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Tracing policy influence of diffuse interests: the post-crisis consumer finance protection politics in the US

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ABSTRACT

Dodd–Frank, the financial reform law passed in the United States in response to the 2008 financial crisis, established the Consumer Financial Protection Bureau, a new federal regulator with the sole responsibility of protecting consumers from unfair, deceptive, or abusive practices. This decision marked the end of a highly politicized reform debate in the US Congress, in which proponents of the new bureau would normally have been considered to be much weaker than its opponents. Paradoxically, an emerging civil society coalition successfully lobbied decision-makers and countered industry attempts to prevent industry capture. What explains the fact that rather weak and peripheral actors prevailed over more resourceful and dominant actors? The goal of this study is to examine and challenge questions of regulatory capture by concentrated industry interests in the reform debates in response to the credit crisis which originated in the US in 2007. The analysis suggests that for weak actors to prevail in policy conflicts over established, resource-rich opponents, they must undertake broad coalition building among themselves and with influential elite allies outside and inside of Congress who share the same policy goals.

KEYWORDS

Financial crisis; financial regulation; consumer protection; interest groups; lobbying

Introduction

On 21 July 2010, US President Barack Obama signed into law the Dodd–Frank Wall Street Reform and Consumer Protection Act (Dodd–Frank Act), which included major consumer protection provisions that fundamentally changed the regulatory landscape for financial services. Under Title X of the Act, the reform law established the Consumer Financial Protection Bureau (CFPB), a new federal regulator with the sole responsibility of protecting consumers from unfair, deceptive, or abusive practices. The proposal calling for an independent consumer regulator pitted two coalitions against each other. In early 2009, an emerging coalition of relatively resource-poor civil society actors started to actively support the policy. The US Public Interest Research Group (US PIRG), together with other non-governmental organizations (NGOs) and the largest labour groups, established a new coalition of about 250 labour, civil rights, and small business organizations, which formally went public in May 2009 as Americans for Financial Reform (AFR). They were

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opposed by a much more powerful financial lobby. From the beginning, business groups—mainly the American Bankers' Association (ABA), the US Chamber of Commerce, and the Mortgage Bankers Association (MBA)—'closed ranks' against the proposed bureau (Johnson & Kwak, 2011, p. 198). In terms of material resources, the pro-reform coalition was clearly outmatched by the opposing financial industry lobby. The US Chamber started an advertising campaign of at least US$2 million aimed at defeating the new bureau. According to the Center for Responsive Politics, the financial industry spent US$224.6 million on lobbying in 2009, more than any other sector except the health sector (Renick Mayer, 2009). Funding for pro-reform groups became available from progressive foundations, with AFR raising about US$1.4 million in the first year, only a fraction of the financial industry's lobbying budget.[1]

Against all odds, the civil society coalition, formed among actors usually classified as weak, managed to win a major victory when the President signed Dodd–Frank into law—including a powerful new regulator for consumer financial products. In the final bill, the pro-reform advocates had met their major policy aims: In accordance with activists' wishes, the new bureau had market-wide coverage, and a single director; its funds were not subject to the congressional appropriations process; and it had significant authority on rules, supervision, and enforcement over banks and non-banks. Despite the fact that massive industry lobbying had successfully slowed down the implementation of US financial regulatory reform—with 60% of Dodd–Frank's rules not yet in place by 1 July 2013[2]—the creation and implementation of the CFPB (despite the attempt of the Republican Party to block the appointment of an executive director until July 2013) was a unique win for consumer advocates. As one consumer activist commented: 'Compared to a world where we could not make a single advance on consumer regulation for decades, this is a big change.'[3]

The outcome is puzzling, as we would normally expect more resourceful groups to have more political influence. In particular, the US banking industry is one of the most resourceful, powerful, and politically savvy actors in Washington, DC, winning many of their political battles. The CFPB is therefore a case in point to study the power of weak interests in financial regulation. Some critics might object that the new regulator for consumer products was merely a fig leaf covering the influence of concentrated interests in the financial overhaul. One reason to think that this was not the case is the amount of resources the industry invested to defeat the new bureau. The Bankers Association's public outcry against the agency and the appearance of its president to testify in early 2009 before a Congressional Committee made clear that preventing the enactment of a consumer bureau was of high legislative priority to the industry. Leading banking lobbyists confirmed that the defeat of the consumer bureau proposal was among the industry's top advocacy goals.[4] Why was the US banking industry not able to beat out consumer groups in the case at hand?

Analysing financial reforms in response to the crisis, international political economy (IPE) scholars so far have focused on explaining the incrementality of reform outcomes (Admati & Hellwig, 2013; Buckley & Howarth, 2010; Johnson & Kwak, 2011; Moschella & Tsingou, 2013), thereby neglecting the empirical universe of cases of regulatory reforms that brought about sea changes in spite of industry opposition. In this article, I look beyond the impact of material resources in influencing policy decisions. In offering a close empirical analysis of a causal mechanism[5] at work that allows relatively poorly resourced, diffuse interest groups[6] to leave their imprint on financial reforms, the account here will deal with a side that is less well known to researchers. The study responds to recent calls for greater attention to 'the mobilization of nonfinancial industry groups in shaping financial regulatory policies and the impact that this has over the capacity of financial industry groups to shape regulatory policies' (Pagliari & Young, 2013, p. 142). It thereby adds a crucial dimension—namely, the role of citizen groups—to the burgeoning literature on financial regulation.

Analysing consumer credit market reforms is particularly interesting because abusive consumer lending practices allegedly contributed to the financial meltdown that started in 2007. So far, only a few studies on Dodd–Frank have acknowledged that traditional capture dynamics surrounding financial regulatory policy-making were significantly altered by the shock of the credit crises (Clapp & Helleiner, 2012; Kastner, 2014; Pagliari & Young, 2012; Quaglia, 2010; Woll, 2013; Woolley & Ziegler, 2011; Young, 2013). Although these studies hint at the importance of increased actor plurality, brought about in particular by newly mobilizing civil actors, the causal dynamics of how groups outside of finance become successful change agents as a countervailing force to financial industry interests remain largely unexplored. The present analysis fills this gap. While this article builds on prior work, it goes beyond it in carefully specifying the causal mechanism that can explain regulatory change representing organized diffuse interests. This article also joins recent efforts in political economy and economic sociology to explain how business power can be curbed by public salience (Culpepper, 2011; Pagliari, 2013), legitimacy coalitions (Trumbull, 2012), or moral boundaries (Orban, 2016).

The empirical analysis is based on some 40 interviews with representatives from civil society and industry as well as policy-makers and regulators in Washington, DC between September 2013 and March 2014. For the legislative proposals investigated here, I conducted interviews with senior-level experts, ranging from Congressional staffers and government officials to relevant interest groups that had particular responsibilities for the proposed legislation as well as detailed knowledge of the negotiations. The analysis suggests that in order for weak actors to prevail over established, resource-rich opponents in policy conflicts, they must undertake broad coalition building among themselves and with influential elite allies outside and inside of Congress who share the same policy goals.

The article begins by briefly outlining the degree of policy change. It will then present four testable propositions derived from the literature to explain policy change representing organized diffuse interests in financial regulation. In order to interpret the policy process, the next section will use process tracing to apply theoretically derived hypotheses to the empirical record of the case study. The conclusion will reflect on the implications for our understanding of interest group politics.

Policy change: a new regulator

The system of consumer finance protection on the eve of the crisis was marked by regulatory gaps, allowing for ruthless lending practices which contributed to increased defaults and eventually to the meltdown of the US housing market. In order to address the regulatory failure of the past, the Dodd–Frank Act centralized consumer protection regulations at one single agency, which operates independently, is well funded, and is under the leadership of a single director. The Bureau was established in Title X of the reform law as an independent regulatory agency within the Federal Reserve System (Fed) with the sole responsibility of protecting consumers of financial products. The CFPB's mission is to ensure 'that all consumers have access to markets for consumer financial products and services [that] are fair, transparent, and competitive.'[7] In charging one single agency with consumer protection responsibilities, the reform succeeded in replacing a patchwork of seven different agencies, thereby consolidating and strengthening the regulation of consumer financial products. In addition, it consolidates consumer protection legislation previously found in a number of different statutes (such as the Truth in Lending Act and the CARD Act of 2009). While the CFPB is administratively located within the Fed, the Board of Governors cannot interfere in its operations.

Table 1 summarizes the main features of the CFPB as signed into law in July 2010, showing which proposals coming from AFR made it into the regulation. The Dodd–Frank Act delegated three types of authority to the CFPB: Rule-making, supervision, and enforcement of federal consumer financial protection laws. The Bureau has the authority to oversee very large banks, thrifts, and credit unions with assets over $10 billion, as well as non-bank businesses (companies that can offer consumer financial products or services without having a bank, thrift, or credit union charter). The CFPB was the first federal regulator that not only has the ability to write rules for non-banks, but it also has the ability to supervise and examine non-banks—'a power that has never accrued to any federal bureau before.'[8] This makes the CFPB a much more powerful regulator for consumer financial services than the Federal Trade Commission was (Pridgen, 2013). More importantly, the agency has independent funding, specified as a percentage of the Fed's budget, and is not subject to the appropriations process, an important aspect for consumer advocates. Another important provision is that the Dodd–Frank Act functions as a federal 'floor' (not a ceiling) which allows states to raise the level of consumer protection, one of the key demands of consumer advocates. Title X expands state authority by allowing states to adopt stricter consumer protection laws on top of the federal regulations.

Table 1. Main Features of the CFPB under the Dodd–Frank Act as signed into law in 2010.

Regulatory Policy	Reform measures in line with consumer groups' demands
Structure/Head	Agency established within the Federal Reserve System; single director appointed by the President for 5-year term
Funding	Transfer of 10–12% of the Federal Reserve System's budget
Coverage/Authority	Broad powers over any person, other than those explicitly carved out from the Bureau's authority, engaged in the provision of a consumer financial product or service
Examination & enforcement power over smaller financial institutions	Smaller financial institutions (with assets of $10 billion or less) will continue to be subject to the examination and enforcement authority of their current regulators
Relationship to state law (federal preemption)	Would only preempt state laws to the extent of their inconsistency; state laws providing greater consumer protection are not to be considered inconsistent with federal law
	Compromises/losses for consumer groups
Oversight by the Financial Stability Oversight Council	Financial Stability Oversight Council with ability to set aside CFPB regulations if the regulation 'would put the safety and soundness of the banking system or the stability of the financial system at risk'
Notable carve-outs	Carve-out for small businesses
Authority over consumer laws	Community Reinvestment Act exempt from CFPB authority

Source: Assembled by the author.

Consumer lawyers, industry groups, and consumer associations have widely acknowledged the CFPB as a powerful new regulator beyond mere gesture politics (Caggiano, Dozier, Hackett, & Axelson, 2011; Johnson & Kwak, 2011; Pridgen, 2013).

Existing explanations for post-crisis financial reforms

Capture theories

My main rival hypothesis in this article is an account—based on capture theories—which claims that the outcome of financial reforms can only be explained with reference to industry preferences and their translation into policy. Regulatory capture, the most accepted theory of regulatory change in the aftermath of the financial crisis, is important but somewhat incomplete.[9] It offers a compelling explanation, based on the power of financial industry lobbies, of why reforms enacted in response to the crisis were rather incremental in nature. However, it does not account for the empirical universe of cases of regulatory reforms that brought about sea changes in spite of industry opposition. Further, as several critiques of capture theories have pointed out, industry capture is often merely assumed, rather than empirically tested (Carpenter & Moss, 2014; Young, 2013). Most scholarly works evaluating specific aspects of post-crisis financial regulation have linked modest reform efforts despite the magnitude of the crisis to continued private sector influence. Tsingou (2010), for instance, testifies to the persistence of the influence of a transnational policy network of financial experts. Emphasizing 'close financial, personal and ideological ties' between policy-makers and the banking industry, Johnson and Kwak (2011, p. 12) have argued that Wall Street returned to 'business as usual' after the crisis, with its political influence in Washington as powerful as ever. Admati and Hellwig (2013, p. 3) have argued along the same lines that 'despite the enormous damage of the financial crisis of 2007–2009, the effort to reform the financial system has been stymied.'

Given the actor constellation involved in the financial reform debate, capture theories would predict clear outcomes. In the case of the US consumer protection agency, where all 'strong' actors representing the financial services industry opposed a new regulator and only 'weak' actors, including consumer associations, labour groups, and other public interest groups, supported the provision, we would expect an easy defeat of the reform proposal. However, despite massive protest and considerable investment of lobbying resources by business groups, the new consumer regulator became law and there were only minor modifications to the original proposal. A theoretical position that claims massive and ongoing impact of business power appears difficult to reconcile with this empirical evidence.

Restraining capture: plurality and salience

More recently, studies on financial regulation in response to the crisis have found evidence that counters traditional capture analyses. A small but growing number of studies indicate that the crisis was a catalyst in changing interest group dynamics in regard to financial regulation. Highlighting the role of public salience, scholars increasingly emphasize populist pressures on policy-makers as a driving factor for more stringent regulation of the financial sector despite industry opposition (Baker, 2010; Pagliari, 2013; Woll, 2013). Recent research has also shown that the crisis considerably weakened the industry's capacity to veto or block reform proposals, due to political pressures (Steinlin & Trampusch, 2012) as well as altered social relations within the financial policy network (Young, 2013, 2014).

Increased actor plurality, closely linked to and motivated by heightened issue salience, is a second factor that can account for decreasing industry influence. Quantitative analyses show that the mobilization of interest groups beyond financial groups in the regulatory debate following the crisis increased in the US, with more end users of financial services, NGOs, and consumer organizations participating in the policy process (Pagliari & Young, 2012, 2014). Increased actor plurality could have two different effects on financial reform debates: It might either allow industry groups to form coalitions with supportive non-industry groups to leverage their influence (Pagliari & Young, 2014, p. 6) or it might have the opposite effect and reduce industry impact on regulatory politics when outsider groups successfully oppose industry preferences as a 'countervailing force' (Clapp & Helleiner, 2012).

Recent insights from political economy suggest that the mobilization of outsider groups as a 'countervailing force' had significant effects on the regulatory design of reforms. Scholars analysing the US Dodd–Frank Act have found that a new network of small advocacy groups successfully opposed industry lobby campaigns against stricter regulations, notably in the area of derivatives regulation (Clapp & Helleiner, 2012; Orban, 2016; Woolley & Ziegler, 2011) and consumer protection (Kastner, 2014; Kirsch & Mayer, 2013; Woolley & Ziegler, 2011). Kastner (2014, p. 1), for example, argues that 'a polymorphous network of civil society organizations was able to gain momentum after the financial crisis and to influence the financial reform process.' Woolley and Ziegler (2016) show how a new network of advocacy organizations, the so-called stability alliance, led by AFR, was able to prevent capture of the rule-making process by the industry-supported 'self-regulation' alliance by promoting a particular 'knowledge regime'. Although Kirsch and Mayer (2013) offer a detailed journalistic account of mobilizing efforts on the part of civil society coalitions in favour of a new consumer agency, the idea of how the power balance shifted is largely absent.

Although new research evaluating industry influence on post-crisis regulatory reforms in more detail is indeed more sophisticated than the narrative of pure capture that preceded it, the precise role of newly mobilized interest groups beyond the traditional financial groups remains theoretically implicit or at best underdeveloped. Given this weakness of the existing analyses, the contribution of the study at hand is to specify a clearly circumscribed causal mechanism that can account for the increased policy influence of newly mobilized nonfinancial groups in financial reforms.

A mechanism of post-crisis regulatory reform dynamics

Financial regulation constitutes a hard case for demonstrating the role of diffuse interests groups in public policy. The case is based on a 'least-likely' design (Gerring, 2007; Levy, 2008). Although diffuse consumer interests have 'systematically dominated national policy processes' (Trumbull, 2012, p. 10) in various policy areas in the post-Second World War period and are more likely to succeed under conditions of high salience (Culpepper, 2011; Woll, 2013), the effect of civic non-state actors is expected to be low in a highly technical policy field such as financial regulation, which is dominated by savvy and resourceful financial industry groups. In the case at hand, diffuse interest groups were pitched against intense industry opposition. Hence, I am assuming that salience effects will not trump phenomena (such as technicality and industry opposition) that make advocacy success of consumer groups 'least likely.' For the causal argument, salience is considered to be a scope condition. The aim here is to show the policy influence of weak interests under difficult conditions, 'since if we are able to find the mechanism in a non-favorable setting, this significantly increases our confidence in the existence of the causal mechanism in a wider population of cases' (Beach & Pedersen, 2013, p. 152).

I suggest that research on social movements and regulatory politics provides tools to complement existing approaches to explaining post-crisis financial reforms by identifying additional mechanisms that help delineate unexpected reform trajectories. Following the logic of theory-testing process-tracing (Beach & Pedersen, 2013; Trampusch & Palier, 2016), I outline a plausible causal mechanism to explain financial reform trajectories after the crisis by linking diffuse interests to policy change in consumer credit markets thereby opening the black box of preference attainment. The crisis clearly altered the contextual conditions for regulatory reforms, temporarily redistributing power away from concentrated industry interests to more diffuse consumer interests. This de-legitimization of the financial industry after the financial crisis momentarily neutralized the financial sector's organizational advantage and led to increasing frictions with policy-makers, thereby changing interest group dynamics. Various scholars have argued that the financial crisis had thrown the existing neo-liberal order and financial community into a 'legitimacy crisis' (Helleiner, 2010; Morgan, 2010). Applying the theory of quiet politics to post-crisis politics, Culpepper (2011, p. 197) predicts 'a weakened bargaining position' for organized interests in a 'radically changed political environment' which was 'under intense public scrutiny.'

Following Mattli and Woods (2009), I suggest to integrate demand and supply side factors into one causal mechanism in order to systematically explain financial regulatory change counter to industry preferences and explore the institutional conditions under which diffuse interests can become change agents in times of crises. Focusing on the question of how diffuse interests were able to have their preference met in financial reforms, a necessary supply side factor such as the more open institutional context in times of crisis needs to be combined with the organization of societal groups as a coordinated coalition. This, in turn, provides sufficient resources and allows pro-reform coalitions to channel widespread public support and to align themselves with well-positioned elite allies supporting the same policy goal. Drawing on existing explanations, I introduce four necessary conditions as suggested by the literature that can explain why diffuse interests see their preferences translated into public policy.

First, the financial crisis provides the contextual conditions for a policy window that opened up for diffuse interest groups in terms of *access and responsiveness* and spurred the formation of collective action in the post-crisis regulatory environment (Princen & Kerremans, 2008, p. 1131). Qualitative changes in the post-crisis institutional context in which financial regulatory policies were developed, combined with increased political receptivity, allowed for increased access on the part of diffuse interest groups (Pagliari & Young, 2013).

Second, focusing on agency of diffuse interest groups, more open political opportunity structures in the context of the financial crisis provided new prospects for collective action of newly mobilizing interest groups. Kingdon (2010) suggests that a 'window of opportunity' exists in the perception of participants who have to perceive its presence to take advantage of it. From this view, collective action organizes in response to (perceived) political opportunities. The organization as a coalition has another important effect: It can provide sufficient resources to pro-reform groups to channel widespread public support and serve as a link between public opinion and decision-makers (Kollman, 1998). Dür and Mateo (2014, p. 1205) find that 'groups supported by public opinion are more likely to see their preferences reflected in public policy than other groups.' Hence, the crisis-induced *organization as an advocacy coalition* spurred by the perception of a window of opportunity allows diffuse interest groups to effectively promote reform goals. Notably, pro-reform groups can serve as transmitters of public opinion and exploit the weakness of the opposition.

Third, experts that serve as *policy entrepreneurs* are one category often evoked as important advocates for diffuse interests. In the words of Mattli and Woods (2009, p. 28):

> the entrepreneur involves himself or herself to the best of his or her abilities in the process of change, offering counsel, logistics, financial and technical expertise, or otherwise empowering poorly resourced societal groups adversely affected by the regulatory status quo.

Drawing on the Schumpeterian notion of political entrepreneurs, Beckert (1999, p. 789) considers the strategic agency of an entrepreneur 'as the innovator who leaves behind routines' as a necessary condition for institutional change. Well-positioned entrepreneurs can exploit the same perceived political opportunities and leverage diffuse groups' policy influence by serving as sources of innovation and expertise.

Finally, politicians mainly promote diffuse interests when they expect electoral benefits. Highlighting the role of elected officials under public scrutiny, Trumbull (2012) argued that diffuse interests have a clear advantage in their ability to seemingly legitimize policy decisions, whereas concentrated interests are viewed with suspicion. Mahoney and Baumgartner (2015) hypothesized that government officials start to actively promote a policy solution as partners in advocacy with outside groups after or as a reaction to the intense mobilization of interest groups and an assessment of overall political receptivity. From this perspective, it is likely that intense pro-reform mobilization leads to a bandwagon effect that strengthens the reform side of the debate and encourages public officials to actively side with the pro-reform groups in *insider–outsider coalitions*.

To sum up, the theoretical conceptualization here proposes the following causal logic: While more open institutional access and political receptivity of government officials encouraged initial group activities, it is only the extensive mobilization of groups (in combination with the support of other prominent entrepreneurs under conditions of salience) that made officials into active government allies advocating for diffuse interests. While diffuse interest groups can take advantage of political opportunities created by political elites, the reverse is also possible: Collective action of lobbying groups can create incentives for elites to pursue their own policy goals. Hence, the mobilization of countervailing interest groups is considered one necessary element in a larger causal chain to explain policy change in response to the financial crisis. The full mechanism explaining the role of diffuse interests in post-crisis regulatory reform debates is illustrated in Figure 1.

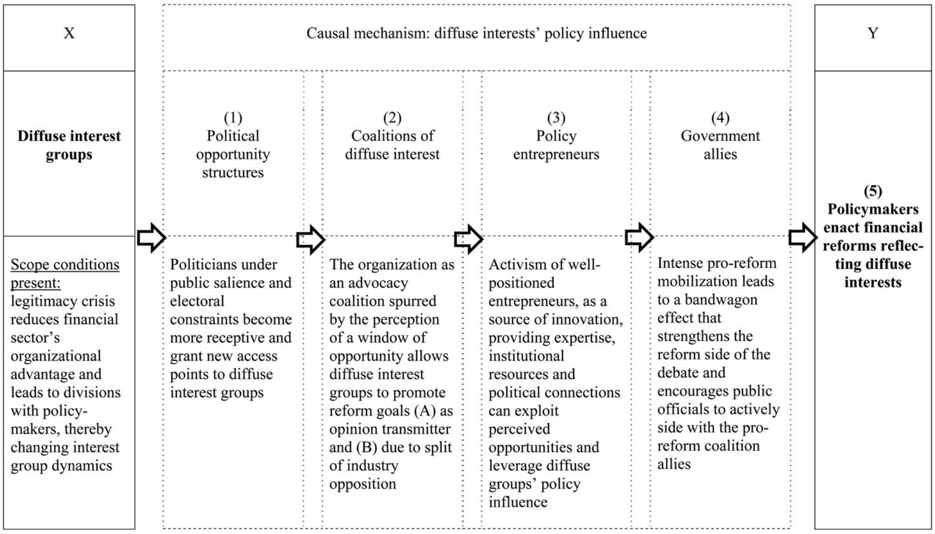

Figure 1. A causal mechanism: How diffuse interests can influence financial regulatory politics.

The post-crisis financial regulatory environment in the US

Regulatory reform in the US emerged in a post-crisis environment which saw the legitimacy of the financial industry and its practices being strongly contested in the public sphere. The heightened media attention raised by the crisis increased the perception of undue industry influence. Previous regulatory deficits became the subject of public outrage, pushing financial regulatory reform into the arena of 'noisy politics,' to use Culpepper's terminology. As mentioned above, heightened salience is an important dynamic, since it can be a strong motivator for elected officials to act against the narrow interests of an industry. By assessing the amount of news coverage, research showed that financial regulation in general (Young, 2013, p. 3) and the consumer bureau in particular (Kastner, 2014, p. 3) became highly salient with the American public during the early reform period, between mid-2008 and mid-2009.

Increased salience in the regulatory reform context was accompanied by qualitative shifts in policy-making that displayed increasing divisions among policy-makers and the private sector. In light of the devastating consequences of the financial crisis, policy-makers started to call industry groups' expertise into question, as Representative Brad Miller remarked in a statement in March 2009: 'The political climate has changed. The foreclosure crisis has wreaked havoc on middle-class families and our economy as a whole. The industry's arguments […] are not at all convincing' (Harth, 2009). The financial sector was made the culprit of the crisis. In his Wall Street speech in April 2010, President Obama made clear that he regarded consumer protection as an essential element of the financial reform, thereby risking 'increasingly fractious relations' with the financial industry (Cooper, 2010).

Several examples from my interviews illustrate that the regulatory dialogue among industry groups and government officials had suffered considerable cracks. One indicator of such a crack is that financial groups learned about legislative proposals and intended policy changes much later than in the past and were thus largely excluded from the agenda-setting phase of the decision-making process. About the Treasury Department's White Paper outlining its legislative proposal, one industry representative remembered talking to Treasury officials but having 'very little impact on the administration's thinking on the consumer side of the law.' He also described how the regulatory dialogue had noticeably changed after the crisis, saying that regarding the policy proposal to establish a new consumer watchdog, industry associations 'had almost no contact with the administration,' which he characterized as 'extremely unusual.' Finally, when the White Paper was issued in June 2009 (Department of Treasury, 2009), including a detailed provision on the creation of a consumer agency, industry groups were 'aghast about what was in it.'[10] Another interviewee from the industry side remembered lobbying on regulatory reform to have been 'very frustrating' and 'difficult.' He recalled:

> We were able to have a little bit of consultation with [Representative and co-sponsor of the legislation] Barney Frank, while the House was putting together its bill, but not a lot and very little with [Senator and co-sponsor] Chris Dodd, I am not sure we had any.[11]

These changes in interest group dynamics, as suggested here by anecdotal evidence from interviewees, are significant because they indicate that financial lobby groups had partly lost their political leverage. How did this crisis context, which derailed traditional mechanisms of capture, affect the political opportunity structure for diffuse interest groups?

Political opportunities: access and receptivity

Under public pressure, US policy-makers' reluctance to engage with the financial industry in the aftermath of the crisis was accompanied by increased receptivity to pro-reform demands from diffuse interest groups. First and foremost, Congress and its committees opened new access points for a broader range of interest groups. Starting in early 2009, individual consumer representatives were repeatedly invited to testify before Congressional committees.

Increased access was accompanied by increased receptiveness of policy-makers to demands coming from these newly mobilized actors. Consumer advocates had very limited capacity to push their advocacy goals during the housing boom that pre-dated the crisis, precisely because policy-makers were not inclined to listen to their demands. The political environment changed dramatically in the second half of 2008, when public anger arose over the industry being bailed out at taxpayers' expense. As public pressure grew, US authorities quickly acknowledged the need for stronger consumer protection. In March 2009, Sheila Bair, Chair of the US Federal Deposit Insurance Corporation, noted: 'There can no longer be any doubt about the link between protecting consumers from abusive products and practices and the safety and soundness of the financial system.'[12] Members of Congress also increasingly responded to demands coming from consumer groups to restrict subprime lending and increase consumer protection.

The changing political climate was clearly felt by consumer advocates. As one interviewee reported:

> People had been trying for a long time to bring reforms about […] with no success […]. Now in the aftermath of the boom there was […] a much more receptive environment that we have to act on the lessons we have learned through this crisis.

Polling data released by the Consumer Federation of America (CFA) in September 2009 give us clues about why the topic was very popular with decision-makers in general, with 57% of those polled supporting the idea of creating a new federal agency to protect consumers (Limbach, 2009). Public opinion likely had an impact on policy choices; as Palletta (2010) put it: 'the CFPA [Consumer Financial Protection Agency, as it was named before the law passed] became a symbol of the legislation, and many Democrats saw it as a way to sell the financial regulatory overhaul to voters.'

Clearly, the crisis had temporarily redistributed political leverage from financial interests to consumer advocates. Advocates realized that in order to win real reforms they had to take advantage of the public anger about costly bank bailouts and the political opportunities that presented themselves for regulatory change.[13]

Mobilization of diffuse interests

Another development that bolstered the influence of diffuse interest groups was their ability to forge coalitions among themselves, overcoming internal impediments to collective action. Indeed, the crisis turned out to be a 'major catalyst' for the formation of a new alliance of civil society organizations including some 250 consumer associations, trade unions, NGOs, and grass-roots groups rallying around the notion of a consumer regulator (Kastner, 2014). Although civil society groups were not uncoordinated before (well-established connections existed between various groups, often coordinated by the Center for Responsible Lending, or CRL), in May 2009 relations were formalized under the umbrella of 'Americans for Financial Reform,' which enabled consumer advocates to present a united front.

Pro-reform groups were keenly aware of a policy window in the first years of the Obama administration, when the Democratic Party had a majority in Congress. After the midterm congressional elections of 2010, the cushion in Congress might be smaller. In the words of one consumer representative: 'The politics was right.'[14] After the 2008 election, the Democratic Party enjoyed comfortable majorities in the House of Representatives and the Senate to pass reform legislation. Indeed, during the final passage of the Dodd–Frank Act, the 60 votes in the Senate enabled the Democrats to pass the bill with all but three Republicans in opposition.

Further evidence that sustained collective action among diffuse interest groups was only possible due to the financial crisis is provided by the fact that earlier attempts to forge coalitions did not succeed. Shortly before the crisis, in 2007, earlier efforts of coalition building among advocacy groups with similar policy goals under the umbrella of a non-profit organization named Americans for Fairness in Lending (AFFIL) had failed. With AFFIL's funds largely depleted after three and a half years, and the coalition slowly falling apart, the groups including CRL, Consumer Action, CFA, Consumers Union (CU), National Consumer Law Center (NCLC), and US PIRG joined the new AFR coalition.

Newly mobilized groups were key actors in channelling public opinion. One of the coalition's first steps had been to provide support for local grass-roots groups to enable them to engage with their members of Congress.[15] AFR was also very active in lobbying Congress and top governmental officials throughout the long process that led up to the passage of the Dodd–Frank bill. Giving testimony in congressional hearings became one of the main communication channels for consumer groups. In 2009, members of the AFR coalition testified in several House and Senate committee and subcommittee hearings, providing a coherent 'causal story' of policy failures in the run-up to the subprime crisis (Kirsch & Mayer, 2013). Pro-reform groups thereby served an important function for pro-reform advocates within the administration by disseminating information about abusive lending practices and trying to create momentum for reform. Groups like the CU or the CRL also collected testimonies of people wronged by abusive industry practices on their webpages, asking people to share their 'horror lending stories.'[16] One Congressional staffer reported that newly mobilized groups 'helped in bringing attention to the issues […], helped shape the debate and helped […] generate enthusiasm for what we were trying to do.'[17]

The mobilization of nonfinancial groups had another important effect: Namely, that it constrained the policy dominance of the financial industry lobby in the legislative process. Due to changed political dynamics, industry groups had no power to block the legislative proposal for a new consumer agency. Deprived of their veto capacity, and although nearly the entire financial industry was opposed to a new regulator, the united front began crumbling. Barney Frank struck a deal with the Independent Community Bankers Association (ICBA), exempting small banks from CFPB oversight and thereby neutralizing the smaller community bankers, dividing the industry and weakening the overall industry's attempt to block passage of the CFPB or promote alternative proposals. From the industry groups' point of view, the deal was a huge loss. Consumer advocates counted the semi-carve-out for small banks under $10 billion as a partial victory, since the CFPB still had rule-writing authority over small banks. At the final stage of passage, during the joint House–Senate conference committee session, industry opposition proved unexpectedly weak, and no further amendments were offered that would have weakened the CFPB (Kaiser, 2013; Kirsch & Mayer, 2013; Woolley & Ziegler, 2011).[18]

Policy entrepreneurship

Also boosting the influence of diffuse interest groups was the fact that a skilled policy entrepreneur served as a source of an innovative idea and subsequently invested time and resources into the reform cause. Pro-change advocates found a strong and well-positioned policy entrepreneur in Harvard law professor and consumer advocate Elizabeth Warren, who had published the initial idea for a consumer protection agency in 2007 and 2008. With the financial crisis, Warren's policy solution suddenly started to match politicians' needs to respond to public pressures. Warren was not only an innovator, but she was also politically savvy. With the relevant political connections, she was able to shape political debate and build coalitions supporting her idea. Warren became a highly visible political figure in November 2008 as Chair of the Troubled Asset Relief Program Congressional Oversight Panel (COP) which was charged with reviewing the current state of financial markets and the regulatory system. The first COP 'Special Report on Regulatory Reform,' issued in January 2009, included Warren's proposal of a single federal regulator for consumer credit products.

Warren's idea of a new consumer regulator found its way into the work of a brainstorming group that President Obama had charged with the task to draft a first reform bill in January 2009. One member of the group, Assistant Secretary of the Treasury

Michael Barr, personally knew Warren and was familiar with her academic work. According to one group member: 'The president had either read her article or at least knew about it or talked to her about it […]. So the idea of doing a consumer bureau was not an alien one.'[19] Reforms of the framework for consumer protection regulations, including a new agency, were a central part of the group's discussions throughout the early part of 2009.[20] Based on their conclusions, the brainstorming group proposed an independent CFPB and in June 2009, the Treasury included the proposal for a new agency in its White Paper. Already in April 2009, Warren, according to her own account, had successfully convinced Barney Frank, the influential Chairman of the House Financial Services Committee, that the consumer agency was a politically viable idea (Warren, 2014). Throughout the reform debate, Warren served as a key expert, providing assessments in regular meetings with Barney Frank.[21]

Insider–outsider coalitions

The Obama administration played a lead role in promoting the regulatory reform favoured by consumer advocates. While it is rather obvious that interest groups do not change policy in Washington without governmental allies, the more interesting question is why the Obama administration and various members of Congress were willing to spend their political capital on the quest for a CFPB. According to Mahoney and Baumgartner (2015), government officials are more likely to become active policy advocates if they see large resources mobilized by outside lobbying groups collectively, making policy success more likely. In case of the CFPB, collective material resources mobilized by outside groups in favour of regulatory reform clearly signalled to policy-makers that a strong pro-reform lobby was in place. One Congressional staffer testified to the relevance of this outside mobilization, saying that the 'united front […] gave the consumer and civil rights community […] the ability to expand the battlefield.'[22] Personally enthusiastic about reform, Obama highlighted the new consumer regulator in several speeches and on popular television shows, clearly indicating presidential support of the mobilized groups. In a speech given on 9 October, 2009, he stated his continuing support for what was to become the CFPB, actively siding with consumer activists: '[…] we need a Consumer Financial Protection Agency that will stand up not for big banks, not for financial firms, but for hardworking Americans. […] we can't let special interests win this fight' (Obama, 2009). Due to presidential support, the Democratic leaders of the committees that handled financial reform—Representative Barney Frank and Senator Christopher Dodd—both became active allies defending diffuse interests in the policy process.

During subsequent negotiations, consumer groups provided expertise and actively participated in the drafting of reform legislation. Cooperation started early on in the reform process with consumer groups becoming central interlocutors for the administration and the Treasury Department to draft the new financial reform proposal in the spring of 2009. Before the Treasury issued its White Paper on financial reform in June 2009, which included the CFPB, consumer groups that would later become AFR had routinely met with Treasury officials to give advice and express support for a strong consumer regulator. Individual consumer groups (which at that point were not yet organized into a coalition) enjoyed access to informal consultations and had effective connections with Treasury staff. When the Treasury published its White Paper, meetings between the Assistant Secretary of the Treasury and the AFR coalition took place on a regular basis in order to draft legislative language.[23]

Several examples illustrate the close working relationships among AFR and Congressional staff in the key committees. When legislative action moved to the House Financial Services Committee in the second half of 2009, consumer groups under the AFR umbrella started to cooperate with Barney Frank and his staff, drafting legislation that would be implemented from the blueprint.[24] Remarking on the cooperation with Senator Dodd's staff, one AFR organizer described the interest groups' close relation with governmental allies in Congress this way: 'We had three meetings with [Dodd] and his whole staff in the course of the campaign, once at the start, once before the end and once in the middle. We met with the staff […] all the time.'[25] Congressional staffers interviewed for this study reported that they relied heavily on consumer groups' expertise for drafting legislation. Each of the groups brought a specific area of expertise on consumer financial issues to the table, thereby lending 'incredible know-how to drafting [legislation].' Within the broad coalition that AFR had brought together, one could find 'experts on any given issue […] with invaluable [knowledge] in technical areas.'[26]

Conclusions

What can this episode tell us about the politics of financial reform after the crisis? This case study has shown that diffuse interests can be politically influential, even in a policy field such as financial regulation that has been characterized as exclusively dominated by organized industry interests. The findings presented here correspond to Trumbull's (2012) argument that diffuse interests are commonly represented in public policy and that researchers seeking to understand the outcome of interest group conflicts must look beyond the simple variable of material resourcefulness. Regulatory capture theories clearly helped identify the causes for the incrementality of the overall reform law in spite of the major shock the crisis had caused. My goal, however, has been to show that this is only half of the story, and that diffuse interests did not go unrepresented in the American financial regulatory overhaul.

Ultimately, the story of the struggle between consumer advocacy groups and financial industry groups in the case of the CFPB suggests that weak interest groups benefit from building coalitions with important elite allies outside and inside government that are pushing for the same policy solution. Such coalitions have a substantial bearing on traditionally weak groups' ability to shape regulatory policy. Thus, such groups can influence policy decisions in a way that transcends any individual group's material resourcefulness. Through careful process tracing, I demonstrate that financial reforms are best explained through a theoretical framework which takes into account the mobilization of diffuse interest groups. The article tried to demonstrate that the story of post-crisis regulatory reform in the US was one of diffuse interest coalitions, policy entrepreneurship, and governmental allies, as much as—if not more than—a story of concentrated industry capture. The engagement of the AFR coalition of nonfinancial groups in the reform debate increased actor plurality and reduced industry dominance throughout the legislative process. The cooperation with a well-positioned and savvy policy entrepreneur was a key factor in the legislative fight for the CFPB. The most important drivers of regulator change representing diffuse interests were governmental allies, including the President and committee chairmen, who pushed the proposal for a new consumer watchdog through Congress. Notably, the committee chairmen responsible for financial reform became active proponents of the consumer cause and cooperated closely in team-like structures with the newly mobilized consumer advocacy coalition. The legislative outcome was a winner-take-all result, with consumer groups winning the day and only minor carve-outs for small community banks.

A comparison with other consumer protection legislation confirms the central role of mobilized diffuse interest groups that cooperate with a policy entrepreneur in order to bring governmental allies on the reform side that eventually pass legislation. The Credit Card Accountability, Responsibility and Disclosure Act (CARD Act) that passed in May 2009 was the first piece of post-crisis financial reform legislation: 'the most significant federal consumer financial reform in decades' (Wolff, 2012). Warren together with AFFIL engaged in the credit card campaign and also testified at the first hearing in favour of the CARD Act. Groups such as the NCLC had lobbied for years for better protection for consumers, among others, from 'fee-harvester' credit cards. As soon as the financial crisis brought overwhelming evidence of unfair and abusive practices of the credit card industry to the fore, claims by consumer groups gained credibility. With many consumers heavily indebted with credit card fees, it had become clear to policy-makers that credit card reform had broad popular appeal. Advocacy groups tried to use the momentum and intensified their lobbying for fair credit card practices by coming together as an informal coalition. However, it was only when the President and his administration finally got behind the legislation that the CARD Act was passed.

This article makes important contributions to the literature in IPE and the study of interest group influence in policy-making. It stands out as one of the few attempts to address theoretical questions about the conditions and processes through which diffuse interests can gain influence on policy-making in the financial sector. By taking the questions of 'why' and 'how' seriously, and developing a theoretical model, the article contributes to opening up the black box of interest politics in domains that are typically considered to be dominated by narrow industry interests and technical expertise of small elite groups. It also makes a major empirical contribution to our understanding of the hitherto underexplored world of mobilization, organizing, and preference formation among consumers and citizens in the financial sector. The case study showed civil society groups' key role in providing (technical) expertise for the legislative process that breaks with predominant accounts of technical expertise as a monopoly of the financial industry. This analysis provides a novel perspective on the role of civil society actors in the domain of finance and thereby calls into question previous, more summary assessments by authors who found that civil society groups 'play a fairly marginal role in the politics of commercial finance, thereby largely surrendering the advocacy field to industry lobbies and establishment think tanks' (Scholte, 2013, p. 130).

The analysis here also suggests that we need a much more nuanced picture of regulatory capture than that portrayed by the literature on financial reform so far. My findings correspond to the conclusions recently presented by Carpenter and Moss, who found that 'regulatory capture is not an all-or-nothing affair,' but rather 'a matter of degree' (Carpenter & Moss, 2014, p. 452). The most important finding might be that capture of the policy-making process through financial interests can be kept at bay. Conclusions drawn from the case at hand do not allow for addressing larger questions of political and institutional change in 'normal times.' Rather, the theory developed here is limited in its application to—albeit crucially important—cases in times of crisis.

Notes

1. Interview 10 with consumer advocate, Washington DC; 28 September 2013.
2. Updated versions of Dodd–Frank Progress Reports by Davis Polk are available at www.davispolk.com/Dodd-Frank-Rulemaking-Progress-Report or the website of the US Securities and Exchange Commission at www.sec.gov/spotlight/dodd-frank.shtml.
3. Interview 3a with consumer advocate, Washington, DC; 6 September 2013.
4. Interview with a banking lobbyist, Washington, DC; 16 September 2013.
5. I follow the suggestion by Beach and Pedersen that a causal mechanism is a system 'that transmit[s] causal forces from X to Y […], assuming that the context that allows them to operate is present.' (Beach & Pedersen, 2013, p. 34).
6. Interest groups can be classified as diffuse or specific, depending on the underlying interests of constituencies they represent. While diffuse interest groups represent a broad, collective interest (such as consumers), specific interest groups represent a narrow self-interest (such as industry groups) (Beyers, 2004, p. 216). Following Trumbull (2012, p. 10), consumer groups are here understood as diffuse interests that pursue pragmatic policy outcomes in their collective material interest (as opposed to concentrated interests).
7. Dodd–Frank, § 1021(a).
8. Interview with representative of consumer association, Washington, DC; 5 August 2011.
9. While regulatory capture theory was initially designed to explain the behaviour of regulatory agencies, not legislative decisions, the concept has since been applied more broadly to financial regulatory decision-making.
10. Interview with banking lobbyist, Washington, DC; 25 February 2014.
11. Interview with banking lobbyist, Washington, DC; 20 September 2013.
12. Statement of Sheila C. Bair, on Modernizing Bank Supervision and Regulation before the US Senate Committee on Banking, Housing, and Urban Affairs, 19 March 2009.
13. Interview with consumer advocate, Washington, DC; 12 September 2013.
14. Interview with consumer advocate, Washington, DC; 13 September 2013
15. Interview with consumer advocate, Washington, DC; 12 September 2013.
16. The website is available at http://www.responsiblelending.org/about-us/contact-us/share-story.html.
17. Interview with Congressional staffer, Washington, DC; 7 March 2014.
18. Interview with consumer advocate, Washington, DC; 13 February 2014.
19. Interview with government official, Washington, DC; 10 March 2014.
20. Interview with government official, Washington, DC; 10 March 2014.
21. Interview with Congressional staffer, Washington, DC; 24 March 2014.
22. Interview with Congressional staffer, Washington, DC; 24 March 2014
23. Interview with Congressional staffer, Washington, DC; 7 March 2014 and interview 65b with consumer advocate, Washington, DC; 13 February 2014.
24. Interview with consumer advocate, Washington, DC; 13 February 2014.
25. Interview with consumer advocate, Washington, DC; 28 September 2013.
26. Interview with Congressional staffer, Washington, DC; 17 March 2014.

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