

CRITIQUING COST-BENEFIT ANALYSIS OF FINANCIAL REGULATION

CONFERENCE-WORKSHOP

Co-sponsored by George Washington University Law School's Center for Law, Economics and Finance (C-LEAF), Association of Professors of Political Economy and the Law (APPEAL), Americans for Financial Reform (AFR), Better Markets, the Center for Progressive Reform (CPR), and SUNY Buffalo Law School

The George Washington University Law School
2000 H Street, NW
Washington, DC 20052
May 19 - 20, 2014

Monday May 19

3:30 - 4:00 p.m. **Registration and Reception FACULTY LIBRARY, B 506**

4:00 - 4:15 p.m. **Welcome and Introductions, FACULTY CONFERENCE CENTER, B 505**

Host:

Lisa Fairfax, *Leroy Sorenson Merrifield Research Professor of Law, GW Law School*

Co-organizers:

Martha McCluskey, *Professor, William J. Magavern Faculty Scholar, State University of New York at Buffalo School of Law*

Frank Pasquale, *Professor of Law, University of Maryland, Francis King Carey School of Law*

Jennifer Taub, *Associate Professor of Law, Vermont Law School*

4:15 – 6:15 **Session 1: Background and Updates on CBA: *Business Roundtable*, legislation and policy implications**

Background Materials:

- *Business Roundtable v. SEC* (D.C. Cir. 2011).
- *National Association of Manuf. v. SEC* (D.C. Cir. 2014)
- Better Markets, "Setting the Record Straight on Cost-Benefit Analysis and Financial Reform" report
- AFR Letter in Opposition to HR 1003
- Rose and Walker, U.S. Chamber commissioned study

Moderator:

Lisa Donner, *Executive Director, Americans for Financial Reform*

Panelists:

Lisa Fairfax, *Leroy Sorenson Merrifield Research Professor of Law, GW Law School*

Stephen Hall, *Securities Specialist, Better Markets*

Joan MacLeod Heminway, *W.P. Toms Distinguished Professor of Law, University of Tennessee College of Law*

Amit Narang, *Regulatory Advocate, Public Citizen's Congress Watch Division*

Damon Silvers, *AFL-CIO Director of Policy and Special Counsel.*

6:30 p.m.

Dinner **FACULTY CONFERENCE CENTER, B 505**

Introduction: David Arkush, *Visiting Assistant Professor of Law, University of Richmond School of Law*

7:00 – 8:00 p.m

Keynote: William K. Black, *Associate Professor of Economics and Law, UMKC School of Law*

Co-commentators:

Michael Greenberger, *University of Maryland, Francis King Carey School of Law*

Zephyr Teachout, *Associate Professor of Law, Fordham University School of Law and Fellow, Markets, Enterprise, and Resiliency Initiative at the New America Foundation*

Tuesday May 20

8:00 - 8:30

Continental Breakfast, FACULTY LIBRARY, B 506

ALL SESSIONS

FACULTY CONFERENCE, B 505

8:30 – 10:15 am

Session 2: What Financial Benefits and Costs Do We Count? Considering Societal Costs, Capital Requirements, Derivatives and Other Reforms

Papers and Background Materials:

- Wallace Turbeville, "A New Perspective on the Costs and Benefits of Financial Regulation," *72 Maryland Law Review* (2013).
- Marcus Stanley, "Can Cost-Benefit Analysis Pass the Cost-Benefit Analysis Test?" (Presented at AFR conference in 2012).
- Brief of Better Markets as Amicus Curiae in Support of *CFTC in ISDA v. CFTC*.
- Admati & Hellwig, "The Case Against Banking's Case for Less Capital," BloombergView (2013).

Moderator:

Heidi Mandanis Schooner, *Professor of Law, Columbus School of Law, Catholic University of America*

Panelists:

David Arkush, *Visiting Assistant Professor of Law, University of Richmond School of Law*

Emma Coleman Jordan, *Professor of Law, Georgetown University Law Center*

John Parsons, *Senior Lecturer, MIT Sloan School of Management Head, MBA Finance Track Executive Director, Center for Energy and Environmental Policy Research*

Marcus Stanley, *Policy Director, Americans for Financial Reform*

Wallace Turbeville, *Senior Fellow, Demos*

10:15 -10:30

Morning Break

10:30-12:00

Session 3: Learning from the Environmental Experience

Book and papers:

- David Driesen, *The Economic Dynamics of Law* (Cambridge University Press, 2013).
- Rena Steinzor "Cost-benefit Analysis from Hell, at OSHA and EPA."
- Amy Sinden, "Formality and Informality in Cost-Benefit Analysis."

Moderator:

Thomas O. McGarity, *Joe R. and Teresa Lozano Long Endowed Chair in Administrative Law University of Texas at Austin School of Law*

Panelists:

David Driesen, *University Professor, Syracuse University College of Law*

Rena Steinzor, *University of Maryland, Francis King Carey School of Law*

Amy Sinden, *Professor of Law, Temple University Beasley School of Law*

12:15-1:30 p.m.

Lunch Keynote & Discussion FACULTY CONFERENCE CENTER B 505

Introduction: Stephen Hall, *Securities Specialist, Better Markets*

Keynote Address and Discussion

John C. Coates, IV, *John F. Cogan Jr. Professor of Law and Economic, Harvard Law School*

- "Cost-Benefit Analysis of Financial Regulation: Case Studies and Implications."

Co-Commentator(s):

Mercer Bullard, *Associate Professor of Law and Mississippi Defense Lawyers Association Distinguished Lecturer, the University of Mississippi School of Law* and

Faith Stevelman, *Visiting Professor and Director, Program on Law, Business & Entrepreneurship University of Washington School of Law*

1:45 - 3:15 p.m.

Session 4: Policy Alternatives and Economics —CBA as a window into more fundamental problems with some current approaches to economics

Papers and Background Materials

- Timothy Canova, "Central Bank Independence as Agency Capture: A Review of the Empirical Literature," *Banking & Financial Services Policy Report* 30:11 (Nov. 2011).
- Charles Pouncy, "Taming the Beast" Recasting Cost Benefit Analysis as a Component of the Processes of Social Provisioning."
- Raúl Carrillo and Rohan Grey, "The Cost of Justice," *Morningside Muckraker* (2014).

Co-Moderators:

Michael Abramowicz, *Professor of Law, GW*

Neil Buchanan, *Professor of Law, GW*

Panelists:

Timothy Canova, *Professor of Law and Public Finance, Nova Southeastern University, Shepard Broad Law Center*

Raúl Carrillo, *Law Student, Columbia Law School*

Tom Herndon, *Graduate Student, UMass Amherst, Department of Economics*

Charles Pouncy, *Associate Professor of Law, Florida International University, College of Law*

Mark Silverman, *Graduate Student, UMass Amherst, Department of Economics*

Lily Vo, *Law Student, Columbia Law School*

3:15 - 3:45 p.m.

Closing Reception, FACULTY CONFERENCE CENTER B 505