

# **Public Enforcement of Securities Laws: A Comparative Perspective**

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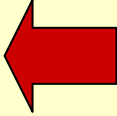


**BBL Seminar at RIETI**

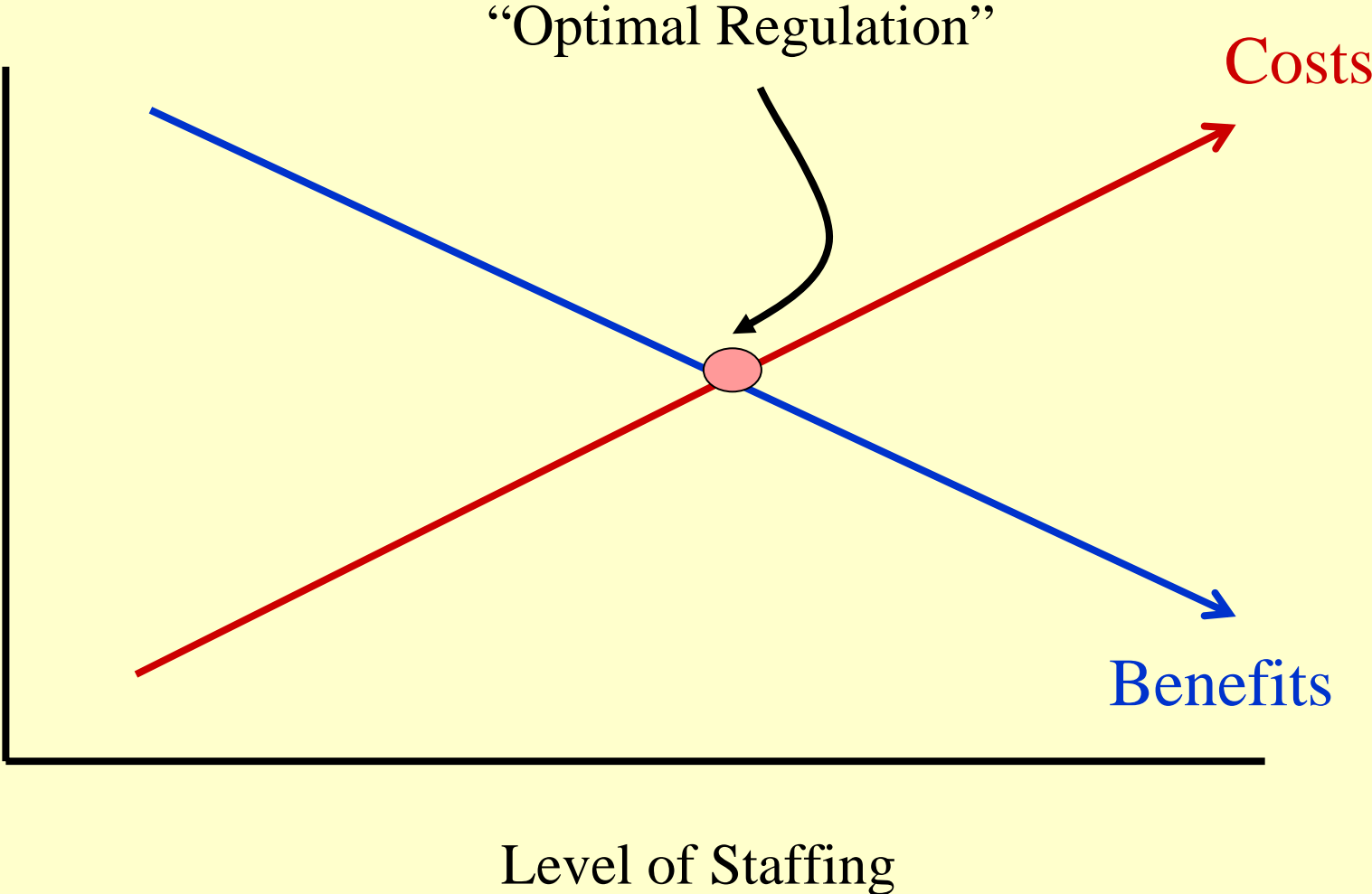
**Ministry of Economy, Trade and Industry**

**June 13, 2007**

# Outline

- Background on Project 
- Jackson & Roe, Public Enforcement Paper
- Areas for Future Research and Policy Implications

# How Large a Staff Should We Hire?



# Problems in Measuring Costs (and Benefits) in Financial Regulation

- Costs
  - Direct Governmental Costs\*\*\*
  - Direct Private Costs
  - Adjudication Costs
  - Cost of Disrupted (but Desirable) Transactions
  - [Sanctions (Monetary & Non-monetary) & Fees]
- Benefits
  - Consumer Protection
  - Lowering Cost of Capital
  - Elimination of Systemic Risk
  - Equitable, Redistributive & Political Goals

# Problems in Comparative Analysis

- Differences in Scale
- Differences in Financial Sectors
- Differences in Regulatory Objectives
- Differences in National Endowments
- Differences in Private Remedies/Responsibilities
- Differences in Compliance Levels

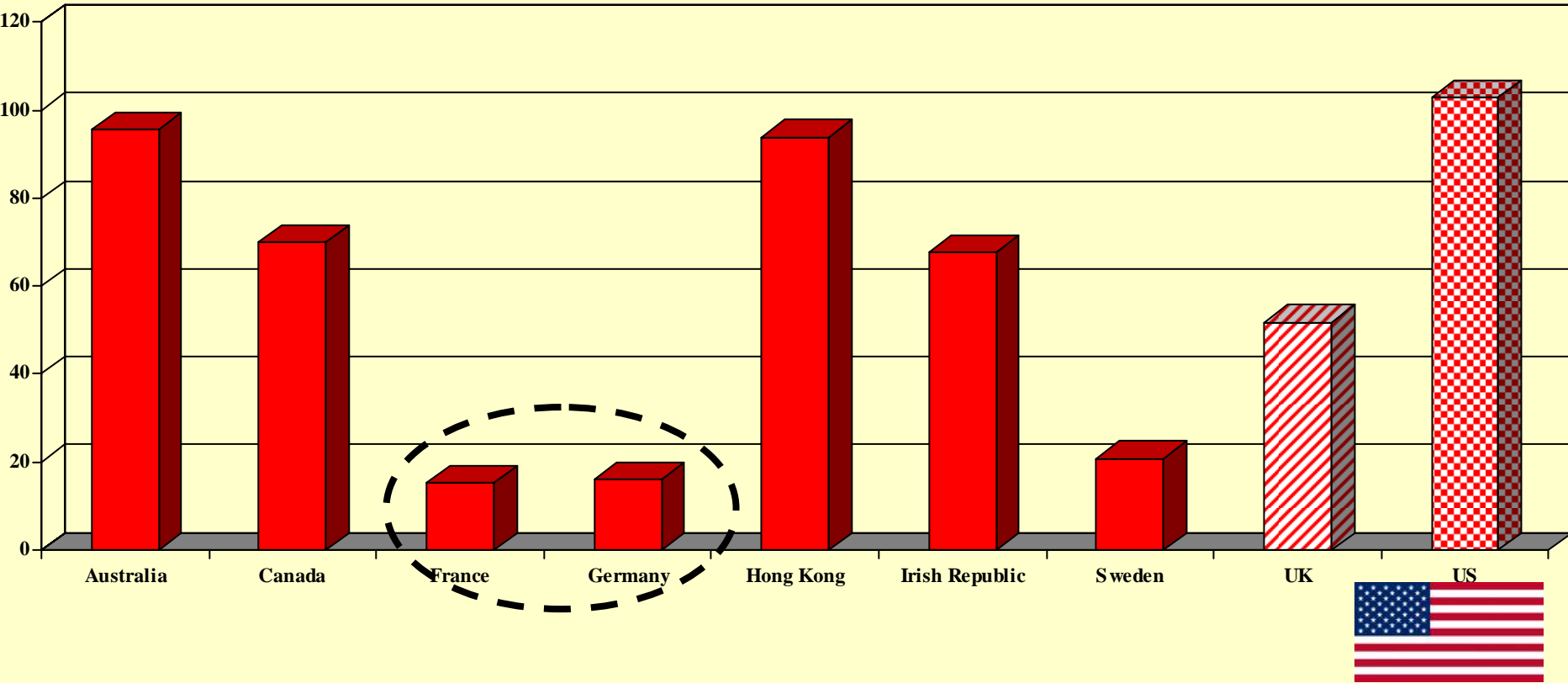
# Scale of Financial Regulation in U.S.

(H. Jackson, Variation in Regulatory Intensity, 24  
Yale J. Reg. 101 (2007))

		2002 Estimates	Percentage of Total	Budget/Staff
<i>Depository Institutions</i>				
	Budgets	\$2,779,897,996	50.02%	\$148,127
	Staffing	18,767	43.40%	
<i>Securities Industry</i>				
	Budgets	\$1,308,923,440	23.55%	\$205,644
	Staffing	6,365	14.72%	
<i>Insurance Industry</i>				
	Budgets	\$946,600,000	17.03%	\$72,501
	Staffing	13,056	30.19%	
<i>Private Pensions</i>				
	Budgets	\$522,178,331	9.40%	\$103,279
	Staffing	5,056	11.69%	
<b>Total</b>	<b>Budgets</b>	<b>\$5,557,599,767</b>	<b>100.00%</b>	<b>\$128,516</b>
	<b>Staffing</b>	<b>43,244</b>	<b>100.00%</b>	

# Figure Five

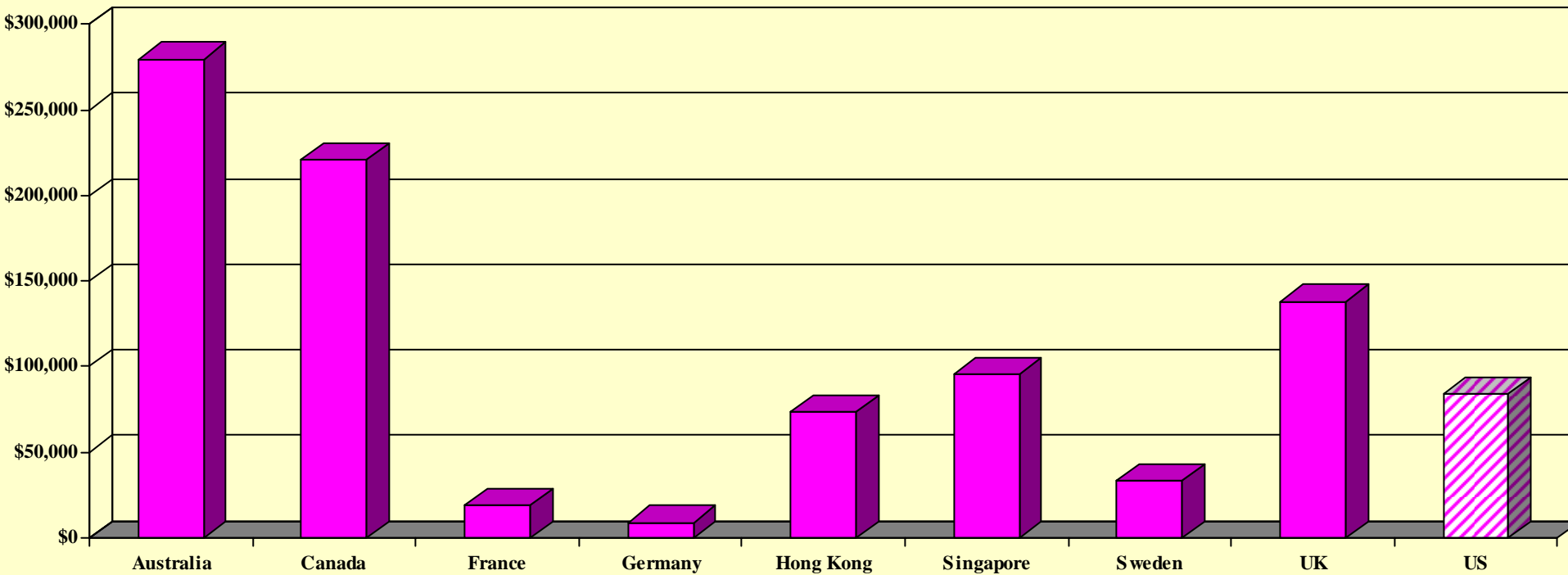
## Total Financial Regulatory Staff Per Million of Population



Source: FSA 2003/2004 Annual Report Appendix 5; Author's Compilations.

# Figure Three

## Securities Regulation Costs Per Billion Dollars of Stock Market Capitalization

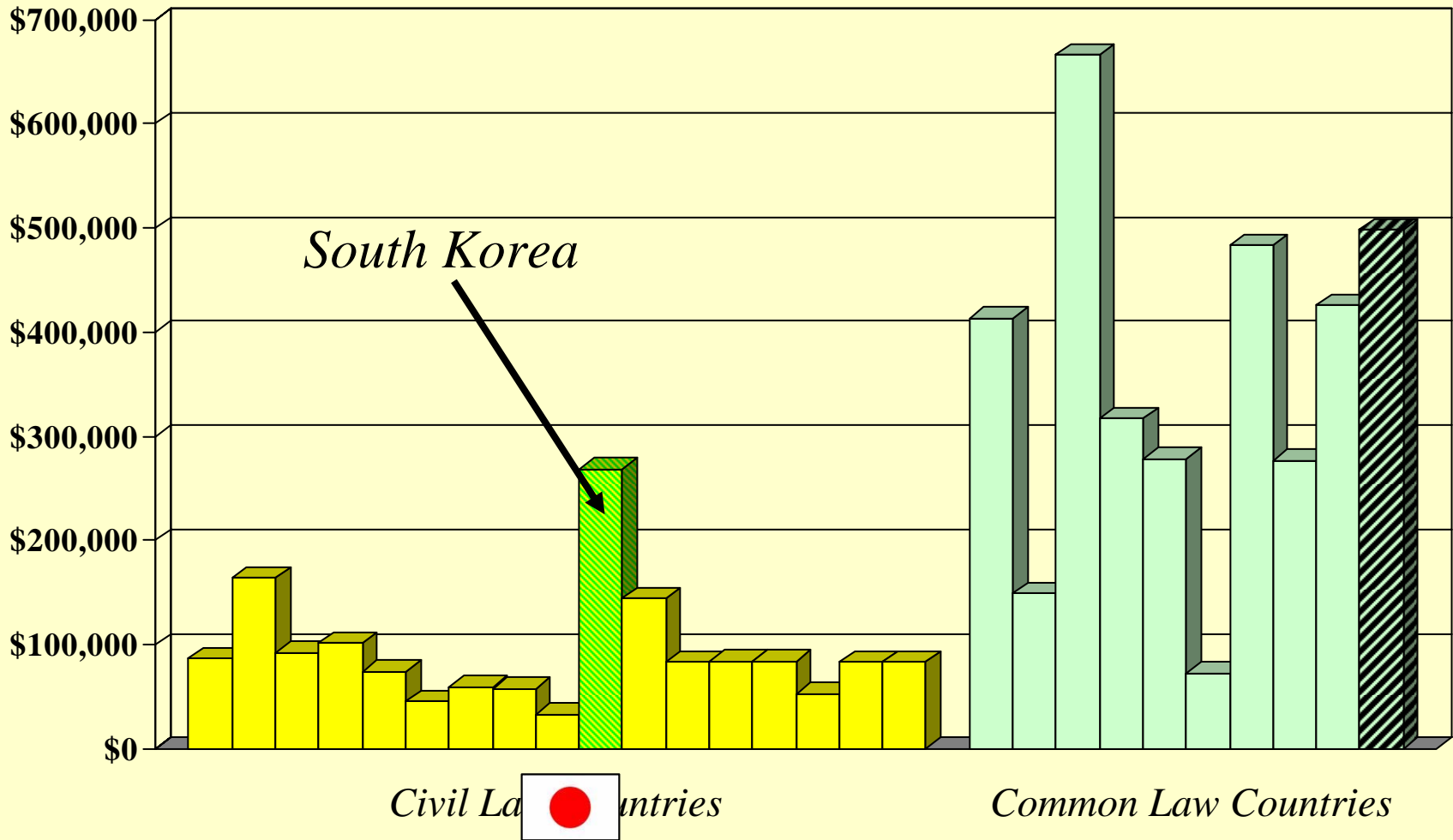


Source: FSA 2003/2004 Annual Report Appendix 5..



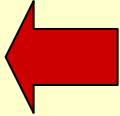
Figure Seven

# Civil Law versus Common Law Countries: Regulatory Costs Per Billion Dollars of GDP



Source: FSA 2003/2004 Annual Report Appendix 5; FBD Data; Author's Compilations.

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# Motivation for Current Paper

The World Bank . . . has announced that “[i]n banking and securities markets, characteristics related to private monitoring and enforcement drive development more than public enforcement measures”. World Bank (2006: 1).

# Academic Basis

“Public enforcement plays a modest role at best in the development of stock markets. In contrast, the development of stock markets is strongly associated with extensive disclosure requirements and a relatively low burden of proof on investors seeking to recover damages resulting from omissions of material information from the prospectus.”

- La Porta, Lopez-de-Silanes & Shleifer, What Works in Securities Laws?, 41 J. Fin. 1, 20 (2006).

# Claims of Paper

- In theory, both private and public enforcement have weaknesses and strengths.
- Prior empirical work on public enforcement has relied on formal measures of regulatory power.
- Using better measures, public enforcement is associated with many (but not all) indicia of strong capital markets.
- More research is needed before the World Bank can make definitive policy recommendations.

# Mechanisms of Enforcement

## **Private Enforcement**

- Litigation
- Voting Power
- Price/Exit

## **Public Enforcement**

- Rulemaking
- Investigation/Examination
- Enforcement Actions
- Criminal Prosecution

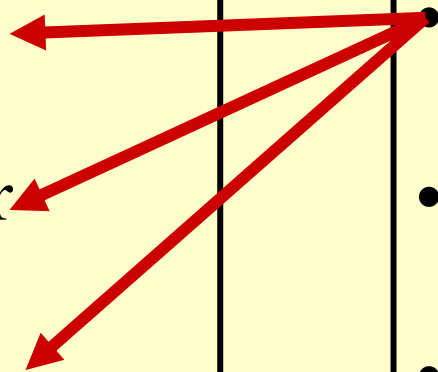
# Mechanisms of Enforcement

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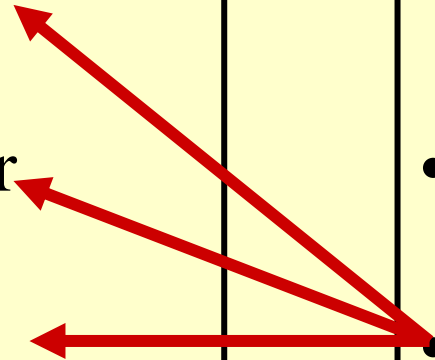
# Mechanisms of Enforcement

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## Public Enforcement

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- Investigation/Examination
- **Enforcement Actions**
- Criminal Prosecution





# Additional Questions About the Primacy of Private Oversight of Capital Markets

- Design of Private Litigation (in U.S.)
  - Wrong-doers often don't pay
  - Innocents often pay
  - See Coffee (2006) for comprehensive analysis
- Prevalence of Mixed Systems of Regulation
  - SRO's in U.S. & Analogs in Other Jurisdictions

# Measures of Public Enforcement

- Formal Powers
  - LLS (2006): Independence, investigative powers, remedial orders, and criminal sanctions.
  - Djankov (2005): Fines and criminal sanctions associated with specific self-dealing transactions.
- Actual Resources (Jackson & Roe)
  - Regulatory Staffing Per Million of Population
  - Regulatory Budgets Per Billion of GDP

Table 1  
**Securities Enforcement Variables**

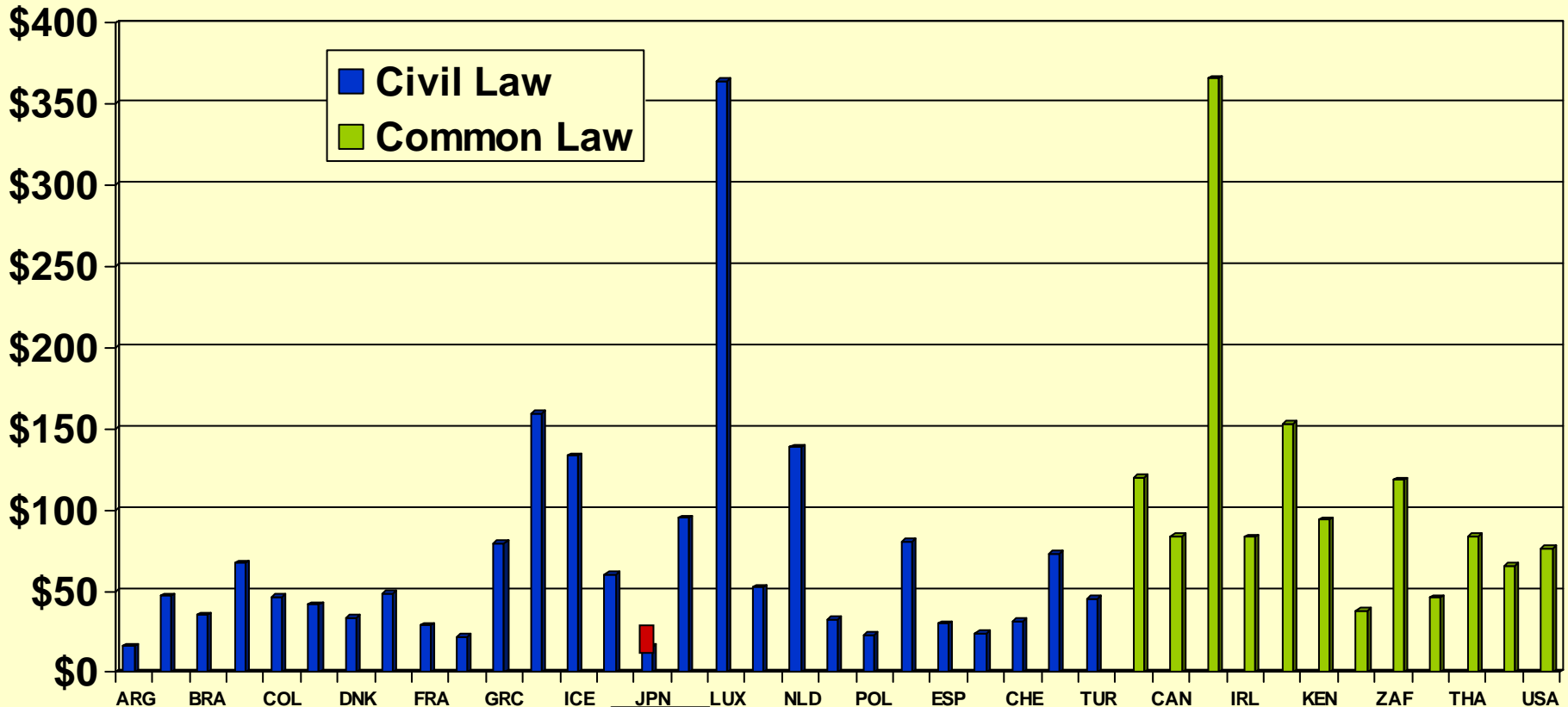
Country	World Bank Codes	Public Enforcement (Actual Resources)			Public Enforcement (Formal)		Common Law Jurisdiction
		Direct Staff Per Million of Population	Extrapolated Staff Per Million of Population	Extrapolated Budgets Per Billion US\$ of GDP	Public Enforcement Index (LLS)	Public Enforcement Index (Djankov)	
Argentina	ARG	3.46	3.46	\$15,984	0.58	0.00	0
Australia	AUS		39.35	\$120,162	0.90	0.50	1
France	FRA	5.93	5.93	\$29,205	0.77	0.50	0
Germany	DEU		6.81	\$22,196	0.22	1.00	0
Japan	JPN	4.31	4.31	\$15,905	0.00	0.00	0


*Averages: 10.1 \$53,844*

Figure Four

# Civil versus Common Law: Budgets

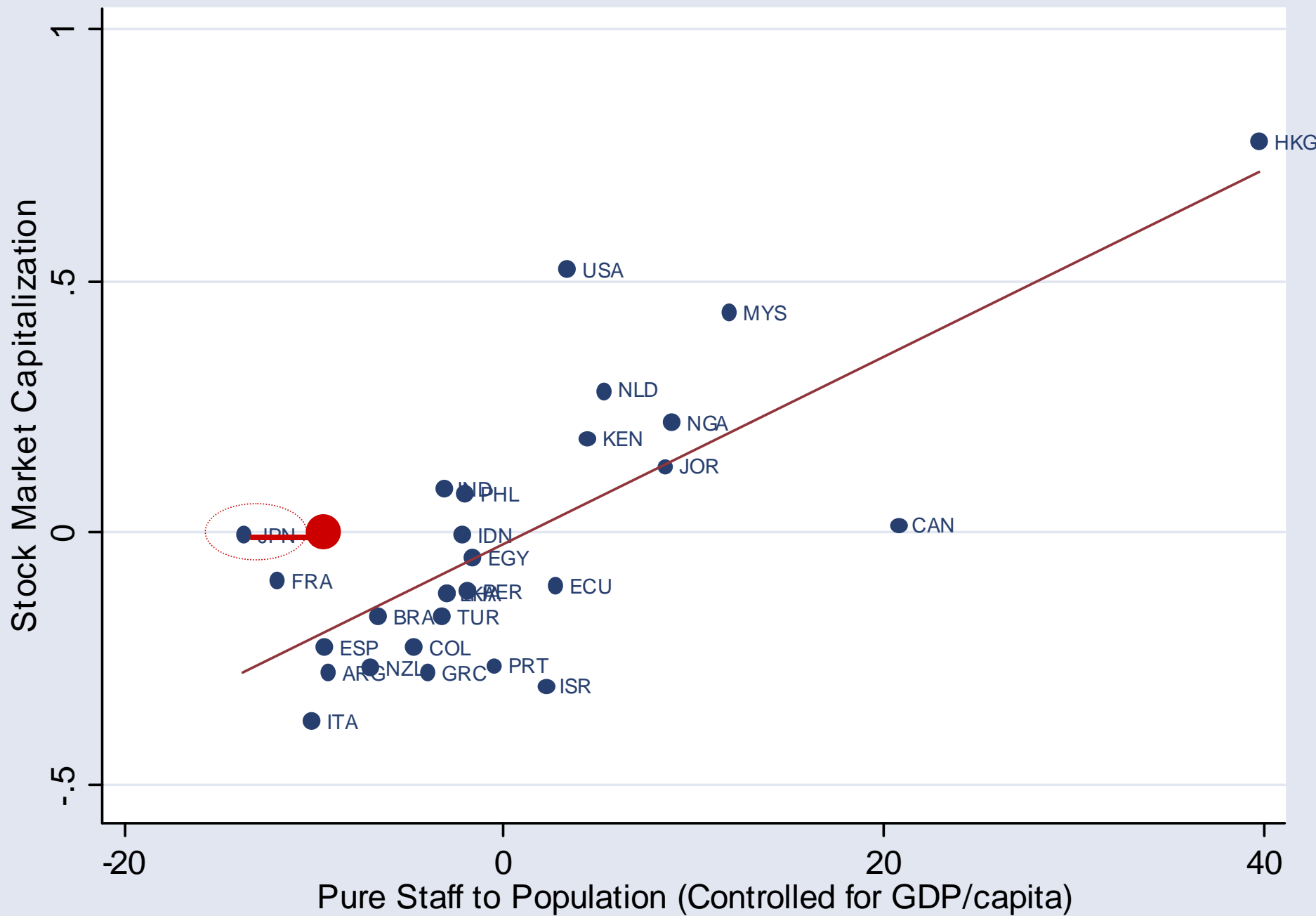
(‘000s of U.S. Dollars per Billion of GDP based on 12/31/05 Exchange Rates)



Authors' compilations from How  Countries Supervise Their Banks, Insurers and Securities Markets 2006 (Central Banking Publications).

# Structure of Empirical Analysis

- Explore Impact of Public Enforcement on:
  - Market Capitalization to GDP
  - Trading Volume to GDP
  - Number of Listed Firms Per Million of Population
  - Level of IPOs to GDP
- Control for Other Factors
  - Quality of Private Enforcement (disclosure & liability)
  - Wealth of Country
  - Other Factors



**New Enforc**

	2004 Market Capitalization			Di
	Direct Staff Per Million of Population	Extrapolated S taff Per Million of Population	Extrapolated Budget ('000) per US\$ billion of GDP	
New Enforcement Variables	6.9679 <sup>a</sup> (1.9587)	1.6265 (1.4088)	1.0478 <sup>a</sup> (0.2657)	
LLS Disclosure Index	74.2363 <sup>b</sup> (30.0504)	121.6703 <sup>b</sup> (47.9094)	65.4748 (55.9261)	
LLS Liability Standards Index	-76.6516 <sup>c</sup>	2.7785	-27.4254 (39.1547)	
			36.0768 <sup>a</sup> (10.6922)	
			-361.7742 <sup>a</sup> 95.8003	
			34	
			60.133	
			59%	

***Key Findings:***

- Positive Effect of Public Enforcement Variable
- Private Enforcement also Important
- Disclosure Quality More than Liability Rules

# Table Four

	2004 Market Capitalization			2004 Trading Volumes			Domestic Firms (2004)			IPOs to GDP (2004)		
	Direct Staff Per Million of Population	Extrapolated Staff Per Million of Population	Extrapolated Budget ('000) per US\$ billion of GDP	Direct Staff Per Million of Population	Extrapolated Staff Per Million of Population	Extrapolated Budget ('000) per US\$ billion of GDP	Direct Staff Per Million of Population	Extrapolated Staff Per Million of Population	Extrapolated Budget ('000) per US\$ billion of GDP	Direct Staff Per Million of Population	Extrapolated Staff Per Million of Population	Extrapolated Budget ('000) per US\$ billion of GDP
New Enforcement Variables	8.9679 <sup>a</sup> (1.9587)	1.6265 (1.4088)	1.0478 <sup>a</sup> (0.2657)	2.7391 <sup>c</sup> (1.3666)	0.2354 (0.6885)	0.3271 <sup>c</sup> (0.1803)	0.0457 <sup>a</sup> (0.0133)	0.0188 <sup>a</sup> (0.0065)	0.0032 (0.0020)	0.2441 <sup>a</sup> (0.0834)	0.2089 <sup>a</sup> (0.0298)	.0412 <sup>a</sup> (0.0079)
LLS Disclosure Index	74.2363 <sup>b</sup> (30.0504)	121.6703 <sup>b</sup> (47.9094)	65.4748 (55.9261)	69.8364 (40.1701)	86.3407 <sup>a</sup> (26.1807)	100.6277 <sup>a</sup> (35.6987)	1.1076 (0.6857)	1.4246 <sup>b</sup> (0.6057)	1.0231 (0.9630)	4.6388 <sup>b</sup> (1.8851)	1.8955 (2.9312)	0.9008 (3.9887)
LLS Liability Standards Index	-76.6516 <sup>c</sup> (37.6333)	2.7785 (31.4007)	-27.4254 (39.1547)	-6.8748 (51.7971)	23.2837 (25.3709)	19.0949 (33.1175)	-0.1844 (0.7708)	0.5086 (0.6908)	1.2818 (0.7896)	-5.7377 <sup>b</sup> (1.9943)	-3.3575 <sup>b</sup> (1.5108)	-3.8410 <sup>c</sup> (2.0363)
Log GNI Per Capita (PPP; 2005)	-4.6118 (9.1913)	19.1770 <sup>b</sup> (8.0573)	36.0768 <sup>a</sup> (10.6922)	12.8939 (8.6828)	23.7182 <sup>a</sup> (8.9390)	31.3812 <sup>a</sup> (8.9909)	0.5539 <sup>a</sup> (0.1915)	0.8941 <sup>a</sup> (0.1116)	0.8603 <sup>a</sup> (0.1392)	-0.6609 (0.6472)	-0.1687 (0.3919)	2.1266 <sup>b</sup> (0.9682)
Constant	37.5693 (79.1939)	-193.2945 <sup>a</sup> (69.0369)	-361.7742 <sup>a</sup> (95.8003)	-140.7514 <sup>c</sup> (71.0094)	-237.0108 <sup>a</sup> (61.6668)	-338.8296 <sup>a</sup> (88.2739)	-3.9396 <sup>b</sup> (1.6117)	-5.4968 <sup>a</sup> (1.0760)	-7.2551 <sup>a</sup> (1.3906)	6.4442 (6.2138)	2.5451 (2.8792)	-19.6965 <sup>b</sup> (8.0464)
Observations	28	46	34	20	46	34	28	46	34	20	36	34
MSE	48.29	72.164	60.133	42.913	46.893	46.212	0.9287	0.6268	0.804	2.1485	2.4305	2.6572
Adjusted R Squared	76%	32%	59%	59%	37%	47%	56%	61%	58%	68%	67%	50%

a = significant at 1%; b = significant at 5%; and c = significant at 10%.



Table 5

### New Public Enforcement Variables Versus Prior Indices of Public Enforcement

(robust standard errors in parentheses)

#### Panel A: Regressions with New Variables and Old Enforcement Indices

	Market Capitalization			Trading Volumes			Domestic Firms			IPOs		
	Original LLS	Pure Staff to Population	Extrapolated Budget to GDP	Original LLS	Pure Staff to Population	Extrapolated Budget to GDP	Original LLS	Pure Staff to Population	Extrapolated Budget to GDP	Original LLS	Pure Staff to Population	Extrapolated Budget to GDP
New Enforcement Variables	–	0.0137 <sup>a</sup> (0.0044)	0.0017 <sup>a</sup> (0.0007)	–	1.8446 <sup>b</sup> (0.7997)	0.2861 <sup>b</sup> (0.1051)	–	0.0369 <sup>a</sup> (0.0116)	0.0048 <sup>b</sup> (0.0019)	–	.1682 <sup>a</sup> (0.0345)	0.0115 <sup>c</sup> (0.0067)
Public Enforcement Index (LLS)	0.3446 <sup>c</sup> (0.1990)	0.2078 (0.2393)	0.1756 (0.2456)	39.5648 (30.0063)	15.7065 (43.1267)	27.4941 (39.0173)	0.6422 (0.4813)	-0.1282 (0.7525)	-0.1236 (0.4694)	3.7220 <sup>b</sup> (1.5531)	-1.658 (2.1248)	3.7004 <sup>c</sup> (2.0805)
Anti-Director Rights Index	0.0711 <sup>b</sup> (0.0347)	0.0341 (0.0355)	0.0694 <sup>c</sup> (0.0420)	7.8568 (4.7260)	10.2996 (7.7825)	2.7567 (6.1558)	0.1761 <sup>b</sup> (0.0861)	-0.02 (0.1665)	0.2104 <sup>b</sup> (0.0822)	0.3098 (0.2434)	0.1458076 (0.4418)	0.117 (0.3250)
Ln GDP per capita	0.1041 <sup>a</sup> (0.0218)	.0536 <sup>b</sup> (0.0223)	0.1277 <sup>a</sup> (0.0342)	21.4326 <sup>a</sup> (7.0790)	10.1056 <sup>b</sup> (4.8139)	35.0305 <sup>b</sup> (12.9054)	0.2949 <sup>a</sup> (0.1052)	0.1974 (0.1370)	0.3156 <sup>c</sup> (0.1625)	1.2210 <sup>a</sup> (0.2687)	0.5216 <sup>c</sup> (0.2805)	1.7630 <sup>a</sup> (0.5080)
Judicial Efficiency Index	0.0518 <sup>b</sup> (0.0236)	0.0291 (0.0247)	0.0378 (0.0324)	-2.0959 (5.4241)	-1.824 (4.7958)	-9.1709 (8.6927)	0.2551 <sup>a</sup> (0.0750)	0.2263 <sup>b</sup> (0.0922)	0.1837 <sup>b</sup> (0.0846)	0.0355 (0.2168)	-0.3901 (0.2319)	-0.1848 (0.3393)
Constant	-1.2999a (0.2169)	-0.7035b (0.3384)	-1.4360a (0.2960)	-165.9368a (40.4056)	-90.6045 (63.0952)	-234.9664a (73.3187)	-2.847a (0.7578)	-1.2066 (1.3058)	-2.5481b (1.1832)	-10.8554a (2.0799)	-0.523 (2.4375)	-14.3922a (3.5744)
Observations	49	28	35	49	28	35	49	28	35	49	28	35
MSE	0.274	0.18547	0.3041	56.885	34.702	64.559	0.6613	0.70879	0.6195	2.5737	2.0189	2.8468
Adjusted R <sup>2</sup>	48%	72%	42%	18%	52%	13%	66%	66%	65%	34%	50%	29%

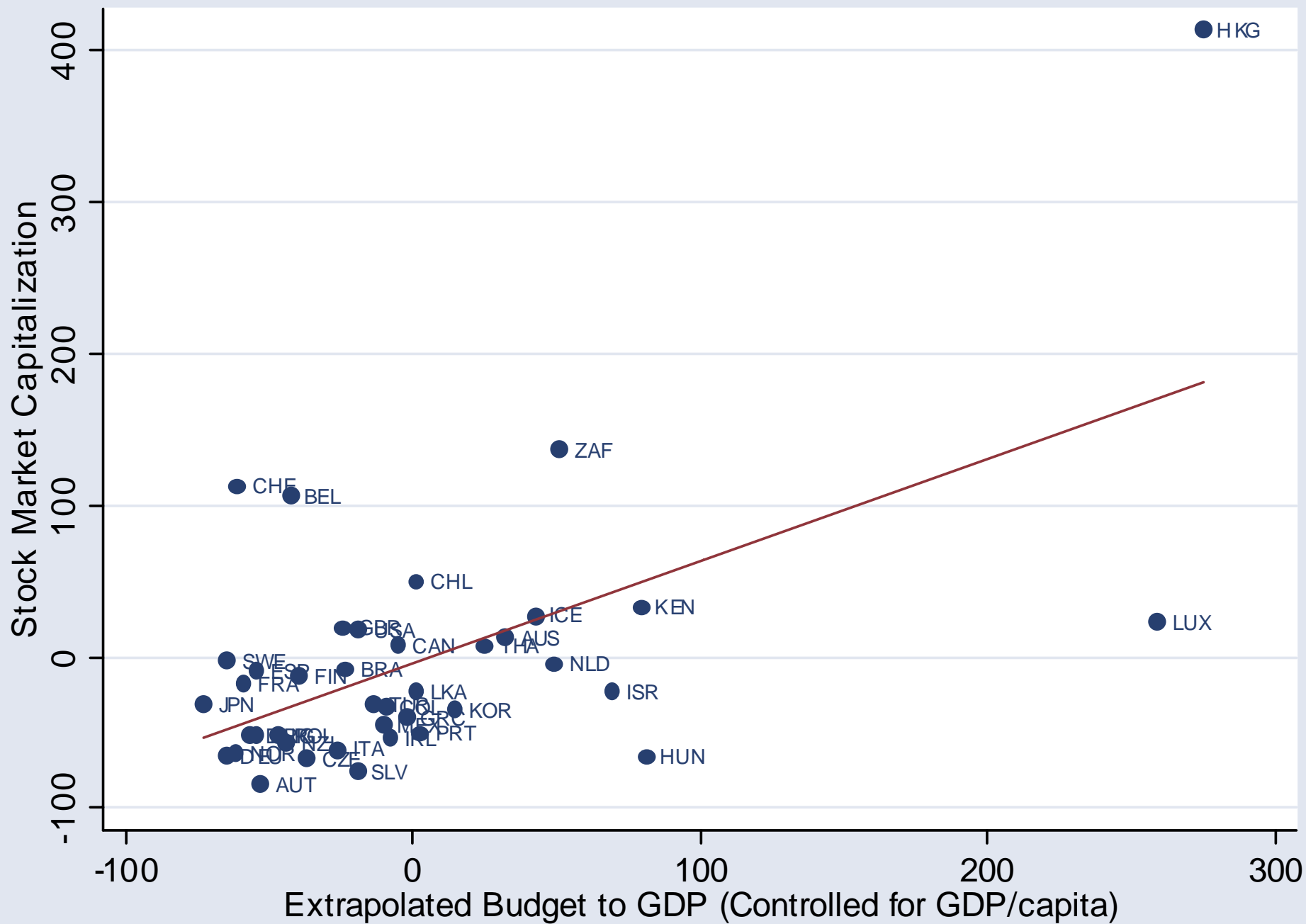
#### Panel B: Regressions with New Enforcement New Variables Versus Old Enforcement Indices

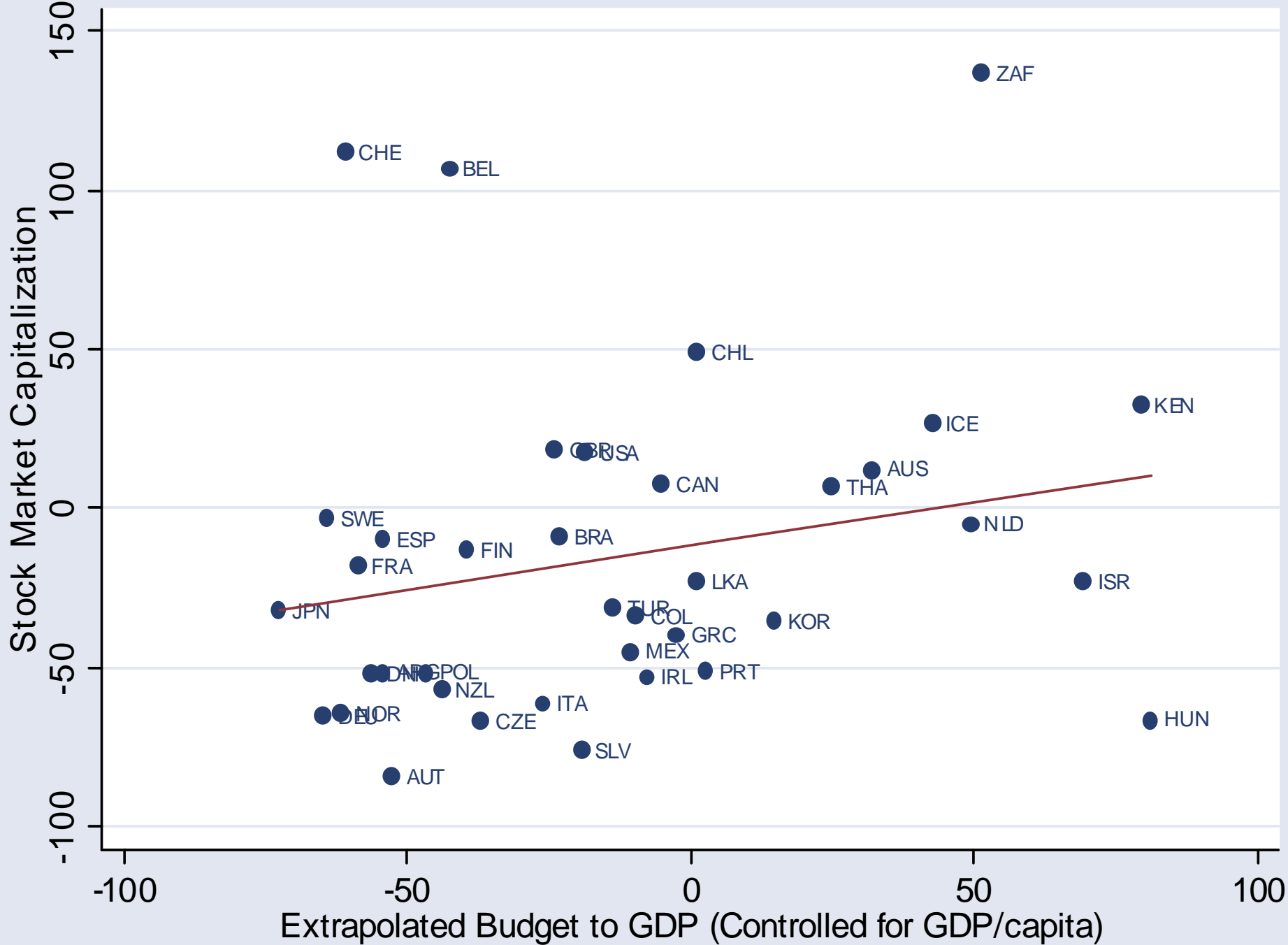
	Market Capitalization			Trading Volumes			Domestic Firms			IPOs		
	Original LLS	Pure Staff to Population	Extrapolated Budget to GDP	Original LLS	Pure Staff to Population	Extrapolated Budget to GDP	Original LLS	Pure Staff to Population	Extrapolated Budget to GDP	Original LLS	Pure Staff to Population	Extrapolated Budget to GDP
New Enforcement Variables	–	.0159 <sup>a</sup> (0.0348)	.0019 <sup>a</sup> (0.0006)	–	2.0129 <sup>a</sup> (0.6307)	0.3113 <sup>a</sup> (0.0920)	–	0.0356 <sup>a</sup> (0.0083)	0.0046 <sup>b</sup> (0.0018)	–	0.1504 <sup>a</sup> (0.2288)	0.0162 <sup>b</sup> (0.0060)
Public Enforcement Index (LLS)	0.3446 <sup>c</sup> (0.1990)	–	–	39.5648 (30.0063)	–	–	0.6422 (0.4813)	–	–	3.7220 <sup>b</sup> (1.5531)	–	–
Anti-Director Rights Index	0.0711 <sup>b</sup> (0.0347)	0.0434 (0.0361)	0.0800 <sup>b</sup> (0.0365)	7.8568 (4.7260)	11.0006 (7.7863)	4.4134 (6.4520)	0.1761 <sup>b</sup> (0.0861)	-0.0257 (0.1572)	0.2030b (0.0805)	0.3098 (0.2434)	0.0718 (0.4508)	0.34 (0.3793)
Ln GDP per capita	0.1041 <sup>a</sup> (0.0218)	0.0464 <sup>b</sup> (0.0207)	0.1246 <sup>a</sup> (0.0333)	21.4326 <sup>a</sup> (7.0790)	9.5572 <sup>b</sup> (4.5017)	34.5556 <sup>a</sup> (12.5637)	0.2949 <sup>a</sup> (0.1052)	0.2019 (0.1195)	0.3177 <sup>c</sup> (0.1621)	1.2210 <sup>a</sup> (0.2687)	0.5794 <sup>c</sup> (0.2856)	1.6990 <sup>a</sup> (0.5058)
Judicial Efficiency Index	0.0518 <sup>b</sup> (0.0236)	0.0206 (0.0208)	0.0347 (0.0312)	-2.0959 (5.4241)	-2.4698 (3.6860)	-9.6429 (8.4209)	0.2551 <sup>a</sup> (0.0750)	0.2315 <sup>b</sup> (0.0877)	0.1858 <sup>c</sup> (0.0834)	0.0355 (0.2168)	-0.3219 (0.1947)	-0.2483 (0.3261)
Constant	-1.2999a (0.2169)	-0.5150b (0.2284)	-1.3465a (0.2369)	-165.9368a (40.4056)	-76.3556c (37.8691)	-220.9429a (66.0907)	-2.847a (0.7578)	-1.3229 (0.8238)	-2.6111a (1.1565)	-10.8554a (2.0799)	-2.0272 (1.5305)	-12.5048a (3.2500)
Observations	49	28	35	49	28	35	49	28	35	49	28	35
MSE	0.274	0.18518	0.301	56.885	34.056	63.705	0.6613	0.69359	0.6096	2.5737	1.9968	2.8924
Adjusted R <sup>2</sup>	48%	72%	43%	18%	54%	15%	66%	68%	66%	34%	51%	27%

a = significant at 1%; b = significant at 5%; and c = significant at 10 %.

# Reservations & Limitations

- Significance of Outliers on Some Regressions
- Problems of Causation
- Dispersed Ownership & Intermediate Variables

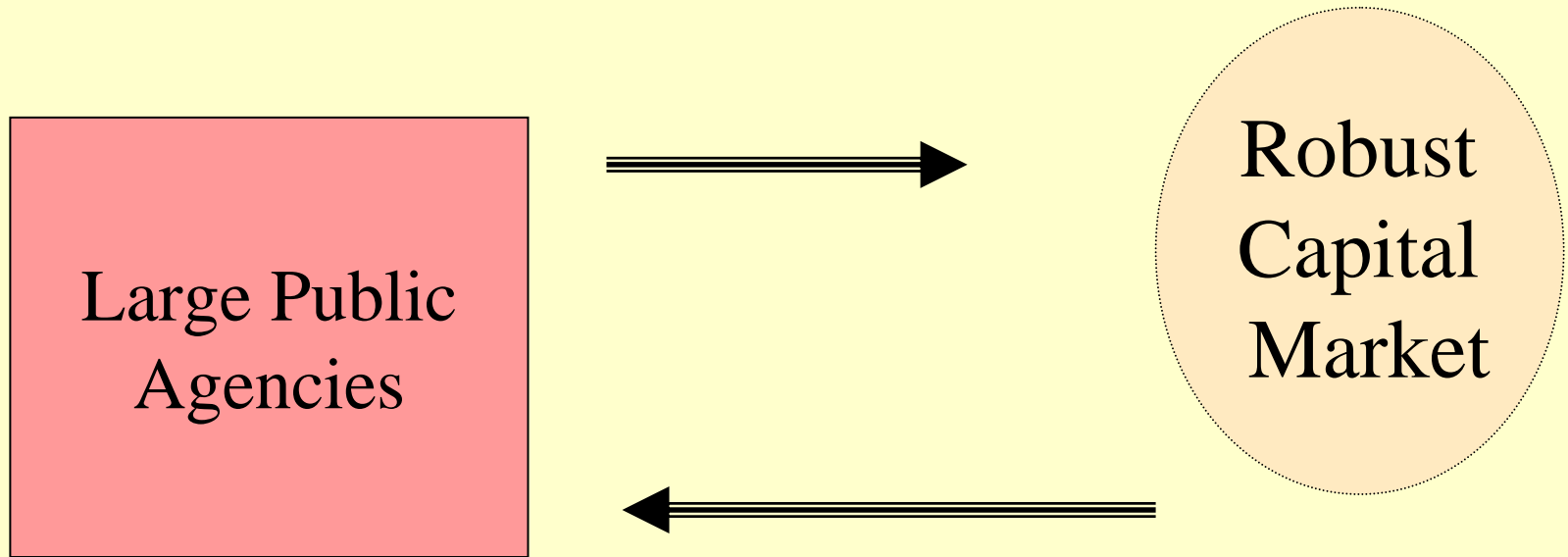




# Problem of Causation

- Does More Public Enforcement Lead to Larger Capital Markets or Visa Versa?
- Possible Technical Solutions:
  - Longitudinal Studies
  - Difference-in-Difference Approaches
  - Instrumental Variables & Two-Stage Regressions
    - Legal Origins as an Instrument
    - Other Instruments

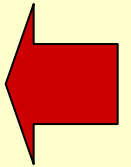
# Implications of Dual Causation



- a. Special Pleading by Investors*
- b. Legitimate Needs of Market*
- c. Relevance of Financial Crisis?*
- d. Relevance of Retail Investors?*

# Reservations & Limitations

- Significance of Outliers on Some Regressions
- Problems of Causation
- Dispersed Ownership & Intermediate Variables



# Impact on Other Dependent Variables

- Dispersed Ownership (concentration of shareholders, block premia, ease of access to capital markets)
  - Private Law Indices are strongly correlated with dispersion
  - Public Regulatory Intensity, either not correlated or negatively correlated.
- Technical Measures of Stock Market Performance (bid-ask spreads; synchronicity; volatility)
  - Neither public regulatory intensity nor private law indices are strongly correlated with technical measures.

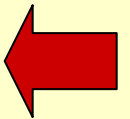


# Conclusions

- Public Enforcement, properly measured, is strongly associated with objective measures of robust capital markets.
- Analysis limited by problems of causation and puzzle of intermediate factors
  - But similar problems affect empirical research on value of private enforcement
  - Our public enforcement variables perform roughly as well.
- Therefore, World Bank's skepticism about public enforcement is premature and should not be the basis of current policy recommendations

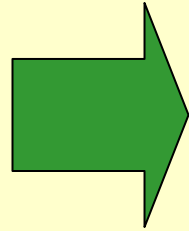
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- Background on Project
- Jackson & Roe, Public Enforcement Paper
- Areas for Future Research and Policy Implications



# Better Measures of Regulatory Intensity

Public Regulatory  
Personnel & Budgets  
(inputs)



## Potential Outputs

Policy Research

Regulations

Informal Guidance

Examination & Inspections

Enforcement Actions \*\*\*

Criminal Sanctions \*\*\*

# U.S. Securities Enforcement Activity (Annual Averages: 2002-2004)

Table Fourteen

## Summary of US Enforcement Actions in Securities Regulations

	Actions			Monetary Sanctions				
	Annualized Data: 2002-2004			Annualized Data: 2002-2004 (US Dollars)			2004 Data (US Dollars)	
	Average Number Enforcement Actions	Percentage of Grand Total	Percentage of Total Public Actions	Total Monetary Sanctions	Percentage of Grand Total	Percentage of Total Public Actions	Total Monetary Sanctions	Percentage of Grand Total
<b>Public Actions:</b>								
SEC	639	9.7%	17.6%	\$2,164,666,667	24.6%	40.9%	\$3,100,000,000	29.8%
DOJ	112	1.7%	3.1%	\$766,525,000	8.7%	14.5%	\$16,850,000	0.2%
State Agencies (estimated)	<u>1,482</u>	<u>22.6%</u>	<u>40.8%</u>	\$1,114,949,985	12.7%	<u>21.1%</u>	<u>\$931,212,489</u>	<u>9.0%</u>
Subtotal	2,233	34.1%	61.5%	\$4,046,141,652	46.1%	76.5%	\$4,048,062,489	39.0%
NASD	1,170	17.9%	32.2%	\$1,078,282,572	12.3%	20.4%	\$232,024,058	2.2%
NYSE	<u>227</u>	<u>3.5%</u>	<u>6.3%</u>	<u>\$163,059,260</u>	<u>1.9%</u>	<u>3.1%</u>	<u>\$464,834,281</u>	<u>4.5%</u>
Subtotal	1,397	21.3%	38.5%	\$1,241,341,833	14.1%	23.5%	\$696,858,339	6.7%
Total Public Actions	3,630	55.4%	100.0%	\$5,287,483,485	60.2%	100.0%	\$4,744,920,828	45.7%
<b>Private Actions:</b>								
Class Actions	210	3.2%	n.a.	\$3,336,333,333	38.0%	n.a.	\$5,456,000,000	52.5%
NASD Arbitrations	1,720	26.2%	n.a.	\$162,333,333	1.8%	n.a.	\$186,000,000	1.8%
NYSE Arbitrations	<u>994</u>	<u>15.2%</u>	n.a.	<u>missing</u>	<u>n.a.</u>	n.a.	<u>missing</u>	<u>n.a.</u>
Total Private Actions	2,924	44.6%	n.a.	\$3,498,666,667	39.8%	n.a.	\$5,642,000,000	54.3%
Grand Total -- Private & Public	6,554	100.0%	n.a.	\$8,786,150,151	100.0%	n.a.	\$10,386,920,828	100.0%
Adjusted Grand Total*	n.a.	n.a.	n.a.	\$8,176,733,485	93.1%	n.a.	\$8,616,920,828	83.0%

\* Adjusted to deduct sanctions reported under two or more agencies.

# Three International Comparison

## United States

(2002-2004)

**Sanctions: 3630**

(SEC: 639)

(Other: 2991)

**Penalties: \$ 5.2 bn**

(SEC: \$2.1 bn.)

## United Kingdom

(2004)

**Sanctions: 90**

(Penalties: 31)

(Other Formal: 48)

(Private warnings: 11)

**Penalties: \$ 40.5 mn**

## Germany

(2004)

**Sanctions: 149**

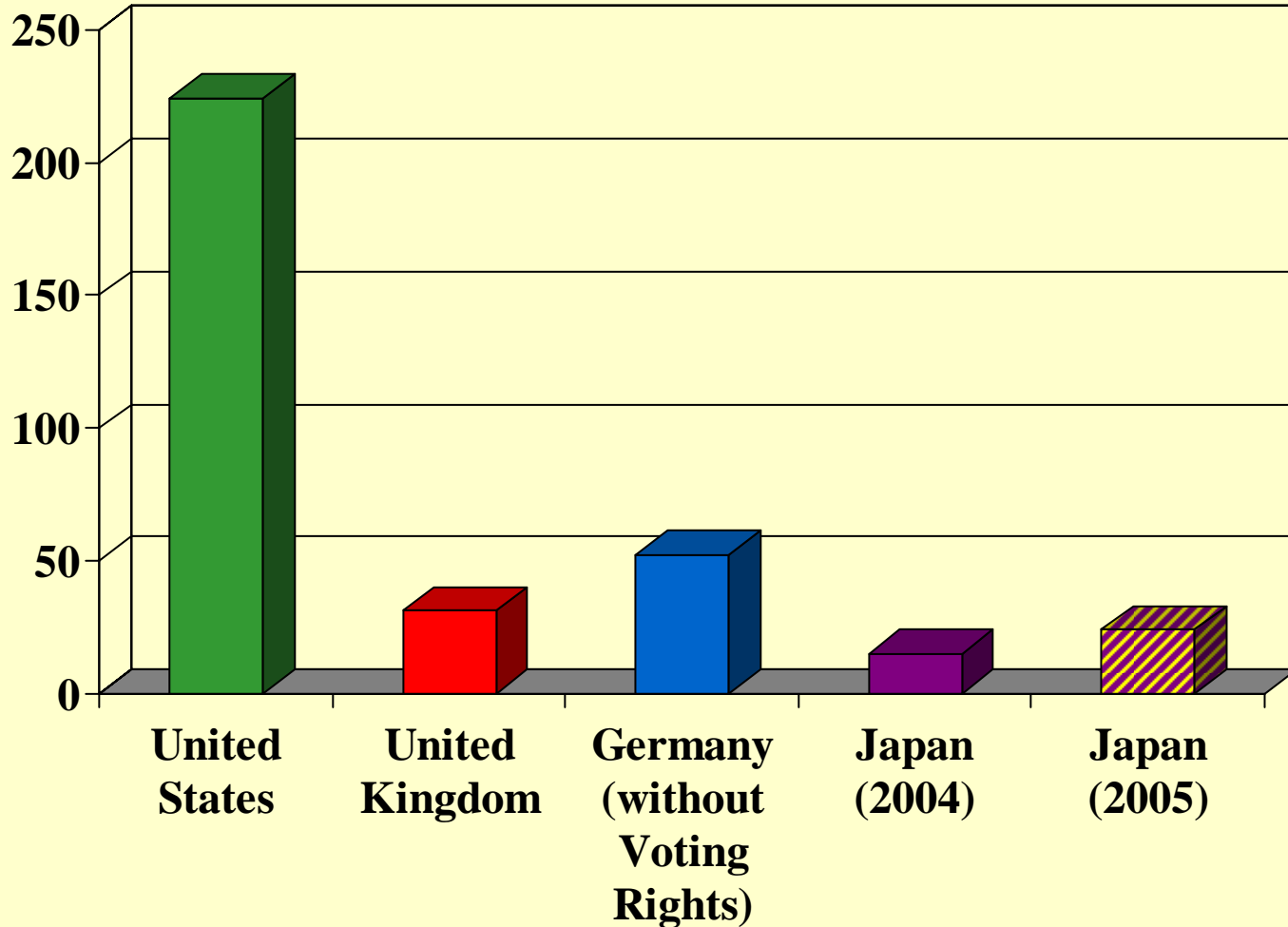
(Voting Rights: 86)

(Other Formal: 63)

**Penalties: n.a.**

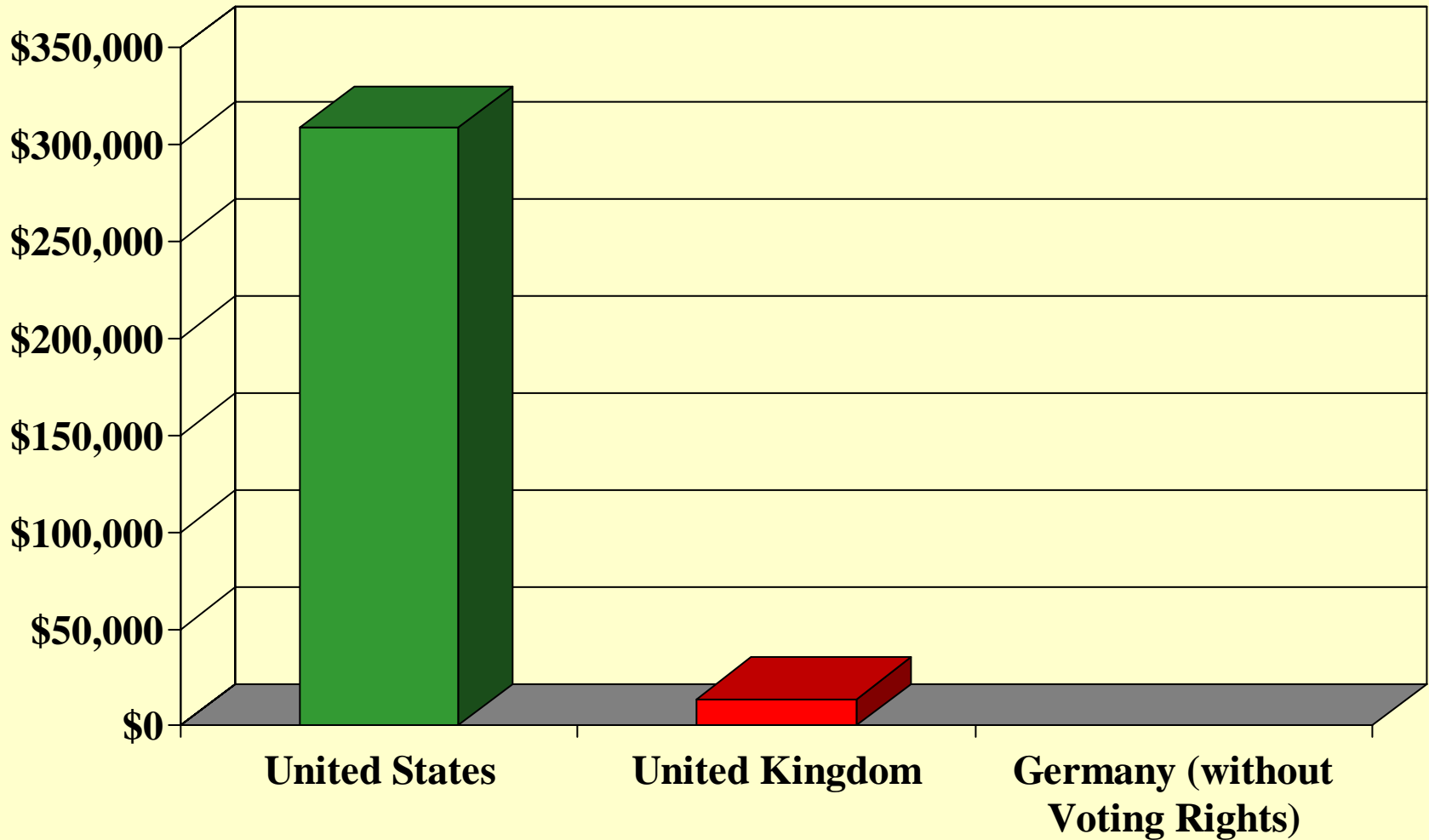
**+ \$3.5 bn in private  
Litigation awards**

# Public Securities Enforcement Actions Per Trillion Dollars of Market Capitalization in 2004



*Source: Author's Compilations.*

# Public Securities Enforcement :Penalties Per Billion Dollars of Market Capitalization in 2004



*Source: Author's Compilations.*

# Challenges in Comparing Sanctions

- Differences in Regulatory Strategies
  - Different Emphasis on Enforcement (UK v. US & Australia)
  - Reliance on SRO's, Industry Guidance, & Reprimands/Warnings
  - Different Distribution of Enforcement Actions
- Different Investigation to Sanction Ratios
  - High in the U.S.& Australia
  - Lower in Other Jurisdictions
- Accounting for Globalization Effect
  - Sanctions from Foreign Authorities
  - Adjustments for Cross-Listings





**Image from Google Earth.**

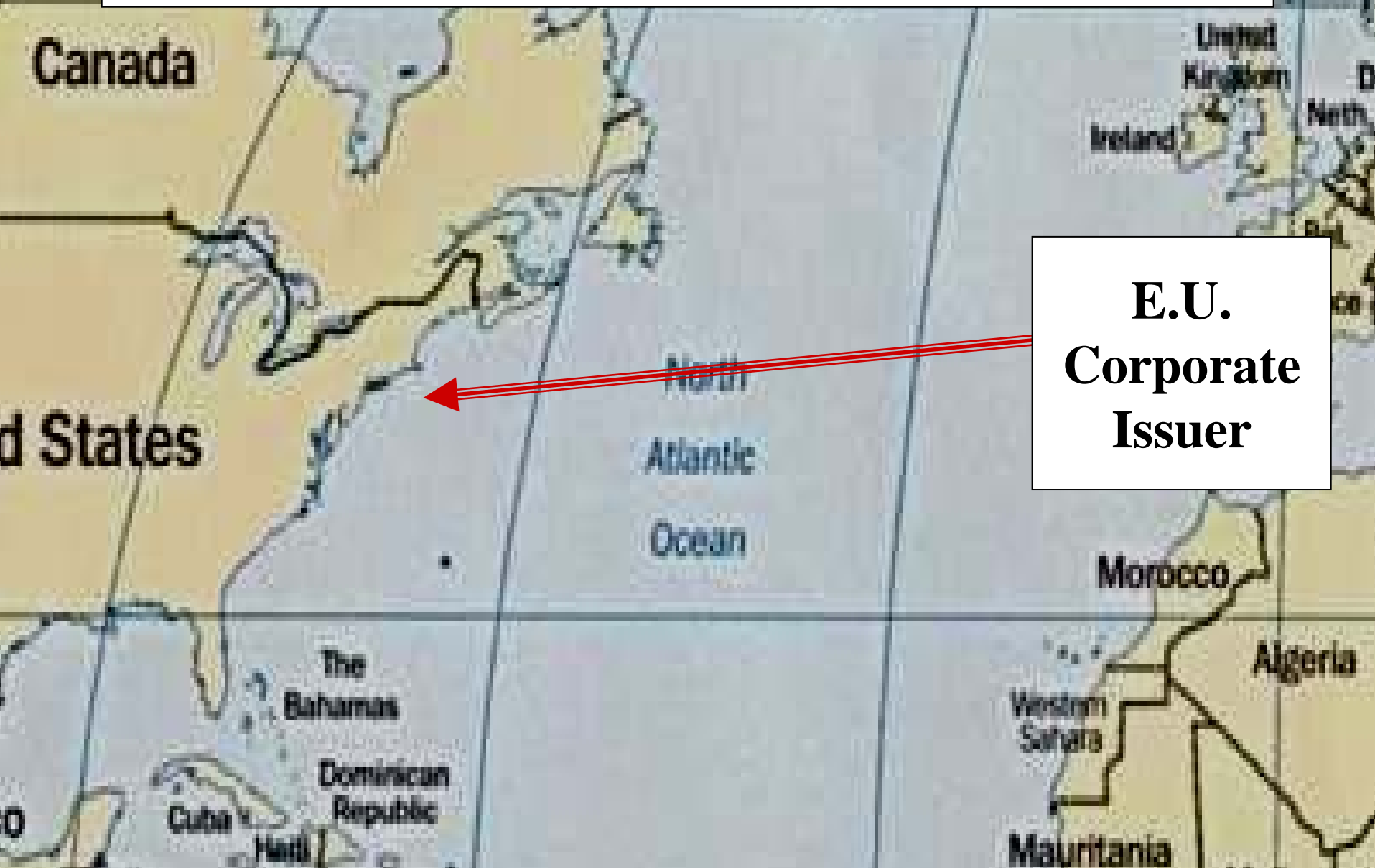
# Policy Implications

1. Establishment of Financial Markets in Developing Countries

2. Acceptance of Foreign Regulatory Oversight by Financial Supervisors in Developed Countries

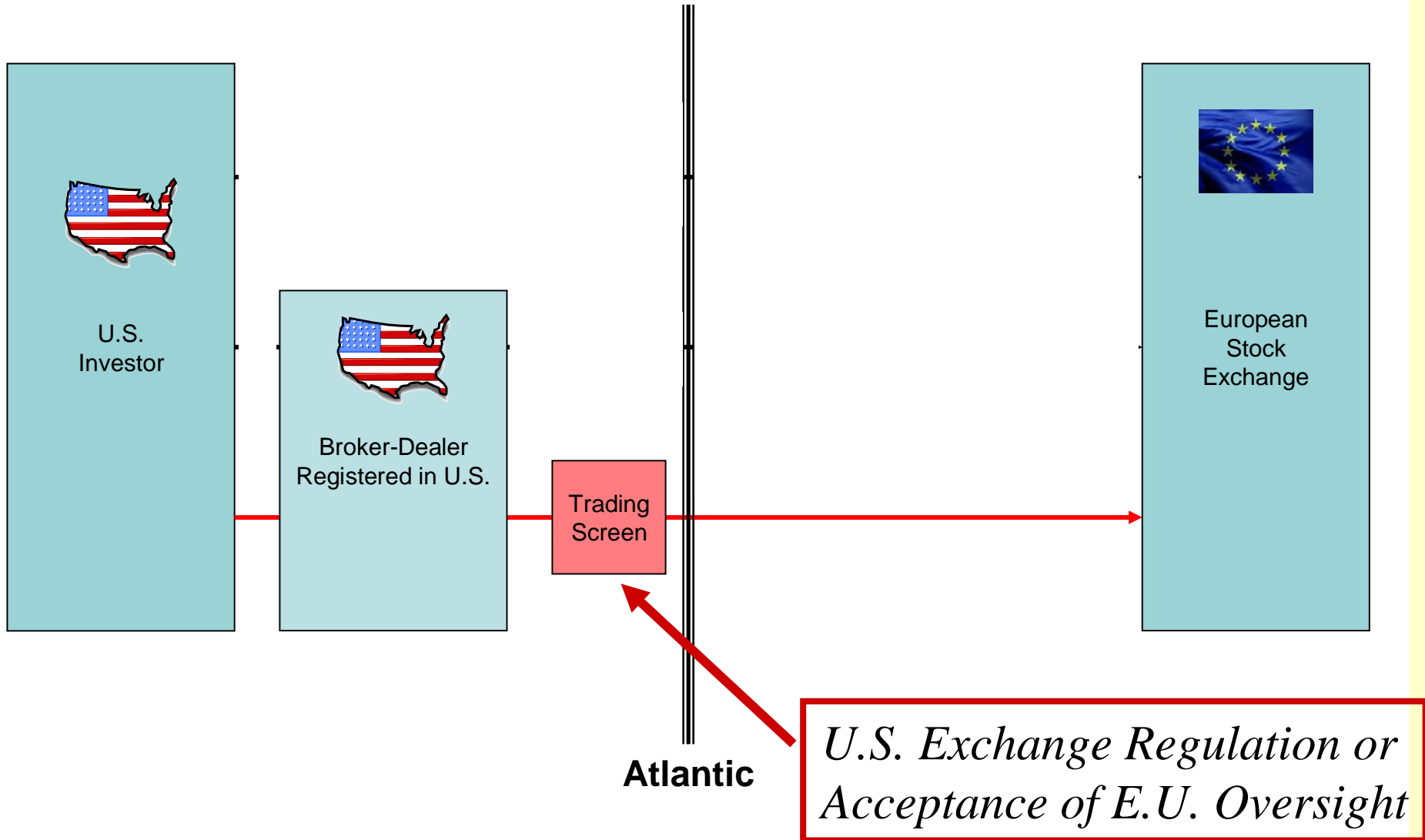
# IFRS versus U.S. GAAP

EU-US Trans-Atlantic Financial Services Dialogue



**E.U.  
Corporate  
Issuer**

# The Remote Screen Controversy



# Approaches to Regulatory Passporting

- No Legal Requirements (Market Controls)
- Selective Substitute Compliance
  - Based on Formal Legal Requirements
  - Based on Functional Equivalence
    - Regulatory Inputs (staffing and budgeting)
    - Regulatory Outputs (enforcement, etc.)
  - Objective Measures of Performance
    - Cost of Capital or Technical Measures
    - Behavior of Institutional Investors & Foreign Issuers
- Other Considerations
  - Reciprocity Requirements
  - Politicization of Process

# **Public Enforcement of Securities Laws: A Comparative Perspective**

**Professor Howell E. Jackson**

**Harvard Law School**



**BBL Seminar at RIETI**

**Ministry of Economy, Trade and Industry**

**June 13, 2007**