IS LAW MACROPRUDISH?

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EUROPEAN SYSTEMIC RISK BOARD
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Overview

I. Where were the lawyers?
II. Where is the law?
III. What now?

I. “Macroprudential”

(Clement 2010)

The first appearance of the term in a public document seems to date back to 1986. The ECSC report on Recent innovations in international banking (Cross Report) devotes a few paragraphs to the discussion of the concept of “macroprudential policy”... as a policy that promotes “the safety and soundness of the broad financial system and payments mechanism” (citation omitted)

I. Where were the lawyers?

(Meissner 1985, MacCallum 1987)

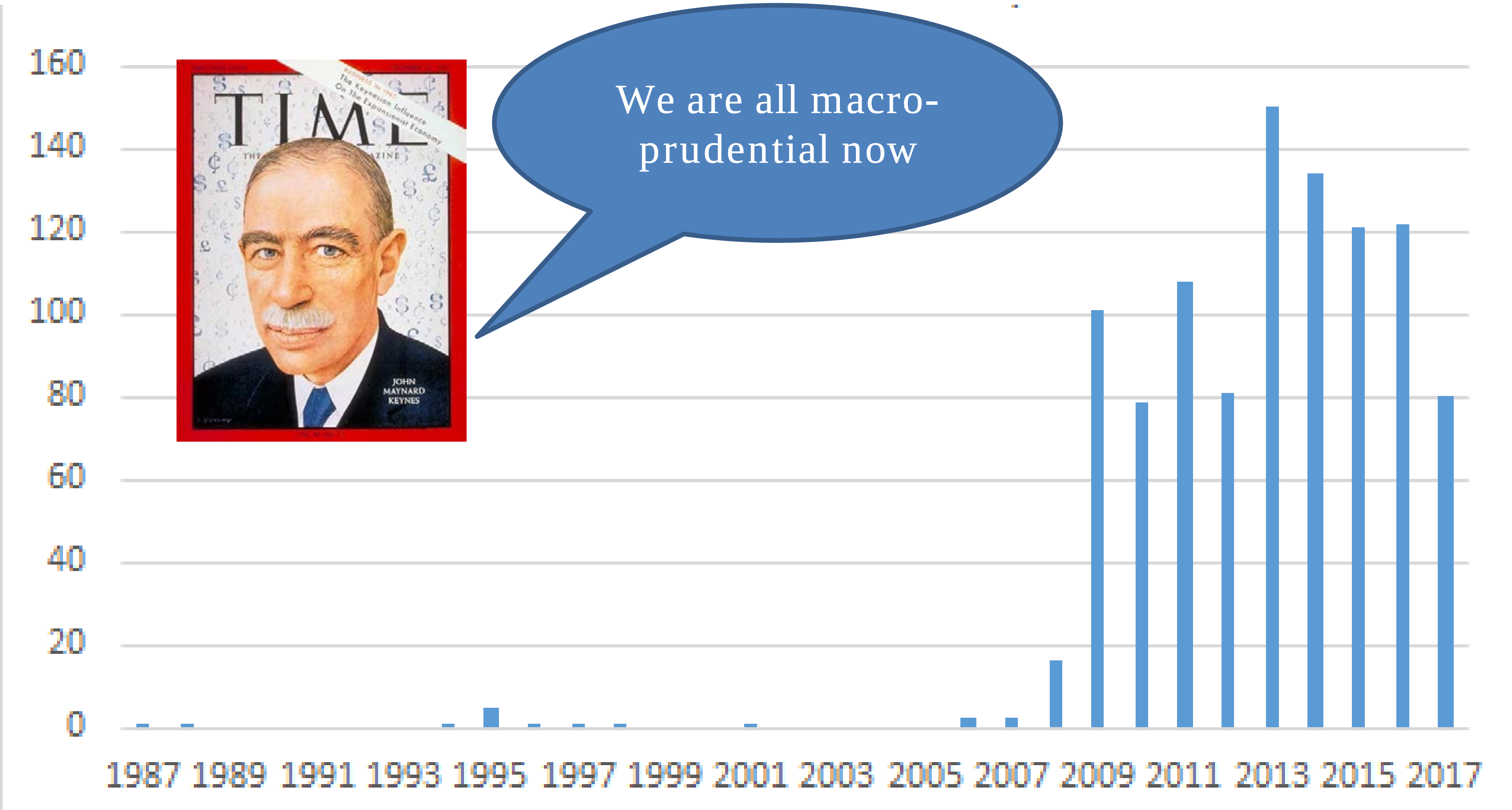
The agencies that formulate the broad thrust of foreign economic policy make up the first U.S. Government subset. They include the Treasury, the State Department, and the Federal Reserve Bank. These agencies are primarily interested in assuring the stability of the international financial system and of the governments in the debtor countries. They argue for "macro-prudential" policies that stabilize the broader system of the world political economy.

The large money-center banks, as compared to regional or local banks, earn a larger and more significant proportion of their income from international loans. A larger proportion of their assets is in the form of sovereign debt.[33] Money-center banks are concerned with macro-prudential issues,[34] with the result that their interests are much the same as those of the sovereign: if the sovereign and the money-center banks are to extricate themselves from the economic

I. “Macroprudential” *circa* 1985-1987

- Context:
  - Sovereign debt crisis and money center banks
  - Tension between microprudential and macroprudential objectives
- “Macroprudential” is concerned with …
  - Stability of financial system as a whole
  - *International* financial stability
  - Political economy
  - (Big) bank-government* nexus
    - State Department is a macroprudential agency

I. “Macroprudential” in English-language Law Journals



I. “Macroprudential” Now(ish)

- Financial instability and financial regulatory response
- Money (Blair 2010, Ricks 2015, Desan 2015)
- Regulatory cycles (Gerding 2013)
- Legal ethics (Gray 2016)
- Political economy (Levitin 2010, Hockett & Omarova 2017)
- Law and macro (Listokin 2016)

II. Where Is the Law?

- Instrumental (what “law” do we need to achieve XYZ policy objective, rules anchor expectations, law as intervention)
- Constitutional (global and regional integration, federalism, fiscal and monetary policy, public debt)
- Institutional (agency and firm structure, regulatory authority)
- Private law (contracts, norms)
- Endogeneity problem (regulatory cycle, boundary-drawing, “safe asset” construction)

II. Constitutions and Budgets

State Budget Office

Department of Technology, Management & Budget

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Frequently Asked Questions

Budget FAQs

Is the State of Michigan required to have a balanced budget?

Answer:

Yes. Article V, Section 18 of the Michigan Constitution of 1963 states, "Proposed expenditures from any fund shall not exceed the estimated revenue thereof."

FAQ Categories

- Select a Category
- Budget FAQs
- State Finances
- Office of Financial Mgnt. - State Employee Payroll
- Office of Financial Mgnt. - Vendors and Payees

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II. Employment, Regulation

Human Resources and Skills Development Canada | Ressources humaines et Développement des compétences Canada

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Employment Standards

The fundamental principle of decency at work underlies all labour standards legislation...

Fairness at Work: Federal Labour Standards for the 21st Century

Government officials, business leaders and unions have a long history of collaboration in negotiating fair and equitable employment standards for workers in western societies. Such standards protect the rights of these workers, foster positive workplace environments and proactive relationships between managers and employees and, ultimately, benefit the bottom line of any business.

While the Labour Program focuses on regulating workplaces in the federal jurisdiction, some programs do apply to other workers. Did you know that 90 percent of the Canadian workforce is covered by provincial or territorial labour laws? Only 10 percent of all Canadian businesses are federally regulated.

Highlights
- *Labour Standards, Operations Program Directives*
- Labour Standards, Interpretations, Policies and Guidelines
- Employment Standards Publications
- Laws and Regulations
- Wage Earner Protection Program
- Amended Ontario Fair Wage

II. Contracts and Money

Gold Obligations Are $100,000,000,000; Federal Bonds Total $22,000,000,000

Obligations outstanding in this country in the amount of $100,000,000,000 are, it is estimated, affected by the resolution introduced in Congress yesterday abrogating the "gold clause."

The gold clause, which came into general use in this country following the currency inflation of the Civil War, provides for payment "in gold of the present standard of weight and fineness" as to interest and principal on debts. It was designed to protect creditors from payment in depreciated money.

The largest item in the total of indebtedness subject to the gold clause is the $22,000,000,000 debt of the United States Government.

In addition, upward of $14,000,000,000 of securities issued by States and municipalities is estimated to contain this clause. Most railroad and other domestic corporation bonds contain the clause in their indentures.

Following are estimated totals of securities outstanding here, most of which contain the gold clause:

United States Government securities	$22,000,000,000
State and municipal	14,000,000,000
Railroads	11,000,000,000
Other domestic corporations	34,000,000,000
Foreign "dollar" bonds	10,000,000,000

In addition to the foregoing totals there are amounts of real estate bonds, farm mortgages, private debts and other contracts which probably call for payment in gold, the volume of which would bring the total above $100,000,000,000.

The New York Times

Published: May 27, 1933

	Made Safe	**Labeled Safe**	**Guaranteed Safe**
Issuer	Chartering qualifications (e.g., "fit and proper") Balance sheet regulation prescribing Asset composition, incl. liquidity coverage Tiered (senior-subordinate) liabilities Net stable funding Minimum capital Activity restrictions Affiliation restrictions Risk retention *Portfolio construction* *Tiered (senior-subordinate) liabilities* *Negative covenants*	Charter, license Primary dealer designation *Credit ratings*	Eligibility for LOLR loans Eligibility for extraordinary support (institutions) [94] Central bank swap lines *Affiliate guarantees* *Third party guarantees* *Insurance and other credit enhancement*
Asset	Underwriting and product standards Collateral rules (minimum margin, haircut) Central clearing requirements Exemptions and priorities Bankruptcy safe harbors Depositor preference *Short maturity* *Collateral*	License to invest Exemptions from concentration limits Permitted investment designation High Quality Liquid Asset designation Asset risk weights Regulatory accounting Stable NAV *Credit ratings*	Deposit insurance Eligibility for central bank operations (monetary policy, lender of last resort) Eligibility for extraordinary support (contracts)[95] *Insurance and other credit enhancement* *Affiliate support, including bringing off-balance sheet claims on balance sheet*

III. What Now?

(Sources: ESRB, FSB)

III. What Now?

- Law as source vs. instrument
- Law and macro: basic questions of authority (eg, federalism), legitimacy, distribution

... back to ...

- Bank-government nexus
- International political economy
- New frame, old toolkit
- New tools?

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