crises (GFC) of 2007 on the Emerging Market Economies and the Architecture of Regulatory Framework to have more stable financial markets. This study aims the financial instability and re-regulation within the theoretical framework of Minsky. His "*Financial Instability Hypothesis*" is compared with the neoclassical approach of "*Efficient Market Hypothesis"* and it is argued that "*self-regulations*" of financial markets have failed and systemic regulatory reforms are required to cope efficiently with future episodes of crisis. Core insight of the Minsky's framework is that stability and stabilization breed fragility and loss of system resilience, his approach thus considers the persistence and ubiquity of financial instability as the result of an endogenous process that is a structural characteristic of financing the growth process in a capitalist economy.

It is widely accepted that regulatory loopholes and lax supervision of financial markets were among the causes of 2007 financial crises. Reforms proposals emerged after this and the International Monetary Fund, World Bank and the G-20 and Financial stability Forum have been issuing various reports manuals, and papers (de Larosière Report, Group of 30 Report, The Geneva Report, The Turner Review and the G20 Report) to ensure greater stability in the financial system. Almost all these reports acknowledge that regulation and supervision in the advanced economies was laidback in recent times vis- a -vis innovation and sophistication of the financial markets. There needs to be considerable rethinking leading to much strengthened, and intrusive regulation and supervision in the financial sector. In this aim the article is based on the chapter 4 of my thesis and summarized version of analysis to get the feedback from the Doctoral days to improve. There for the article is divided into four sections. After the brief introduction, in first section we will discuss the orthodox and heterodox views on such crisis and regulatory reforms.

Section two will give a critical assessment of the regulatory reforms taken so far (Dodd- Franck Act, 2010 and the Basel III). Section three contains our considerations regarding macroprudential approach to the reforms. Last section concludes the paper.

REGULATORY REFORMS; TWO VIEWS: financial crises have exposed weaknesses in economic policy and financial architectures; indeed it is a very daunting task to carve a required regulatory response to the financial crisis. Briefly we can say that global financial crises have necessitated the reconsideration of even basic principles of financial regulation. The main lesson to learn is that prevention is better than cure. Interventions have been effective to main a short term stability but policy-makers must remain vigilant of the need to balance regulation with the role of self-governing markets and to establish a sustainable and effective financial architecture (Masahiro and Eswar Prasad, 2012). A wider regulatory perimeter and greater global cooperation is needed because the toll taken by the recent crisis, neither failure is acceptable. In this section we will discuss what is the portion of both approaches about the financial markets regulation and justification of macroprudential approach.

ORTHODOX VIEW. It is also called sometimes as conventional[1] or the market fundamentalist view or the neoclassical position. Invisible hand will correct the any market failures and thus it believed in the self- regulation mechanism of the financial markets. The basic tenets of the neoclassical position are described in Turner 2009, Schularik and Taylor 2009, Arrow and Debreu 1954, Samoulson 1948. According to orthodox position everything that can go wrong with finance has to do with localized market failures e.g. presence of asymmetric information and specific failures of regulatory response to such localized market failures. This view clearly posits that large-scale financial institutions require heightened regulatory scrutiny not only because of their sheer scale, but also its systemic connectivity with other financial and non-financial organizations (too big too fail phenomena). Extra safeguards and shields are required to compensate for what is essentially an attenuation of the discipline of competition brought about by the practicalities of economies of scale in finance (Lothian 2011; p 7). A central claim of the market fundamentalist position is that all defects in the workings of finance must arise either from localized market failures – e.g. imperfect competition, asymmetries of information, principle-agent problems – or from localized failures in the regulatory response to the localized market failures (Brunnermeier et al 2009; Group of 30, 2010; US department of treasury, 2009; World bank, 2009). Orthodoxy has limited the reforms proposals to regulation reform and supervision of the financial system only. This view believes in the minimum government intervention in the financial markets and advocates more and more de-regulation. Consequently, according to this view the financial system cannot be held back by restrictions because it compromises the efficiency of the financial markets' and the intermediation process which is essential to economic prosperity. The role of regulation according to this approach is to address these localized market flaws only.

HETERODOX VIEW. This view also known as Keynes- Minsky view is sometimes seen as the only possible alternative to the market fundamentalist conception. According to this school of thought (Keynesian economics and economic policy) was to take money seriously in analysis :

[1] See "International Monetary and Financial System Reforms: An Orthodox Agenda"? By Marina Sequetto & Olívia Bullio(a very relavant paper for this section

that is, this school refuse to see money as merely a transparent veil, as if the real economy were simply a barter economy (Lothian and Unger, 2011; Skidelsky, 2009; Tobin, 1989) . The key concepts in this system have a psychological character and the uncertainty. Accordingly Heterodox views the economy characterized by uncertainty and vulnerable to the swings of baseless euphoria and despair, greed and fear, boom and bust (knight, 2009; Kindleberger and Aliber (2005). These business cycles may worsen if the government allow the moral hazard policy to the larges and systematically more connected and important institutions in a belief that they will be rescued at any cost. Another great proponent of this approach Minsky believed that capitalistic economies are inherently unstable and instability is the endogenous to the system. He sees the role of big government and big central bank. Supported by Keynes' idea that crises are inherent to entrepreneurial economies, Minsky claims that such crises are exacerbated by the financialization of capitalism (Marina Sequetto and Olive Bullion, 2011). Minsky believed that the economic theory that precludes crisis cannot be a basis for reform proposals ([2]Jan Kregel, 2010. The starting point of Minsky's approach to financial regulation was the observation that the subject could not be discussed on the basis of a theory in which financial disruption was impossible. He supported intervention in the financial markets to break the pattern of boom and bust (psychological euphoria in Minsky's vision) was through government regulation and the central bank action. In such a way of thinking, regulation will be much more important as an antidote to euphoria. The favored response is stimulus in the form of public spending. Constraints on financial speculation, imposed by the regulatory authority, will dampen financial euphoria by starving it of instruments ((Turner 2011; World Bank, 2009).

Among those who are critics of the orthodox theory and its view on financial system reform, Kregel (2010) warns that the remedies introduced during the post-crisis are limited only and the real roots of leverage are not addressed. To him, *regulation of the system cannot be effective if it is simply based on measures produced to remedy and reverse the conditions generated by the current "moment". It needs to reformulate the structure of the financial system"* (Kregel, 2010, p.3). The heterodox approach has approach called for macroprudential approach for the stability of the financial system. In essence the conventional understanding of macroprudential regulation is largely an expression of the Keynes-Minsky view instead of neoclassical position. Minsky advocates the needed of not only a 'Big Bank', acting as a lender of last resort, but also a '*Big Government'* (Dimitri and Wray; 2010; p 2). Minsky was for a responsible big government that is to say a big government that puts in place coherent structural programs that directly tackle socio economic problems. Minsky was conscious; however that Big Government capitalism, while solving important problems also creates new problems. Thus rather than having a passive government that jus reacts to economic problems through spending, taxing and manipulations of financial conditions, Minsky wanted a pro-active form of government that takes initiatives to direct economy towards a more stable and faire forms of capitalism. That would involve both monetary and fiscal measures and would influence both the supply and demand side of the economic and financial system. That is what Keynesianism is all about, systematic decentralized planning rather than discretionary in coherent fine –tuning (Eric Tymoign: 2010; p 78). Minsky's policy conclusions are as relevant today as they were in 1960 (Jan Kregel; 2010). Minsky wrote

[2] Minsky Moments and Minsky's Proposals for Regulation of an Unstable Financial System by Jan Kregel: Draft of Opening Remarks for the 19th Annual Hyman P. Minsky Conference

that Fed should be reorganized to make clear its responsibility for the prevention of liquidity crises for the economy. Its domain of control should be extended to cover the entire financial system. Its primary responsibilities will be to assure monetary stability, to act as a lender of last resort to financial system and to prevent fraud and misrepresentations (Minsky, 1964; p 378).

SECTION 3, CRITICAL ASSESSMENT OF REGULATORY REFORMS: This section is an attempt to explain critically the changes to financial sector reforms under the Dodd-Frank Act in the United States and Basel III requirements globally[3]. The financial crisis highlighted several shortcomings of the predecessor of Basel III which in essence, emphasizes additional requirements for the composition and quality of capital of banks, the liquidity position and the leverage. We have argued that Basel III, like its predecessors, is fundamentally flawed as a way of designing macro-prudential regulation of the financial sector.

A-THE DODD-FRANK ACT[4]: The Dodd-Frank Wall Street Reform & Consumer Protection Act of 21 July , 2010 introduced by the Obama administration in the United States in the aftermath of the financial meltdown of 2007 can be termed as the most ambitious and far-reaching overhaul of financial regulation since the 1930s. The US Government concluded that "*Years without accountability for Wall Street and big Banks brought us the worst financial crisis since the Great Depression, the loss of 8 million Jobs, failed business, a drop in housing prices and wiped out personal savings. The failures that led to this crisis require bold action. We must restore responsibility and accountability in our financial system to give American confidence that there is a system in place that works for and protects them. We must create a sound foundation to grow the economy and create jobs".* Hindsight was the acceptance that 2007 financial crisis was a result of the financial markets liberalisation and the policies of deregulation pursued in the 1980s.

Some Important Points of The Dodd-Frank[5] Legislation: briefly, some main highlights of the act are given below.

- A consumer protection authority is created to get the clear, accurate information they need to shop for mortgages, credit cards, and other financial products.
- It end up the "Too Big Too Fail" bailouts
- It has created a council to identify and address systemic risks posed by large, complex companies, products
- Transparency & Accountability for Exotic Instruments would be ensured and loopholes that allow risky and abusive practices would be eliminated.
- It will enforce regulation on books thus it will strengthen the oversight and empowers regulators to aggressively pursue the cases of financial fraud.

Made up of 2,300 pages and over 300 resolutions, the Act became the linchpin of the United States regulatory framework, essentially impacting the larger part of the US banking system. Financial Market Analysts believe that the Flaws in the confused, bloated law passed become ever more apparent now. Here we can highlight at least four primary shortcomings of the act ; firstly

[3] The Dodd-Frank Act and Basel III Intentions, Unintended Consequences, Transition Risks, and Lessons for India By Viral V Acharya1

[4] http://banking.senate.gov/public/_files/070110_Dodd_Frank_Wall_Street_Reform_comprehensive_summary_Final.pdf

[5] Dodd-Frank, named after its co-sponsors, Senator Chris Dodd and Congressman Barney Frank,

authors of the law failed to pay serious attention to distortive role played by government guarantees to the financial sector and the banking sector particularly ; secondly ; the idea of a resolution authority is not well conceived and surly it will contribute to substantial uncertainty instead of capping it in till the next financial meltdown; Thirdly the has imposed the Regulating by form rather than function in several restrictions on the Federal Reserve's role as the lender-of-last-resort and lastly and most importantly, issue of shadow banking is not adequately dealt with.
"I fear that the recently proposed regulation to implement the Volcker rule is extraordinarily complex and tries too hard," Sheila Bair, a former head of the Federal Deposit Insurance Company (FDIC) argues. Supporters of the Dodd-Frank Act when hopeful at time when the act was passed by the congress and believed that they are tying up its loose ends would take 12-18 months but unfortunately after more the twenty months on, those predictions seems naïve.

B-Basel III. Basel III features comprehensive reform measures was developed in September of 2010 by the BIS' Basel Committee on Banking Supervision (BCBS). It aimed to plug in the regulatory loopholes and at strengthening regulation, supervision, and risk management within the banking system and make it resilient to any shocks like the financial crises of 2007. Basel III attempts to improve the banking system's resiliency regarding shocks resulting from financial and economic stress and the improve practices of risk management and governance. It emphasizes the bank transparency and improvements in the disclosure of information. It underscores a balance between the micro and the macro perspectives of the regulation. Procyclicality has remained a great challenge for regulation and reforms. On the macroprudential level, the main purpose of Basel 111 is to eliminate a systemic risk and the elimination of the pro-cyclic character of these risks associated with the banking and financial sector. In practice the micro and macro approaches complement each due to obvious reason that a more rigorous supervision of individual financial institutes ensures that risk for systemic shocks would be decrease. The Bank of International Settlements believes that , Basel III would seeks to identify pre-existing weaknesses in the banking system and vows to address them, particularly it not to concentrate only on "too big too fail" or systemically important institutions. Too big to fail and systemic risks from large institutions are the issues which are not addressed in this act. Basel III is supposed to correct the already flawed Basel II[6] and necessitates the need to hold more capital for banks. Its recommend not only more capital holdings by the banks, but the better quality of capital is highly endorsed. Basel 111 also endorses a capital surcharge for systemically important financial institutions and acknowledges the significance of liquidity provisions and capital adequacy but still it has regulatory gaps because it fails to ensure how these measures would be implemented in the presence of strong banking lobby. Basel 111 requirements employ "*static* risk-weights" instead of time varying risks of assets. Thus it failed to capture the dynamical aspects. This approach thus fails to recognize that risk weights can alter incentives structures of different firms taking risks on various assets and does not employ asset-level leverage restrictions (Amol Agrawal; 2010). Then there is the question of whether the new higher capital ratios are high enough. Seven percent seems higher than previous standard but keeping in view the historical history of last 100 years we find even 20 percent capital ratios also (Miles et al; 2011). Recently, Bank of England paper concludes that the new Basel III requirements are much too low in spirit (IMF; 2010). Another important issue to be address is the provision for the capital buffers. Procyclicality of bank

[6] and also in Basel I, Basel II not yet having been implemented at the time of the crisis in the United States and much of Asia

lending and the tendency of banks to underestimate risks in boom times made a strong case for countercyclical capital, but it has not decided yet and the Basel Committee delegated this obviously decision to national regulatory authorities and decreased it to status that it should be "implemented according to national circumstances"). The IMF's proposal to adopt a "financial stability contribution" at the global level has already come to naught (Barry Eichengreen: 2011; p 2). Finally, there are suggestions on the role of the rating agencies, of which Asian observers have long been critical. Basel III offers very little in the way of an alternative.

So the gist of regulatory measures suggested as the Dodd frank act and the Basel 1111 are rooted in orthodox thinking and surely these are not sufficient to guarantee a stable financial system and avoid a new crisis. Because it has proved in the crises of 2007 that the mainstream theoretical framework of regulation sees the financial markets instability as localized failure which can be fixed by the self-correcting forces of the markets. Thus the mainstream approach to regulatory reform continues to support the idea that markets provide efficient price discovery. Minsky believed financial distress is an endogenous occurrence in the normal development of the economic system. Even in the presence of the perfect operation of complete markets, Minsky's approach suggested that the financial system would become increasingly exposed to financial disruption and, eventually, a systemic breakdown in the form of a financial crisis" (Levy, 2011, p. 8). Regulators should be concerned, not only by the size of banks, but also by their operations as multifunction financial service providers. Minsky firmly believe in a regulatory structure which evolves with the financial system. According to Levy (2011): *For Minsky, any regulatory regime must be consistent with, and sensitive to, the evolving nature of financial innovation, and should seek to foster two critical structural objectives: (1) ensuring the long-term stability of the financial system, and (2) promoting the capital development of the economy* (p. 3). Basel III and Dodd-Frank Act do none of these. The risk was not diminished; it was just shifted from the regulated banking system to a "shadow banking system" that included the SIVs. *The current approach to regulation embodied in the Dodd-Frank legislation continues to be based on the mainstream theoretical framework that sees stability in complete markets and synergy in the provision and hedging of financial services* (Levy, 2011; p. 10). Basel III is not a proactive type of regulation and there is no guarantee that Basel III and Dodd-Frank will plug in the poorly regulated "shadow banking system" (Castro, 2010). Another concern lies in the implementation of recommendations, the Basel III propositions will not be completed until 2019. Olivier Blanchard stated that regulation will have to consider the other financial intermediaries of the global shadow banking system. Those institutions were not regulated before the crisis but had to be equally rescued since they were part of the financial system and carried systemic risk. Basel III is the core *regulatory* response to problems revealed by the financial crisis but new rules and standards are not enough. The next critical task at hand relates to better and more intrusive *supervision* at the global level (Nout Wellink; 2011; p 3).

SECTION 4: MACROPRUDENTIAL APPROACH TO REGULATION:

This section analyses very briefly the importance of macroprudential approach to the regulatory reforms. After the global financial crisis 2007, macroprudential approach towards regulation and supervision has been widely promoted. Macroprudential regulation and supervision of systemic

risks is one of the most discussed issues on both the national and international regulatory agenda (David Liebeg and Michaela Posch; 2011)

A macroprudential approach would complement and build on the current regulatory and supervisory structure, in which the primary focus is the safety and soundness of individual institutions and markets. – **Ben Bernanke (2009)**

The global proportions of the crisis call for a rethinking of the links between financial behaviour and macroeconomic policies. …Major economies need to complement their micro-prudential apparatus with a new macro-prudential function. Macroeconomic resilience calls for a systemic analysis of risk. Macro-prudential supervision offers this type of analysis and can act as a countervailing force to the tendency of the financial system to amplify economic swings. **–Jean-Claude Trichet (2009)**

"We need a new set of macro-prudential policy tools which will enable the authorities more directly to influence the supply of credit […]. These tools are needed because credit/asset price cycles can be key drivers of macroeconomic volatility and potential financial instability" **–Turner (2010).**

The goal of this section is to provide a brief insight into the growing importance and the role of macroprudential policy. Although the study of macroprudential policy frameworks is in its early stages, there is a quickly accumulating body of work on the subject. Some of the early and important contributions to this debate include several quantitative studies conducted by the BIS on the costs and benefits of adopting the new regulatory standards of Basel III (Angelini et al., 2011a; MAG, 2010a and 2010b), and in other policy institutions (Bean et al., 2010; Roger and Vlcek, 2011; and Angelini et al., 2011b). Several studies have raised couple of issues with respect to this new approach to financial regulation. What does macroprudential regulation mean? What are the tools under this form of regulation?, which institution in the financial regulation space (capital market regulator, central bank etc.) will be responsible for the regulation? , and what lessons could be drawn for Emerging Market Economies from these discourses (Amol Agrawal; 2010).

A fundamental conclusion from the recent financial crisis is that the supervision and regulation of financial firms in isolation – a purely microprudential perspective – are not sufficient to maintain financial stability. Rather, a macroprudential perspective that evaluates and responds to the financial system as a whole seems necessary (Beverly Hirtle et all; 2009). The ongoing discussions of regulatory reforms in the United States, European Union and in the EMEs duly underscore this view. An early consensus to emerge from the wreckage of the global financial system was that in addition to the old regulation, we needed a new type – macroprudential regulation (Avinash Persaud; 2009). Claudio Borio of the BIS has paraphrased in Milton Friedman's fashion and said "*We are all macroprudentialists now*".

The crisis[7] has also made clear that regulators need to do a better job of identifying and assessing systemic risks posed by large, complex institutions that elude comprehensive oversight in part due to gaps in regulatory jurisdictions (Sheila Bair, 2011). Pre-crises regulatory framework has allowed a massive buildup of systemic risk in the shadow banking system providing incentives for procyclical risk taking that headed a vicious circle of asset bubbles and expanding credit bringing

[7] http://www.fdic.gov/news/news/speeches/chairman/spapr1511.html

global financial system to its collapse. It also failed to take account of the huge systemic risks triggered by the undercapitalization of large and complex institutions. In this context; one[8] of the key lessons we can learn from the recent financial crisis is that regulatory policy must have an enhanced macroprudential orientation to comprehensively address systemic financial risks. Neglecting macroprudential supervision was the only one aspect of the 2007 financial crisis, microprudential standards for capital requirements and liquidity positions turned out to be inadequate (Bank of England, 2009). In carrying out the task of macroprudential supervision, one of our central concerns should be a concept on which Minsky placed a high degree of emphasis, and that is financial leverage. In *Stabilizing an Unstable Economy* (1986) Minsky wrote that *"…the leverage ratio of banks and the import of speculative and Ponzi financing in the economy are two sides of a coin."* Financial institutions and markets has natural tendency to seek higher leverage during good times in pursuit of higher returns. This very natural tendency lies at the base of the Minskian notion that periods of financial stability sow the vey seeds of the instability (Ronnie Phillips; 1997). Objective must not more regulation but more effective regulation, more focused on the market failures it is there to address. The points of regulation must press against the points of market failure. This lead to the conclusion that micro-prudential regulation, focused on individual institutions and instruments, must be strengthened and supplemented by macroprudential regulation of the financial system.

CONCLUSION: Regulatory Reforms introduced so far are established on the basic view that markets are complete and efficient. The Minsky- Keynes institutional Framework are not included in reform proposals. The reforms are within the orthodox view of the crisis, since they do not guarantee that the productive investment is going to be financed by the banking system, as Minsky proposed. The Dodd-Frank Act and the Basel111 would not change the behaviour of financial institutions and it has failed to address the most important issue of procyclicality putting banks always one step ahead of regulators. In all walks of life, a balanced approach is the key. Securing lasting financial stability is no exception. The traditional micro prudential approach has been critically questioned in light of the recent period of high turbulence in financial markets worldwide. It calls for a proper balance between the micro prudential and macro prudential dimensions of regulatory and supervisory arrangements. Macro prudential policy is no magic bullet and cannot end financial crises. It just helps understand the overall risks and if done properly can lower the costs of the financial crisis (Amol Agrawal; 2010). Policymakers understanding in the macro prudential area build on a wide variety of types of literature and analysis which contains many suggestions for possible instruments, yet, there is no coherent framework.

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