Striving for Balance: An Exploration of Regulatory Effectiveness in Financial Services Regulation, 1989 to 2008

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Dissertation submitted to the faculty of
Virginia Polytechnic Institute and State University
in partial fulfillment of the requirements for the degree of

Doctor of Philosophy
In
Public Administration and Public Affairs

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May 18, 2012
Blacksburg, Virginia

Keywords: Agency Longevity, Managing Complexity, Front-line Staff, Mission Stability, Regulatory Style, Resources, Regulatory Effectiveness, Regulatory Resiliency

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ABSTRACT

Financial services regulators are tasked with balancing the conflicting roles of empowering and policing their regulated communities. In order to be effective, agencies must be able to accomplish both tasks. This analysis examines several determinants of effectiveness among U.S. bank regulators. Using statistical and narrative analyses, it examines factors that have contributed to the regulatory effectiveness of the National Credit Union Administration, Office of the Comptroller of the Currency, and Office of Thrift Supervision. The study focused on the relationships between regulatory ability to prevent failures and influences including agency longevity, ability to manage complexity, appointee and staff qualities, mission stability, regulatory style, and resources. Agency longevity and resources had the greatest impact on effectiveness among the cases that were examined. Additionally, this study proposes a typology that suggests that more effective regulators are able to balance information from their regulated communities with a public interest orientation. This allows them to have current information regarding emerging regulatory issues but also to avoid becoming too reliant on their supervised institutions for information.

DEDICATION

TO TRISHA, EMILIE, AND JAKEY, WHOSE SUPPORT, LOVE, AND PLEASANT DISTRACTIONS ALLOWED ME TO FINISH THIS PROJECT.

ACKNOWLEDGEMENTS

I would like to thank Karen Hult for her direction, guidance and patience through this process. I would also like to thank Anne Khademian, Patrick Roberts, and Jim Wolf for their thoughtful comments and edits. I would also like to thank Orion White for showing me that academia is a creative and fun endeavor and Gary Wamsley who socialized me to the mysteries of academia and introduced me to the life of the mind. I would like to specially acknowledge the late John Rohr who left an indelible print on me as a graduate student and as a person. Next I would like to thank my graduate school colleagues Kathy Webb-Farley and Amanda Olejarski for their support and friendship. Karissa Bergene, my wife Trisha and my oldest friend Thomas Reynolds all read and edited parts of this work and helped me immensely. Finally, I would like to acknowledge my current colleagues Mark Bradbury, Craig Burnett, Jefferson Holcomb, Phillip Ardoin, Adam Newmark, Todd Hartman, and Brian Ellison for guidance and mentorship through my first two years as a working academic. Finally, I would like to especially acknowledge the help of Thomas Reynolds who read, edited, and made suggestions on several drafts.

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Chapter One

Yet, we do not accept the view that regulators lacked the power to protect the financial system. They had ample power in many arenas and they chose not to use it.

-Conclusion of *The Financial Crisis Inquiry Report* *(2011, p. xviii)*

The subprime lending crisis of 2004 through 2008 contributed to the subsequent recession in the United States. Although the causes of this crisis are complex and not fully understood, bank regulators generally acknowledge that their decisions helped set the stage for the crisis (FCIC, 2011). This is not a new phenomenon; perhaps no regulatory arena in the United States has greater capacity to do harm to consumers than that of financial services (Greider 1987). Because of the economic implications of this policy sphere, it historically has been a center of conflict and discussion within regulatory policy (Hammond 1957).

Multiple agencies are tasked with regulating the American financial services system. As of Spring 2012, there are five federal regulators of financial institutions: the Federal Reserve (Fed), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), the Office of Thrift Supervision (OTS), and the National Credit Union Administration (NCUA). The FDIC exists primarily as the regulator of the bank deposit insurance fund, and the Federal Reserve System deals with the largest financial institutions or bank holding companies. The financial system in the United States relies on credit unions and banks for the majority of the nation's depository activity (Hoffmann 2001).

Considerable variation exists among the most similarly-positioned of the regulators: OTS, OCC, and NCUA. They have varying failure rates and other differences. What features of regulators lead them to be better able to prevent the failures of their regulated institutions? Furthermore, can financial services regulators work to prevent the failures of their regulated institutions? How do regulators interact with their supervised communities? Can they effectively balance their need for information from their regulated communities with their requirement to police them? What qualities encourage the flexibility necessary for agential shifts between policing and fostering collaborative relationships? These general questions were the original impetus for this research project.

This chapter is organized to outline the problem the work explores, followed by a brief introduction to the research questions that drove the project. Next the chapter discusses regulatory effectiveness as financial services regulators understand it, followed by a brief illustration of the regulatory shortcomings that led to the failure of Superior Bank FSB. Finally, the chapter introduces two important concepts, regulatory effectiveness and self-funding.

Statement of the Problem

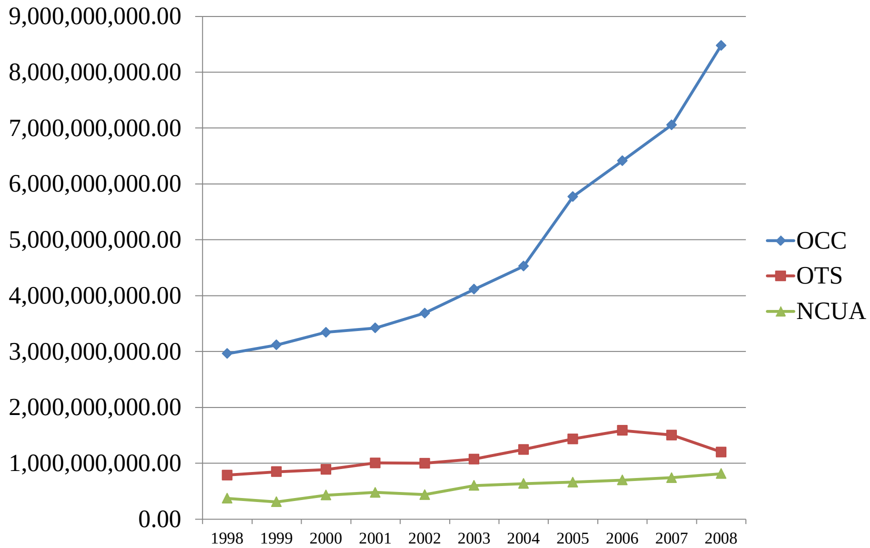
In January 2011, the National Commission on the Causes of the Financial and Economic Crisis in the United States (FCIC) issued "The Financial Crisis Inquiry Report." The Commission found that a "culture of deregulation" existed among bank regulators at the expense of consumers and systemic concerns (National Commission, 2011, pp. 78-80). In part, a lack of understanding among regulators of some of the most sophisticated instruments used by their institutions contributed to this culture.[1] The report claims that regulators had ample regulatory power, yet lacked the understanding and strength to use it (p. xviii). Clearly, the financial crisis of the 2000's was impacted by the effectiveness (or lack thereof) of individual regulators.

Complicating the regulatory environment further was the increased complexity of financial services products. Regulators had struggled with detecting and understanding emerging financial instruments. Even when new products were (such as derivatives) were emerging, regulators failed to intervene to encourage diversification of the assets and systemic resiliency.

[1] For a discussion of how derivatives function, see Skah (1996).

Additionally, the assets regulated by the NCUA, OTS, and OCC had grown considerably between 1994 and 2007, ranging from increases of 58.41 percent for the OTS to 185.25 percent for the OCC (see **Figure 1.1**).

Figure 1.1: Total Assets Under Supervision by Agency, 1998 through 2008



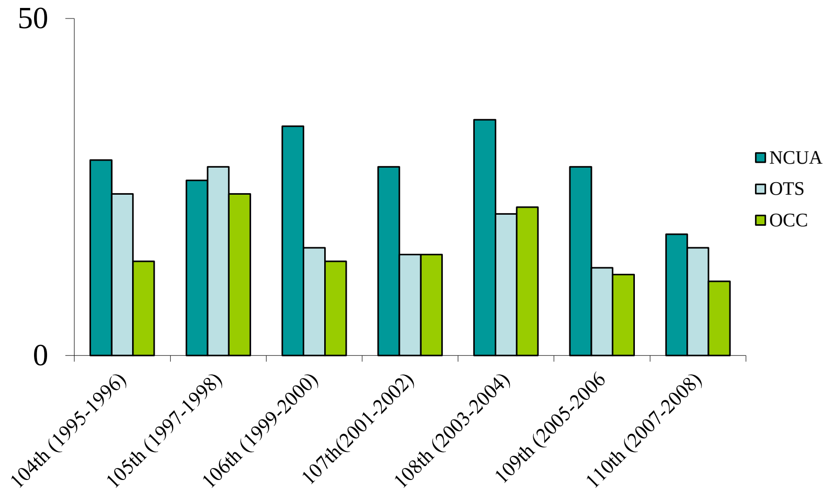
Sources: Annual Reports of NCUA, OCC, and OTS

In contrast, from 1994 through 2007, the number of employees at the agencies changed, with increases of 5.7 percent at OCC and 0.12 percent at NCUA; OTS's staff decreased by 24.5 percent. As the burden of regulating banks and credit unions grew, the agencies were regulating vastly more complex institutions with the same sized or smaller staffs (2011).

Financial services regulators also operated with less input from Congress, a trend reflected in other agencies (Aberbach 1990). Ornstein and Mann (2006) contend that Congress had become inactive regarding agencies. Mentions of the three financial regulators in congressional committee reports declined significantly over this period. The ***Congressional***

Record mentioned the OCC 21 percent less in the 110th Congress than in the 104th Congress,[2] while it mentioned the OTS 33 percent and the NCUA 38 percent fewer times (see **Figure 1.2**).

Figure 1.2 : Mentions in the Congressional Committee Reports by Agency, 1995 through 2008



Source: THOMAS

The combined effects of less legislative attention and more assets to regulate in a more complex policy environment with the same number of personnel may suggest that agencies placed a premium on the quality of staffing in order to maintain their effectiveness at regulating increasingly complex institutions. The regulators would be able to adapt to and maintain regulatory effectiveness through these changes in the financial services environment to varying degrees. Some regulators intervened and prevented failures among their institutions, while others were less successful. All three regulators relied on their staffs to maintain effectiveness through a turbulent time in banking regulation (National Commission, 2011, pp. 52-54). Less attention could lead to less political guidance and input; it could also allow for greater use of discretion by regulators (Meier 1985). This discretion created a need for a greater understanding

[2] This is due at least in part to the amount of time that Congress spent legislating in order to deal with problems in the savings and loan industry.

of the complex balancing act that regulators must maintain between the adversarial and cooperative relationship-building aspects of their ties to their regulated communities (Braithwaite and Drahos 2000).

Research Question

Regulatory culture plays an important role in how agencies interact with their supervised communities. Different regulatory agencies often deal with problems in different manners based on a variety of factors (Khademian 1996, pp. 166-170). In the U.S., several financial services regulators supervise similarly positioned financial institutions. This produces a situation where different agencies are tasked with making decisions on similar issues. Inevitably, agencies draw on their staff and other financial resources when making these decisions (Katzmann 1980; Mosher 1982; Eisner 2000).

The unusual overlap among financial services regulators allows scholars to explore the impact that variations in agency longevity and staff tenure have on the effectiveness of these regulatory agencies. Such comparison is significant since all financial services regulators are charged with ensuring that the organizations they regulate operate safely and in a sound environment. The basis of the case for financial services regulation comes from an understanding that banks and credit unions are more effectively regulated by the government, through its sovereign grant of authority, than by the financial markets. If one accepts that public oversight of depository institutions is necessary, one also must appreciate the difficult balancing act that regulators confront. They must be able to understand the institutions they regulate and be able to effectively intervene. At the same time, they must allow the institutions they regulate to maintain their market competitiveness or they will put the regulated institutions at greater risk of failure (Braithwaite and Drahos 2000).

The complexity of this task cannot be overemphasized. The failure to effectively regulate national depository institutions could lead to a cataclysm on par with the Great Depression (Rosenbluth 2003). Furthermore, the more recent “Great Recession” that affected the economies of the United States as well as much of the world has been tied to banking regulation (National Commission 2011). Since the regulation of depository institutions is a policy issue with wide-ranging ramifications, policymakers and regulators can benefit from studying the impacts of agency characteristics on organizational performance. To this end, this project focused on the agency characteristics that influenced the regulatory effectiveness of the NCUA, OCC, and OTS. The question that underpins the study is:

Did characteristics such as agency longevity, ability to manage complexity, appointee and staff qualities, mission stability, regulatory style, and resources at the OCC, OTS, and NCUA impact regulatory effectiveness, and if so how and why?

My underlying concern was to explore the impact that these characteristics (tapped by agency age, congressional attention, percentage of examiners, changes in mission, legal intervention rate, enforcement rates, and budget per institution) had on the ability of financial services regulatory agencies to fulfill significant parts of their missions, including minimizing systemic risk (Davis 1995; Crockett 1997; Williams 2010). Although many metrics can be used to gauge regulatory effectiveness, for the purpose of this study a useful measure was an agency’s ability to prevent the failures of the institutions it regulates. Within the financial services arena, the failure rate of regulated institutions is a common measure of regulatory effectiveness (Bentson, Eisenbeis et al. 1986; Flannery 1988; Graham and Horner 1988; Bentson and Kaufman 1995; Kane 1995).

Regulatory Effectiveness

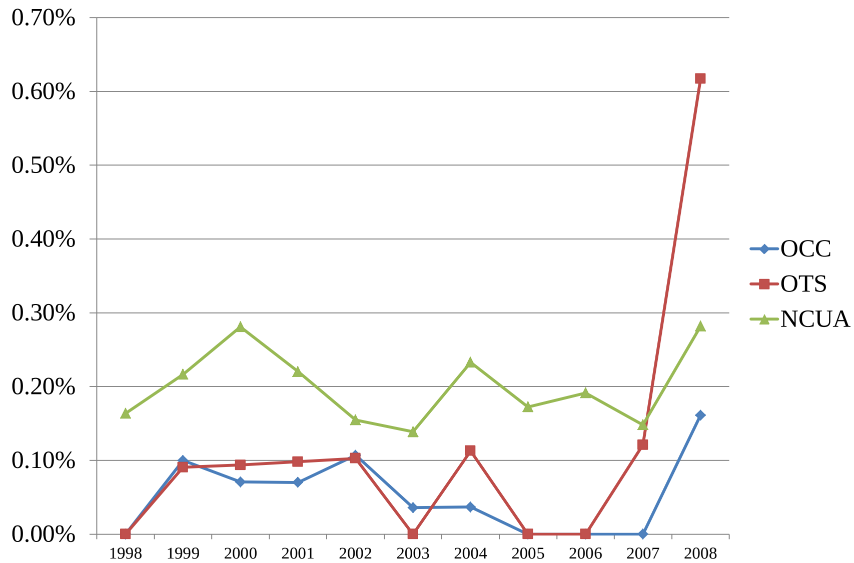
This study explores the effectiveness of the NCUA, OCC, and the OTS from 1989 through 2008.[3] In this project, I use regulatory effectiveness to refer to the ability of regulators to manage their regulated communities so that they would be resilient in the face of financial crisis. Resilient/effective institutions are ones that are less susceptible to economic forces and can therefore better protect the deposits that the institutions hold (Khademian 1996).

This study pays particular attention to the influences on effectiveness in regulating the financial institutions under their charters.[4] As just mentioned, regulatory effectiveness was tapped as the failure rates among the institutions supervised by each regulator from 1992 through 2008. The failure rates were not available prior to 1992 due to the limitations with the FDIC and NCUA data. During this period, the NCUA had a median annual failure rate of 0.002259 percent, OTS had a median annual failure rate of 0.001078 percent, and OCC had a median annual failure rate of 0.000733 percent (see **Figure 1.3**).

[3] Included in the analysis is information pertaining to the bank regulators' effectiveness at minimizing "systemic risk." Kaufman and Scott (2003) define *systemic risk* as "… the risk or probability of breakdowns in an entire system, as opposed to breakdowns in individual parts or components, and is evidenced by comovements (correlation) among most or all the parts. Thus, systemic risk in banking is evidenced by high correlation and clustering of bank failures in a single country, in a number of countries, or throughout the world" (p. 372).

[4] In the financial services industry a *charter* is the grant of sovereign authority to a private concern (in this case the authority to accept deposits). Bank regulators grant charters to institutions allowing them to operate as credit unions, thrifts, and banks (Hammond 1991).

Figure 1.3: Failure Rates Expressed as Percentage of Regulated Institutions by Agency, 1998 through 2008



Sources: Annual Reports of NCUA, OCC, and OTS

Aside from regulatory failures as a measure of agency performance, other variables that gauge effectiveness include the Office of Management of Budget's (OMB) program evaluations relating to bank regulation. The scholarly literature on interventions by bank regulators generally contends that early regulatory intervention is an important aspect of preventing bank failures (Avery and Hanweck 1984; Barth, R.D. Brumbaugh et al. 1989; Jones and Kuester-King 1992). Therefore, analyzing early interventions by regulators may help scholars and regulators alike to better understand these dynamics. The enforcement actions that comprise the enforcement rates for institutions include cease and desist orders and safety and soundness orders. Overall enforcement rates paint a picture of targeted enforcement actions for the more effective regulators.

Understanding Bank Failure: The Case of Superior Bank

In order to describe the regulatory process when a financial institution fails, I use the case of Superior Bank's failure in 2002 as an illustration. This federal savings bank's failure is noteworthy because it was one of the first financial institutions to fail because of the subprime lending market. The primary regulator, OTS, had ample opportunity to intervene and save the institution but for a variety of reasons chose not to.

In 1993 Superior Bank began to securitize and originate subprime home loans. The securitization of these loans allowed the bank to move them off its balance sheet. However, the institution relied on the interest received from the loans as a source of income. Later in the year, the OTS examined Superior Bank; at that point, the regulator expressed concern over the institution's new types of loans. In June 1994, the OTS examined the mortgage operation of Superior and warned the institution it had a high level of risk exposure. Shortly after this exam, Superior began to engage in even riskier commercial auto loans of subprime rates (GAO 2002, p.25).

The OTS examined Superior Bank in October 1995 and expressed concern with the institution's accounting practices. In October 1996, the OTS once again examined Superior and found that it had corrected its accounting mistakes and asset values. In October 1997, the OTS upgraded Superior to its highest rating of safety and soundness (GAO 2002, p.25). In September 1998, the FDIC performed an off-site review of Superior's financial statement and expressed concern about the institution's reliance on subprime interest. In December, the FDIC requested of the OTS regional director that the FDIC be allowed to participate in the upcoming January 1999 examination. The OTS regional director denied this request on the grounds that the FDIC did not participate in the examinations of highly rated institutions (2002).

In March 1999, the OTS completed its examination of Superior Bank and downgraded its regulatory rating. The downgrade occurred because of problems with asset classification and some valuation issues, not because of the risk associated with subprime lending. The exam concluded that the institution had sufficiently counted subprime assets (2002).

In September 1999, the FDIC once again requested to participate in the next examination of Superior Bank, and since the OTS had downgraded Superior's assets, it approved the request. In January 2000, the OTS and the FDIC jointly examined Superior's assets and subsequently downgraded the institution's regulatory rating, due primarily to the bank's treatment of subprime assets (2002).

The OTS and FDIC followed up later in 2000, with accounting guidance for Superior that instructed it precisely how to count subprime interest rates in accordance with Federal Accounting Standards Board rules (Board 1996). In 2001, Superior adjusted its financial statements several times following regulatory requests. The OTS also approved Superior Bank's plan to correct its capital shortfall in February 2001. However, the institution could not implement the plan, and the FDIC placed the bank into receivership on July 27, 2001 (2002, p.2).

The GAO faulted the OTS for not recognizing earlier that Superior had a complex mix of risky assets. It further faulted the regulator for failing to adequately identify risks in emerging lines of business (2002, p.2). Clearly, based on this case, there were ample opportunities for regulatory intervention and coordination that possibly could have prevented the failure of this institution and the $460 million it cost the federal insurance fund (2002, p.1).

Agency Relationships with their Regulated Communities

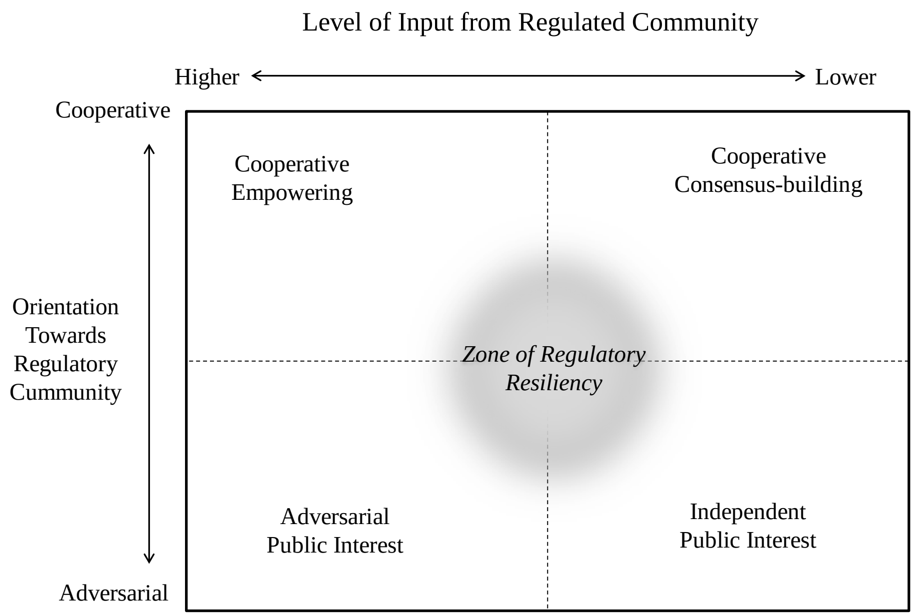
Numerous scholars have analyzed relationships with supervised institutions among financial services regulators. For example, Kane (1990) examined thrift industry lobbying during the end of the 1980's savings and loan crisis and during the formation of the Office of Thrift Supervision. Related is Rosenbluth and Schaap's (2003) research on the impact of electoral rules on banking regulations that frequently tilt in favor of financial institutions rather than consumers. Meanwhile, the Securities and Exchange Commission illustrates lower regulatory flexibility for two reasons: a majority of its staff are lawyers who later go on to work for the regulatees, and the complex environment of the industry's inherent costs must be overcome in the name of greater effectiveness (Woodward 1998).

Peltzman (1976) views elected officials as trading with consumers and producers over benefits; consumers vote and producers offer expertise and resources in return for favorable treatment. Such favorable legislative responses may foster serious flaws in agency design and subsequent delegations of authority that create an interest group-friendly regulatory environment. Through influencing agency structuring, interest groups may be able to limit agency authority in areas that run counter to their goals, while simultaneously empowering the agency in narrow, targeted policy areas that respond to the regulated community. This dynamic leads to the appearance of regulators acting impotently on certain issues while actively engaging on others (Goodsell 1990; Lewis 2006; Wamsley et al. 1990).

Underlying this study is a view of the sort of regulatory agency toward which policy-makers should strive. This idealized agency would seek to reduce systemic risk by balancing the needed information it receives from the institutions it regulates with the autonomy to act in the interests of the broader polity it serves. Resilient and effective regulators must balance the level of input from those they regulate with a watchful and flexible orientation towards the regulated community, one that is neither overly cooperative, nor too adversarial (See **Figure 1.4.**).

In this view, agencies that are cooperatively oriented and highly reliant on input from their regulated communities run the risk of misunderstanding emergent threats from new and complex financial products. Yet agencies that seek lower levels of input and have a cooperative orientation also may misunderstand emergent threats to the resiliency of the system as they interact with their regulated communities to detect and understand new financial products. Meanwhile, agencies with more adversarial orientations that seek higher levels of information from those they regulate also may be ineffective; their regulated communities may not trust the regulators enough to share information not mandated by statute or regulation. Finally, agencies that seek lower levels of input from regulated communities and maintain an adversarial orientation quickly may grow out of touch with emerging issues and not anticipate risks to the system's resiliency.

Figure 1.4: Ideal Regulatory Agency Policymaking



A lack of balance between regulators and the supervised community then produces relationships characterized by information asymmetry and inflexible regulatory relationships. This analysis examined the aspects of agencies that allowed them to build and maintain resilient systems by balancing their relationships with those they regulate.

Understanding Self-funding and Charter Competition

Two concepts in the financial services realm influence any study of regulatory effectiveness: self-funding and charter competition. All financial services regulators are designed to be independent of the congressional appropriations process. Financial services regulators are funded by insurance premiums paid by the regulated communities they oversee, a mechanism I refer to as “self-funding.” Here, it is a constant, with no variation among the agencies examined.[5] Self-funding influences effectiveness because agencies that regulate more institutions have greater revenue with which to hire and retain staff.

Second, charter competition occurs because regulated institutions have the ability to change charters and, in effect, to select the federal agency that regulates them. Charter competition emerges since agencies are funded by their regulated communities on a per-institution-regulated basis. When an institution changes charters its regulator loses operating revenue. In a related manner, due to the ability of regulated institutions to select between state and federal regulators, regulators must act to keep their charters competitive by empowering their regulated entities to compete financially.

The patchwork regulatory structure significantly impacts the relationship between regulators and their constituencies. Charter competition and self-funding both play important

[5] Although self-funding is common among regulators, the Securities and Exchange Commission has been trying to be self-funded since 1993.

roles in shaping the resources with which agencies can hire and retain staff. The regulators in this study confronted both of these issues.

Overview of Study

Financial crisis has had a considerable impact on the ways in which financial services regulators operate. At the very least the mortgage crisis that emerged in 2004 once again demonstrated to policymakers the value in effective financial services regulation. This study helps to explain why some regulators are more successful at preventing the failures of their regulated institutions while others are less successful in taming this systemic risk. Before engaging fully in this analysis, the theoretical framework and background must be introduced. Chapter Two provides the context for the research by distilling a regulatory theory of regulatory effectiveness. This draws together disparate regulatory theories into a more cohesive perspective seeking to better understand effectiveness. The scholarly literature has not explicitly examined the possible links between regulatory effectiveness and agency longevity, ability to manage complexity, appointee and staff qualities, mission stability, regulatory style, and resources.

Chapter Three lays out the research design for the study, and the following three chapters discuss the results. Chapter Four turns to the linkages between agency longevity and regulatory effectiveness. The chapter explores the impact of agency longevity on regulatory action. This chapter also looks at the impacts, both positive and negative, that agency longevity has on regulatory performance.

Chapter Five details the impacts that agency ability to manage political complexity and staff qualities have on regulatory effectiveness. The chapter begins by examining the different aspects of managing political complexity by tapping congressional attention. This is followed by exploring the impact of appointee and staff qualities on regulatory effectiveness.

Chapter Six turns to exploring the impact on regulatory effectiveness of mission stability, the flexibility of regulatory style, and resources. This chapter commences by analyzing the stability of the missions of the three regulators, followed by a discussion of regulatory style tapped by the agencies' legal intervention rates and enforcement styles. Finally, the chapter concludes by examining the relationship between agency financial resources (tapped by budget per institution) and regulatory effectiveness.

Chapter Seven brings the findings together and examines the fit with Figure 1.4. It discusses the complexities of regulators engaging their regulated communities and the risks of regulators becoming over-reliant on information from supervised communities. I conclude by proposing further research and more general prescriptions about the impact of regulators' consideration of the public interest on the probability that informational imbalance will occur.

Chapter Two

Distilling a Theory of Regulatory Effectiveness

This chapter describes a more coherent theory of regulatory effectiveness that illuminates the behavior of the agencies that are the subject of this study. It introduces the theoretical framework, followed by an in-depth discussion of regulatory effectiveness as this analysis addressed it. Next, the chapter turns to the working model for regulatory effectiveness drawn from the scholarly literature, followed by a discussion of the claims that the study examines.

The regulatory effectiveness of financial services agencies is a complex topic that has been the subject of much scholarship. However, there is a notable lack of a coherent theory of, or framework for understanding, regulatory effectiveness (Carpenter 2001; Eisner 2000). Based on varied scholarly literature, I hypothesized that effectiveness would be linked to agency longevity, ability to manage complexity, mission stability, regulatory style, and resources. The organizational effectiveness literature focuses generally on the treatment of these qualities, while regulatory scholarship emphasizes the impact of politics on regulatory policymaking.

This analysis contributes to the second body of literature. By synthesizing a fuller perspective of the impact that numerous factors may have on regulatory performance and exploring this view in comparative cases, it provides a more complete understanding of regulatory effectiveness in the financial services arena. Scholars generally contend that factors such as perceived expertise influence regulatory performance by bolstering the agency's ability to exercise administrative discretion (Meier 1985; Goodsell 2011). Furthermore, if an agency is perceived by other agencies, elected officials, and regulated communities as being effective, this can function as a source of power. The inference from this literature is that regulatory effectiveness positively affects agency behavior.

Understanding regulatory effectiveness is no small task. Even so, when agencies perform similar tasks, how and why do some perform better than others? What conditions allow an agency to be more effective? Most recent analyses of regulatory effectiveness have focused on a variety of factors; including agency expertise (Meier 1985) and agency longevity (Downs 1967) (see **Table 2.1**). However, these works have been largely theoretical and contributed little to the discussion of empirical studies of appropriate measures of regulatory performance. An agency's effectiveness can be linked with the information it can access within a complex policy environment. Boschken (1994) contended that most efforts to narrow agency performance to one metric are futile because of the many roles that agencies are required to play when interacting with different constituencies. His argument essentially is that agency performance is about process rather than results. Agencies as complex organizations have many goals, some of which are easily understandable and quantifiable and others that emphasize fostering equity and are more difficult to measure. This analysis took a results-oriented approach to regulatory effectiveness.

There have been many important contributions to the understanding of regulatory effectiveness. **Table 2.1** summarizes selected contributions that impacted this study.

Table 2.1: Selected Scholarship on Regulatory Effectiveness

Author(s)	Theoretical Expectation(s)
Albrow (1970) DiMaggio and Powell (1983) Downs (1967) Kamenka (1989) March and Olsen (1989) Merton et al. (1952) Scott (1995) Weber (1958)	Agencies will be ineffective mechanisms for carrying out policies.
Stazyk and Goerdel (2010)	Agencies that are subject to hierarchical authority will be more effective by being able to overpower environmental uncertainties.
Douglas (2005)	Agencies are more effective if they are motivated by concerns of reputational risk than by political control.
Rainey and Steinbauer (1999)	The strongest determinants of regulatory effectiveness are agency longevity and appointee and staff qualities.

This research seeks to contribute to scholarship that focuses on applying regulatory theory to effectiveness. It does so by distilling a more coherent theory of regulatory effectiveness from the work of previous scholars and then applying this theory to financial services regulation. Many scholars have written about the impact that a public purpose has on organizational performance or effectiveness[6] (Merton, Gray et al. 1952; Weber 1958; Downs 1967; Albrow 1970; DiMaggio 1983; Kamenka 1989; March 1989; Scott 1995). Generally, the literature treats agencies as ineffective mechanisms for carrying out policy. Agencies are inefficient because they stand to mitigate political will and popular opinion. However, newer scholarship relating to regulatory effectiveness views agencies as potentially effective, mission-driven organizations. This work generally understands effective public organizations as those that are successful in

[6] This analysis uses the terms "organizational performance" and "effectiveness" interchangeably.

meeting their missions (Wolf 1993; Rainey and Steinbauer 1999; Brewer 2000; Selden and Sowa 2004).

Stazyk and Goerdel (2010), for example, looked at the impact that declining partisan support (the support of a political party) has on regulatory effectiveness (tapped by state managers' perceptions in a survey by the National Administrative Studies Project). They argue that hierarchical authority benefits agencies by overpowering environmental uncertainties. Conversely, lower levels of partisan support can lead to goal ambiguity and poor performance.

Krause and Douglas (2005) found that agencies generally are motivated more by concerns of reputational risk than by partisan political control. Furthermore, agencies that are motivated by autonomy generally tend to be more effective than other units because the former are able to use their discretion to increase effectiveness. This differs from Goodsell (2011) and Hoffmann and Cassell (2010), who analyzed the impact that agency mission has on organizational direction. The latter analyses find that mission relates to recruitment and agency focus. Such factors allow agencies to be more effective in dealing with their constituencies.

More salient to this analysis is the work of Boyne (2004), who took an approach that until recently has been more popular in the private sector. Boyne analyzed the effect that management has on agency performance. He found that public organizations enhanced the quality of staff and agency effectiveness by delegating discretion for flexibility to hiring managers. This research echoed earlier findings by Wolf (1993) and Borins (2001) who determined that organizational success is linked to employee adaptability and innovation.

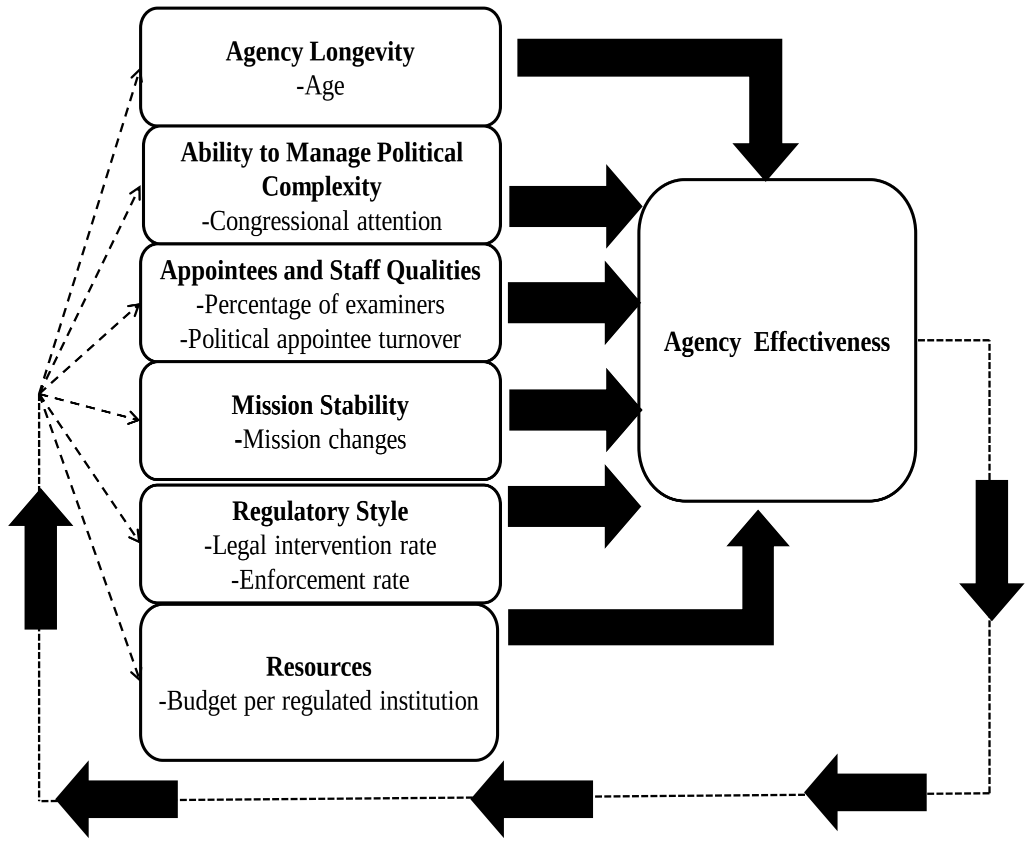
The literature consistently states that staff and leadership qualities do matter to an agency's performance. The debate then hinges on the precise qualities of staff and leaders that allow an agency to become effective and maintain its effectiveness. Grindle and Hilderbrand (1995) linked regulatory effectiveness to effective communication and management rather than to procedures and employee pay. Casting a broader net, Brewer and Selden (2000) found that the most significant factors that influenced organizational performance at the agency level were organizational culture, human capital and capacity, and leadership and supervision. This project builds on the Brewer/Selden theoretical foundations for effectiveness.

Rainey and Steinbauer (1999) developed a more comprehensive theoretical framework for regulatory effectiveness. Their perspective included ten factors that can influence organizational performance. Of these, four are at the individual level (structure of task/work, task motivation, public service motivation, and individual performance) and therefore hold little relevance for this study. However, of the agency level factors, several inform this analysis. The authors identify organizational culture, human capital and capacity, agency support for performance reviews, red tape, and leadership and supervision. The Rainey/Steinbauer framework contributes significantly to the distilled model for regulatory effectiveness offered here.

Working Model of Regulatory Effectiveness

On the basis of Rainey and Steinbauer's (1999) working model for regulatory effectiveness, I proposed that the strongest influences on regulatory effectiveness would be agency longevity, ability to manage complexity, appointee and staff qualities, mission stability, regulatory style, and financial resources (see **Figure 2.1**).

Figure 2.1: Working Model of Regulatory Effectiveness



Regulatory Effectiveness

The scholarship on the determinants of regulatory effectiveness generally follows three streams: agency longevity and ability to manage complexity, appointee and staff qualities, regulatory style and mission stability. Bawn (1995) and Ferejohn and Shipan (1990) who examined the effect of political control on autonomy are important to this analysis. Both found that elected officials perceived agencies as being effective are granted greater autonomy from Congress. Scholars such as Carpenter (2000), Kaufman (1976), and Lewis (2002) analyzed the termination of agencies and found that generally agencies that are perceived as being effective were less likely to be terminated.

Most scholarship agrees that agency expertise is an important quality of public organizations. Agency expertise also impacts policies. Eisner (1991) examined the impact of regulatory effectiveness on policy change. He found that agencies perceived as being effective were better able to shape their policy environments. Other contributors to this stream of scholarship argued that agencies that stakeholder perceive as being effective are better able to use their knowledge to positively influence the regulatory process (Bendor et al. 1987). Carpenter (2001) also examined the relationship between effectiveness and policy innovation. He found that agencies perceived as being effective by Congress are better able to take risks in dealing with emerging problems. Carpenter's research has ramifications for financial services regulators who frequently have been criticized for not taking enough risks in order to understand emerging regulatory problems (States 2011)..

Agency Longevity

Downs (1967) argued that older agencies would be better at performing complex tasks, developing more rules, and focusing more on autonomy than effectiveness. Relatively little recent research examines agency longevity and its possible links to agency effectiveness. This is due at least in part to the thoroughness of the research of Anthony Downs. He also observed that bureaus can only survive when they are able to be perceived as being effective and maintain sufficient resources.

Downs maintained that agencies have functional and allocational rivals. Functional rivals perform a similar agential purpose, and allocational rivals compete for resources. Each regulatory agency in this study is positioned as a functional rival to the others. This is because of the similarities between banking and credit union regulation and the ability of financial services institutions to change charters. However, according to Downs, the three financial services regulators examined here are not allocational rivals, since they do not compete for legislative appropriations.

In addition to being associated with greater autonomy, Downs (1967) argued that longer agency longevity will lead to greater agency resources. In this analysis, the term "resources" refers to an agency's qualities that allow it to assert its perspective into the policy debate. As noted earlier, this analysis identifies two important types of resources—financial and personnel. Much scholarship has addressed how agency resources impact the effectiveness of agency behavior; this study connects prior work with a clearer understanding of agency longevity and examines the interplay between agency longevity and resources in the financial services domain (Niskanen 1994; Buchanan and Congleton 2003; Spicker 2009).[7]

Ability to Manage Political Complexity

Much regulatory scholarship links effectiveness to the ability of agencies to manage complex tasks. Stazyk and Goerdel (2010) found that effective agencies manage oversight successfully. Eisner (2001) argued that managing complexity is linked to a regulatory agency's ability to be effective. This analysis sought to understand the impact on regulatory effectiveness of increased congressional oversight. Many scholars have noted the increased complexity that higher levels of congressional attention entail (Baumgartner and Jones, 2005; Light 1995). This is generally due to additional reporting requirements and time consuming management of legislative requests by agency staff. Handling political complexity focuses on the agency's ability to effectively operate with increased congressional scrutiny. This analysis argues that

[7] Lewis (2004) contended that agency longevity can cause agencies to be more difficult to terminate and be influenced by legislators seeking to reduce financial resources. However, this analysis has limited utility when applied to federal financial services regulators, because they are funded by insurance premiums charged to their regulated institutions (GAO 2006, p. 81).

balancing regulatory needs of support from their regulated industry with a public-interest mission is the most complex task regulatory agencies can undertake (Carpenter 2011; Goodsell 2006).

The complexity of managing charter change among regulators has been the subject of much research. Looking at charter changes for national banks, Whalen (2002) found that national banks that changed charters to state regulators from 1994 until 2001 ran a higher risk for failure than their non-switching counterparts. He also found that charters switching is more likely in highly competitive markets where there had been a large number of charter changes. His research underscored the difficulties that the OCC has had in managing the complex task of attracting charters and keeping those institutions solvent.

In a similar vein, Wilcox (2006) analyzed the complexity of the process of charter changes from credit unions to banks and showed that credit unions were beginning to compete with banks. Since their institutions were connecting with banks by hiring former bank staff and socialized more with employees from for profit institutions, credit unions were beginning to hire from banks and reflect their values. This emergent "isomorphism" increased complexity for the NCUA, which had grown accustomed to dealing with CEOs who had non-profit mentalities (DiMaggio 1983).

Other researchers have argued that the complexity in banking regulation is due to disconnects between the complex regulatory environment and markets. Butler and Macey (1988) also contended that the banking system is inefficient, because the differences between federal and state regulation are superficial. Furthermore, federal preemption actively destroys competition between state and federal charters. While this is far from the orthodox perspective among financial services regulators, Blair and Kushneider (2006) show that there are considerable levels of complexity to the charter change issue among regulators.

A U.S. Department of Treasury study (2001) focused on benchmarking credit unions to other financial services institutions. The study found in part that despite their restricted field of membership and generally smaller size, federally insured credit unions "… operate under banking statutes and rules that are virtually identical to those applicable to bank and thrifts (p.1)." Furthermore, the differences between banks and credit unions, while significant impact in recent years have diminished. However, the study found that the majority of the differences that existed between credit union and other depository institutions were the result of the cooperative structure of the former (U.S. Treasury 2001).

Adding to the complexity of charter changes from the regulator's perspective is evidence that charter switchers factor in the cost of supervision. Rosen (2005) analyzed the impact that charter switching has had on the profitability of banks. He found that switches of charter did not significantly affect the failure rate among bank regulators. However, Rosen's research underestimated the impact that charter switches can have on the efficiency of bank and credit union regulators. Bank and credit union regulators must dedicate a considerable amount of time to pricing their supervision and to lobbying for greater authority under their charters (Blair and Kushneider 2006).

Appointee Turnover and Staff Qualities

In this study, I argue that understanding the impact that political appointees and front-line staff have on effectiveness necessitates the examination of the roles that turnover among political appointees and the percentage of credit union and bank examiners at agencies play in preventing the failures of regulated institutions. This research project focused on two veins of academic literature relating to two appointees and staff qualities and effectiveness: turnover among political appointees and the proportion of front-line employees in the agencies. Meier and

Hicklin (2007) found that even moderate levels of turnover in public organizations negatively impact organizational performance and increase the difficulty of tasks. Reports by the GAO and MSPB acknowledge the importance of agencies being able to recruit talented front-line personnel in order to enhance regulatory effectiveness. Many of the problems mentioned are exacerbated in financial services regulation. Informational barriers to entry are high, and the private sector pays significantly better than the regulators. Therefore, it is reasonable to propose that greater hiring flexibility can contribute to enhanced regulatory effectiveness.

Relatively high levels of turnover among political appointees may negatively impact regulatory effectiveness because organizational ability in complex environments is linked to the agency's ability to retain knowledge (Meier 1985). With the changes in agency direction that can occur with changes in partisan leadership, there may be transaction costs as personnel shift focus (Lewis 2008). Furthermore, frequent changes in political leadership and staff at agencies may be due to a lack of perceived effectiveness of the agency.

Congress has spent a considerable amount of energy analyzing problems with agencies relying on political appointees. For example, Hogue's (2003) Congressional Research Service report looked at presidential nominations to full-time positions in agencies during the 107th Congress (2001-2003). He found that the Senate approved 94 out of 109 appointments submitted to it. Furthermore, there were three recess appointments between the 106th and 107th Congresses. Lastly, the report placed the average number of days for confirmation at 60 days. With political appointees taking longer to be approved, they may find themselves disenchanted with the process of serving in agencies. This may be because they have less influence on the operations of the behavior of agency staff or because a more promising political opportunity arises. This may partially explain why turnover among political appointees is increasing.

The GAO (1994) studied turnover rates among executive schedule positions in its report entitled *Political Appointees: Turnover Rates in Executive Schedule.* This report placed the median length of time for a political appointee to serve at 2.1 years. Political appointees generally serve for shorter durations than their career colleagues. The report concluded that these short durations of service were a significant obstacle in the management of public programs because shifts in agency operations could cause inefficiencies (GAO 1994). This has mirrored other significant academic research that has argued that the politicization of the bureaucracy has created problems that have impacted the effectiveness of many agencies (Heclo 1977; Pfiffner 1987). This has frequently relegated political appointees to the roles of liaison with their regulated communities and legislators rather than focusing on substantive policy issues (Dolan 2000).

Political appointees play an important role in understanding the impact that employee tenure has on regulatory effectiveness. Dull and Roberts (2009) analyzed Senate-confirmed, agency appointees from 1989-2009 and found that in highly technical areas appointees may serve longer. This is because of the high-level of expertise that individuals must have before they can be effective in a complex regulatory organization.[8]

A more recent study by Wood and Marchbanks (Wood and Marchbanks 2008) contradicted the earlier scholarship of Kellough and Lu (1993) and Rainey and Kellough (2000). Wood and Marchbanks (2008) analyzed the determinants of the length of tenure for political appointees. They found that financial incentives coupled with the difficulty in the agency environment are the greatest determinants of political appointee tenure. This is similar to the findings of Ban and Ingraham (1990) who researched the career paths of members of the Senior

[8] The authors also noted that there is a general lack of transparency regarding political appointees. This serves to hamper research that aids in the understanding of the impact political appointees have on regulatory effectiveness.

Executive Service during the Reagan administration. They found that turnover negatively affected agency performance by creating confusion among agency staff regarding the apportionment of resources. This generally confirmed the earlier research of Brauer (1987) regarding appointee turnover.

Political appointees play an important role in understanding the operations of staff and how they can constrain organizational performance (see **Table 2.2**).

Table 2.2: Scholarship Linking Appointee Turnover and Staff Qualities to Regulatory Effectiveness

Source	Theoretical Expectation(s)
Kelman (1980) Milgrom and Roberts (1986) Feldmann (2005)	Effective staffs will reflect the industries that are regulated by the agency.
Grindle and Hilderbrand (1995)	Effective agencies will have employees who focus on communication and management.
Boyne(2004	Effectiveness will be enhanced in public organizations by delegating discretion for flexibility to agencies and front-line staff.
Bertelli and Grose (2007)	Lower turnover among an agency's political appointees could allow the agency to better espouse opinions that are contrary to their political party.
Borins (2001) and Wolf (1993)	Organizations where employees are able to adapt and innovate will be more effective.
Goodsell (2011) and Meier (1985)	Regulatory agencies will perform best when they can exercise discretion.

Several scholars have argued that effective agencies have empowered and competent staff (Boyne 2004). Effectiveness will be enhanced in public organizations by delegating discretion for flexibility to agencies and to front-line staff. Grindle and Hilderbrand (1995) found that effective agencies have employees who focus on communication and management. Borins (2001) and Wolf (1993) argued that organizations where employees are able to adapt and innovate will be more effective because employees have the ability to solve problems quickly.

Political appointees also are important to consider. Bertelli and Feldmann (2007), for example, analyzed the management styles of political appointees and found that the most effective political appointees are able to balance constituent groups. This leads to fewer partisan policies and increases regulatory effectiveness. In recent years, however, the number of appointees has increased. Lewis (2008) described the increase of political appointees in regulatory agencies. Two scholars (Heclo; Light 1995; Lewis 2008) criticize increases in political appointees, since they can significantly handicap the operations of agencies by muddling issues and diffusing accountability. Other scholars argue that political appointees play an important role in reducing conflicts within an agency by being able to broker agreements between career staff legislators (Maranto 2005).

Katzmann (1980) examined the perceived effectiveness of an agency as a factor that influences its regulatory functions. He found that agencies have two basic sources of power: "career staff" (those with longer tenures) and "professional staff" (those with complex skills). Both of these power sources contribute to the perceptions by external actors (elected officials and constituencies) of agency competence.

Another factor impacting regulatory effectiveness is the stability of political leadership, which this study highlights. One would presume that agencies with lower turnover of political appointees would have greater effectiveness. This is because more effective agencies would have political appointees and career staff that are less likely to leave and would have established networks among clientele and political groups. Furthermore, considerable research touched on the costs of turnover in agencies.

Several scholars suggest there is tangible benefit to lower turnover among political appointees in an agency. Bergh (2001) found that executives with longer tenures do not hinder organizational performance, although Lane (1996) argued that higher levels of politicization in the bureaucracy may put administrative effectiveness at risk by making the agencies unstable.

Some literature directly links employee tenure to regulatory effectiveness. Within the public organization streams of such research, generally scholars have used the Office of the Management and Budget's Program Assessment and Rating Tool (PART) to compare agential performance. Lewis (2007) and Gilmour and Lewis (2006) used these ratings to explain the impact of political appointee and agency longevity have on public organizations. They found that agencies led by political appointees scored lower. Furthermore, they found differences in how agencies with long tenure were rated.[9] They also examined the Office of Management and Budget's PART Scores. They determined that partisan support influenced the scoring of programs. More recently, Gallo and Lewis (2012) examined the differences in political appointees with a partisan or policy orientation.

Mission Stability

With the literature generally finding that higher turnover in agencies hinders organizational performance, recent scholars have delved into the specifics of enabling public organization to be more mission-driven and effective. Scholars have focused on the numerous benefits to organizations that a stable mission enables. Brown and Yoshioka (2003) looked at the impact that mission statements have on non-profit and public employees and found that agency mission is important for attracting employees but comparable pay is more effective at retaining them. Weiss and Piderit (1999) in their exploration of public schools determined that mission statements matter. In fact, their research found considerable variation among the schools' mission statements and notable impacts on the behavior of employees. The authors did not examine how the mission statements were determined, due mainly to the limitations of the data, but this work did establish that mission matters in public organizations (Weiss and Piderit 1999,

[9] Not surprisingly, there is considerable controversy about the use of PART scores as a dependent variable. For an interesting work, see Dull (2006).

pp. 218-221). Similarly, Bradley Wright (2007, pp 54-64) concludes that mission gives individual employees “goals” that they believe they can work towards.

Doucette and Richardson (1985) explored how missions are defined in public organizations and concluded that the selection of mission should be largely based on agency behavior. If an organization spends a large amount of time on a particular process, it should be part of the mission. However, this work is largely geared at an organization determining its own mission based on its activities. It fails to acknowledge situations where an organization’s mission is determined by others. The NCUA, for example, has a statutorily defined mission, and the analysis here looks at changes in mission over time and the effect this had on regulatory effectiveness.

Charles Goodsell (2006) also touched on the concept of mission in public organizations. He shies away from formalized mission statements in his writing and calls for a deeper commitment from public organizations to society as a whole. He writes that government agencies should have a strong sense of mission and a past that is celebrated and appreciated. Failure to have such features (as in the case of FHLBB) can result in a loss of effectiveness. Goodsell also identified mission as being internal and external. The internal mission is used to motivate agency employees, while the external transmission of culture occurs in, or is directed towards, the outside world.

Mission plays a large part in understanding how employees interact in agencies and may influence regulatory effectiveness. This is particularly salient in the financial services regulatory field where there has been noted criticism of the missions of many regulators. For instance, the GAO found that when the OTS, OCC, and NCUA established their missions, they did not discuss their roles with other regulators (GAO 2002, p. 12). This may have led to aspects of each agency's mission that compete with those of other regulators.

The benefits of agency staff understanding agency mission have been documented. The findings of Brewer and Selden (2000), Brown and Yoshioka (2003), Doucette and Richardson (1985), Goodsell (2006), Weiss and Piderit (1999), and Wright (2007) indicate that a sense of mission among agency staff reduces turnover. Therefore, it is the plausible to link stability of mission and personnel to employee performance. Other scholars have linked the stability of mission more directly to regulatory effectiveness. Goodsell (2011) and Hoffmann and Cassell (2010) both found that effective agencies will be mission-driven with a stable sense of purpose. Cotton and Tuttle (1986) and Balfour and Neff (1993) argued that more stable regulators (including those with more consistent regulatory purposes) will be better able to operate effectively.

Regulatory Style

In this study regulatory style refers to the preferred manner by which regulators communicate with and seek to influence the behavior of their supervised institutions. Several scholars argue that an agency's regulatory style can lead to greater effectiveness. Katzmann (1980) argued that among agencies with more effective staff, regulatory interventions will be framed in legal terms However, effectiveness is not static; as agencies exchange personnel with their regulated communities, they often become more reflective of the industries they regulate (Kelman 1980; Milgrom and Roberts 1986; Feldmann 2005).

The examination is based on the assertion by regulatory theorists that an ineffective system exists for the benefit of a clientele group, not for the public interest (Boehm 2007; Etzioni 2009; Laffont 1991; Smyth 2009; Thomas 2010; Woodward 1998). Therefore, testimonies, speeches, informal rulemakings, and formal rulemakings are classified for the purpose of understanding the client groups to which the regulators' policies are aimed. The three classifications are clientele, the public interest, and technical statements. My expectation was that agencies move in and out of informationally-imbalanced relationships based on the extent of legislative attention (see **Table 2.3**).

Table 2.3: Scholarship Linking Regulatory Style to Regulatory Effectiveness

Source	Theoretical Expectation(s)
Katzmann (1980)	Regulatory interventions will be framed in legal terms.
Eisner (2000)	More effective agencies will have a greater ratio of social scientists to attorneys.
	Agencies with greater proportion of social scientists will be more independent from interest groups.

Eisner (2001) documented the emergence of social scientists in regulatory agencies. He argued that the emergence of career social scientists, rather than attorneys who only intended on serving for a few years, allowed agencies to be more independent of interest groups for information. Typically, when staffed by lawyers, agencies depended on the social science expertise of interest groups rather than engaging in their own research (Eisner 2000, p. 17).

A key question has to do with the characteristics that lead agencies to have and maintain a balance between being responsive to their regulated communities and becoming over-reliant on them. I hypothesize that well-established agencies (agency longevity) will be better able to balance the input of the regulated community (Meier 1985), a tendency strengthened by economists joining lawyers in an agency. This in turn aids agencies by maintaining their legitimacy (McSwite 1996) but still allowing them to operate in the public interest (Goodsell 2004).

Resources

Financial and personnel resources matter to regulatory effectiveness (Wamsley and Zald 1976). Within the financial services arena, financial resources are linked to an agency's ability to attract newly chartered or "de novo" institutions. This is because the self-funding dynamic among financial services regulators directly links financial resources to charter attraction and retention. (U.S. Treasury 2001).

Much of the literature relating to the importance of resources to regulatory effectiveness is based on an understanding of financial and human resources as being necessary at a minimal level to allow for agencies to operate successfully. Baum (2002) analyzed effective public health organizations found that resources (such as agency budgets) were the strongest determinants of regulatory effectiveness (Baum 2002). Duff (2011) argued that not only do resources matter to how an agency performs, but proximity to resources has an impact on an agency's ability to accomplish its goals. She refers to these locations in close proximity to resources as "enabling places." In order to understand the influences of resources in agencies this analysis, like Baum (2002) uses agency budgets to tap resources.

Resources have not always been narrowly defined as being "financial." Brehm and Gates (1997) and Bertelli (2006) touched on the subject of resources in their research. They found that job satisfaction in federal agencies comes from agencies with the resources to enable satisfying interactions among staff and a sense of purpose within agencies. Brewer and Selden (2000) found in their research resources (budgets and overall staff levels) mattered in agencies.

Eisner (2000) argued that frequently attorneys dominate regulatory agencies. The greatest challenge to the dominance of attorneys in regulatory agencies has been the emergence of economists. The newer focus on the economics of regulation resulted from efforts by agency leadership to bring more social scientific rigor to agencies. This led to the reliance on larger technical staffs in newer regulatory agencies that tie regulatory action to scientific rather than legal standards. In accordance with this phenomenon, the proportion of social scientists including public administration scholars) in an organization generally relates to perceived regulatory effectiveness (Eisner 2000, pp. 16-17). Not every scholar views the emergence of economists as policy experts in the policy field positively. Behn (1995) argued that public administration's evolution is contingent upon moving away from the sole reliance on economic methods of analysis (Behn 1995).

Eisner's analysis reflects Katzmann's (1980) earlier work on the expertise of attorneys. Both argue that attorneys and legal knowledge are important to the operation of regulatory agencies. Katzmann contends that attorneys' training and skills lead agencies to frame regulatory interventions in legal terms (p.58). However, Eisner contended that the emergence of social scientists in regulatory agencies has opened up regulatory interventions to different types of information (p.17).

Propositions

The working model of regulatory effectiveness (Figure 2.1) generates several propositions that this analysis examined.

P1: Older agencies will be more effective.

In part, this predicted relationship is due to the difficulties faced by newer agencies such as the OTS. Downs (1967) argued that new agencies that are designed to regulate powerful interests are particularly susceptible to regulatory informational imbalances. These relationships redirect newer agencies away from fulfilling their missions. The agencies will tend to focus on building support among stakeholders, rather than engaging in regulatory behavior. This is important because an agency in this view has to partner with a powerful interest if it is to continue to grow. In Downs's analysis, regulatory ineffectiveness occurs when agencies choose growth over effectiveness. He contends that this choice is important because it allows an organization to maintain its stability either by growing or by offering more incentives to its employees (Downs 1967, p. 11).

Agencies with greater longevity face a different set of issues than their younger siblings. Older agencies tend to be better at performing complex tasks, developing more rules, and focusing their policies more on seeking autonomy from Congress and the presidency rather than on effectiveness. As agencies age, they also generally become more conservative because personnel who ascend to leadership positions tend to focus on preserving the rules and maintaining autonomy. Downs's law of increasing conservatism states that unless there is considerable internal turnover or rapid growth, organizations get more conservative as they age. Among the older financial services regulators, one might expect to see political leadership with more conservative policy orientations (Downs 1967, pp. 13-14).

Newer agencies, on the other hand, are characterized by instability and a lack of external support. Agencies become more stable when they are able to build relationships with clients and demonstrate that they are effective at pursuing their missions. This is an agency's "initial survival threshold." External support is even more important for new agencies than established ones. Organizations that are created by external actors are those that have to justify their value to such actors, like Congress. Within the financial services realm, this survival threshold is heightened by competition among the three functional rivals (Downs 1967, pp. 6-7).

Agency longevity also has an impact on employee turnover. The "age lump phenomenon" occurs because when the age of a bureau increases so does the average age of its employees. This can cause problems when it is time for promotions within the organization (not enough spaces for the talent) and some of the more ambitious employees decide to leave. This also deters younger, well-qualified personnel from seeking employment at the organization because they view their promotability as limited (Downs, 1967, p. 15). This phenomenon would likely present itself as higher personnel turnover in more mature agencies, with potential effects on performance.

Agency longevity also influences the clientele support of public organizations. Agency death occurs when agency clientele conclude they do not derive enough benefit from the agency to justify the resources expended. However, agency death is unusual because agencies shy away from divisive conflicts, so they are less likely to eliminate each other than in the private sector (Downs 1967, pp. 16-17).

P2: Agencies better able to manage complexity, with low political appointee turnover and with a higher percentage of front-line employees, will be more effective.

Much recent scholarship relating to regulatory effectiveness points to two important aspects of successful regulators; (Eisner 2000; Katzmann 1980; Meier 1985): their abilities to manage both politically and technically complex environments. As noted earlier, here political complexity is tapped by the amount of congressional attention an agency receives. In 2006 and 2008 Merit Services Protection Board (MSPB) issued reports on the new "excepted" hiring system. The second of these reports found that the number of flexible hires had increased significantly, and this had a positive impact on agency operations (2006; 2008). This evidently was because it allowed agencies to recruit employees with complex skills and enhance the agencies' ability to operate in complex environments (Eisner 2000).

P3: Agencies with stable missions, flexible regulatory styles, and sufficient resources will be more effective.

Much focus in the field of public administration has been on the concept of agency mission. This has led to increased research on how missions are formulated and the impact that agency mission has upon operations. The findings of Brown and Yoshioka (2003), Doucette and Richardson (1985, Goodsell (2006), Weiss and Piderit (1999), and Wright (2007) supported expectations that a sense of mission among agency staff would reduce turnover which in turn would link to stability and mission to employee performance and thereby regulatory effectiveness. This study focused on recent changes in the missions of the NCUA, OTS, and OCC. It is easier to understand legislative purpose in the enabling legislation for these agencies. The OCC was originally structured 1862; this analysis focuses on changes in agency mission since 1989.

Conclusion

The research linking regulatory effectiveness and characteristics of regulatory agencies is often disjointed. One of the challenges in developing a working model for regulatory effectiveness is to incorporate government reports and scholarly literature. Due to the practical and theoretical aspects of this research, it was necessary to develop practitioner-oriented as well as theoretical approaches to examine regulatory effectiveness. This chapter argued for a more comprehensive understanding of the theoretical underpinnings of regulatory relationships with their supervised communities. Prevailing scholarship supports an understanding of regulatory effectiveness rooted in agency longevity, agential ability to manage complexity, agencies with particular appointee and staff qualities, stable missions, flexible regulatory styles, and sufficient resources. The next chapter turns to exploring how this framework was examined empirically.

Chapter Three
Research Design

This chapter overviews the research design that was used in order to analyze the influences on the effectiveness of the three agencies. Discussion begins by describing the study deign and the time period of the analysis. Next, I will turn to a brief overview of the agencies that were analyzed and why these agencies were selected. Finally, the chapter discusses how the data were collected and analyzed.

Study Design

This project is designed as a comparative case analysis of three financial services regulators. The design is tailored to allow for an examination of the propositions Chapter Two introduced. This analysis focuses primarily on the impacts on the regulatory effectiveness of three regulators. The NCUA, OTS, and OCC regulate diverse financial institutions and, as Table 3.1 indicates, each agency has varying longevity, staff tenure, and hiring flexibility. These agencies also have had varying success in preventing bank failures through interventions of their regulated institutions. The formal organizational goals of all three regulators encompass identical regulatory tasks: promoting, policing, and giving technical guidance to their regulated institutions (Hoffmann, 2001). These organizational tasks lead to variations that in turn impact their effectiveness.

Table 3.1: Agency Comparison

	Median Employee Salary, 2008	**Median Tenure of Staff**	**Hiring Flexibility**	**Agency Longevity**
Office of Thrift Supervision	$98,548	15.7 years	Medium	Shortest
Office of the Comptroller of the Currency	$87,802	17 years	Highest	Longest
National Credit Union Administration	$88,904	15.2 years	Lowest	Medium

Sources: OPM Datacube and MSPB

The variance among these three financial services regulators allowed for a useful comparison of similar agencies tied to the same metric of performance (prevention of failures in their regulated community).

Time Period of Study

The time period analyzed extended from 1989 through 2008. This allowed the research to address regulatory effectiveness under several different political appointees, during multiple presidencies, and different Congresses. It also takes into account several economic climates, includes the growth of the credit union industry, and allows for consideration of the shift in personnel appointments at some of the agencies in question. The OTS's entire lifespan is included and gives some clues about the impact that a new agency has on effectiveness. By selecting this time frame, the analysis examined the behavior of the three agencies in their configurations as of Spring 2012.

Limitations

Several potential limitations to the analysis should be considered. First, there may be issues of generalizability to other financial services entities, since I examined only three of the six federal financial regulators. Yet, because the focal agencies vary structurally, the examination of impact may permit some analytic generalizability.

Another potential limitation is the varying degrees of transparency among the three focal agencies. Since much information that relates to bank regulation has a direct bearing on the overall financial system, certain data relating to banks or credit unions in financial peril could not be collected. This is important because this type of information can help to establish how agencies respond to political direction.

The Agencies

Khademian (1996) and Hoffmann (2001) argued that regulatory style is linked to the specific organizational styles, narratives, and contexts of financial services regulators. In order to more fully understand regulatory effectiveness and the influences that enhance or inhibit it, I first give some information about the agencies that were studied.

National Credit Union Administration

The NCUA is a small independent regulator that focuses on managing risk in the National Credit Union Share Insurance Fund and is the primary regulator for federally-chartered credit unions. Originally, federal credit unions were regulated by the Bureau of Federal Credit Unions under the Farm Credit Administration. Subsequently, the Bureau existed in several agencies, including the Federal Deposit Insurance Corporation. In 1970, Congress established the NCUA as an independent agency (NCUA Website 2008).

The primary oversight responsibility for NCUA typically rests with the Senate Banking Committee and the House Financial Services Committee. However, since credit unions have a federal tax exemption, the House Ways and Means and the Senate Finance committees also have narrow authority. Due in part to their social mission,[10] credit unions have managed to stay exempt from some of the more onerous regulations that have been placed on banks. Specifically, credit unions need not comply with the Community Reinvestment Act of 1977, and they do not pay federal corporate taxes. In contrast, banks are taxed as corporations. Of the three cases, the NCUA has medium agency longevity, medium staff tenure, and medium failure rates among

[10] According to Hoffman (2001), credit unions were founded during the Progressive Era in the United States. They are not-for-profit cooperatives that were intended originally to provide banking services for poorer members of society whom banks generally failed to serve. This social focus is one of the defining factors of the industry and one of the greatest political assets of NCUA leadership. While banks' motives are characterized as being simply to make profits, credit unions point to their social focus as powerful proof that the consumer will benefit from their policy requests

financial services regulators since 1989. As a regulator, it has been criticized for an inability to effectively manage the complexity of the financial service industry (Boster 1991).

Office of Thrift Supervision

Selection of the OTS allows for a better understanding of the dynamics at work among these regulators. Although the NCUA and the OCC are at opposite ends of the spectrum on resources and legislative attention, the OTS is not at the extremes of most of the metrics used in this analysis. King, Keohane, and Verba (1994) criticize selecting cases only at the extremes of variables because this skews the ability to effectively explain variance among cases.

Congress created the OTS in 1989 in order to unify the regulation of federally-chartered savings institutions and separate the regulatory operations from the management of deposit insurance. Thrifts are financial institutions that generally focus on mortgage lending; many are cooperatively owned and often position themselves as mortgage lending alternatives to commercial banks. The regulation of savings institutions fell to a new agency, the OTS (rather than the unsuccessful Federal Home Loan Bank Board), while the Savings Association Insurance Fund moved under the oversight of the Federal Deposit Insurance Corporation. Of the three cases considered here, the OTS has the shortest agency longevity, the shortest staff tenure, and the highest median failure rates for financial services regulators since 1989. Like the NCUA, the OTS has been criticized for a lack of professionalism (Boster 1991).

Office of the Comptroller of the Currency

Congress created the OCC in 1863 to "…be charged with the execution of this and all other laws that may be passed by Congress respecting the issue and regulation of national currency secured by United States Bonds" (National Bank Act ch. 58, 12 Stat. 665, February 25, 1863). In this capacity it has evolved into the primary regulator for national banks.

Of the three cases, the OCC is the financial services regulator with the greatest longevity, highest median staff tenure, and greatest hiring flexibility. It is also the regulator with the lowest median failure percentage. The OCC's professionalism has not been questioned; rather it has been criticized for not valuing fully the expertise of its employees (Khademian 1995, pp. 68-74; 1996).

Other Regulators

Several other financial services regulators were excluded from this study. Most notable is the Federal Reserve Board (Fed). The Fed is tasked with the dual purpose of crafting monetary policy and managing the economy as a central bank and regulating the largest financial institutions. This, coupled with its structure of being more independent of the legislative process, gives the agency a broader ability to affect financial policy (Kettl 1986, p.13; West 1977, pp. 219-221). Conversely, the Farm Credit Administration regulates a narrow, non-competitive, government-subsidized group of lenders. The Administration is much smaller than the three agencies that are the subject of this study (FCA Website 2011).

The benefit of applying regulatory theory to financial services regulators rests in the overlap and redundancy among agency responsibilities. This allows for an unusual ability to control for various types of agential qualities and simplifies the explanations for variation. DeYoung, Hasan, and Hunter (2001) supplement this research by finding considerable variation among bank regulators in the survival rates of de novo institutions. The authors attributed this variance to differences in regulatory style.

Operationalizations, Data, and Data Analysis

In order to empirically examine the concepts in the working model, they first had to be disaggregated into distinct variables and then operationalized. My operationalization of regulatory effectiveness focused on the understandings of Downs (1967), Eisner (2001), Katzmann (1980), Meier (1985), and Rainey and Steinbauer (1999) about the influences of regulatory effectiveness. **Table 3.1** provides an overview of the concepts, variables, and data sources relied on for operationalization.

Table 3.1: Empirical Examination: Concepts, Variables, and Data Sources

Concept	Variable	Data Sources
Stability		
Agency Longevity	Age in Years	Annual Reports
Mission Stability	Changes in Agency Mission	Annual Reports
Flexibility		
Regulatory Style	Legal Intervention Percentage	Enforcement Actions from Agency Websites
	Enforcement Rate	
Agency Ability to Manage Complexity	Congressional Testimony of Agency Staff	Congressional Record
Resources		
Agency Appointee and Staff Qualities	Percentage of Examiners	FEDSCOPE OPM Employment Data
	Political Appointee Turnover	Agency Websites
Financial Resources	Budget per Institution	Annual Reports and FDIC/NCUA Data
Regulatory Effectiveness	Failure Rates of Regulated Institutions	FDIC/NCUA Data
	Programmatic Effectiveness	OMB PART Scores

The stability of agencies is disaggregated into analyses of agency longevity and mission stability. Two variables measure agency age (in years) and mission changes. The flexibility of regulatory agencies is tapped through analyses of regulatory style (including enforcement and legal intervention rates) and ability to manage complexity (tapped by the numbers of times officials testify before Congress). Finally, agency resources are tapped by “appointee and staff qualities” and “financial resources.” The former incorporates two variables: “examiner percentage” and “political appointee turnover,” while “financial resources” focuses on the “budget per regulated institution.”

Generally, scholars view effective regulatory agencies as mission-driven institutions (Boyne 2004; Brewer and Selden 2000; Lane 1996; Rainey and Steinbauer 1999; Selden and Sowa 2004; Wolf 1993) that are able to exercise discretion (Goodsell 2011; Meier 1985), are concerned with reputational risk (Douglas 2005), and utilize innovative employees and managers (Borins 2001; Wolf 1993; Grindle and Hilderbrand 1995). The most effective regulatory agencies have greater longevity (Downs 1967) and skilled political appointees and staff (Katzmann 1980; Eisner 2000). A flexible regulatory style allows an organization to adjust to changing contexts (Bawn 1995; Ferejohn and Shipan 1990), to experience lower turnover among agency staff and appointees (Balfour and Neff 1993; Bergh 2001; Cotton and Tuttle 1986; Lewis 2008; Meier and Hicklin 2007), and to be better able to manage complex regulatory environments (Downs 1967; Eisner 2001; Feldmann 2005; Kelman 1980; Milgrom and Roberts 1986). Finally, effective regulatory organizations will have stable missions that enhance their ability to recruit and retain staff (Goodsell 2011, Hoffmann and Cassell 2010).

I selected linear regression analysis as a technique to examine the specifics of the relationships between the agency characteristics and failures of supervised institutions. This appeared preferable to using a qualitative case model or a qualitative model based on Boolean algebra because the regression model allowed for some, albeit weak, exploration of relationships that I conceived as being causal (Lieberson 1991; Mahoney 2003).[11]

[11] For a similar small N study, see Skocpol (1979) on social revolutions.

This research analyzed possible influences on regulatory effectiveness using multivariate linear regression for each of the three agencies. I examined specifications with no lag on the dependent variable in the current year *(t)*, and with one year *(t-1)* and two year lags *(t-2).* Specifically, the variables examined included agency longevity (tapped by agency age in years), ability to manage complexity (tapped by GAO reports on and congressional testimony by the agencies), appointee and staff qualities (measured by appointee turnover and by percentages of examiners, respectively), mission stability (tapped through changes in mission since 1989), regulatory style (measured by the legal intervention and enforcement rates), and resources (tapped by budget per institution regulated). Additionally, the operationalization of the variable tapping changes in agency mission also incorporated a detailed narrative analysis of the substance of mission changes. Narrative analysis also is employed to examine political appointee turnover.

I was able to examine a variety of data for each variable. The measurements of variables such as agency longevity and congressional attention were straightforward, while the examination of legal intervention and enforcement rates was more complicated. The variable "agency longevity" was gleaned from the founding of the agency in its current configuration. This generally was found in the enabling legislation of the respective agencies. The Office of Thrift Supervision and the National Credit Union Administration emerged from previous regulatory structures. This analysis treats the beginning of the current configuration as the beginning of the agency for the purpose of measuring longevity.

Congressional attention was tapped by examining the number of times that agency officials were called to testify before Congress in a given year. These data were gleaned from the listings of testimony on the websites of each agency. Each website reports congressional testimony from 1998 through 2008.

The percentage of examiners was collected from the Office of Personnel Management's Datacube tool. The datacube classifies each position in the agencies and reports it as a percentage of total agency staff. For the OCC and OTS, the percentages of employees classified as "0570 Financial Institution Examiner" were reported; for the NCUA, the percentage of employees classified as "0580 Credit Union Examiner" was used. The Datacube has available information for the years 1998-2008 for each of the three agencies.

The variable tapping mission stability was examined using the annual reports listed on the websites of the three agencies. The annual reports of the NCUA, OTS and OCC were available during the entire time period of the study. I examined the specific text of the mission for changes in wording. A "1" indicated years during which mission changes occurred and "0" for other years.

Among the dimensions of "regulatory style" were two specific variables: legal intervention and enforcement rates. The legal intervention rate was tapped through the agency websites. The rate was the percentage of regulatory actions that were legal in nature; financial regulators refer to these as Cease and Desist Orders. Such actions can be contrasted with issuing general forms of guidance or interpretive rulemakings and policy statements.

I also examined each of the enforcement actions by agency for the years 1998-2008. The overall enforcement rate was calculated by examining the actions that agencies undertook as a proportion of the total institutions regulated. These data were available through both the Federal Deposit Insurance Corporation (total numbers of institutions regulated by the OCC and OTS) and the NCUA (which maintains its own regulatory data).

I calculated the budget per regulated institution by dividing the total agency budget, found in the annual reports on agency websites, and dividing it by the number of institutions regulated at the end of the third quarter (June 30th). The third quarter generally represents the benchmark time period for the data that the FDIC and NCUA maintain. This allows for reporting on the financial condition of supervised institutions prior to the end of the federal fiscal year on September 30th. Data on agency budgets were available for each of the regulators for at least most of the years that the study examined. The NCUA had data available from 1992-2008, the OCC for 1998-2008, and the OTS for 1995-2008.

Summary

This chapter reviewed the study's research design, outlining the empirical examination of the "working model" of regulatory effectiveness introduced in Chapter Two. The research compares three agencies, focusing on federal bank and credit union regulators. The NCUA, OCC, and OTS supervise similar institutions with different levels of failures in their regulated communities. The following chapters turn to the study's findings, beginning with the influences of agency longevity on regulatory effectiveness.

Chapter Four

The Impact of Agency Longevity on Financial Services Regulatory Effectiveness

Research has shown that agency longevity can be expected to enhance regulatory effectiveness (Greider 1987). Academic research also suggests that agency longevity better allows agencies to complete their missions (Weiss and Piderit 1999; Goodsell 2011). In regulatory institutions such as the three that are the subject of this study, agency longevity would be expected to provide benefits (Eisner 2000). Other scholars argue that agency longevity specifically enhances autonomy. For the purpose of this analysis agency longevity refers to the length of time that an agency has existed in its current configuration (Downs 1967; Ferejohn 1990; Bawn 1995). Proposition 1 predicted that greater longevity would aid agencies in managing the risk of the institutions they regulate and therefore enhance regulatory effectiveness (Martin 1977).

Downs (1967, p. 6) observed that bureaus can only survive when they are able to be perceived as being effective and maintain sufficient resources. In part, this is due to the difficulties faced by newer agencies such as the OTS. Downs's (1967) argument is that new agencies that are designed to regulate powerful interests are particularly susceptible to regulatory problems. This is important because an agency, in this view, has to partner with a powerful interest if it is to continue to grow (Downs 1967, p. 11).

When investigating the NCUA, OTC and OCC, I expected that greater agency longevity would enhance the ability of regulators to prevent failures within their regulated community. Proposition 1 focuses on understanding agency age and its impact on regulators' ability to prevent systemic risk. This chapter examines the financial resources at agencies, congressional attempts at agency termination, and the statistical relationships among agency age, resources, and effectiveness.

An important aspect to understanding in agency longevity may be its link to staff resources (analyzed further in Chapter Six). Wamsley and Zald (1976) identified two important aspects of staffing: overall staffing levels and the levels of “front-line” employees in an organization. Staffing levels since 1993 for all three regulators have remained relatively stable. The NCUA was reluctant to fully staff the agency. In fact, the NCUA typically attempts to hire fewer personnel than it is authorized by Congress.[12] The understaffing of the agency is evidence of an internal efficiency dynamic. Since the organization is funded with insurance premiums paid by the institutions it regulates, there is regulatory clientele pressure to keep agency expenditures low. This might also explain why the credit union industry has more than doubled the assets supervised since 1995, while there has been little or no appreciable change in the size of agency staff. This sets up a potentially dangerous dynamic whereby cost may override the fundamental mission principles of safety and soundness of the credit union industry.

Downs (1967) argued that agencies can only survive when they are perceived to be effective and maintaining sufficient resources. In order to examine the impact that agency longevity has on personnel, this analysis examined the growth in total staff at the NCUA, OTS, and OCC as well as the percentage of agency staff who are front-line personnel (that is bank and credit union examiners as gleaned from the OPM datacube) (OPM 2011). Finally, the analysis compared the number of front-line examiners per institution regulated, which allows for a greater understanding of the comparison between staff and work load as it is associated with agency longevity (OPM 2011) .

[12] Authorized full-time equivalent employees in 1993 were just over 990. In 2001 the authorized employees were 1050. In 2007 number rested at 970. The actual employees ranged from 890 and 1996 to 990 in 2002.

Based on the research of Mayer and Zald (1976) and Downs (1967), financial services regulators would be expected to have linkages between agency longevity and financial resources. However, as **Table 4.1** shows, this is not always the case.

Table 4.1: Relationships between Longevity and Financial Resources by Agency

	Agency Longevity	**Financial Resources**
OCC	Greater	Greater
OTS	Lower	Medium
NCUA	Medium	Lower

Overview of the Statistical Models

This study used nine statistical models in order to examine the relationships among failures of regulated institutions and several possible influences. However, these models are of limited statistical utility. The models served to supplement the narrative analyses and add additional evidence to the analysis. These models are designed to be exploratory and not concrete estimation of the linkages between the variables in the study. The small number of observations does not allow for generalizations of the linkages between independent and dependent variables.

Appendix A includes the models for the NCUA (1a, 1b, and 1c); **Appendix B** contains the three models for the OTS (2a, 2b, and 2c) and **Appendix C** includes those for the OCC (3a, 3b, and 3c). With some exceptions, each of the models has reasonable explanatory power, with explained variation in regulatory effectiveness ranging from 7 to 78%.

Agency Longevity and Failures

Attention focuses more specifically on the relationship between longevity and regulatory effectiveness. The analysis looked at the relationships between agency longevity and the failures of regulated institution for each of the three regulators. The regressions produced some statistically significant relationships. In models 1a, 2a, and 2b (see **Appendices A, B, and C**), statistical evidence showed a negative and statistically significant ($p < .01$) relationship between agency age and the failures of regulated institutions.

The relationship with the greatest magnitude in model **1a** (NCUA) was "Agency longevity" (beta=-.576). OTS model 2a (see **Appendix B**) had an R-squared of .760 at *t time*, while model 2b with a lagged dependent variable *(t-1) (n=19*, and omitting the independent variable "agency longevity", had an R-squared of .*301*. This was the one of the models with the weakest explanatory power. Finally, model 2c, with a two-year lag (at *t-2*), and omitting the independent variable "agency longevity," had an R-squared of *.776.* In model **2a** (OTS) "Agency longevity" also had the strongest relationship to failures of regulated institutions (Beta=-1.221). Finally, for the OCC *(n=20)* the model 3a had an R-squared of .*575* at *t.* While the model 3b with a lagged dependent variable *(t-1) (n=18)* had relatively small explanatory power with an R-squared of .065. Model 3c *(n=17)* with a two-year lag (at *t-2*) had an $R^2$of .105.There may be a negative statistical link among agencies between their longevity and their ability to prevent failures of supervised institutions. The information gained from the regression is relatively straightforward. In model 3a (OCC) "Agency longevity" (beta=-.843) was the only statistically significant coefficient. The models of OCC at t-1 (**3b**) and t-2 (**3c**) produced no statistically significant results.

The relationships between agency longevity and the failures of regulated institutions are statistically significant; however, the *N* is small and the relationships may be of limited generalizability. As agencies grow older, they may be more likely to have failures among their regulated institutions. If this statistically significant were confined to the much younger OTS, this relationship could be explained as being a liability of newness. Yet, the results of the regression model for all three agencies at time *t* showed statistically significant negative relationships between agency age and the failures of regulated institutions (see **Table 4.2**).

Table 4.2: Impact of Agency Age on Failures of Regulated Institutions[13]

Failures of Regulated Institutions

Model	1a. NCUA		
	B	Std. Error	Beta
Agency Longevity	-3.035*	1.11	-0.576*
R^2 (overall)	0.685		

Model	2a. OTS		
	B	Std. Error	Beta
Agency Longevity	-18.175*	2.997	-1.221*
R^2 (overall)	0.760		
N=	20		

Failures of Regulated Institutions

Models	3a. OCC		
	B	Std. Error	Beta
Agency Longevity	-4.842**	1.141	-.943**
R^2 (overall)	0.602		

Levels of significance: *0.1 level, **0.01 level.

Conclusion

Since older agencies appear to be more effective, perhaps regulatory resources should focus on such more established agencies. Regulatory reform, then, may be better achieved not by establishing a new financial services regulator, but by enhancing the ability of current regulators to accomplish their missions. The next chapter turns to examining the impact of the ability to manage complexity and of appointee and staff qualities on financial services regulatory effectiveness.

[13] These statistics are drawn from the multiple regression models in the appendices **A**, **B** and **C**.

Chapter Five

The Impact of Ability to Manage Political Complexity, Front-line Employees and Political Appointee Turnover on Regulatory Effectiveness

The second proposition predicted that regulatory effectiveness would be influenced by three additional factors: agency ability to manage complexity, front-line staff, and political appointee turnover. The expectations for this analysis were that higher rates of congressional oversight would have a negative relationship with the failures of regulated institutions. This is because congressional oversight mitigates the agencies' tendency, as self-funded organizations, to focus on the demands of their regulatees. Secondly, higher levels of political appointee turnover would be positively related to the failures of regulated institutions. This is because the changes in political appointees would cause shifting organizational priorities that may hamper organizational decision-making. The final research expectation gleaned from the academic literature regarding agency effectiveness relates to the composition and expertise of agency staff. Higher levels of examiners (or front-line staff) were expected to have positive relationships with agency effectiveness. This is because higher levels of examiners are in contact with troubled institutions and better able to anticipate when an institution may be at risk for failure.

This chapter introduces and examines the impacts of congressional attention, front-line staff, and political appointee turnover on regulatory effectiveness. I examine these influences by discussing the statistical impacts of these factors on agency effectiveness. Next I turn to a more detailed discussion of front-line agency staff among the regulators. This is followed by a narrative analysis of the implications of political appointee turnover on regulatory performance.

Congressional Attention and Front-line Staff

The regression model had two variables that directly related to the second proposition: "Congressional Attention" and "Percentage of Examiners." The extent of congressional attention was not related to variations in failure rates when controlling for other factors. No statistically significant relationships appeared between the failures of regulated institutions and the percentage of examiners compared to total staff within the NCUA, OTS, and OCC (see **Table 5.1**). The subsections that follow may shed additional light on the absences of relationships.

Table 5.1: Impact of Congressional Attention and Percentage of Examiners on the Failures of Regulatory Institutions[14]

Failures of Regulated Institutions

Models	1a. NCUA			1b. NCUA *(t-1)*			1c. NCUA *(t-2)*		
	B	Std. Error	Beta	B	Std. Error	Beta	B	Std. Error	Beta
Congressional Testimony	.926	2.039	.082	.635	2.458	.057	.805	2.430	.074
Examiner Percentage	-523.913	1451.670	-.066	628.321	1666.189	.079	-501.042	1646.707	-.064
R^2 (overall)	0.685			0.496			0.491		
N	20			19			18		

Failures of Regulated Institutions

Models	2a. OTS			2b. OTS *(t-1)*			2c. OTS *(t-2)*		
	B	Std. Error	Beta	B	Std. Error	Beta	B	Std. Error	Beta
Congressional Testimony	-4.919	6.680	-.142	.148	10.843	.004	.749	6.110	.022
Examiner Percentage	207.979	507.058	.089	-148.655	823.667	-.064	-187.001	464.174	-.081
R^2 (overall)	0.760			0.301			0.776		
N	20			19			18		

Failures of Regulated Institutions

Models	3a. OCC			3b. OCC *(t-1)*			3c. OCC *(t-2)*		
	B	Std. Error	Beta	B	Std. Error	Beta	B	Std. Error	Beta
Congressional Testimony	-2.055	3.625	-1.64	1.965	5.115	.157	3.617	4.965	.291
Examiner Percentage	-260.705	975.274	-.084	517.093	1384.466	.167	983.810	1343.928	.319
R^2 (overall)	0.575			0.065			.105		
N	20			19			18		

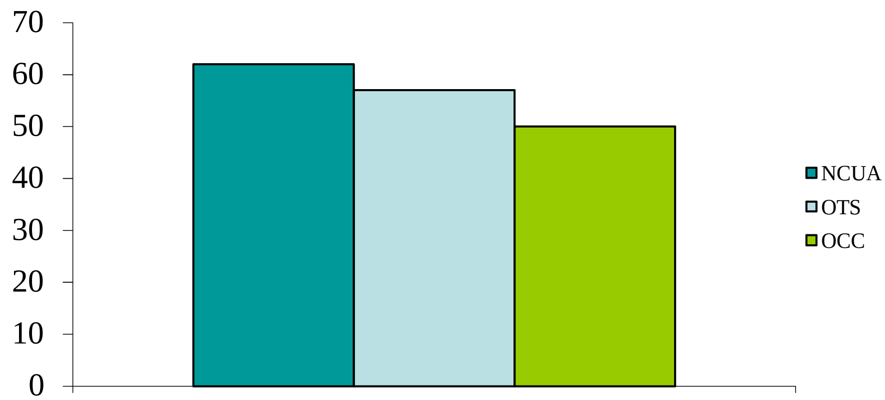
Levels of significance: *0.1 level, **0.01 level.

[14] These statistics are drawn from the multiple regression models in the appendices **A**, **B** and **C**.

Congressional Attention

The overall rates of congressional testimony for the three agencies in the study show relatively little variance (see **Figure 5.1**). Thus, there seems to be little evidence supporting a relationship between congressional scrutiny and agency effectiveness. The most effective agency, OCC received the lowest level of congressional attention, while the least effective (OTS) had an intermediate level of attention.

Figure 5.1 : Congressional Testimony by Agency, 1999 through 2008



Source: THOMAS

Most likely Congressional testimony is driven at least in part by partisan concerns rather than congressional attempts at regulatory oversight (see **Table 5.2**).

Table 5.2: Relationships between Congressional Attention and Effectiveness

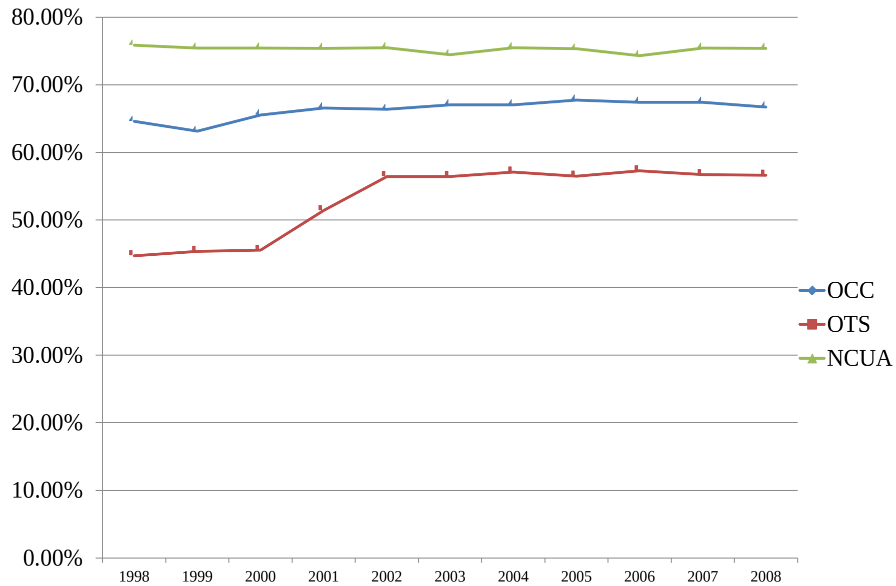
	Congressional Attention	Effectiveness
OCC	Lower	Greater
OTS	Medium	Less
NCUA	Greater	Medium

No statistical evidence links the rates of congressional testimony to the failures of regulated institutions. I expected to find a lagged relationship between congressional testimony rates and failures. The absence of such a link is evidence that among the financial services regulators the level of Congressional attention has little bearing on agency ability to interact effectively with its regulated communities. This may be explained when understood through the lens of the peculiar mechanism of self-funding. While there is symbolic power in agency staff being called before a legislative committee to testify (it shows agency staff that Congress is paying attention), in real terms Congress is unable to exercise one of its most powerful tool in influencing agency behavior, the power of cutting appropriations. Therefore, these agencies' ability to fund themselves grants them greater independence from Congress and may render them less concerned with congressional scrutiny.

Front-line Staff

In this analysis, the percentage of examiners in the agencies served as a proxy for front-line agency personnel who are able to detect problems and regulated institutions quickly. My research expectation based on previous scholarship was that there would be a statistically significant and negative relationship between examiner percentage and the failure of regulated institutions. Although there was considerable variance in the rates of examiners among the regulators (see **Figure 5.2**), this analysis found no strong evidence of a relationship with failure rates.

Figure 5.2: Percentages of Examiners By Agency, 1998 through 2008



Source: OPM Datacube

The NCUA had a consistently higher percentage of examiners among its staff than did the other agencies (NCUA 2011). To tap the relationship between the number of regulated institutions and examiners, I also examined the ratio of bank and credit union examiners per institution regulated **(**see **Table 5.3**).

Table 5.3: Ratio of Examiners per Regulated Institution by Agency, 1998 through 2008

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
NCUA	1:12	1:11	1:10	1:10	1:10	1:10	1:10	1:10	1:9	1:9	1:8
OTS	1: 2	1:2	1: 2	1: 2	1:2	1:1	1:1	1:1	1:1	1:1	1:1
OCC	1: 2	1:2	1:2	1:2	1:2	1:2	1:2	1:2	1:2	1:1	1:1

Sources: NCUA, OCC, and OTS Annual Reports and OPM Datacube

The under-resourced nature of the NCUA stands out. Typically, a regulator has as many as seven times as many institutions to oversee as they would at OTS and OCC. Since the NCUA appears in the middle category for agency longevity among the cases, there appears to be no relationship between agency longevity and number of examiners per regulated institution (Administration 1998-2008; Currency 1998-2008; Supervision 1998-2008). Nevertheless, the absence of statistical relationships between percentage of examiners and failures of regulated institutions calls into question whether either regulator load (in this case number of regulated institutions per regulator) or staff composition (percentage of examiners) affects the ability of financial services regulators to prevent failures of the regulated institutions.

A Narrative Analysis of Political Appointee Turnover

The stability of political leadership in financial services regulators is an important factor in understanding the agencies' general direction. The analysis focused on those officials who were appointed by the president and confirmed by the Senate. These individuals, who are tasked with the management of complex regulatory agencies, have varying degrees of effectiveness. Furthermore, according to the GAO (1994), political appointees generally serve for shorter durations than their career colleagues (Light 1995; Heclo 1977).

For these reasons, it is necessary to consider how political appointees function at regulatory agencies and the impact that they have on those organizations achieving their statutory missions. Congressional concerns relating to the political management of banking and credit union regulators is not new. Representative Bachus (R-AL) wrote to the NCUA on January 14, 1997 that the agency's political appointees concerned him greatly. He stated that he was concerned that the NCUA staff created policy that should fall under the purview of its board.

While controversy such as this is far from normal among all of the financial services regulators, this anecdote does illustrate the political pressure, frequently partisan, under which political appointees as well as other agency staff operate. Added to this oversight pressure is pressure from constituent groups that may have had input into the appointment of the political leadership of agencies and therefore have expectations of responsiveness. These factors create a situation for political appointees that cause turnover to be much higher than it is among their career subordinates.[15]

Research that relates the performance of political appointees to overall agency performance is abundant. Lewis wrote that high turnover among political appointees impacts agency effectiveness (2008). Light (1995) argued that the number of vertical layers created by the increases in political appointees diffused accountability in public organizations (1995). Dull and Roberts (2009) note that in highly technical areas, appointees will serve longer. This is because the jobs frequently have higher demands and limited external job opportunities. According to Bergh (2001), executives with longer tenures do not hinder organizational performance.

From this scholarship, one can draw general conclusions about appointee tenure and performance at the OCC, OTS, and NCUA. Each agency has dealt with different criticisms relating to its political appointees. The GAO (2006) analyzed NCUA's corporate governance in 2006. It found that the NCUA Board's independence was similar to that of other federal regulators and that the agency's use of schedule C appointees was appropriate. The report did question the Board's objectivity based on its pro-credit union policies, and recommended that in the next strategic plan objectivity be listed as a core value as it is at the Federal Reserve (2006).

The NCUA has a three-person board that is appointed by the president (2010). The NCUA's Board membership since 1989 has been comprised of 14 members and four chairs (see **Table 5.4**).

[15] Admittedly, changes in presidents also have an impact on appointee turnover.

Table 5.4: NCUA Political Appointees, 1989 through2008

Chairman	Term
Roger W. Jepsen	1989-1991
Norm D'Amours	1991-1997
Dennis Dollar	1997-2004
JoAnn Johnson	2004-2008
Michael Fryzel	2008

Board Member	Term
Elizabeth F. Burkhart	1989
Robert Swan	1990-1996
Shirlee Browne	1993-2000
Yolanda Wheat	1996-2001
Geoff Bacino	2001
Deborah Matz	2002-2005
Rodney Hood	2005-2008
Gigi Hyland	2005-2008

Source: NCUA Website

Unlike the NCUA's independent board structure, the OTS has one political appointee, the director, who answers to the Secretary of the Treasury. In order to better centralize thrift regulation at the federal level and allow for greater accountability, Congress established the office of the director (Hoffmann 2010). The OTS has had eight directors since its inception in 1989. The longest serving of these were Jonathan Fiechter, Ellen Seidman, and James Gilleran. The first two directors-- Danny Wall and Salvatore Martoche-- were later ruled to have been unconstitutionally appointed because the Senate did not advise and consent to their appointments. In the case of Martoche, the Senate retroactively approved his nomination (See **Table 5.5**).

Table 5.5: OTS Political Appointees, 1989 through 2008

Director	Term
M. Danny Wall	1989
Salvatore Martoche[16]	1990-1992
T. Timothy Ryan	1992
Jonathan L. Fiechter	1992-1996
Nicole Retsinas	1996-1997
Ellen Seidman	1997-2001
James E. Gilleran	2001-2005
John M. Reich	2005-2008

Source: OTS Website

[16] The appointments of Wall and Martoche were deemed unconstitutional in Olympic Federal Savings and Loan v. Director, Office of Thrift Supervision, 732 F.Supp. 1183 (D.D.C.), appeal dismissed and remanded by 903 F.2d 837 (D.C.Cir.1990).

The sole political appointee at the OCC is the Comptroller of the Currency**.** The position of the Comptroller dates back to 1862. It is the oldest political office related to national banking (Hammond 1970). The office of the Comptroller has evolved over time to be concerned solely with the regulation of national banks. The Federal Reserve has taken the reins of monetary policy since its establishment in 1913 (Greider 1987).

In its current configuration, the Comptroller answers to the Secretary of the Treasury. The position of the Comptroller is generally a more prestigious financial services appointment than either the director of OTS or the chair of the NCUA Board. The political appointees who have served as Comptroller of the Currency are more reticent than other political appointees among financial services regulators about changing positions before their terms expire (Hoffmann 2001). Since 1989, there have been four Comptrollers of the Currency. Robert L. Clarke served until 1992, followed by Eugene A. Ludwig from 1993 until 1998. John D. Hawke served from 1998 until 2003, followed by John C. Dugan (OCC 2011) (See **Table 5.6**).

Table 5.6: OCC Political Appointees, 1989 through 2008

Comptroller	Term
Robert L. Clarke	1989-1992
Eugene A. Ludwig	1992-1998
John D. Hawke, Jr.	1998-2004
John C. Dugan	2004-2008

Source: OCC Website

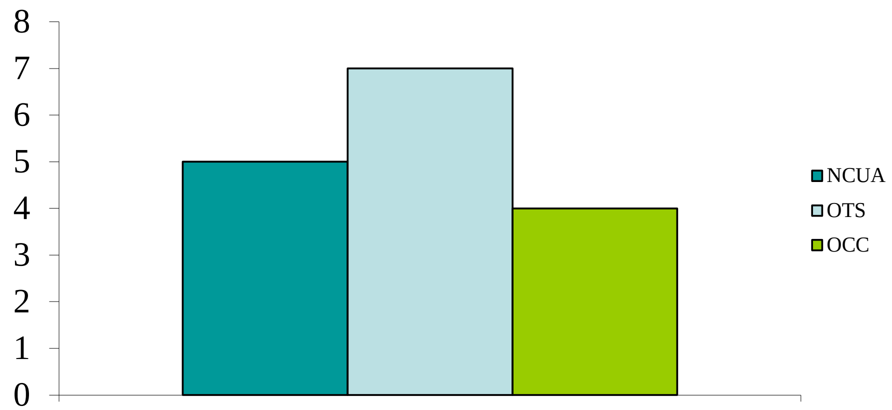
The Comptroller of the Currency is one of the most stable heads of a financial services regulatory agency. The position surpasses the stability of the Federal Deposit Insurance Corporation's chair. The FDIC has had five chairmen and two acting chairmen since 1989 (FDIC 2011).

The varying levels of political leadership stability among the three agencies that are the subject of this study were hypothesized to have implications for their operation. Lane (1996) argued that high levels of politicization in the bureaucracy will put administrative effectiveness at risk. Wood and Marchbanks (2008) found that financial incentives coupled with the difficulty in the environment of the agency are the greatest determinants of political appointee tenure. It is likely, then, that the instability of the OTS director position had ramifications for the performance of the agency.

Generally, appointees are well-qualified (Michaels 1995), exert tangible influence in agencies (Richard 2004), and hold a pro-clientele regulatory perspective (Thomas, Soule et al. 2010). However, this perspective may be counterbalanced by appointees' and careerists' valuing of agency "zealots" (Brewer and Maranto 2000). Others write that in effective organizations political appointees are able to balance executive branch and clientele loyalties in order to enhance agency operations to offset the inefficiency constituent groups (Jung, Moon et al. 2008). For this analysis, this meant that appointees who were particularly effective at negotiating the policy environment would insulate agency staff from interest group pressure. This is important because the interest groups that attempt to influence financial services regulators have considerable resources (Bertelli and Feldman 2007).

The agencies here have some variation in turnover rates of political appointees (see **Figure 5.3**).

Figure 5.3: Number of Changes in Political Appointees by Agency, 1989 through 2008



Source: THOMAS

In contradiction to recent scholarly literature, no clear link appeared between turnover and the effectiveness of the agencies, though there is some evidence for a relationship. The agency with the highest turnover is the least effective (OTS), while the agency with the lowest turnover is most effective (OCC). So, turnover is associated with higher effectiveness; although the relationship appears relatively weak (see **Table 5.7**).

Table 5.7: Relationship between Political Turnover and Effectiveness by Agency

	Political Turnover	**Effectiveness**
OCC	Lower	More
OTS	Greater	Less
NCUA	Medium	Medium

This relationship is far from conclusive or strong, and the absence of statistical evidence for linkage between these two variables makes a strong statement about any relationship problematic.

Conclusion

This chapter sought to better understand the impact on regulatory effectiveness of agency ability to manage political complexity, front-line staff, and political appointee turnover. The primary aspect of agency ability to manage complexity that this analysis seeks to understand relates to the challenges involved in falling under congressional oversight. Many scholars have noted the increased complexity that higher levels of congressional attention entail (Baumgartner and Jones, 2005; Light 1995).

Although none of the regression models showed linkages between levels of congressional testimony or percentage of examiners (front-line employees) and regulatory effectiveness during either the current year or at *t -1* and *t -2*, some evidence from the narrative analysis of appointee turnover indicates that there may be some relationship between appointee turnover and effectiveness. In general, it appears that the most effective regulators have the lowest turnover among political appointees. This may be explained by another factor (perhaps agency prestige) that the research did not include.[17] In any case, the relationship appears to be far from direct. Congressional attention seems to have neither positive nor negative effects on regulatory agency operations. This may be explained by the presence of self-funding in the three agencies. Furthermore, the lack of demonstrable impact that examiner percentage has on effectiveness contradicts much recent public administration scholarship that argues that delegations of authority to street-level bureaucrats allow agencies to be more effective. Furthermore, the number of regulated institutions per examiner also appears to have had little impact on agency effectiveness. Therefore, proposition 2 was rejected.

[17] Katzmann (1980) examined the expertise of an agency as a factor that influenced its regulatory functions. However, expertise is not static; as agencies gain expertise, they often become more reflective of the industries they regulate (Kelman, 1980; Milgrom and Roberts, 1986; Feldmann, 2005).

In large part, this chapter investigated several aspects that previous academic scholarship found to be determinants of agency effectiveness. Even though proposition 2 was rejected, the results still have some implications for regulatory policy. First, a body of public administration literature argues that during periods of high levels of congressional oversight, agencies become less effective. In the case of financial services regulators, this did not appear to occur. Second, neither political appointee turnover nor the numbers of front line employees appear to appreciably affect the performance of these financial services regulators. These results led me to look for other factors that might better explain the variance in the failures rates of regulated institutions among regulators. In the next chapter I investigate several of those other factors (mission stability, regulatory style, and resources), some of which do appear to help explain variance in regulatory effectiveness.

Chapter Six

Impact of Mission Stability, Regulatory Style, and Financial Resources on Regulatory Effectiveness

Many (Crockett 1997; Dolan 2000; Heclo 1978; Kim 2009) view stability among public institutions as a strength that positively impacts regulatory effectiveness. Regulatory agencies have higher informational barriers to entry and therefore it is more difficult for laterally or newly hired employees to make substantive contribution to agency performance. Additionally, a link between agency stability and organizational performance is well-documented (e. g., Cotton 1986; Balfour and Neff 1993).

This chapter seeks to better understand what encourages agency stability and examine its impact on agency performance in financial services regulation. The third proposition predicted that agencies with stable missions, flexible regulatory styles, and sufficient resources would be more effective. Discussion begins with a narrative analysis of mission stability. Next I turn to a discussion of regulatory style among the agencies. This focuses on the types of regulatory interventions that agencies tend to use to supervise their regulatees. Then I analyze the percentage of legal interventions among the regulators. This is followed by an analysis of financial resources and their relationship to regulatory effectiveness. Finally, I examine the statistical relationships between mission changes, legal intervention rate, and financial resources and the failures of regulated institutions.

Mission Stability

Much focus in the field of public administration has been cast on the concept of agency mission. This has led to research on how missions: 1) are formulated and 2) impact operations. The two dimensions of agency and employee stability relate to the impact that mission stability has upon the effectiveness of financial services regulators. This study focused on changes in the missions of the NCUA, OTS, and OCC. It is easier to understand legislative purpose in the enabling legislation for these agencies. The OCC was established in 1862; this analysis focuses on recent changes in agency mission since 1989.

This section undertakes a narrative analysis of mission changes in the NCUA, OTS, and OCC. It is designed to analyze the specific changes that have occurred since each agency was founded. The analysis commences with the NCUA, turns to the OTS and finally examines changes that have occurred at the OCC.

NCUA

The NCUA was founded in 1970, but a federal credit union regulator has existed since 1934. The NCUA was established to be independent and better situated than its predecessor to regulate the industry. In order to discern the original mission of the NCUA, its enabling legislation may be examined. Public Law 91-206 amended the Federal Credit Union Act to create the NCUA; while this legislation indicated no precise statement of agency mission, it organized the agency as an independent board, answerable to Congress. This legislation tasked the NCUA board with rulemaking and record-keeping:

> Not later than April 1st of each year and at other times as the Congress shall determine, the Board shall make a report to the President and Congress. Such a report shall summarize the operations of the administration and set forth such information as is necessary for the Congress to review the financial program approved by the Board (FCUA 1934).

The NCUA was designed to professionalize and insulate the regulator. In fact, the statute requires that reports be made at the behest of Congress. One could contend that introduces transparency but not accountability. Furthermore, the NCUA funds its operations through its regulatory actions, so it is not subject to budgetary oversight. In sum, the creation of the NCUA already gives insight into the problems of accountability that would emerge in the future.

Furthermore, as a relatively new regulator, the NCUA had little sense of culture and therefore was more susceptible to regulatory ineffectiveness. Charles Goodsell (2006 and 2011) has argued that agencies must have a sense of their history and agency employees must take pride in their organizations if they are to be effective.

Based on the mission of NCUA, this does not appear to be the case (Goodsell 2006). For example, the NCUA's 1989 Annual Report stated that its mission was:

> …to ensure the safety and soundness of credit unions and to provide a flexible regulatory environment that will facilitate sound credit union development, while efficiently managing agency's resources and the share insurance fund (NCUA, 1989, p.1).

The GAO reported that it considered the mission of the NCUA to be to "ensure the safety and soundness of the credit union industry" (GAO, 1991, p. 213). This is evidence of the existence of a stewardship relationship in which Congress views the goals as closely enough aligned for it to ignore the management of the agency.

By 1994, the NCUA's mission seemed even more in-line with that of Congress. Its mission statement had dropped some of the language focusing on the credit union industry and emphasized safety and soundness. Part of this shift might reflect additional scrutiny because of the savings and loan crisis. In any event, the mission statement was summarized as follows:

> To ensure the safety and soundness of credit unions by providing appropriate regulation and supervision, while effectively managing the agency's resources and the share insurance fund (GAO 1994, p 1).

The 1994 annual report of NCUA exposed some differences from the official mission statement:

> We are committed to the credit union philosophy of empowering all Americans through a safe, self-helping, democratic, cooperative and non-profit financial system. Education is fundamental to this mission and is an area the movement needs to improve (1994, p.5).

This is a puzzling change of tone until one considers that the audience for the annual report was generally credit unions. It seems probable that the credit union industry largely ignored NCUA's statutory mission, while Congress focused on the mission statement.

In the 1995 "Chairman's Statement," Norm D'Amours noted:

> The Federal Credit Union Act calls for financial cooperatives to make more credit available to "people of small means." For 25 years the NCUA has been charged with overseeing this social mission, which I have adopted as the guiding principle during my first two years as NCUA chairman (NCUA 1995, p.4).

Once again D'Amours focused on supporting the credit union industry, but he also identifies the "social mission" of credit unions. Yet, he failed to mention the primary mission of NCUA, to ensure the safety and soundness of the industry. In the 1996 "Message from the Chairman" D'Amours stated:

> The banking system wants a level playing field with credit unions. To achieve that, all they need to do is change to non-profit status. But meanwhile, the working class and low income consumer wants a level playing field, too. They deserve it, and that has been the mission of credit unions for more than a century (NCUA 1996).

Also, in 1996, NCUA Board Member Yolanda Wheat addressed the overall credit union mission when she wrote:

> As we reflect on a very hectic and challenging year, we-as an industry and a Board- must never lose sight of our purpose. We fulfill a federally-mandated mission to provide affordable and accessible financial services to those who need the most. Credit unions represent dignity and opportunity for many individuals and families seeking to improve their lives. What a mission for 1997 and beyond (NCUA 1997, p. 7).

Wheat shows the variety of opinions that existed on the three person NCUA Board. Her remarks were much less volatile and less supportive of the credit union industry than those of D' Amours.

However, section 1752(b)(2(B)(e) of the FCUA appoints the Chairman of the Board as official spokesman for the agency (1934). The 1996 report states:

> The mission of credit unions is to empower people by instilling values of thrift and systematic savings, by making loans available to people of small means, and by educating members to be master of their own financial destinies (NCUA 1996, p.1).

This single report, then, contains three different interpretations of the mission of credit unions as viewed by NCUA. This is fairly strong support for the view that the struggles within the credit union industry over defining its mission had spread to the regulator. Mission confusion can render a regulator ineffective (Goodsell 2011). At a U.S. House hearing in 1997, NCUA Chairman D'Amours stated:

> NCUA's evolving field-of-membership policy has enabled credit unions to better fulfill the mission of the Federal Credit Union Act that requires credit unions to make reasonably-priced financial services available to people whom banks are not particularly interested in serving (D'Amours 1997, p. 1).

Although not explicitly talking about the mission of NCUA, D'Amours presented to Congress a traditional view of the industry's mission. This occurred in light of new regulatory policies that expanded the ability of credit unions to serve wealthier customers. Also in 1997, NCUA Chairman D'Amours noted:

> [O]ur statute, which, unlike other statutory authority to any other regulator, gives this agency a social mission – to facilitate the making of loans to people of small means (Credit Union Times 1997, p. 16).

He identified the social concerns of NCUA's mission. The 1998 NCUA Annual Report listed the agency's mission as being to:

1. monitor and promote safe and sound credit unions
2. responsibly administer the Share Insurance Fund, and
3. encourage service to American consumers, particularly people of modest means; while providing a flexible regulator environment and carefully managing the agency's resources (NCUA 1998, p.2).

Once again the mission statement placed safety and soundness at the top of the list of priorities; however, the growing influence of the credit union industry in its relationship with NCUA is evidenced by the third bullet point. This was the period after the passage of the Credit Union Membership Access Act when the Congress granted the NCUA the most deference. In 1999, the NCUA annual report stated:

> Our charge is to foster the safety and soundness of federally-insured credit unions and to better enable the credit union community to extend credit for productive and provident purposes to all Americans, particularly those of modest means. We strive to ensure credit unions are empowered to make the necessary business decisions to serve the diverse needs of their members and potential members. We do this by establishing a regulatory environment that encourages innovation, flexibility, and continued focus on attracting new members and improving service to existing customers (NCUA 1999, p.1).

Earlier in the decade, the NCUA reported to Congress a simple reading of mission based on safety and soundness, while within the credit union industry it portrayed the belief that its role was to develop the industry. The NCUA stated this change in its mission statement. Undoubtedly, some of this refocusing of mission was the result of new public management's emphasis on "customers." In 1999, Chairmen D'Amours wrote:

> The final NCUA board meeting of the century might be a defining moment for this agency and its effectiveness and commitment as regulator for a non-profit credit union system that has a statutory social mission to provide low-income Americans with access to fairly priced financial services (1999, p. 12).

The Chairman echoed the new mission statement of the NCUA by stating that the agency was committed to the "system" of cooperative credit. Although one could read this as being aimed at safety and soundness concerns, it appeared to have been geared towards appealing to the credit union industry. In the same year, NCUA Board member Wheat stated:

> Credit unions can expect the NCUA to be a stronger partner in helping them remain faithful to their mission to provide services to their members and faithful to their mandate to provide access to all Americans who qualify for it (1999).

At this point, the NCUA appeared at least in part to view its role as being a "partner" to the credit union industry. Once again, this represented the type of rhetoric that led at least in part to Congress becoming concerned over the goals of NCUA when compared to the goals the legislature specified. In 2000, J. Leonard Skiles, the Executive Director of NCUA, stated:

> NCUA's safety and soundness regulatory mission includes, in addition to credit union financial health, enabling credit unions to compete in the market place, serve their members, and attract new members (NCUA 2000).

In 2001, the mission remained unchanged, but the words "formed to serve and protect" were added as a title (NCUA 2001). Although these words may seem insignificant, they symbolized a shift in the relationship between the agency and Congress. The increased scrutiny from Congress, as tapped by greater GAO and congressional committee attention, evidently contributed to the change of the relationship between the agency and Congress.

This apparent shift may be explained by multiple factors. Joel Aberbach has pointed out that an increase in oversight often occurs because leaders in Congress are attempting to satisfy group interests. In this case, the bank lobby was beginning to effectively influence Congress to look deeper into the actions of NCUA (Aberbach 1990, p. 4).

In the 2004 Annual Report, the NCUA Board changed from some of its previous rhetoric and acknowledged the primacy of the safety and soundness aspect of its mission:

> In addition to our primary role of ensuring a safe and sound federal credit union system, empowering credit unions to serve underserved areas remains a high priority for NCUA. We will continue our efforts to help credit unions fulfill their statutory mission and build upon the proud history documented in this report (NCUA 2004, p.2).

During a hearing on the tax exemption of credit unions before the House Ways and Means Committee on November 3, 2005, Joann Johnson, Chairman of the NCUA, stated:

> The NCUA's primary mission is to ensure the safety and soundness of federally insured credit unions. We fulfill this mission by examining, regulating, and insuring all Federal credit unions (Johnson 2005, p.1).

Her interpretation of the mission of NCUA was matter of fact and suggested the impact the new congressional scrutiny was having on the agency. According to the 2005 Annual Report:

> NCUA's mission is to foster the safety and soundness of federally insured credit unions and better enable the credit union community to extend financial services for provident and productive purposes to all who seek such services while recognizing and encouraging credit unions' historical emphasis on extension of those financial services to those of modest means.
>
> NCUA's mission is accomplished by efficiently and prudently managing the National Credit Union Share Insurance Fund through an effective supervision program and a regulatory environment that encourages innovation, flexibility, and continued focus on attracting new members and improving financial service to members (NCUA 2005, p.1).

Although this mission still focused on the credit union industry, the rhetoric was notably toned-down from that of the late 1990's. By 2006, the NCUA greatly simplified its mission statement:

> NCUA's mission is to facilitate credit union service to all eligible consumers, especially those of modest means, through a regulatory environment that fosters a safe, sound, credit union system (NCUA 2006, p.2).

This can be read as a nod to the 2005 hearing; the statement was further evidence that Congress can influence independent agencies through the ex-post oversight process. Congress, through a sustained effort, had managed to realign the NCUA with its goals.

Questions about the credit union tax exemption remained, however, in 2006, the GAO identified the direct impact that Congress had on shaping the mission of NCUA. In discussing the "findings" section of Credit Union Membership Access Act, the GAO stated that the legislation "linked" the tax treatment "in-part" to "meeting the savings needs of customers, especially those of modest means." The report continued, stating that the emphasis on people of modest means had factored into the NCUA's strategic plan (2006, p.16). Later the report referred to serving people of modest means as the NCUA's "specified" mission (NCUA 2006, p. 47).

At the same time, Congress's ability to influence the NCUA is not absolute. In a letter dated November 30, 2006, the GAO criticized the NCUA for its failure to acknowledge the value of independence as a regulator. The letter continued to recommend that the terms "objectivity" and "independence" be included in future iterations of the mission statement. According to the correspondence, the NCUA did not oppose including this language in future mission statements. However, by 2011 it had not amended the mission statement to reflect independence as a core value (NCUA 2011).

The mission of the NCUA has changed significantly since 1989. During the time period of this analysis, the NCUA changed is mission seven times, rendering it the least stable among the agencies in this analysis. However, the regression analysis of mission changes and failure rates for regulated institutions at *t* and *t-1* showed no relationships with regulatory effectiveness. For a brief period, NCUA placed greater focus on serving the clientele interest of the agency's regulated community. More recently, the agency returned its focus to public interest and regulatory issues.

OTS

Understanding the mission of the OTS is easier than that of the NCUA, because the OTS has only existed as an agency since 1989. Its enabling legislation, "The Financial Institutions Reform, Recovery and Enforcement Act of 1989" (FIRREA), was the legislative response to the regulatory and oversight problems that contributed to the savings and loan crisis of the 1980's. This legislation was enacted to correct the organizational flaws that had allowed the saving and loan crisis to become such a large burden on the federal coffer. The Act (1) separated insurance and regulatory functions that had resided together in the FHLBB and (2) created the OTS and the Resolution Trust Corporation to prevent future crises and handle the dispensation of assets accumulated by the federal government from failed institutions. FIRREA was intended to be a proactive solution to the problems in the thrift industry (Greider 1987; Boster 1991).

A key aspect of this act was the establishment of the OTS. The OTS was chartered to bring the regulation of thrift institutions more closely under the purview of the executive branch and yet allow bank regulators the flexibility to deal with supervisory issues. To this end, OTS was placed under the Department of the Treasury (Hoffmann 2010).

This reorganization replaced the independent Federal Home Loan Bank Board with a more accountable OTS. Furthermore, FIRREA abolished the Federal Savings and Loan Insurance Fund (which the FHLBB had administered) and established the Savings Association Insurance Fund under the Federal Deposit Insurance Corporation. By moving the deposit insurance fund from the direct management of the thrift regulator, as it is with most other regulators, Congress hoped to avoid conflicts of interest among regulatory staff in which fund management and regulatory decisions could impact each other. These conflicts were viewed as having been a driving factor in the savings and loan crisis. The failure of the FHLBB as a regulator was indelibly linked to structural flaws and congressional oversight (Hoffmann 2010).

It is easy to see the original mission of the OTS; one need look no further than FIRREA. At the establishment of the OTS in 1989, section 4, subsection (a) part (1) mandated that the director of the new agency "…shall provide for the examination, safe and sound operation, and regulation of savings associations." In part (3) the mission is expanded only slightly by mandating that the director's actions should "…encourage savings associations to provide credit for housing safely and soundly" (1989) .

A deeper look into the legislative record finds that the working title of the legislation in the Senate was the "Form Recovery and Enforcement Act." The avowed purpose of this version of the bill was:

> To reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes (1989, p.3).

Other major issues of governmental structure arose during the FIRREA debate. The Act established the Resolution Trust Corporation as a government-sponsored entity chartered to dispose of the assets of failed savings and loans. The debate in the House included an interesting discussion about appropriate delegations of authority. Congressman David Price (D-NC) submitted an amendment restricting the Resolution Trust Corporation from obligating taxpayer funds without a limit. In Price's view, this was the reason the federal government had been required to bail-out so many of the savings and loans that failed under the FHLBB. Price placed the ability to appropriate without limit firmly under the powers of Congress under Article I of the Constitution of United States:

> No government entity should have the ability to obligate Treasury funds without explicit authority from Congress and the President. It was an outrage when the Bank Board did it, and it would be even more outrageous if we let the RTC do it. I hope my colleagues will join me in protecting the taxpayers of this country (OTS 1989, p.2).

There was considerable concern regarding the new dual role of regulator and insurer created by FIRREA for FDIC. In place of the FHLBB, the FDIC would regulate and insure state-chartered thrifts. The FDIC would be a secondary regulator in addition to a state regulator; nonetheless, the regulatory structure that was blamed in part for the failure of the FHLBB was mirrored in the FDIC's new responsibilities. Democratic Congressman Jim Cooper of Tennessee submitted for the record the following statement:

> The most obvious concern is that one multipurpose agency is replaced by another. In place of the FSLIC, the FDIC is made both insuror (sic) and regulator at least for state chartered S&Ls. One wonders why the FDIC is better suited for this dual role than the old Bank Board? Moreover, whatever problems accompany the exercise of the dual function of insuror (sic) and regulator, may have been worsened by some other changes in the bill (1989, p. 1).

Cooper argued that FIRREA exchanged one flawed regulatory structure for another one, although the FDIC would be a secondary regulator and not the primary one. The major difference in the structure would rest in the professionalism of FDIC as opposed to OTS.

The OTS faced many difficulties because of these challenging beginnings. Donald Kettl (1991) discussed the effect on congressional committee appointments. While previously appointments to banking committees were highly prized, congressional leadership had difficulty filling the positions. This led to the initial mission of the agency being defined by members of Congress who had little experience in financial services. However, the agency did not act immediately to clarify its mission; rather it waited nearly ten years to adjust the mission.

During the early years of the OTS, its relationship with Congress was contentious. In 1990, intense questioning of regulatory practices was still commonplace, especially on the floor of the House of Representatives. On July 12, 1990, Congressman Harold L. Volkmer, a Democrat from Missouri, questioned the OTS's discretion regarding an institution in his district. In the view of OTS officials, Volkmer sought to influence the agency beyond the traditional bounds of members of Congress. The mission of OTS was a matter of debate on the floor of the House. Congressman Jim Leach (R-IA), on March 13, 1990, addressed this topic directly:

> While Congress in FIRREA clearly mandated the goal of making thrift and bank standards and regulation symmetrical, it wisely did not call for abolition of the industry. There still is a place in the American financial services sector for a

> locally oriented lending institution the primary mission of which is the making of home mortgages (Leach 1990, p.2).

In this statement, Leach asserted that thrift institutions should be locally-driven and primarily mortgage-focused. However, this was not reflected in the original mission of the agency[18].

There are two more interesting aspects of Congressman Leach's remarks. First, he addressed a continuing problem in regulation: the deposit influx to the least regulated entities (once again a regulatory race to the bottom). Second, his solution was that OTS should be dissolved and its staff combined with OTS and FDIC:

> Enactment of this bill is intended to send a signal to the American public, and to all Government bureaucracies, that if an agency fails in its mission, it will be held accountable. That is the way it works in the private sector; it should be no different in the public (Leach 1990, p.1).

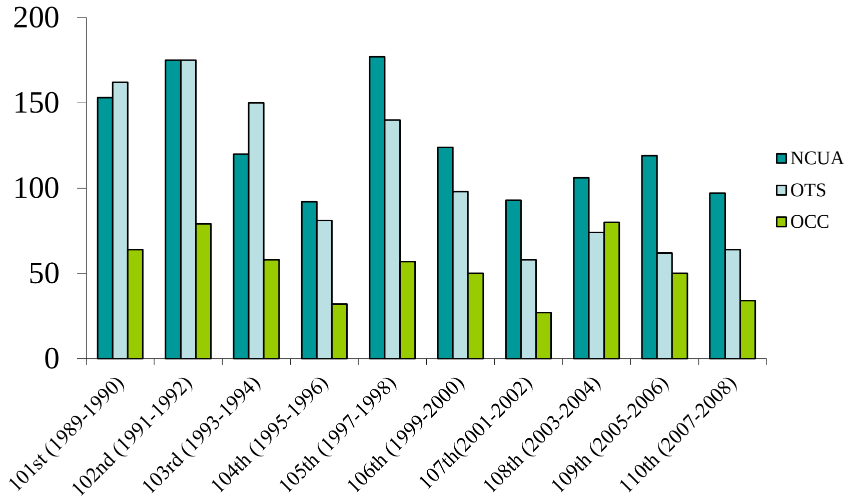
Leach's answer to the difficult question of accountability and agency mission was a simple one: agency termination. His comments also showed that he was more focused on playing to the public and other agencies than on solving the problem of multiple regulators competing for business. In Leach's view, reconstituting the FHLBB as the OTS did not solve the structural problems.

Perhaps the Congressman had a better relationship with the other banking regulators and that was part of his reasoning, but it seems unlikely. Evidence for this contention was that the new structure of the FDIC was vaguely similar to that of the FHLBB, but this is a thin argument.

[18] One of the many reasons stated for the collapse of the thrift industry was the aggressive lending practice allowed by the FHLBB. What Congressman Leach alluded to was that the thrift industry should focus on mortgage lending rather than riskier commercial portfolios.

In the 101st Congress (1989-1990), the OTS was mentioned in the Congressional Record 158 times, while the 109th Congress (2005-2006), the OTS was mentioned 62 times.

Figure 6.1 : Mentions in the Congressional Record by Agency, 1989 through 2008



Source: THOMAS

This is evidence that Congress was taking a less assertive role in overseeing OTS. By the late 1990's, with Congress granting it greater autonomy, the OTS became more comfortable asserting its own vision of its mission. In 1999, the stated mission of OTS had changed considerably from that enunciated in the enabling legislation:

> To effectively and efficiently supervise thrift associations to maintain their safety and soundness in a manner that encourages a competitive industry to meet America's housing, community credit and financial service needs and to provide access to financial services to all Americans (OTS 1999, p.1).

In 1989, OTS was tasked with "the safe and sound operation and regulation of savings institutions" and to "encourage credit for housing safely and soundly," but by 1999 this mission had expanded significantly. Efficiency and effectiveness received new emphasis which may well have reflected new public management's focus on efficiency.

The next major change in the mission is even more illustrative of mission instability. The OTS was tasked with “encouraging a competitive industry” to provide housing, credit, and “financial services access to all Americans.” Strikingly, the OTS seemed to be imposing a distinctly public mission on its institutions. Although this could be good public relations work on the part of OTS staff, the social part of the agency’s mission had now become a focal point (OTS 1989).

The stated mission of the OTS also reflects an agency focus on its regulated community. However, the section of the mission relating to “encouraging a competitive industry” should surprise few. Although the mission statement places this within the context of a larger comment about social responsibility in markets, the intent of the message appears more complex. Most certainly, in order to encourage its regulated community to be competitive, the OTS must maintain a minimum level of regulation (OTS 1999).

In the 1999 mission statement, one sees no acknowledgment of Congress as an oversight body. One could infer that OTS now viewed its role as less adversarial to its regulated community. The focus on the social aspects of banking regulation show a conscious effort on the part of OTS staff to align its values with those of Congress (OTS 1999).

Members of the thrift industry, especially mutual banks, have marketed themselves as public service institutions. Therefore, it should not surprise one to see this expressed in the legislative interpretation of the mission of the OTS. However, remember the FIRREA mission was much simpler and included only a passing mention of housing. FIRREA was Congress’s interpretation of mission in 1989, so it serves as a useful baseline. Perhaps the mission was simplified because of the difficulties that FHLBB had in navigating the intricacies of regulatory policy. What is more likely is that in ten years the OTS had become much more sophisticated in dealing with its appropriators and constituency and decided to cater to both.

On August 28, 2003, the latest revision of the OTS's mission statement appeared:

> To supervise savings associations and their holding companies in order to maintain their safety and soundness and compliance with consumer laws, and to encourage a competitive industry that meets America's financial services needs (OTS 2003, p.1).

The 2003 mission statement is interesting for several reasons. First, the social aspects of the 1999 mission statement had been greatly simplified. Now, the language refers to "compliance with consumer laws" and "meeting America's financial needs." No more is the OTS tasked with providing "financial services to all Americans." Gone as well is the specific language tying financial services to localities. Finally, language was inserted specifically mentioning bank holding companies (OTS 2003).

The mission statement's mention of "compliance with consumer laws" suggests that the OTS would regulate its banks with the minimum amount of consumer regulation required by law. This is a significantly lower standard than the broad sweeping mission of the 1999 statement. Rather than appealing to Congress through grassroots campaigning, the OTS focuses much more on its banks. The agency focused actions on attracting and empowering banks with thrift charters. The language on holding companies may seem insignificant, but it is an interesting case of rent-seeking on the part of the OTS. Faced with dwindling numbers of banks due to mergers and acquisitions and mutual to stock conversions (which allowed institutions to be regulated by the Office of the Comptroller of the Currency), the OTS began allowing a minority stock offering of 49% of a mutual bank. Because the banks themselves were not permitted to issue stock, the stock would be issued for a minority share of the holding company. Evidently, by 2003 the OTS was increasingly desperate to attract institutions to its charter. The agency had become much less concerned with its interactions with Congress, opting instead to influence Congress through banking trade groups (OTS 2009).

Finally, one other statement of the agency's mission is worth exploring. The OTS's statement on its press releases gives insight into its view of its mission as represented to the general public:

> The Office of Thrift Supervision, an office of the Department of the Treasury, regulates and supervises the nation's thrift industry. OTS's mission is to ensure the safety and soundness of, and compliance with consumer protection laws by, thrift institutions, and to support their role as home mortgage lenders and providers of other community credit and financial services. OTS also oversees the activities and operations of thrift holding companies that own or control thrift institutions (2011, p.1).

This information (directed at reporters) is much more consistent with the 1999 mission statement, and it reemphasizes the community aspect of the OTS's regulations. In fact, it reads as a combination of the 2003 and 1999 mission statements, highlighting certain parts of each. Clearly, the footer appears to have been written more for Congress and the general public than the 2003 mission statement. Most likely, OTS staff viewed Congress as being interested in oversight at a superficial level, opting instead to frame its mission in the footer in terms that would appear to be more responsive to the legislative branch. At the same time, the substantive statement of its mission focuses on serving the needs of the thrift industry.

As with the NCUA, the OTS mission went through significant changes, especially in the early years of the agency and its mission. During the time period of this analysis, the OTS changed is mission twice (in 1999 and 2003), giving it an intermediate value between the OCC and NCUA. Again, statistical analysis of mission changes and failure rates for regulated institutions at *t* and *t-1* showed no relationship. Nevertheless, these changes in mission are notable in that they frequently were geared towards their regulated communities. The OTS's mission did not change as often as the NCUA's, and it tended to be a less effective regulator.

OCC

On February 25, 1863, the Office of the Comptroller of the Currency was founded. President Abraham Lincoln sought to link banks and the economic system to the nation's currency. Therefore the original mission of the OCC was to administer the newly formed nationally chartered banks and attempt to bring about a uniform currency. As the agency evolved, the latter part of its mission involving monetary policy was delegated to the Federal Reserve Board. However, the essential part of the agency's mission empowering the agency to regulated nationally chartered banks has existed since its inception (Hammond 1970).

Within the confines of this study, the OCC's mission differs from those of the OTS and the NCUA in several ways. First, its tone is more oriented towards the prevention of systemic failures among institutions. Second, the agency's mission has remained relatively stable while those of both the OTS and the NCUA have changed more frequently. The OCC performance report of 2001 stated the agency mission as follows:

> The OCC charters, regulates, and supervises national banks to ensure a safe, sound and competitive national banking system that supports the citizens, communities, and economy of the United States (OCC 2001, p.1).

This mission has a public interest orientation through its consumer focus and understanding of the systemic challenges of bank regulation. However, clientele language crept into later iterations of the mission, albeit in an ancillary manner. According to the *2004 OCC Annual Report*:

> The Office of the Comptroller of the Currency was created by Congress to charter national banks, to oversee a nationwide system of banking institutions, and to assure that national banks are safe and sound, competitive and profitable, and

> capable of serving in the best possible manner the banking needs of their customers (OCC 2004, p.1).

The tone and phrasing of this statement are slightly different from the 2001 version. Mainly, this appears in the phrasing relating to maintaining profitability and keeping regulated institutions competitive. This language evidently reflects a greater desire by the regulator to understand the needs of the regulated community as those of a “client” in a responsive business-style relationship. During this period both the NCUA and OTS incorporated similar language about their regulated communities into their mission statements. It seems likely, then, that this language was included at the behest the Office of Management and Budget (Lewis 2003).

The 2005 OCC annual report had no concise mission statement. However, it referred to four strategic goals designed to allow the agency to accomplish its mission. These were a safe and sound system, flexible regulatory framework for banks, fair access for customers, and an expert workforce at OCC. Once again, the third goal relating to keeping regulated institutions competitive suggests that the agency still included its regulated community by treating it as customers. However, the mission remained relatively stable after its 2004 iteration (OCC 2005).

The mission of the agency in its 2006 Annual report remained unchanged. However, in a speech before the Conference on Bank Structure and Competition, Federal Reserve Bank of Chicago, on May 19, 2006, Comptroller John Dugan stated his views of the agency mission:

> The mission of the Office of the Comptroller of the Currency is, and always has been, supervision. We supervise all types of banks in all parts of the country, from the smallest community banks to the trillion dollar “megabanks,” from “ag” banks to credit card banks, and from federal branches of foreign banks to one-branch banks that do their business close to home (OCC 2006, p.2).

This statement indicates that the OCC leadership sought to rededicate the agency towards bank supervision and away from empowering its regulated community. It appears likely that the

Comptroller and the highest levels of OCC's staff were beginning to anticipate the impending mortgage crisis and sought to foster a stronger regulatory perspective (Dugan 2010).

In the 2007 annual report, the mission again remained unchanged. However, the text of the report stated that community banking (p. 9), consumer protection (p.3), and bank supervision (p.17) were parts of the agency's core mission. As the financial crisis deepened, the agency highlighted the more traditional types of regulatory behavior (OCC 2007).

The 2008 annual report also focused on the aspects of agency mission relating to regulating banks. The report called attention to the challenging times in bank regulation: "Against the backdrop of one of the most tumultuous years in U.S. financial history, the OCC's *Fiscal Year 2008 Annual Report* highlights how the OCC performs its primary mission of examining, supervising, and chartering national banks "(p. 9). The agency continued to apply new management techniques, even in the midst of the financial crisis, touting the success of its "Lean Six Sigma" approach towards improving administration (OCC 2008, p.46).

The *Department of Treasury's 2007-2012 Strategic Plan* also highlighted the OCC's mission of regulating, not empowering banks:

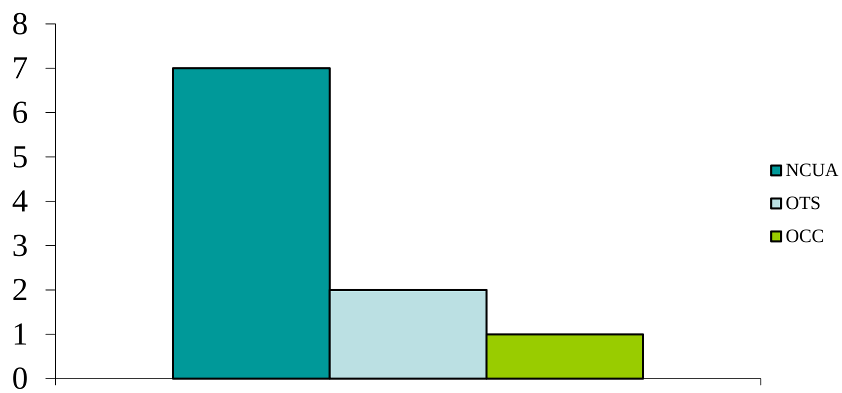
> Congress created the OCC to charter national banks, oversee a nationwide system of banking institutions, and assure that national banks are safe and sound, competitive, and profitable, and capable of serving in the best possible manner the banking needs of their customers (OCC 2007, p.1).

Although this interpretation of the agency's mission includes a reference to regulated institutions' profitability, it is a fundamentally different orientation towards the regulated community from previous reports.

Even so, the core aspects of the mission remained relatively unchanged. Indeed, the features on banking regulation still relate to the original mission of the OCC. Therefore, even though the agency had a brief dalliance with empowering its regulated community, in general terms the core mission of the OCC has remained mostly unchanged over the longer term.

During the time period of this analysis, the OCC changed is mission once (see **Figure 6.2**), rendering it the most stable of the three. However, analysis of mission changes and failure rates for regulated institutions at *t* and *t-1* showed no statistically significant relationship.

Figure 6.2: Number of Changes in Mission by Agency, 1989 through 2008



Sources: Annual Reports of NCUA, OCC, & OTS

Nevertheless, it appears that mission stability at the OCC does have positive benefits regarding agency effectiveness. The numbers of changes in mission may seem like a small number, but the shifts in the fundamental operations of agencies can cause inefficiencies among the three agencies

The clearest evidence for a relationship between mission changes and effectiveness appears in the qualitative analysis of the agencies. OCC, the most effective regulator, had by far the fewest changes in mission. Meanwhile, the OTS and NCUA experienced more mission volatility, which appears to be associated with lower regulatory effectiveness (see **Table 6.1**).

Table 6.1: Mission Changes and Regulatory Effectiveness

	Mission Changes	Effectiveness
OCC	Fewer	More
OTS	Medium	Less
NCUA	Greater	Medium

The narrative analysis of mission changes in the NCUA, OCC, and OTS yielded some results. Not only were the less effective agencies more likely to change their mission, generally they also had the most disagreements among members of congressional oversight committees and political appointees regarding what exactly their mission should be. This is not surprising at the OTS because the agency represented a restructuring of the thrift regulator, but the NCUA has existed longer in its current agential form. Not only did the OCC have fewer mission changes, but it also had a lower level of confusion among political appointees and members of Congress.

Regulatory Style

The examination of the next two elements of proposition 3 (regulatory style and financial resources) brings more statistical evidence to bear on their relationship with effectiveness. I begin with regulatory style. Katzmann (1980) argued that among agencies with more effective and talented staff, regulatory interventions would be framed in legal terms. In order to see if this contention applies to financial services regulators, I analyzed and classified agency policy statements. Testimony, speeches, informal rulemakings, and formal rulemakings were categorized to tap the regulator’s style in intervening with its regulated community. My expectation was that more effective regulators would have more flexible regulatory styles that would result in lower rates of legal interventions (Eisner 2001; Khademian 1996).

Non-legal Interventions

Non-legal interventions can be tailored directly to a regulated community (Thomas, Soule et al., 2010). In this study, that meant national banks for the OCC, thrift institutions for the OTS, and federally insured credit unions for the NCUA. Non-legal interventions generally take two forms; 1) clientele policies designed to expand the products and services of regulated institutions and 2) technical guidance designed to instruct regulated institutions on how to manage emerging regulatory situations.

Clientele interventions are tailored to directly benefit the regulated community in an obvious way. The most common examples of clientele policy are attempts at regulatory relief that lessen the regulatory burden on regulated institutions. Other types of clientele interventions are statements aimed at establishing the importance of the regulated industry and statements geared toward expansion of business powers for regulated institutions. Within the financial services regulatory environment, which has self-funded regulators, clientele policy pushes toward efficiency at the expense of effectiveness and equity.

Technical interventions are statements from the regulator to the regulated community of a more technical nature. Frequently, these statements contain sophisticated guidance relating to compliance issues. Generally, such statements are aimed at technical forms of guidance clarifying and crafting policy issues with which the regulated institutions in good faith have attempted to comply. An example of technical policymaking is accounting rules and guidance relating to internal controls or the manner in which capital should be counted by call reports.

Legal Interventions

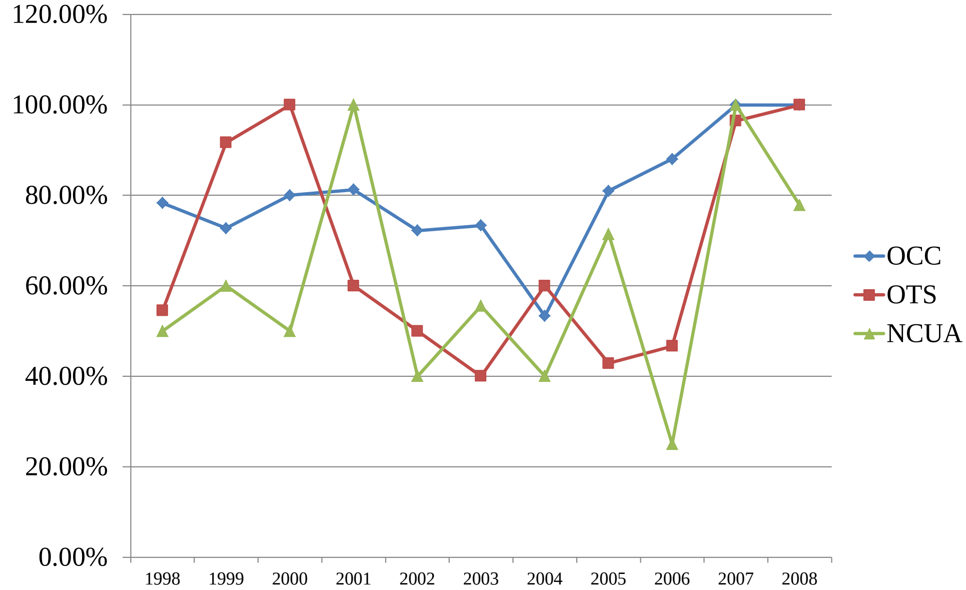
Legal interventions generally focused on more general and consumer oriented issues (Mitnick 1976; Long 1991; Lewis 2006). Frequently, these are policies by regulators acting in a policing role. Most of the time, these policies would not be championed by most of the regulated institutions. This is because public interest policies tend toward consumer issues and systemic risk upon which interest group advocacy efforts do not focus. Examples of legal interventions are taking a control of an institution through the receivership process or issuing a cease and desist order to a regulated institution.

The legal intervention percentage is the total number of legal regulatory actions by agencies divided by the total number of regulatory actions:

$$L_a = \frac{R_a}{T_a}$$

In this equation, *(L)* represents the legal intervention rate on an annual basis per agency, *(R)* expresses the total number of legal interventions, and *(T)* represents the total number of interventions. Over time, the legal intervention rate for the NCUA, OCC, and OTS shows considerable variance (see **Figure 6.3**).

Figure 6.3: Annual Legal Intervention Percentage by Agency, 1998 through 2008



The median percentages of legal interventions for OCC, OTS, and NCUA also show considerable differences among the agencies. The OCC's median rate was 80% between 1998 and 2008, while those of OTS and NCUA lagged behind at 60% and 55.56%, respectively. In order to examine the relationship between the percentage of legal interventions and regulatory effectiveness, I examined the relationship between the legal intervention percentage and failure percentage for regulators' clientele institutions.

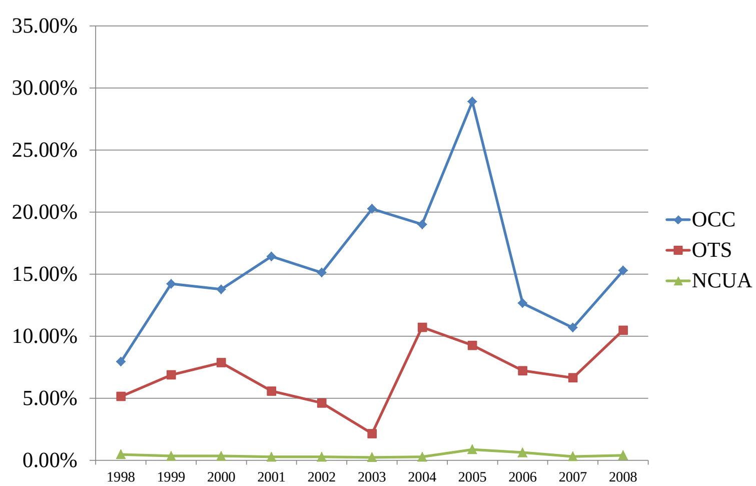
Similar to the legal intervention rate for agencies is its overall enforcement rate. The agencies' overall enforcement rate is computed by dividing the total number of enforcement actions by the total number of regulated institutions.

$$T = \frac{E}{R}$$

In this equation, (*T)* represents the total enforcement rate on an annual basis per agency, *(E)* expresses the total number of enforcement action, and (*R)* represents the total number of regulated institutions in a given year.

There appeared to be some linkage between the overall enforcement rate and effectiveness among the cases (see **Figure 6.4**). There is some statistical evidence supporting the relationships between regulatory style and regulatory effectiveness. Although the models that focused on the NCUA and OCC showed no statistically significant relationship between legal intervention rate or enforcement rates and the failures of regulated institutions, the OTS models (2a, 2b, and 2c) did show statistically significant relationships. At least in part, this evidence argues for a proactive regulatory style in order to intervene within the first year of detecting that an institution is troubled.

Figure 6.4: Enforcement Rates as Percentages of Regulated Institutions by Agency, 1998 through 2008



By treating these various enforcement actions in the aggregate, I explored the relationships between an active regulator and the ability to prevent banks failures. Generally, institutions with higher enforcement rates had lower numbers of failures.

The legal intervention rate was not a statistically significant factor in predicting the failures of regulated institutions. This is somewhat surprising because generally academic research argues that the regulatory interventions of effective agencies will be framed in legal terms (Eisner 1991; Eisner 2000).

Resources

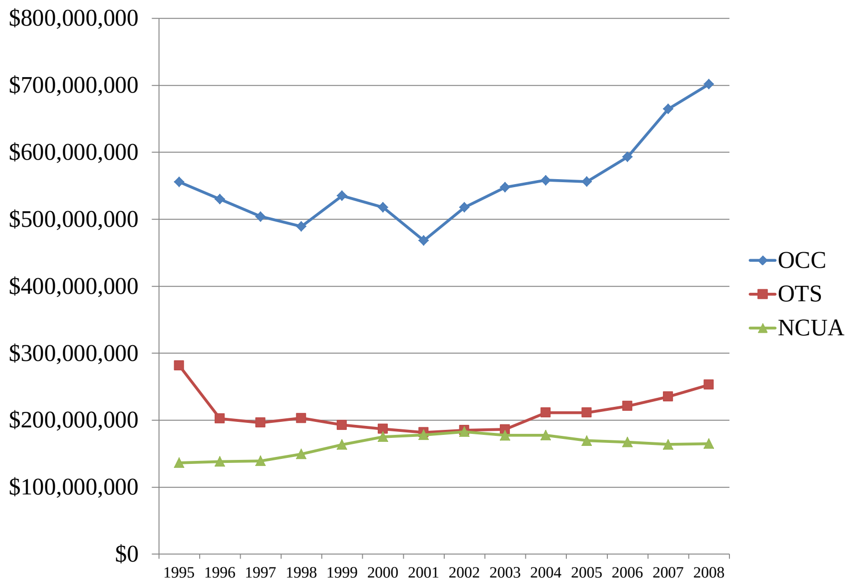
Financial resources matter to regulatory effectiveness (Wamsley and Zald 1976). Within the financial services arena, financial resources are linked to an agency's ability to attract newly chartered or "de novo" institutions. This is because the self-funding dynamic among financial services regulators directly links financial resources to charter attraction and retention (U.S. Treasury 2001).

The greatest increase in new bank charters between 1989 and 2008 occurred among state-chartered institutions. While state regulators were not part of this study, their behavior likely impacts the orientation of the OCC and OTS toward their regulated communities. Notwithstanding the growth of state charters, the OCC has been the most successful regulator at attracting new charters. Since 1995, the median number of de novo institutions for the OCC was 16. The median annual number of new charters for the OTS was six, and the number for the NCUA was one.

The inability of an agency to attract new regulatory clients as it ages leads to agency information imbalances. These imbalances occur when agencies become overly focused on serving their regulated communities. It is still a step away from regulatory capture where agencies are more inclined to be controlled by their constituencies, but agency insecurity can lead to regulatory ineffectiveness (Stigler 1971).

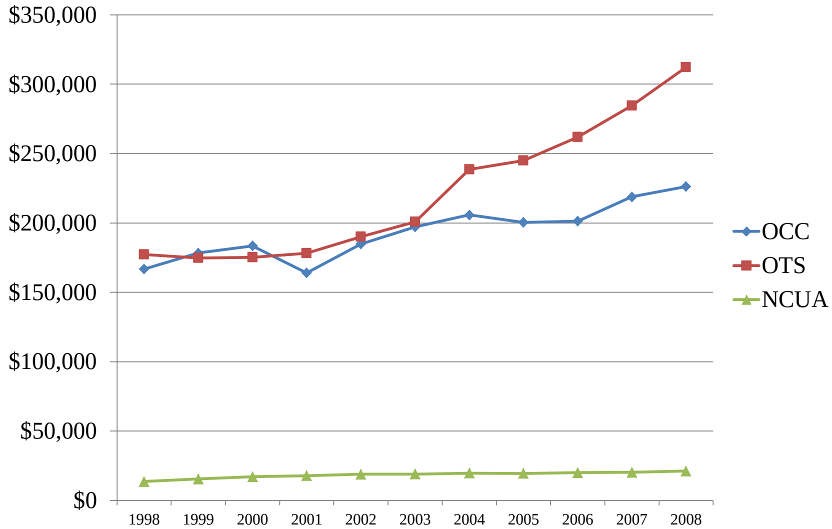
Agency insecurity is important in understanding regulatory effectiveness because, as Downs (1967) has argued that newer agencies will be more likely to be influenced by powerful interests and are particularly susceptible to regulatory problems. Insecure agencies also are unable to shepherd the resources necessary to maintain effectiveness. Among the agencies that are the subject of this study, this is particularly important because they are funded by their regulatory communities. The total budget of the NCUA has grown significantly since 1991; its budget increased from just over $80 million to $160 million by 2008 (see **Figure 6.5**).

Figure 6.5: Budgets by Agency, 1995 through 2008 (in $2011)



Additionally, it may be that the NCUA was chronically under-resourced and therefore unable to effectively increase the revenue it collected from its regulated community (see **Figure 6.6**).

Figure 6.6: OCC, OTS, and NCUA Budget per Regulated Institution (in $2011)



Sources: NCUA, OCC, and OTS Annual Reports

In order to gauge the relationship between budget per regulated institutions and ability to prevent failures of regulated institution, I analyzed the data using models for t, with a one year lag (t-1), and a two-year lag (t-2). The analysis found several statistically significant relationships between budgets per regulated institution and the failures of regulated institutions. However, due to the small *N* of the data, the models are only used as supplemental evidence in the analysis. For models 1a, 1b, and 1c (NCUA) there was a positive relationship significant at $p<.01$. Models 2a and 2b (OTS) also produced positive and statistically significant relationships at the .01 level. Finally, model 3a (OCC) showed a statistically significant ($p>.01$) positive relationship (see **Appendices A, B, and C**). It is surprising that the direction of the relationship is positive (see **Table 6.3)**. Based on previous research I expected that there would be a negative relationship between budget per regulated institution and failures. In terms of overall effectiveness and agency resources, there appeared to be little linkage between effectiveness and overall budget per regulated institution (see **Table 6.2**).

Table 6.2: Relationships Between Resources and Effectiveness

	Resources	**Effectiveness**
OCC	Medium	More
OTS	Greater	Less
NCUA	Less	Medium

The regression model containing mission stability, regulatory style, and resources produced several significant relationships that highlight the importance of regulators' attempts at proactively intervening when institutions are troubled and the impact that self-funding has on the effectiveness of the agencies. While model 2a (OTS) showed a negative and statistically significant (.01 level) relationship between enforcement action and failures, models at t-1 (2b) and t-2 (2c) showed a slightly weaker and positive relationships. Most likely, this shows that the OTS's regulatory interventions occur too late to prevent the failures of institutions. The negative relationship within the current year (model 2a) suggests that early interventions can prevent failures, while delayed regulatory action may increase them (see **Table 6.3).**

Table 6.3: Impact of Mission Stability, Regulatory Style and Resources on Failures of Regulated Institutions[19]

Failures of Regulated Institutions

Models	1a. NCUA			1b. NCUA *(t-1)*			1c. NCUA *(t-2)*		
	B	Std. Error	Beta	B	Std. Error	Beta	B	Std. Error	Beta
Mission Stability	-4.172	12.037	-.066	3.832	14.411	.060	13.826	14.243	.222
Budget Per Regulated Institution	.001**	.000	.454**	.001**	.000	.386**	.000**	.000	.197**
Legal Intervention Rate	.028	.325	.016	-.151	.382	-.086	-.198	.378	-.114
Enforcement Actions	-352.483	3194.008	-.024	-8087.333	3411.314	-.550	-10471.056	3371.429	-.724
R^2 (overall)	0.685			0.496			0.491		
N	20			19			18		

Failures of Regulated Institutions

Models	2a. OTS			2b. OTS *(t-1)*			2c. OTS *(t-2)*		
	B	Std. Error	Beta	B	Std. Error	Beta	B	Std. Error	Beta
Mission Stability	-.207	44.194	-.001	-2.062	71.222	-.007	-12.550	180.663	-.045
Budget Per Regulated Institution	.001**	.001	.708**	.001**	.001	.007**	.001	.001	.289
Legal Intervention Rate	.239	.880	.048	-.453	1.435	-.091	-.595	2.247	-.121
Enforcement Actions	-720.323**	247.255	-.503**	789.179*	348.672	.554*	1292.116**	196.493	.912**
R^2 (overall)	0.760			0.301			0.776		
N	20			19			18		

Failures of Regulated Institutions

Models	3a. OCC			3b. OCC *(t-1)*			3c. OCC *(t-2)*		
	B	Std. Error	Beta	B	Std. Error	Beta	B	Std. Error	Beta
Mission Stability	36.894	60.748	.271	218.894	355.703	-.359	-72.608	78.224	-.534
Budget Per Regulated Institution	.001**	.001	.247**	.001	.002	.451	.000	.001	.173
Legal Intervention Rate	.975	1.544	.306	10.32	17.702	3.25	-28.140	15.590	-8.997
Enforcement Actions	-.012	.045	-.065	.077	.060	.421	-.001	.057	-.008
R^2 (overall)	0.575			0.065			.105		
N	20			19			18		

Levels of significance: p< *0.1 level, p< **0.01 level.

[19] These statistics are drawn from the multiple regression models in the appendices **A**, **B** and **C**.

General Discussion of Findings

This chapter focused on examining regulatory effectiveness through the lens of agency stability. I analyzed several dimensions relating to mission stability at the OCC, the OTS, and the NCUA. There was considerable variance among the agencies on these dimensions. Although there was no statistically significant link between changes in mission and the failures of regulated institutions, a stronger case emerged from the narrative analysis for the negative impacts of mission change on effectiveness. Meanwhile, statistically significant relationships appeared between failure rates, enforcement rates and budget per regulated institution. Surprisingly, budget per regulated institution was positively related with failures of supervised institutions. The more resources the agencies had, the greater the number of failures. This may reflect the peculiar dynamic of self-funding. As agencies attempt to attract institutions to their charter, they may target larger institutions that pay more in regulatory fees. Yet, since these institutions are attempting to change charters they may be experiencing regulatory problems with their current regulator. This could explain the positive relationship. Again, given the study's small N, the finding should be treated with caution.

The negative relationships between enforcement actions and failures of regulated institutions in models 2a, 2b, and 2c may give insight into the timeliness that is necessary to be an effective regulator. Higher enforcement rates during the current year are associated with lower failures during that year. However, during subsequent years that relationship is reversed. This finding suggests that regulators should be targeting early interventions because failure rates increase as time passes.

Conclusion

This chapter gives a greater, albeit still incomplete understanding of the impact that agency stability can have on the organizations that regulate banks and credit unions. Agencies with lower levels of stability may lack a coherent, long-term perspective that causes confusion among their supervised communities. Future research on this topic should delve more deeply into the details of agency stability to determine the aspects of career staff and mission stability that most impact regulatory effectiveness. With a greater understanding of the impact that resources have on regulatory performance, it is important to understand the source of resources financial regulators. Due to the unusual self-funding arrangement of financial services regulators, the relationship between regulated communities and regulators appear to be important to understanding effectiveness.

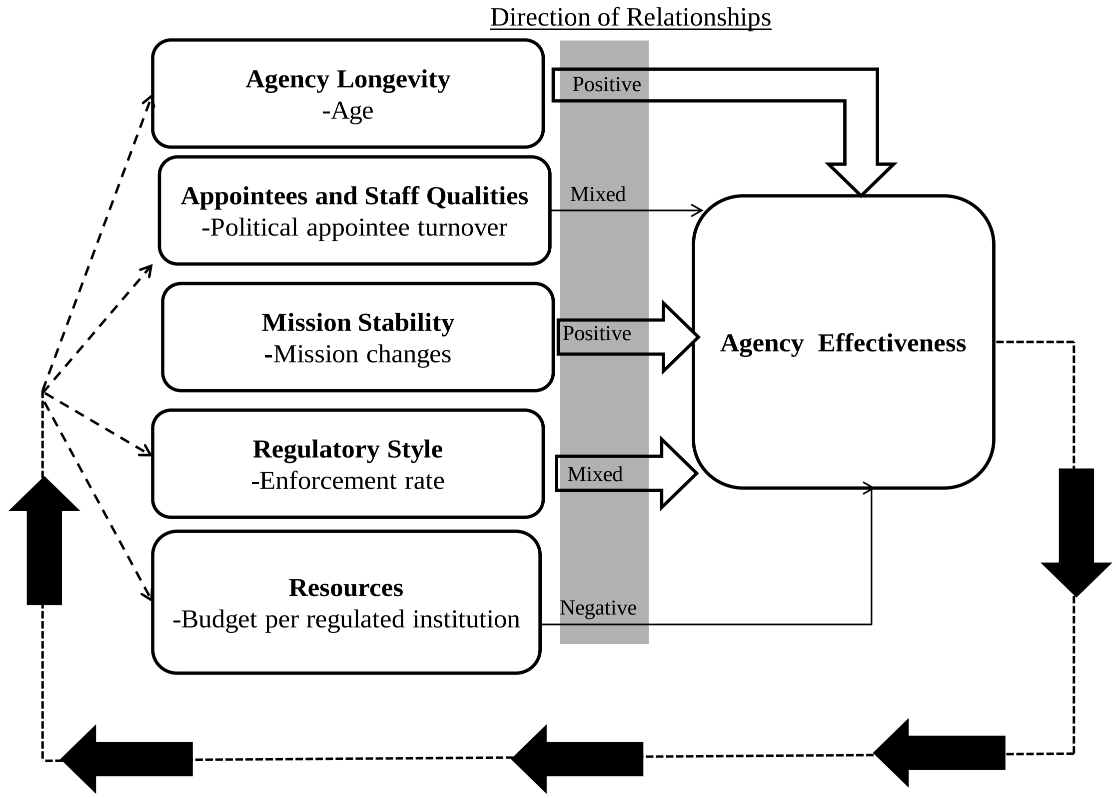
CHAPTER SEVEN
Conclusions

This chapter summarizes the findings of the analysis, discusses its implications, and offers some thoughts on future research on this topic. It begins with an overview of key findings, revisiting the view of ideal regulatory policymaking proposed in Chapter One. The chapter continues by discussing the concept of regulatory resiliency and flexibility among financial services regulators. Discussion concludes by proposing that many of the aspects of this exploratory study should be examined in non-regulatory federal agencies and in financial services agencies at other levels of government.

Summary of Key Findings

Returning to the initial concerns of the study, this research project yielded several important findings relating to how agencies can best be effective and encourage regulatory resiliency. At least in the financial services arena, older agencies have a decided advantage in navigating regulatory environments. Agencies that tend to be most successful are those that can acquire and maintain funding resources and have clear senses of direction and purpose that can be relayed to front-line employees. Although agency ability to manage complexity induced by congressional attention appears to have little impact on regulatory effectiveness, agencies evidently must be aware of their relationships with their regulated communities and balance fostering dialogue with keeping distance as regulators. This complex skill seems to be best accomplished by agencies with greater longevity and more funding. The revised model of agency effectiveness (see **Figure 7.1**) indicates that many of the relationships that I proposed in my working model (see **Figure 2.1**) were not statistically significant or only weakly significant substantively. Nevertheless, the revised model for regulatory effectiveness places more emphasis on older agencies proactively and effectively regulating their supervised institutions.

Figure 7.1: Revised Working Model of Regulatory Effectiveness*



*Arrows indicate the general strength of relationships

The analysis found that older agencies are more effective at preventing the failures of their regulated institutions. The specific dimensions of agency longevity that impacted organizational performance were the staffing levels and financial resources for each institution, both of which increased with agency age. As agencies age, if their mission remains roughly stable, they are better able to implement policies delegated from Congress. This in turn allows them to be more effective at preventing the failures of regulated institutions. The basic link between agency longevity and effectiveness among financial services regulators perhaps is not surprising given the complexity of the system. Agencies that have established relationships can focus more on understanding products rather than vying for resources and demonstrating their worth to clientele groups and policymakers. As agencies become more autonomous from Congress with age, they can become more effective at dealing with regulatory problems. However, autonomy can negatively impact effectiveness if greater autonomy from Congress leads to greater risk of regulatory inflexibility and can therefore challenge the resiliency of the system.

Despite the relationship between agency longevity and regulatory effectiveness, one might question whether older agencies are regulating the same types of institutions as newer agencies. Geographical diversity and asset diversity are key aspects of financial services risk management strategies, and the generally more diverse national bank system regulated by the OCC may at least in part contribute to the appearance that agency longevity is key to effectiveness (Whalen 2008). However, credit unions regulated by the NCUA tend to be less diverse in assets and geography than the thrift institutions regulated by the OTS, but the NCUA is more effective than OTS.[20]

The analysis examined percentage of front-line staff as a possible influence on effectiveness, but the two were not associated with regulatory effectiveness. The most important aspects of hiring flexibility related to the percentage of examiners and to agency ability to manage complexity tapped by legislative attention. There is an important relationship between the agencies' ability to hire staff who can understand the complexity of the financial services environment and their ability to prevent failures of institutions through legal enforcement actions. Hiring flexibility relates to effectiveness only inasmuch as it allows financial services

[20] Many federally chartered credit unions operate under the concrete geographical constraints of a community charter; see NCUA Interpretive Ruling and Policy Statement 99-1.

regulators greater ability to hire staff who understand emerging products and effective ways of intervening among the regulated institutions.

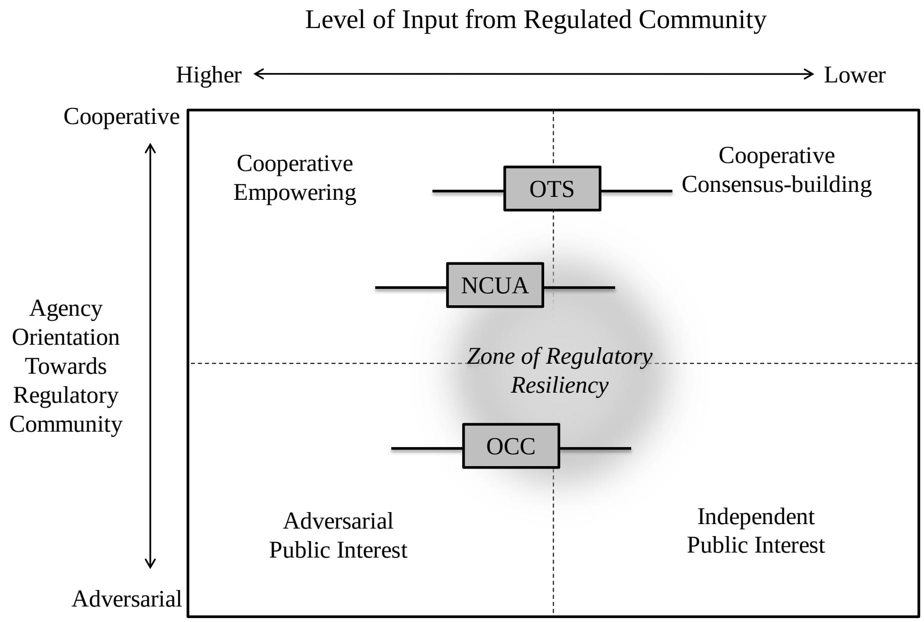
The final proposition in the analysis predicted that agency stability, tapped by changes in mission, would be positively related to regulatory effectiveness. This study found little relationship between changes in mission and agency performance.

Normative Reflections

A general theme underpinning much of this analysis is the manner by which regulators use their staff and funds to execute the mission of the agency (or likelihood of attempting to empower their regulated community). One of the greatest threats to regulatory effectiveness is regulators' overreliance on information from and the approval of their clientele communities.

The three agencies that this study examined vary somewhat in their orientations toward those they regulate and the levels of input they seek from supervised institutions. As evidenced by its regulatory orientation and mission changes, the OTS balances the input from its regulated community with the public interest. The NCUA operates cooperatively and also balances its level of input with public interest concerns. Finally, the OCC tended towards a more adversarial orientation and would also a balanced input with public interest. This argues for a balance of public interest with institutional needs for a relationship with and information from their supervised community. Frequently, agencies that have been successful in balancing the interests of their regulated community with those of the public (generally consumer issues) have defaulted toward a more adversarial orientation. This allows them to insure compliance more effectively through frequent fines and orders. It also allows regulators to intervene early when common problems such as undercapitalization occur with less fear of damaging the relationship between the agency and supervised institution. However, balance and flexibility are still the keys to understanding the construction of a resilient regulatory system (see **Figure 7.2**).

Figure 7.2: Regulatory Agency Policymaking



The evidence in this analysis adds support for the existence of what I have called a zone of regulatory resiliency. This is an optimal balance between receptiveness to the ideas of the regulated community and a more adversarial focus in supervising that allows regulators to be more independent and thereby more effective. Agencies may move in and out of resiliency based on their tendencies towards overreliance on input from the regulated community. Regulators run the risk of becoming ineffective when they become too reliant on information from regulated communities. This leads to greater information sharing between regulators and regulated communities, which puts the system at greater risk and may deprive regulators of critical information about questionable practices or changing markets. Conversely, regulatory agencies that are designed to be too adversarial towards the regulated community also can become ineffective because of their reduced ability to gain access to useful information.

One final note about Figure 7.2 relates to the fluid nature of regulatory relationships. As regulatory structures and agency cultures change so too may effectiveness. Based on changing conditions and agency orientation toward flexible regulating, a financial services supervisor can move in and out of the zone of resiliency. The most effective regulators that operate in systems with a propensity toward regulatory cooperation (that is, those toward the upper left of Figure 7.2) must counterbalance the information they receive from regulated institutions with information gathered from outside such relationships. Conversely, if an agency is too focused on the public values of decision-making and not sufficiently empathetic to the regulated community (closer to the lower right of Figure 7.2), it may lose the ability to appear legitimate to and leverage the expertise of those it regulates.

Future Research

As with most research projects, this analysis generated more questions than it provided concrete answers. Additional research might usefully supplement the scholarly understanding of regulatory effectiveness gained here. This includes delving more substantively into the factors this study identified as contributing to regulatory effectiveness and examining them in a large N study of federal and eventually state regulatory agencies. Related to this project might be more work that seeks to apply the proposed model of regulatory resiliency more broadly. Both projects could give scholars greater insight into the structuring and operations of effective regulatory organizations.

To return to the study's initial concerns, effectiveness among financial services regulatory agencies varies considerably. The study focused on specific metrics to tap the impacts that multiple variables have on the regulation of financial institutions and highlighted several factors that allow an agency to be more effective. Agency longevity allows a regulatory agency to exercise greater autonomy; an ability to manage complexity permits agencies to shepherd resources; stable missions pay dividends in the recruiting, training, and directing of staff; a flexible regulatory style allows agencies to balance the needs of their regulated communities with the public interest; and minimal levels of funding and staff permit regulators to focus on effectiveness rather than spending time and energy advocating for more resources.

Conclusions

Much recent policy literature (e.g., Provan 1995; Klijn 1996; Rhodes 1997; O'Toole 2001; Goldsmith 2004; Agranoff 2006; Kettl 2006; Agranoff 2007; Naff 2009) focuses on managing networks and the impact of network-centered policy environments. In the practice of regulatory policy, risk is associated with the failure to seek a variety of information sources within relevant networks. Regulators often can make decisions that expressly favor their regulated communities without paying sufficient attention to effective policymaking and the public interest. This study focused on understanding regulatory balance as being focused on the challenges regulators face when seeking information from their regulated communities. This relationship, if balanced improperly, can hamper the ability of regulators to operate with the public interest in mind. Relevant attributes of the public interest include Goodsell's (1990, p. 101) "cognitively perceived or affectively desired outcomes" by administrators and Long's (1988) evaluation tool for policy decisions.

Others have argued that the structure of agencies is an inevitable byproduct of the American system of bureaucracy and shared power; mature agencies focus narrowly on empowering the communities they are intended to police (Bernstein 1955; Hummel, 2008). This study sought to better understand regulatory performance in the financial services arena and offer a counterbalance for administrators to consider in policymaking. Such a notion of balancing the need for regulatory information with normative considerations surrounding the public interest may prove particularly useful during situations in which agencies are accused of operating for the narrow interests of the institutions they regulate.

The analysis as a whole argued for an understanding of regulatory balance and its utility that is linked to agency behavior that sometimes violates the public interest. Although many scholars from both the policy and economic perspectives may be uncomfortable with using terms such as public interest, those rooted in normative political theory, such as the work of Galston (2002), would likely be more comfortable with such characterizations. Economic perspectives have viewed regulatory balance and policymaking through lenses such as transaction costs and efficiency to capture its negative implications. Many policy perspectives have undertaken empirical analysis and attempted to stay neutral. Regulatory balance is relevant and can only be fully understood in the field of public administration where ethical, economic, and policy perspectives are brought to bear.

Regulatory policymaking as it is currently understood owes its birth to the movement in the 1950s toward more economic types of policy analyses. A fundamental assumption of the early analyses was that economic research facilitated the removal of efficiencies from policy subsystems. Therefore, anything that subverts the function of administrative policymaking act is inefficient.

Economic and policy perspectives are not mutually exclusive; both share a disregard for the normative character of regulatory balance and flexibility. The role of the agency is to act in the public interest, a position advanced by Wamsley and colleagues (1990); and not toward the narrow interest of clientele groups acts as an ethical threat and impacts the legitimacy of regulatory agencies. Attempts to describe regulatory behavior in agencies typically include a normative dimension. Although such descriptions vary, recent definitions have been explicit in choosing a normative standard for the identification of the concept. Biter (2008, p. 102) defined regulatory imbalance as occurring:

> …when bureaucrats, regulators, judges, or politicians *instead of serving the public interest* as they are mandated to do, end up acting systematically to favour (sic) specific vested interests, often the very interests they were supposed to control or restrain in the public interest [emphasis added].

Similarly, Hardy (2006, p. 3) focuses on the common good, writing, "A captured regulator acts primarily in the interests of the regulatees, rather than in accordance with their putative mandate to promote the common good."

Although both of these definitions use normative terms such as "public interest" and "common good," much of the recent literature that has focused on regulatory balance has been driven by a neo-institutional understanding of agency behavior. Hardy's definition of regulatory imbalance appears to be based on a false dichotomy that classifies behavior as being either in the regulatees' interest or directed towards the common good. In actual practice, however, regulators act frequently in both capacities.

Estache and Martimort (1999) advance a narrower, economic-oriented understanding of regulation, asserting that it is a transaction cost of regulation, leading to an inefficient system. Although adding layers to the policymaking process does lessen its efficiency, this depiction of regulatory behavior ignores the effectiveness that greater regulatory inclusiveness could offer policymakers. By engaging industry, agencies may be better able to understand issues that may arise in implementation.

Etzioni (2009) touches on the salient issue that underpins effective regulation by identifying the essential tension in regulatory policy as that between enabling regulated communities to operate effectively and still protecting the public interest. He questions whether regulation can facilitate a better serving of the public interest or if it instead results in decreased efficiency. Etzioni, like Estache and Martimort, view the process of regulating as an extension of attempts at administrative efficiency. The criteria developed by all three are normative, namely whether policymakers are acting in the interest of a narrow client group or for the public good.

Delegations of authority to agencies are designed to benefit the policy process because legislating is slow and generally inflexible; therefore, sweeping delegations of authority serve to speed up the policy process. Both the economic and policy perspectives on regulation underestimate individual bureaucratic and organizational behavior. Agencies have a broad ability to shape policy through many avenues. Therefore, any understanding of the complexity of regulatory informational balance must incorporate a normative perspective that considers the public interest. The public interest continues to assume a pivotal role in public administration dialogue, exploring its meaning and practical utility (Olejarski 2011). Schubert's (1957) well-known critique of the academic side of public administration cautioned against the absence of a theory of the public interest. Scholars acknowledge this, maintaining that the field "does not 'know'" the public interest (Wamsley et al. 1990, p. 41). As scholarly discussions continue, however, public administration is making progress in using the public interest as a heuristic to aid practitioners.

Building upon Long's (1991) public interest as the highest standard and Herring's (1997) verbal symbol is a breadth of literature describing the concept. Lewis (2006) details a process-centric approach to the public interest, noting that the idea must be flexible and adaptive. Related is Box's (1992) call to balance competing interests between partisan values and the public interest. Both Horowitz (1977) and Wamsley and colleagues (1990) note the presence of agential perspectives. Further, Goodsell (1990), Horowitz (1977), Lewis (2006), and the Blacksburg perspective (1990) aptly highlight the need for broad-based representation, participation, and consideration. Mitnick (1976) and Long (1988) extended this notion of checks and balances with the inclusion of the public interest as an evaluation mechanism for public policy decisions or the "rationalization" of a public act (Mitnick 1976, p. 26).

The instability in financial markets that began in 2008 was attributable to subprime lending led many in public administration to seek a better understanding of the regulatory arrangements that contributed to the problems. Administrators should ask themselves questions about whether or not a policy is in the public interest, an inherently reflexive process. If they deem it as being counter to the public interest, they have a constitutional and ethical responsibility to attempt to correct it. By inserting the notion of the public interest into regulatory systems in which it is not a fundamental part of agency discourse, administrators can act as an effective counterbalance against overwhelming interest group pressure. Further, if the agency loses legitimacy with and responsiveness to its regulated community, it should seek to enhance its public interest orientation with greater understanding of its regulated communities and the citizens it serves.

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Appendix A- NCUA Regression Models

Model Summary

Model	R	R^2	Adjusted R^2	Std. Error of the Estimate	Durbin-Watson
1a	.828[a]	.685	.502	21.99038	1.537

Coefficients[a]

Model		Unstandardized Coefficients		Standardized Coefficients			90.0% Confidence Interval for B		Collinearity Statistics	
		B	Std. Error	Beta	t	Sig.	Lower Bound	Upper Bound	Tolerance	VIF
1a	(Constant)	490.884	1089.248		.451	.660	-1450.469	2432.237		
	Agency longevity	-3.035	1.110	-.576	-2.735	.018	-5.013	-1.058	.591	1.693
	Congressional attention	.916	2.039	.082	.449	.661	-2.718	4.550	.788	1.269
	Percentage of examiners	-523.913	1451.670	-.066	-.361	.724	-3111.207	2063.381	.789	1.268
	Mission changes	-4.172	12.037	-.066	-.347	.735	-25.626	17.282	.733	1.363
	Legal intervention rate	.028	.325	.016	.086	.933	-.552	.607	.777	1.286
	Enforcement rate	-352.483	3194.008	-.024	-.110	.914	-6045.124	5340.158	.560	1.785
	Budget per regulated institution	.001	.000	.454	2.693	.020	.000	.001	.921	1.085

Model Summary

Model	R	R^2	Adjusted R^2	Std. Error of the Estimate	Durbin-Watson
1b	.704[a]	.496	.263	26.62252	1.744

Coefficients[a]

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.	90.0% Confidence Interval for B		Collinearity Statistics	
		B	Std. Error	Beta			Lower Bound	Upper Bound	Tolerance	VIF
1	(Constant)	-420.298	1241.975		-.338	.740	-2619.753	1779.157		
	Congressional attention	.635	2.458	.057	.258	.800	-3.719	4.988	.794	1.259
	Percentage of examiners	628.321	1666.189	.079	.377	.712	-2322.388	3579.030	.878	1.139
	Mission changes	3.832	14.411	.060	.266	.794	-21.689	29.354	.750	1.333
	Legal intervention rate	-.151	.382	-.086	-.395	.700	-.827	.526	.826	1.211
	Enforcement rate	-8087.333	3411.314	-.550	-2.371	.034	-14128.543	-2046.122	.720	1.389
	Budget per regulated institution	.001	.000	.386	1.893	.081	.000	.001	.934	1.071

a. Dependent Variable: Failures with 1 year lag

Model Summary

Model	R	R^2	Adjusted R^2	Std. Error of the Estimate	Durbin-Watson
1c	.701[a]	.491	.257	26.31125	1.413

Coefficients[a]

Model		Unstandardized Coefficients		Standardized Coefficients			90.0% Confidence Interval for B		Collinearity Statistics	
		B	Std. Error	Beta	t	Sig.	Lower Bound	Upper Bound	Tolerance	VIF
1c	(Constant)	438.680	1227.453		.357	.727	-1735.058	2612.418		
	Congressional attention	.805	2.430	.074	.331	.746	-3.498	5.108	.794	1.259
	Percentage of examiners	-501.042	1646.707	-.064	-.304	.766	-3417.251	2415.167	.878	1.139
	Mission changes	13.826	14.243	.222	.971	.349	-11.396	39.049	.750	1.333
	Legal intervention rate	-.198	.378	-.114	-.525	.608	-.867	.470	.826	1.211
	Enforcement rate	-10471.056	3371.429	-.724	-3.106	.008	-16441.632	-4500.481	.720	1.389
	Budget per regulated institution	.000	.000	.197	.961	.354	.000	.001	.934	1.071

a. Dependent Variable: Failures with 2 year lag

Appendix B-OTS Regression Models

Model Summary

Model	R	R^2	Adjusted R^2	Std. Error of the Estimate	Durbin-Watson
2a	.872[a]	.760	.620	54.29627	.847

Coefficients[a]

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.	90.0% Confidence Interval for B		Collinearity Statistics	
		B	Std. Error	Beta			Lower Bound	Upper Bound	Tolerance	VIF
2a	(Constant)	-103.762	250.954		-.413	.687	-551.033	343.510		
	Agency longevity	-18.175	2.997	-1.221	-6.065	.000	-23.516	-12.834	.494	2.026
	Congressional attention	-4.919	6.680	-.142	-.736	.476	-16.825	6.987	.541	1.848
	Percentage of examiners	207.979	507.058	.089	.410	.689	-695.744	1111.701	.422	2.372
	Mission changes	-.207	44.194	-.001	-.005	.996	-78.975	78.560	.839	1.193
	Legal intervention rate	.239	.880	.048	.271	.791	-1.330	1.808	.643	1.556
	Enforcement rate	-720.323	247.255	-.503	-2.913	.013	-1161.001	-279.644	.671	1.491
	Budget per regulated institution	.001	.001	.708	2.708	.019	.000	.002	.293	3.416

a. Dependent Variable: Failures

Model Summary

Model	R	R^2	Adjusted R^2	Std. Error of the Estimate	Durbin-Watson
2b	.549[a]	.301	-.021	88.62956	1.128

Coefficients[a]

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.	90.0% Confidence Interval for B		Collinearity Statistics	
		B	Std. Error	Beta			Lower Bound	Upper Bound	Tolerance	VIF
2b	(Constant)	68.549	406.335		.169	.869	-651.043	788.142		
	Congressional attention	.148	10.843	.004	.014	.989	-19.054	19.349	.547	1.827
	Percentage of examiners	-148.655	823.667	-.064	-.180	.860	-1607.315	1310.005	.426	2.349
	Mission changes	-2.062	71.222	-.007	-.029	.977	-128.192	124.068	.860	1.162
	Legal intervention rate	-.453	1.435	-.091	-.316	.757	-2.994	2.088	.645	1.551
	Enforcement rate	789.179	348.672	.554	2.263	.041	171.703	1406.654	.898	1.113
	Budget per regulated institution	1.466E-5	.001	.007	.018	.986	-.001	.001	.361	2.767

a. Dependent Variable: Failures with 1 year lag

Model Summary

Model	R	R^2	Adjusted R^2	Std. Error of the Estimate	Durbin-Watson
2c	.881[a]	.776	.672	49.94684	1.636

Coefficients[a]

Model		Unstandardized Coefficients		Standardized Coefficients			90.0% Confidence Interval for B		Collinearity Statistics	
		B	Std. Error	Beta	t	Sig.	Lower Bound	Upper Bound	Tolerance	VIF
2c	(Constant)	55.848	228.989		.244	.811	-349.676	461.371		
	Congressional attention	.749	6.110	.022	.123	.904	-10.072	11.570	.547	1.827
	Percentage of examiners	-187.001	464.174	-.081	-.403	.694	-1009.023	635.021	.426	2.349
	Mission changes	24.124	40.137	.085	.601	.558	-46.956	95.204	.860	1.162
	Legal intervention rate	-.716	.809	-.145	-.885	.392	-2.148	.716	.645	1.551
	Enforcement rate	1292.116	196.493	.912	6.576	.000	944.140	1640.092	.898	1.113
	Budget per regulated institution	3.128E-6	.000	.002	.007	.995	-.001	.001	.361	2.767

a. Dependent Variable: Failure with 2 year lag

Appendix C- OCC Regression Models

Model Summary

Model	R	R^2	Adjusted R^2	Std. Error of the Estimate	Durbin-Watson
3a	.758[a]	.575	.327	25.00616	.476

Coefficients[a]

Model		Unstandardized Coefficients		Standardized Coefficients			90.0% Confidence Interval for B		Collinearity Statistics	
		B	Std. Error	Beta	t	Sig.	Lower Bound	Upper Bound	Tolerance	VIF
3a	(Constant)	614.460	576.795		1.065	.308	-413.555	1642.475		
	Agency longevity	-4.345	1.339	-.843	-3.245	.007	-6.731	-1.958	.524	1.907
	Congressional attention	-2.055	3.625	-.164	-.567	.581	-8.516	4.405	.425	2.354
	Percentage of examiners	-260.705	975.274	-.084	-.267	.794	-1998.923	1477.514	.362	2.766
	Mission Change	36.894	60.748	.271	.607	.555	-71.376	145.164	.178	5.607
	Legal intervention rate	.975	1.544	.306	.632	.540	-1.777	3.728	.151	6.632
	Enforcement rate	-.012	.045	-.065	-.263	.797	-.092	.069	.586	1.707
	Budget per regulated institution	.001	.001	.247	.795	.442	-.001	.002	.367	2.725

a. Dependent Variable: Failures

Model Summary

Model	R	R^2	Adjusted R^2	Std. Error of the Estimate	Durbin-Watson
3b	.256[a]	.065	-.366	35.50530	.795

Coefficients[a]

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.	90.0% Confidence Interval for B		Collinearity Statistics	
		B	Std. Error	Beta			Lower Bound	Upper Bound	Tolerance	VIF
3b	(Constant)	-267.464	799.985		-.334	.743	-1684.185	1149.256		
	Congressional attention	1.965	5.115	.157	.384	.707	-7.093	11.024	.430	2.325
	Percentage of examiners	517.093	1384.466	.167	.373	.715	-1934.704	2968.890	.362	2.764
	Mission changes	-72.608	78.224	-.534	-.928	.370	-211.138	65.922	.217	4.611
	Legal intervention rate	-1.650	1.974	-.519	-.836	.418	-5.146	1.846	.186	5.375
	Enforcement rate	-.001	.057	-.008	-.025	.980	-.101	.099	.753	1.328
	Budget per regulated institution	.000	.001	.173	.394	.700	-.001	.002	.372	2.686

a. Dependent Variable: Failures with 1 year lag

Model Summary

Model	R	R^2	Adjusted R^2	Std. Error of the Estimate	Durbin-Watson
3c	.324[a]	.105	-.308	34.46570	.844

Coefficients[a]

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.	90.0% Confidence Interval for B		Collinearity Statistics	
		B	Std. Error	Beta			Lower Bound	Upper Bound	Tolerance	VIF
3c	(Constant)	-534.030	776.561		-.688	.504	-1909.269	841.208		
	Congressional attention	3.617	4.965	.291	.729	.479	-5.176	12.411	.430	2.325
	Percentage of examiners	983.810	1343.928	.319	.732	.477	-1396.197	3363.818	.362	2.764
	Mission change	-84.104	75.934	-.624	-1.108	.288	-218.578	50.370	.217	4.611
	Legal intervention rate	-1.843	1.916	-.585	-.962	.354	-5.236	1.551	.186	5.375
	Enforcement rate	.041	.055	.225	.744	.470	-.056	.138	.753	1.328
	Budget per regulated institution	.000	.001	.055	.129	.900	-.001	.002	.372	2.686

a. Dependent Variable: Failures with 2 year lag

Appendix D: Correlations for NCUA

		Agency longevity	Congressional attention	Percentage of Examiners	Mission changes	Legal intervention rate	Enforcement rate	Budget per regulated institution	Failures
Agency longevity	Pearson Correlation	1	.535	-.447	.318	.207	.644**	-.260	-.728**
	Sig. (2-tailed)		.111	.168	.172	.541	.004	.313	.000
	N	20	10	11	20	11	18	17	19
Congressional attention	Pearson Correlation	.535	1	.351	.208	.312	.303	.453	-.353
	Sig. (2-tailed)	.111		.319	.564	.380	.394	.189	.317
	N	10	10	10	10	10	10	10	10
Percentage of Examiners	Pearson Correlation	-.447	.351	1	.194	.232	.001	-.572	.279
	Sig. (2-tailed)	.168	.319		.568	.493	.999	.066	.407
	N	11	10	11	11	11	11	11	11
Mission changes	Pearson Correlation	.318	.208	.194	1	-.149	.474*	-.188	-.345
	Sig. (2-tailed)	.172	.564	.568		.661	.047	.470	.148
	N	20	10	11	20	11	18	17	19
Legal intervention rate	Pearson Correlation	.207	.312	.232	-.149	1	-.210	.145	-.055
	Sig. (2-tailed)	.541	.380	.493	.661		.535	.670	.873
	N	11	10	11	11	11	11	11	11
Enforcement rate	Pearson Correlation	.644**	.303	.001	.474*	-.210	1	-.227	-.502*
	Sig. (2-tailed)	.004	.394	.999	.047	.535		.382	.034
	N	18	10	11	18	11	18	17	18
Budget per regulated institution	Pearson Correlation	-.260	.453	-.572	-.188	.145	-.227	1	.838**
	Sig. (2-tailed)	.313	.189	.066	.470	.670	.382		.000
	N	17	10	11	17	11	17	17	17
Failures	Pearson Correlation	-.728**	-.353	.279	-.345	-.055	-.502*	.838**	1
	Sig. (2-tailed)	.000	.317	.407	.148	.873	.034	.000	

	N	19	10	11	19	11	18	17	19

Appendix E: Correlations for OCC

		Agency longevity	Congressional attention	Percentage of Examiners	Mission changes	Legal intervention rate	Enforcement rate	Budget per regulated institution	Failures
Agency longevity	Pearson Correlation	1	.156	.626*	.219	.508	.456*	.917**	-.688**
	Sig. (2-tailed)		.667	.039	.354	.110	.043	.000	.001
	N	20	10	11	20	11	20	11	20
Congressional attention	Pearson Correlation	.156	1	-.225	.199	.177	-.213	.371	.135
	Sig. (2-tailed)	.667		.532	.581	.624	.555	.292	.711
	N	10	10	10	10	10	10	10	10
Percentage of Examiners	Pearson Correlation	.626*	-.225	1	.067	.354	-.207	.513	-.016
	Sig. (2-tailed)	.039	.532		.845	.285	.541	.107	.962
	N	11	10	11	11	11	11	11	11
Mission changes	Pearson Correlation	.219	.199	.067	1	-.671*	.180	.206	-.114
	Sig. (2-tailed)	.354	.581	.845		.024	.448	.544	.633
	N	20	10	11	20	11	20	11	20
Legal intervention rate	Pearson Correlation	.508	.177	.354	-.671*	1	-.209	.406	.111
	Sig. (2-tailed)	.110	.624	.285	.024		.537	.216	.746
	N	11	10	11	11	11	11	11	11
Enforcement rate	Pearson Correlation	.456*	-.213	-.207	.180	-.209	1	.243	-.373
	Sig. (2-tailed)	.043	.555	.541	.448	.537		.471	.106
	N	20	10	11	20	11	20	11	20
Budget per regulated institution	Pearson Correlation	.917**	.371	.513	.206	.406	.243	1	.096
	Sig. (2-tailed)	.000	.292	.107	.544	.216	.471		.779
	N	11	10	11	11	11	11	11	11
Failures	Pearson Correlation	-.688**	.135	-.016	-.114	.111	-.373	.096	1
	Sig. (2-tailed)	.001	.711	.962	.633	.746	.106	.779	

	N	20	10	11	20	11	20	11	20

Appendix F: Correlations for OTS

		Agency longevity	Congressional attention	Percentage of Examiners	Mission changes	Legal intervention rate	Enforcement rate	Budget per regulated institution	Failures
Agency longevity	Pearson Correlation	1	.752*	.879**	.145	.077	-.419	.891**	-.645**
	Sig. (2-tailed)		.012	.000	.543	.822	.066	.000	.002
	N	20	10	11	20	11	20	14	20
Congressional attention	Pearson Correlation	.752*	1	.391	-.172	.303	.230	.805**	.214
	Sig. (2-tailed)	.012		.263	.635	.394	.523	.005	.552
	N	10	10	10	10	10	10	10	10
Percentage of Examiners	Pearson Correlation	.879**	.391	1	-.237	-.299	.182	.738**	.190
	Sig. (2-tailed)	.000	.263		.483	.372	.592	.009	.576
	N	11	10	11	11	11	11	11	11
Mission changes	Pearson Correlation	.145	-.172	-.237	1	-.033	-.295	-.173	-.147
	Sig. (2-tailed)	.543	.635	.483		.923	.207	.554	.535
	N	20	10	11	20	11	20	14	20
Legal intervention rate	Pearson Correlation	.077	.303	-.299	-.033	1	.417	.218	.628*
	Sig. (2-tailed)	.822	.394	.372	.923		.202	.520	.039
	N	11	10	11	11	11	11	11	11
Enforcement rate	Pearson Correlation	-.419	.230	.182	-.295	.417	1	.219	.065
	Sig. (2-tailed)	.066	.523	.592	.207	.202		.451	.785
	N	20	10	11	20	11	20	14	20
Budget per regulated institution	Pearson Correlation	.891**	.805**	.738**	-.173	.218	.219	1	.474
	Sig. (2-tailed)	.000	.005	.009	.554	.520	.451		.087
	N	14	10	11	14	11	14	14	14
Failures	Pearson Correlation	-.645**	.214	.190	-.147	.628*	.065	.474	1

	Sig. (2-tailed)	.002	.552	.576	.535	.039	.785	.087	
	N	20	10	11	20	11	20	14	20

Appendix G: Descriptive Statistics for NCUA

Descriptive Statistics

	N	Range	Minimum	Maximum	Mean	Std. Deviation	Variance	Kurtosis	
	Statistic	Statistic	Statistic	Statistic	Statistic	Statistic	Statistic	Statistic	Std. Error
Agency longevity	20	19.00	18.00	37.00	27.5000	5.91608	35.000	-1.200	.992
Congressional attention	10	11.00	2.00	13.00	6.2000	4.04969	16.400	-1.214	1.334
Percentage of examiners	11	.02	.74	.76	.7491	.00539	.000	1.862	1.279
Mission changes	20	1.00	.00	1.00	.3500	.48936	.239	-1.719	.992
Enforcement rate	18	.01	.00	.01	.0029	.00223	.000	1.391	1.038
Legal intervention rate	11	75.00	25.00	100.00	60.8882	24.25450	588.281	-.542	1.279
Budget per regulated institution	17	95826.00	11174.00	107000.00	21620.7059	22292.34501	4.969E8	15.960	1.063
Failures	19	98.00	12.00	110.00	34.7895	32.01489	1024.953	1.562	1.014
Valid N (listwise)	10								

Appendix H: Descriptive Statistics for OCC

Descriptive Statistics

	N	Range	Minimum	Maximum	Mean	Std. Deviation	Variance	Kurtosis	
	Statistic	Statistic	Statistic	Statistic	Statistic	Statistic	Statistic	Statistic	Std. Error
Agency longevity	20	19.00	127.00	146.00	136.5000	5.91608	35.000	-1.200	.992
Congressional attention	10	10.00	1.00	11.00	5.0000	3.52767	12.444	-.951	1.334
Mission changes	20	1.00	.00	1.00	.0500	.22361	.050	20.000	.992
Percentage of examiners	11	.04	.63	.67	.6573	.01348	.000	.009	1.279
Legal intervention rate	11	46.67	53.33	100.00	80.0064	13.18579	173.865	.919	1.279
Enforcement rate	20	737.00	65.00	802.00	389.1500	166.09264	27586.766	.929	.992
Budget per regulated institution	11	62234.00	164025.00	226259.00	193370.0909	19934.23440	3.974E8	-.771	1.279
Failures	20	104.00	.00	104.00	15.7500	30.48533	929.355	4.461	.992
Valid N (listwise)	10								

Appendix I: Descriptive Statistics for OTS

Descriptive Statistics

	N	Range	Minimum	Maximum	Mean	Std. Deviation	Variance	Kurtosis	
	Statistic	Statistic	Statistic	Statistic	Statistic	Statistic	Statistic	Statistic	Std. Error
Agency longevity	20	19.00	1.00	20.00	10.5000	5.91608	35.000	-1.200	.992
Congressional attention	10	11.00	1.00	12.00	5.7000	3.68330	13.567	-.670	1.334
Mission changes	20	1.00	.00	1.00	.1000	.30779	.095	7.037	.992
Percentage of examiners	11	.12	.45	.57	.5300	.05215	.003	-1.224	1.279
Legal intervention rate	11	60.00	40.00	100.00	67.4709	24.32559	591.735	-1.791	1.279
Enforcement rate	20	.23	.02	.25	.0980	.06152	.004	2.334	.992
Budget per regulated institution	14	170243.00	142029.00	312272.00	208827.4286	51544.06466	2.657E9	-.426	1.154
Failures	20	325.00	.00	325.00	38.4500	88.04513	7751.945	5.931	.992
Valid N (listwise)	10								