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*Preventing Regulatory Capture: Special Interest Influence and How to Limit it.* Edited by Daniel Carpenter and David Moss.  
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# Preface

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In the wake of the global financial crisis of 2007-2009 and the Deep Water Horizon Oil Spill of 2010, regulatory capture has become at once a diagnosis and a source of discomfort. The word “capture” has been used by dozens upon dozens of authors—ranging from pundits and bloggers to journalists and leading scholars—as the telltale characterization of the regulatory failures that permitted these crises. In addition, critics who doubt whether regulatory reforms will be sufficient draw upon capture as a source of widespread skepticism (if not despair). Seen this way, capture of regulation appears not only as a significant cause of these crises, but also as a constraint upon any realistic solutions. Most of those solutions will, in this view, be watered down or dashed by captured regulators in the future.

Is capture truly as powerful and unpreventable as the informed consensus seems to suggest? When it prevails, does capture pose insurmountable obstacles to regulation, so much so that we ought to give up on regulation altogether? This edited volume brings together seventeen scholars from across disciplines whose contributions together question this logic and suggest that capture may, in fact, be preventable and manageable.

The volume is part of a broader project to re-imagine regulatory scholarship. In early 2008, a group of social scientists convened to consider the state of scholarship on regulation as part of a research initiative organized by the Tobin Project, an independent and non-profit research organization based in Cambridge, MA. While research on government failure had come a long way since the mid-20<sup>th</sup> century, scholarship on what distinguishes government success from failure had been less robust. It was as if medical researchers had spent decades identifying cases of medical error, without offering a complementary understanding of how (and when) doctors intervened successfully to improve patients’ lives. A new focus was needed to better understand

not only cases in which government failed, but also cases in which government succeeded and the conditions under which each occurred. In 2010, this research effort produced a first edited volume—*Government & Markets: Toward a New Theory of Regulation* (eds. E. Balleisen & D. Moss, Cambridge University Press)—which explored both the promises and pitfalls of regulation, and ultimately aimed to identify strategies for improving regulatory governance.

The financial crisis of 2007-2009 gave palpable urgency to this ongoing research initiative. As financial regulatory reform took center stage in Washington, DC, policymakers were faced with a great range of complex issues, tasked with addressing the risks and benefits inherent in everything from derivatives markets to systemically significant financial institutions. To get up to speed on such highly specialized subjects, legislators and their staffs often turned to outside experts for input. At various points during the regulatory reform process, scholars involved in the Tobin Project's research efforts were asked to share their perspectives on the problems of financial regulation, and to give advice on potential solutions.

As these conversations progressed, preventing capture emerged as an important issue for policymakers. Throughout 2009 and 2010, both the House of Representatives and the Senate were considering bills that would establish a new agency with independent authority to protect retail consumers of financial products, an idea initially developed by Professor (now Senator) Elizabeth Warren<sup>1</sup> and ultimately instituted as the new Consumer Financial Protection Bureau. At the same time, both houses of Congress were exploring options for how to manage systemic risk throughout the financial system, proposals which ultimately gave rise to the Financial Stability Oversight Council. With respect to both efforts, the question arose repeatedly: Was it possible to design agencies in ways that would protect or insulate them from capture?

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<sup>1</sup> See Warren, Elizabeth. "[Unsafe at Any Rate.](#)" *Democracy: A Journal of Ideas* 5 (2007): 8-19 (based on a working paper originally written for and presented at a 2007 *Tobin Project* working group meeting on risk policy).

In 2009, the Tobin Project convened many of our country’s leading experts on regulation to take up this question of how to prevent regulatory capture. The inquiry quickly gained traction, and this volume is one of the products of that effort. In line with the mission of the Tobin Project, the chapters that follow aim to deepen our understanding of a truly important and consequential problem facing the nation. The Tobin Project is grateful to the authors who have contributed to this inquiry and hopeful that the volume will prove informative to scholars and policymakers alike, and will inspire further rounds of research on regulatory capture – and how to prevent it – in the years ahead.

-- The Tobin Project,

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