Inequality in Administrative Democracy: Methods and Evidence from Financial Rulemaking

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May 1, 2023

Abstract

Research on inequality overlooks administrative policymaking, where most U.S. law is now made under pressure from vast flows of money, lobbying, and political mobilization. Analyzing a new database of over 260,000 comments on the agency rules implementing the Dodd-Frank Act, we identify the lobbying activities of over 6,000 organizations. We leverage a broad suite of measurements—of organizations' wealth, participation in administrative politics, sophistication, and lobbying success during rulemaking—to provide the first large-scale assessment of wealth-based inequality in agency rulemaking. We find that wealthier and more profit-driven organizations are more likely to participate in rulemaking and enjoy more success in shifting the content of federal agency rules. The ability of wealthy organizations to marshall legal and technical expertise appears to be a key mechanism by which wealth leads to lobbying success. Our findings show how an organization's wealth translates into political power in a country increasingly governed through agency rulemaking.

Keywords: Inequality, Bureaucratic Policymaking, Interest groups, Lobbying, Rulemaking, Financial Regulation

*Authors are listed alphabetically; the listing does not imply the significance of contribution. We are extremely grateful for any comments. The most recent draft is here: judgelord.github.io/finreg. We thank Larry Bartels, Devin Caughey, Christine Desan, Sanford Gordon, Howell Jackson, David Moss, Eric Talley, and participants in the American Political Economy Conference and Harvard American Politics Research Workshop. We acknowledge the Russell Sage Foundation, the Washington Center for Equitable Growth, and the Radcliffe Institute for Advanced Study for research support.

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1 Introduction

Studies of political inequality have revealed profound and durable patterns where wealthier citizens have a disproportionate influence on lawmaking processes. Work in American politics by Bartels (2008), Baumgartner et al. (2009), Hacker and Pierson (2010), Gilens (2012), Skocpol (2004), Schlozman, Verba, and Brady (2012), and others documents ties between economic and political inequality. Others have demonstrated rising capital-based wealth inequality over the twentieth century, especially in the United States (e.g., Piketty 2014; Saez and Zucman 2020).

In contrast to the large literature on inequality in legislative lawmaking, research on inequality in agency policymaking is sparse. Agencies routinely convert broad legislative grants of authority into specific and legally-binding rules with vast social and economic effects (West 1995; Kerwin and Furlong 2018). Agency rules give federal policy "concrete expression" (Moe and Wilson 1994). When policymaking occurs via agency rulemaking, to what extent do the inequalities observed in the legislative process persist?

Several factors suggest that inequalities persist in administrative policymaking. We know, for instance, that firms spend hundreds of millions of dollars lobbying after a bill becomes law, including lobbying the agencies tasked with writing the implementing rules (You 2017; Ban and You 2019; Libgober and Carpenter 2020). Legislators who receive more corporate Political Action Committee (PAC) money from companies are much more likely to lobby federal agencies on behalf of those companies (Powell, Judge-Lord, and Grimmer 2022). Overall, business interests are the main lobbying participants in most agency rulemakings (Golden 1998; J. W. Yackee and Yackee 2006).

Given the scale and importance of U.S. administrative policymaking and the large volume of data on business and interest group lobbying, rulemaking presents an opportunity to study the relationship between wealth inequality and policy influence (Carpenter et al. 2020).

While the methods we advance in this article will allow scholars to study wealth inequality across policy domains, we focus on financial rulemaking and specifically on the rules implementing the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (hereafter Dodd-Frank). Dodd-Frank spurred significant rulemaking activity and mobilized interests to shape those rules. Beyond its provision of granular data, however, financial policymaking offers another reason for studying inequality: finance is perhaps an unparalleled site of interaction between economic inequality and unequal representation in democratic government.

Consider how media reporting in 2017 illustrated the political priorities of those at the very upper end of the income and power scale in the United States. During that year, major newspapers documented high-level gatherings between CEOs and officials at the Trump White House. For our purposes, what is interesting about these meetings is that the existing inequality literature would likely have predicted that America's wealthiest business leaders and allocators of capital would direct their lobbying at congressional lawmaking. Instead, these business leaders and their lobbyists were targeting the rules implementing Dodd-Frank (Protess and Davis 2017; Radnofsky and Feintzeig 2017).

We make three primary contributions. First, we create a new database of 264,709 comments submitted by organizations to agencies tasked with implementing Dodd-Frank.[1] Our data cover over eight hundred regulatory actions, in 239 rulemaking processes and across seven agencies.[2] Second, we develop a suite of new measurement and analytic tools to study who lobbies during rulemaking, how sophisticated their advocacy efforts are, and which organizations influence final rules (as well as which do not). Third, we leverage these data and tools to provide the first large-scale assessment of the impacts of wealth inequality during agency policymaking. In doing so, we answer questions on inequality and lobbying participation which were, up to now, only answerable in the legislative process.

We show that wealthier organizations enjoy material advantages in administrative policymaking. Six main findings support the conclusion. First, we find that wealthier organizations participate in agency rulemaking at higher rates than less wealthy organizations. We replicate this result within and across various types of for-profit firms and non-profit organizations. Second, we find that for-profit banks are more likely to participate than non-profit banks. Third, we find that organizations that spend more money on political campaigns and lobbying are more likely to participate in rulemaking. Fourth, among organizations that participate in rulemaking, we show that organizations that participate frequently are wealthier than those that participate infrequently. Fifth, wealthier organizations advance more technically and legally sophisticated comments than less wealthy organizations. Sixth, and finally, wealthier organizations are more successful in shifting the content of federal agency rules through their comments.

Using causal mediation analysis, we find that the ability of wealthy organizations to marshall legal and technical expertise appears to be a key mechanism by which wealth leads to lobbying success. Money buys technical and legal sophistication, and sophistication appears to buy changes to regulatory policy content. The sophistication of lobbying appears to explain a

[1] Our database includes all 264,709 public comments on Dodd-Frank rules, but we focus our analysis on comments from organizations for reasons described in Section 3.

[2] We define a regulatory action as the publication of a proposed or final rule by one agency. We count a joint rule issued by the SEC and the Federal Reserve as two regulatory actions.

large share of the relationship between wealth and lobbying success. In contrast, we do not find evidence that campaign donations or total lobbying spending explain a significant share of the relationship between wealth and lobbying success. These results have implications for policy reforms. For example, they suggest that limits on campaign contributions would have little effect on the lobbying success of wealthy organizations at this stage of the policy process. However, to the extent that the sophistication mechanism is causal, our results suggest that reform efforts targeting inequalities in access to legal and technical expertise—such as those giving resource subsidies to poorer organizations to write more sophisticated comments—may be effective in moderating the policy impact of wealth inequality and thus advance administrative democracy.

The idea that wealth inequality has affected financial policymaking is far from new. Nevertheless, critical questions remain. Does wealth inequality drive differential lobbying participation during administrative policymaking? Do wealthy organizations get what they want more often during rulemaking? And, if so, why? We provide the data and tools to address these questions, and our analysis of financial rulemaking yields answers and evidence within a significant policy domain. Such information is necessary to advance research regarding the impact of wealth inequality on policymaking and to understand how lobbying and money in politics shape modern administrative democracy.

2 Theory

The past two decades have witnessed an outpouring of social science research on inequality in the United States and other countries. Many scholars concentrated on the structural and technological determinants of inequality (e.g., Goldin and Katz 2009; Piketty 2014). Others examined political processes as a place where economic inequality shapes policy outcomes that generate further economic and social inequality.

In *Unequal Democracy*, Bartels (2008) established an important empirical case for political inequality by showing that legislative voting patterns in the U.S. Senate disproportionately reflect the preferences of those individuals at the highest levels of the income distribution. Hacker and Pierson (2010) described a "winner-take-all politics" by which wealthier Americans improved and secured their economic prospects under both liberal and conservative political leadership while the prospects for middle- and working-class Americans stagnated. In *Affluence and Influence*, Gilens (2012) further systematized these findings using survey data and legislative voting records. Many studies support and refine these observations (e.g., Baumgartner et al. 2009; Winters and Page 2009; Kelly and Enns 2010; Schlozman, Verba, and Brady 2012; Page, Bartels, and Seawright 2013; Gilens and Page 2014; Witko et al.

2021). Taken together, these studies mark critical innovations in our understanding of U.S. politics and policymaking.

Yet the empirical portrait of the relationship between wealth and political inequality in the U.S. remains severely incomplete. Policymaking does not stop when Congress passes a law. Many critical policy decisions are made by administrative agencies, in part because the legislature delegates significant policymaking authority and discretion to these agencies to make public policy (Epstein and O'Halloran 1999; Huber and Shipan 2002; Haeder and Yackee 2020). Some agencies have acquired sufficient legitimacy and expertise to gain autonomy in program initiation, interpretation, and policymaking (Carpenter 2001, 2010). Because agencies make policy, moneyed interests spend considerable resources to influence administrative and executive decision-making (Haeder and Yackee 2015; You 2017). These dynamics are often studied under the concept of regulatory capture (Carpenter and Moss 2013). Yet, few regulatory capture projects speak to questions of political inequality. Likewise, few studies of political inequality address bureaucratic policymaking.

The exclusion of administrative processes from the study of inequality is a major omission. This omission is particularly large in the financial regulation space. Experts in financial policymaking have concluded that political inequality affects financial policymaking. For example, as the 2008 financial crisis unfolded, Johnson and Kwak (2010) and Kwak (2013) pinpointed industry influence over financial regulation, including during the Obama Administration, as one of the main culprits of the crisis. In their view, the necessity of regulators spending time with banks, combined with the status, sophistication, and resource differentials between bankers and their regulators, resulted in a convergence of the regulators' frames, assumptions, vocabularies, and methods towards those of the regulated industry. Others examine financial firms' lobbying behavior. For instance, Igan, Mishra, and Tressel (2011) find correlations between lobbying behavior and pre- and post-financial crisis loan activity. Others show the development of coalitions between financial and non-financial interests (see, e.g., Young 2012; Young and Pagliari 2017; Young, Marple, and Heilman 2017a; James, Pagliari, and Young 2021).

Critical research also highlights the revolving-door dynamics often present within financial regulation. This occurs when federal financial agencies hire those from the regulated sector or when agency officials leave to work in banks and non-bank financial firms (Lucca, Seru, and Trebbi 2014; "The Revolving Door and the SEC's Enforcement Outcomes: Initial Evidence from Civil Litigation," n.d.; Cornaggia, Cornaggia, and Xia 2016). For example, using network analysis, Young, Marple, and Heilman (2017b) focused on past and current employment ties between select business firms and the U.S. Securities and Exchange Commission (SEC) and found that greater direct and indirect ties increase the likelihood of the firm engagement with

SEC policy decision-making.

What the literature currently lacks, however, are measures of wealth inequality in participation and influence of organizations during one of the most important venues for political lobbying: agency rulemaking. While Congress routinely passes statutes, their implementation almost always requires federal agencies to devise legally binding standards and procedures (i.e., rules) that make the legislation practically effective (West 1995; Kerwin and Furlong 2018). This kind of agency policymaking is pervasive; in 2018 alone, federal agencies finalized over 3,300 rules.

The Administrative Procedure Act of 1946 (APA) governs the rulemaking process. The APA requires federal agencies to solicit public comments on their draft policy proposals (also called Notices of Proposed Rulemaking, NPRMs, or proposed rules) and to consider any substantive comments before issuing a legally-binding final rule. Agency officials may or may not make changes to the proposed rule text based on public comments. The rulemaking process thus creates opportunities for influence. Given the potential impact of agency-issued regulations, the firms and other organizations most affected often attempt to influence regulatory policy content by submitting public comments.[3]

Unequal levels of power and access to the government may be especially acute in financial regulation, where Congress tends to rely upon government agencies to develop key regulatory concepts and instruments and, in doing so, to carry out legislative intent. Administrative agencies made many of the most important deregulatory decisions of the past three decades. These include reductions in regulatory capital requirements and the deregulation of mortgage and other consumer loans (Engel and McCoy 2011). While ostensibly re-regulating the financial sector, Dodd-Frank handed considerable authority to federal financial agencies (Carpenter and Krause 2012; Carpenter and Moss 2013), with over 300 provisions authorizing new rulemaking (Copeland 2010). Each rulemaking process presents an opportunity for the financial industry and others to lobby the government agency for policy change.

Research on bureaucratic politics shows that business interests are well-represented and influential in rulemaking. Comments from businesses on proposed transportation and labor regulations better predicted policy changes than other comments. (J. W. Yackee and Yackee 2006). Regulatory policy is more likely to change during U.S. Office of Management and Budget's (OMB) review when more business interests lobby OMB (Haeder and Yackee 2015). However, because scholars have yet to directly measure the wealth of interest groups and the sophistication of comments, we do not know if businesses enjoy greater influence *because* of

[3]Federal agency restrictions on ex parte (or "off the public record") lobbying after the issuance of a proposed rule allow researchers to use comments during notice and comment rulemaking to study lobbying (S. W. Yackee 2012).

wealth and sophisticated lobbying.

Recent work has suggested a mechanism by which traditionally disadvantaged interests may combat business bias during rulemaking: band together to lobby in diverse coalitions (Dwidar 2021b, 2021a). These studies point to continued inequalities, including that only certain types of coalitions appear to hold policy influence over agency rules, including those with greater financial capacity. This research suggests that inequalities *among* non-profit interest groups demand scholarly attention, in addition to the relative influence of business *versus* non-profit groups.

The handful of existing studies that focus on financial rulemaking also present mixed findings about the policy impact of wealth inequality. These studies—which tend to focus on a single agency or a single rule—raise important questions for future scholarship. For example, there are mixed findings regarding the extent of bias in who is able to participate in financial rulemaking. Gordon and Rosenthal (2020) found that a diverse coalition of actors came together to counter the role of larger and more established regulated entities in the area of credit risk retention regulation (see also Ziegler and Woolley 2016). However, Young, Marple, and Heilman (2017b) found that stakeholders beyond affected firms are much less likely to mobilize in the financial sector, especially when a financial rule is technically complex.

There are also mixed conclusions about biases in who influences financial rulemaking. For example, Krawiec (2013) studied public participation patterns early in the rulemaking process for section 619 of Dodd-Frank (commonly known as the Volcker Rule). She found that comments from financial industry firms were more detailed, complex, and lengthy than those from non-financial firms. Ban and You (2019) focused on lobbying and agency rulemaking on a sample of SEC rules after Dodd-Frank. They concluded that the resources an organization devotes to lobbying appeared to influence the likelihood that the SEC would list an organization's name in its final rule. In contrast, S. D. Rashin (2020) examined thousands of public comments on SEC rules and found that organization resources did not appear to correlate with a commenter's ability to secure policy changes.

The effect of wealth inequality on agency policymaking thus remains an open question.

2.1 Wealth Inequality Hypotheses

We investigate the role that wealth inequality may play during the development of financial regulations. We group our arguments under two categories, representing two potential biases in U.S. rulemaking: (1) potential biases in who participates and (2) potential biases in who has influence. We develop several hypotheses about each form of bias.

2.1.1 Differential Lobbying Participation

Previous work suggests that wealthier organizations, such as business firms, will participate in agency rulemaking via the submission of comments at a greater rate than other less wealthy organized interests, such as labor and public interest organizations (J. W. Yackee and Yackee 2006). Past research theorizes that the high costs associated with public comment submission are one reason for this bias. Knowing when and how to participate as regulation is being formulated requires an organization to monitor the bureaucracy's rulemaking activities, which can be complex and arcane (Kerwin and Furlong 2018; Rossi 1997). These high participation costs may be paid more readily by business interests (S. W. Yackee 2019; Jewell and Bero 2006).

While past research has focused on differences in lobbying participation across different organization types (i.e., business firms versus public interest groups), we go a step further to address the effects of wealth differentials *within* organizations of a similar type. For example, we theorize that, even among banks, wealthier banks will participate in rulemaking via the submission of comments to financial rules more often than banks with fewer assets. The theoretical reasons for this expectation are the same as those articulated above—wealthy organizations are better able to pay the up-front costs of lobbying. By comparing similar organizations, however, we can better isolate whether wealth inequality drives differential lobbying participation in rulemaking.

> *Differential Participation Hypothesis (H1):* Organizations that comment on financial rules are wealthier than organizations that do not comment on financial rules.

An additional driver of differential participation may be the concentration of the costs and benefits of lobbying on government regulations (see broadly, Lowi 1964; Olson 1965; Wilson 1989). For-profit organizations—such as publicly-traded companies and banks—tend to have concentrated stakes in regulations. Wealthy profit-seekers then have especially strong incentives to lobby in rulemaking (Libgober and Carpenter 2020; Libgober 2019). Generally, non-profit organizations have less profit-seeking incentives. Thus, we anticipate differences in participation between for-profit and non-profit organizations.

> *Profit-motivated Participation Hypothesis (H2):* Profit-seeking organizations will be more likely to comment than non-profit organizations.

Moreover, we theorize that wealth inequalities in lobbying participation will persist even among those organizations that can pay the initial costs of rulemaking participation. Stated

differently, when focused on those entities that have submitted at least one comment to a Dodd-Frank regulation, we argue that more wealthy organizations will, again, hold an advantage over less wealthy organizations by participating in more rulemaking processes.

> *Differential Frequency of Participation Hypothesis (H3):* Among organizations commenting on financial rulemaking, organizations with greater wealth will comment on a larger number of financial rules.

2.1.2 Differential Lobbying Success

Existing research hints at a differential lobbying benefit attached to wealth during rulemaking. For instance, Haeder and Yackee (2015) find more policy change during rulemaking when business interests are more active than other types of organizations, such as public interest groups. Yet, such research does not provide a clean test of wealth inequality. After all, some businesses are large while some are small; some non-profits hold major financial assets while others are poor. We thus seek to understand whether wealth is a common factor driving lobbying influence during rulemaking. As a result, we theorize that, among similar organizations, wealthier ones will see greater lobbying success during financial rulemaking.

> *Differential Lobbying Success Hypothesis (H4):* Comments from wealthier organizations will be more successful in shifting the content of agency rules.

Research suggests wealthier organizations are more influential because they can better deploy sophisticated technical information than less well-off entities (Wagner, Barnes, and Peters 2011). Put differently, large organizations are disproportionately able to marshal the technical expertise necessary to write sophisticated comments for rules. Moreover, agency officials pay greater attention to abstract and technical arguments, such as those in comments from business organizations, while often minimizing the moral and personal arguments found in less sophisticated comments from individuals (Jewell and Bero 2006). Additionally, non-industry comments often lacked the specificity and the detail that agencies needed to change policy (Krawiec 2013). Consequently, we hypothesize that wealthier entities will utilize their resources to produce comments that hold greater sophistication than less prosperous groups, and these comments will be more impactful.

> *Differential Sophistication Hypothesis (H5):* Wealthier organizations will use more technical and sophisticated language when commenting on proposed rules.

> *Dividends of Sophistication Hypothesis (H6):* Comments from wealthier organizations will be more successful in affecting the content of agency rules because of comment sophistication.

Together, these hypotheses test for two major kinds of potential bias in policymaking: (1) that wealthy organizations are better able to participate and (2) that even when the less wealthy participate, wealthy organizations are more likely to have their demands met. The hypotheses also identify a major theorized mechanism of lobbying influence: that wealthy organizations achieve regulatory policy influence via the legal and technical sophistication of their comments on proposed rules.

3 Data and Methods

To assess the extent of inequality in financial rulemaking, we assembled data on draft and final rules, comments on those rules, and organization wealth and lobbying expenditures. Data sources included the Federal Register, Regulations.gov, Wharton Research Data Services, the Center for Responsive Politics, Federal Financial Institutions Examinations Council (FFIEC), the Internal Revenue Service (IRS), the Consumer Financial Protection Bureau (CFPB), Commodity Futures Trading Commission (CFTC), the Federal Deposit Insurance Corporation (FDIC), Federal Reserve (FRS), National Credit Union Administration (NCUA), Office of the Comptroller of the Currency (OCC), the Securities and Exchange Commission (SEC). This expansive data collection effort includes data on agency administrative data, public comment, rule texts, and measures of organization wealth.

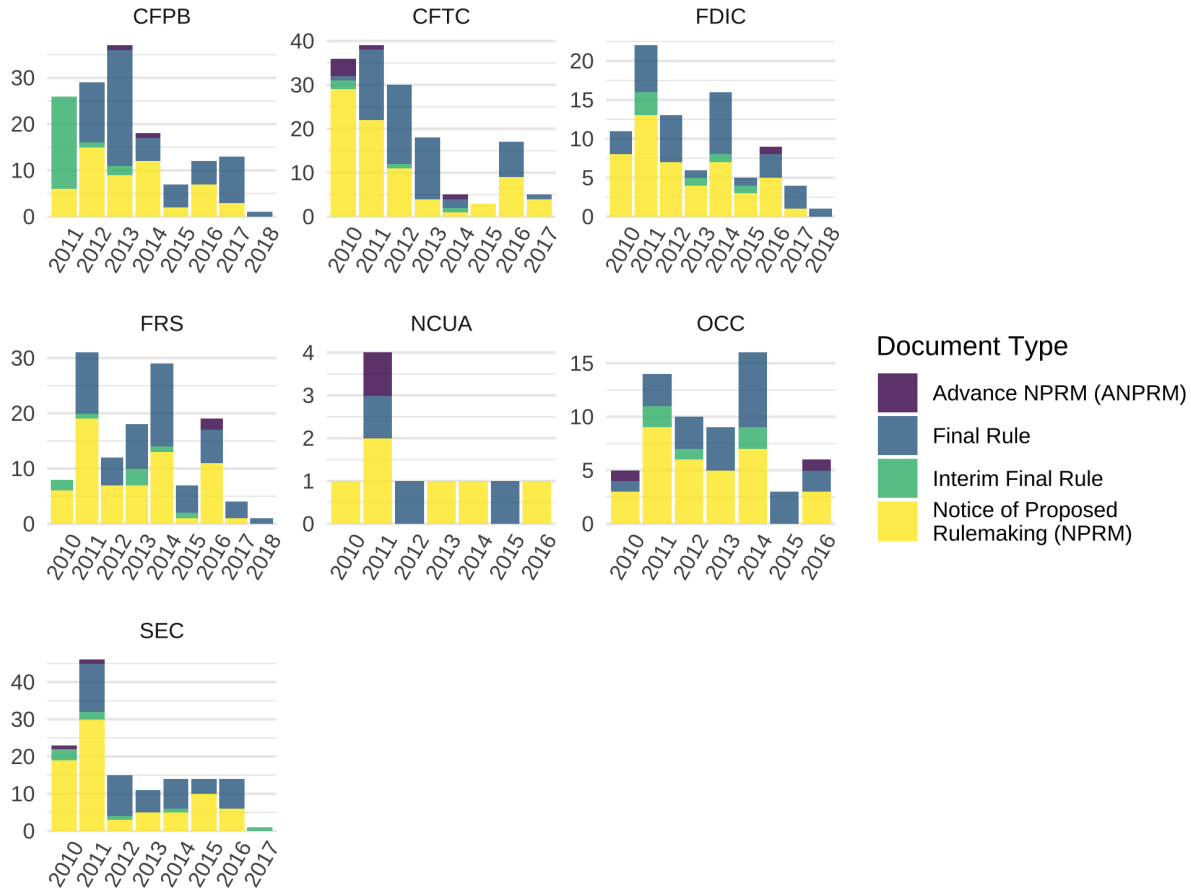
3.1 Agency Rules & Public Comments

From the Federal Register, we collected the text of all rules promulgated under authorities granted by Dodd-Frank between its enactment on July 20, 2010, and July 8, 2018 by the seven primary financial regulators tasked with writing rules under the Dodd-Frank Act: FRS, CFPB, SEC, CFTC, FDIC, NCUA, and OCC. We also collected all public comments and comment metadata available on these rules from each agency's website or Regulations.gov. In doing so, we collected key information, including the name of the organization submitting the comments and the comment submission date. We also collected the text of all comments from comment submission forms and file attachments. These data include 264,709 comments on 239 separate rulemaking dockets, covering 802 regulatory actions issued by one or more of these seven agencies.[4]

[4]**NOTE:** This draft utilizes data from five of these seven agencies for which data processing is complete. Data from the OCC and FRS will be included shortly. The law firm Davis Polk LLP maintains a list of Dodd-Frank-related rules. Each rule in our sample may be considered a set of connected regulatory actions, which must include a proposed and final rule connected by a Regulation Identifier Number (RIN). We count jointly-issued rules—such as a rule issued by the SEC and FRS—as two rules because both agencies collected comments separately.

Figure 1 shows significant variation in regulatory activity across these agencies. The largest agency in our sample by regulatory volume is the CFPB, while the smallest is NCUA. The figure also shows considerable variation in the range of regulatory actions, including advanced notices of proposed rulemaking (ANPRMs), proposed rules, interim final rules, and final rules.

Figure 1: Dodd-Frank Act Implementing Actions by Agency



Dodd-Frank regulatory actions from the Consumer Financial Protection Bureau (CFPB), Commodity Futures Trading Commission (CFTC), Federal Deposit Insurance Corporation (FIDC), Federal Reserve (FRS), National Credit Union Administration (NCUA), Office of the Comptroller of the Currency (OCC), and Securities and Exchange Commission (SEC)

3.2 The Wealth of Organizations

Our wealth inequality hypotheses focus on the lobbying behavior of organizations during rulemaking. As a result, we developed a suite of new measurement and analytic tools designed to capture measures of wealth for organizations and then linked these measures to lobbying activities. The final dataset is the subset of all comments on Dodd-Frank rules that match an

organization with some form of wealth data. This dataset allows us to compare the wealth of organizations that commented on financial rules to the wealth of similar organizations that did not comment on these rules.

Our research design advances past work by comparing commenting behavior among similar types of organizations. For example, we compare the commenting behavior of large banks to other large banks. In doing so, we control for many known sources of variance in commenting behavior, which yields cleaner tests of the hypotheses.

The first step in creating the dataset was collecting and digitizing the texts of all public comments on Dodd-Frank rules. We then extracted entity names and matched them to organizations in databases that yield information on wealth. No single database provides information on wealth for all types of organizations. We thus cast a wide net and identified multiple databases of organizations that might participate in financial rulemaking. When combined, the six databases below contain nearly 500,000 publicly traded companies and non-profits. We identify 52,672 comments submitted by organizations that appear in one or more of the datasets described below. These databases are:

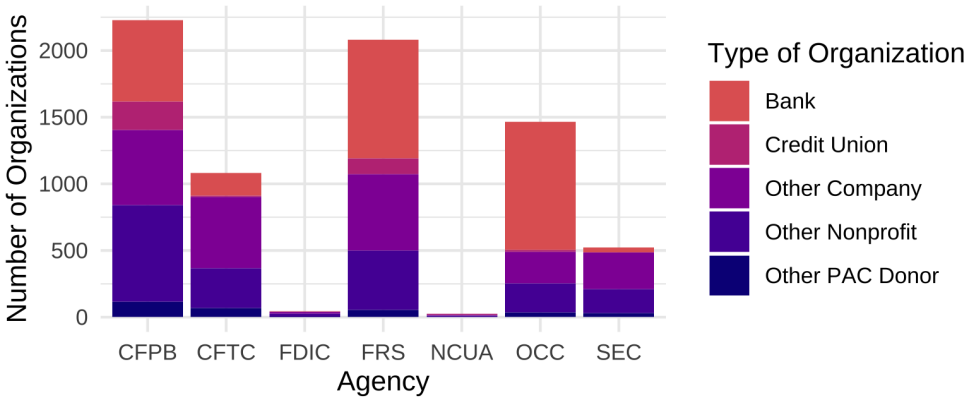
1. Market capitalization for all publicly traded companies listed on U.S. exchanges during our analysis time frame from the Wharton Research Data Service's Compustat database, which includes financial data, such as market capitalization.
2. Separately, market capitalization for all corporations that filed disclosures with the SEC and are thus listed in the SEC's Central Index Key (CIK) database.
3. Assets under management for all bank and bank-like entities covered by the FDIC.
4. Assets under management for all U.S. credit unions from consolidated call reports published by the NCUA.
5. Total assets and annual revenue for all non-profit organizations as reported by Internal Revenue Service 990 forms.
6. Political Action Committee (PAC) donations from all organizations filing campaign disclosure reports with the Federal Election Commission, as compiled by the Center for Responsive Politics. These reports allow us to calculate the average annual PAC contributions from each organization.
7. Lobbying expenditures, as compiled by the Center for Responsive Politics from Lobbying Disclosure Act reports. We then calculate the average annual lobbying expenditures for each organization.

Next, we used an iterative matching procedure to match organizations in these six datasets to those organizations that commented on at least one Dodd-Frank rule. This step took considerable innovation because the names that organizations use to submit comments and the

names by which they appear in various databases can differ. Our matching procedure involved several steps. We first identified comments that were likely from an organization, excluding those that were from individuals.[5] We then linked these comments to the organization with the best matching name or to no organization when our matching algorithm did not identify a high-probability match in any of the databases. We then spot-checked our processes for false positive matches by inspecting organizations that matched many comments and false negatives by inspecting especially long or sophisticated comments that did not match a known organization. We then improved the matching algorithm through dozens of iterations and added post hoc corrections.

These procedures resulted in a dataset of 5,852 distinct organizations that submitted 52,672 unique comments on one or more Dodd-Frank rules. Below, we use these data to compare the wealth of commenting organizations to the 27,044 similar organizations in one of the above wealth databases that did not comment on a Dodd-Frank regulation.

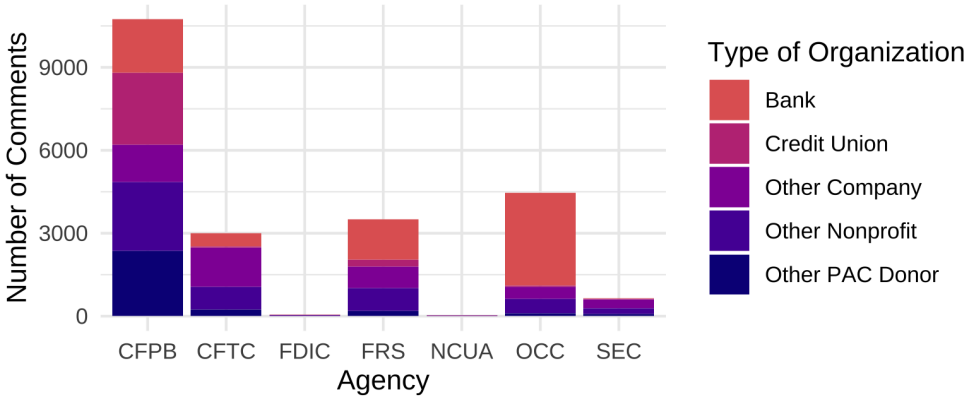
Figure 2: Number of Organizations by Type and Agency to which they Commented



The remainder of this section describes the distribution of lobbying participation by organizations. Figure 2 shows the number of unique commenting organizations matched to each database by the agency or agencies to which they submitted comments. Across all agencies except for the Federal Reserve (FRS), most commenting organizations are non-profits. The next most common type of commenter was federally-insured (FDIC-insured) banks (hereafter "banks"). Organizations that filed with the SEC and donors to PACs were less common. Figure 3 shows the number of comments submitted to each agency by an organization matched to each database described above. There was considerable variation in

[5]Our study design purposefully sets aside comments from individuals, most of which are form comments, because previous research establishes that form comments are almost always part of a larger "campaign" orchestrated by an organization (Judge-Lord 2019). Past work also finds that the organizations that mobilize mass comment campaigns also submit their technical comments on the same rules (Judge-Lord 2019). Those comments from organizations are included in our data.

Figure 3: Number of Comments by Authoring Organization Type and Agency



the number of comments from organizations per rule. For all rules that received more than 25 comments, we matched at least two organizations to asset data. The agency with the largest median number of comments from organizations was the CFPB at 21.

3.3 Profit Motives

We use organizations' legal incorporation status to infer profit motivations. Of course, some 501c3 non-profits, such as industry associations, are formed to advance narrow private interests. Because our data on non-profits does not include information on the extent to which organizations advance public or private interests, we use this binary "profit-seeking" categorization based on incorporation status.

We also leverage variation in types of banking institutions to infer profit motivations. Compared to credit unions and savings associations the legal and organizational structures of commercial banks make them more profit-oriented. Commercial banks are often large corporations managed by a board selected by shareholders and tend to serve corporations and wealthier and profit-motivated clients. In contrast, savings associations are chartered with the narrow purpose of providing affordable residential mortgages. Both types of banks may hold large volumes of assets, but they have very different clients and clients.

3.4 Comment Sophistication

We measure comment sophistication by counting the technical terms in each comment. To capture technical sophistication with respect to the use of finance and banking jargon, we use the Oxford Dictionary of Finance and Banking, which includes 5,260 finance and banking terms. To measure legal sophistication, we count legal citations (for details, see the Appendix). When an organization submits a comment with multiple attachments, we

measure sophistication by summing up the technical terms and legal citations across all submitted documents. This approach follows the intuition that attachments with additional technical language reflect additional sophistication.

3.5 Lobbying Success

After reviewing an agency's proposed rule, organizations typically use their comments to articulate the policy changes they want to see the agency make in the final rule. To approximate the extent to which commenters' requested policy changes are made, we measure the overlap between the text of each organization's comment and the text added to the final rule. Our measure of lobbying success follows the intuition that an organization whose comment text is repeated by the agency in the text of the final rule is more influential in shifting regulatory content in its desired direction than an organization whose comment text is not reflected in changes in the final rule. Stated differently, greater text reuse—from comment to final rule—suggests greater lobbying success.

To construct this measure, we first link proposed rules to final rules by their Docket or Regulatory Identification Numbers. We then match comments to proposed rules by publication date. We then tokenize each draft and final rule and each comment in groups of ten words. Ten-word phrases are long enough that they rarely co-occur by chance and are thus a well-validated measure of textual similarity (Wilkerson, Smith, and Stramp 2015; Casas, Denny, and Wilkerson 2019; Judge-Lord 2017; S. Rashin 2018). Finally, we count the number of words in phrases of 10 or more that appear in the comment and final rule but do not appear in the draft rule.[6] For rules with multiple final rules, we take the sum of the comment's alignment with both final rules. When an organization submits a comment with multiple attachments, we include the highest-scoring document as the primary comment. This choice aligns with typical commenter behavior because organizations that submit multiple attachments often have a primary comment that articulates their lobbying demands.

Our measure of lobbying success captures the idea that organizations desire policy change in line with their lobbying demands (Mahoney 2007). It captures "success" in the sense that it measures the alignment between specific requests made in an organization's comment and specific subsequent policy changes. However, lobbying success, as we measure it, does not necessarily prove causality. For example, the organization's comment and the agency may

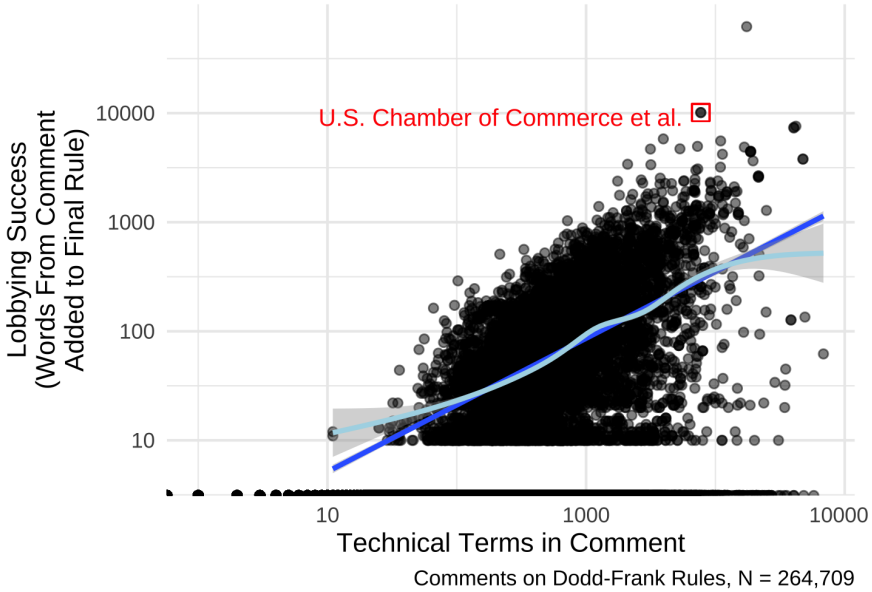
[6]We exclude any text from the agency's proposed rule in this calculation to ensure that we do not include phrases in an organization's comment that simply quote the proposed rule. Excluding the proposed rule text in our calculations also guards against the possibility that an organization's decision to include particular phrases in their comments is endogenous to the policy changes agencies make during rulemaking. By excluding the text of the proposed rule in our lobbying success measure, we remove the phrases and text that are most likely to be naturally repeated.

have both copied the repeated text from a third source. Thus, we cannot definitively say that the comment caused the policy change, but we can say whether or not the organization achieved its stated lobbying objectives.

In dealing with endogeneity, one methodological choice merits elaboration: we excluded text from the proposed rule when measuring lobbying success but not when measuring sophistication. This choice rests on the underlying concepts we are attempting to measure. In measuring text reuse, we aim to capture ideas that were not yet in the policy when the comment was submitted. Thus, text copied from the agency's proposal must be excluded. Indeed, text that appears in both the draft and final rule is what did *not* change. If a commenter attached a marked-up version of the proposed rule, we aim to exclude all but their suggested changes.

In contrast, in measuring sophistication, we aim to assess how much the commenter utilizes expertise to engage in technical policy debates. Here, attaching a marked-up version of the proposed rule captures the underlying concept of sophistication. Thus, our counts of technical banking terms do not exclude the text of the draft rule. Even if they are the agency's terms, engaging with its texts indicates sophistication. For example, the comment with the most legal terms from a bank contained a 4-page comment and 112 pages of attachments, 105 of which were the full proposed rule. These 105 pages were excluded from our measure of text reuse but included in the legal and banking terms count.

Figure 4: Lobbying Success by Comment Sophistication



Descriptively, our measures of lobbying sophistication and lobbying success are highly correlated. Our measure of commenter lobbying success increases with the wealth of the

commenting organization. Figure 4 shows that the number of words from the comment added to the final rule correlates with the number of technical words in the comment. The plot highlights the comment with the highest score on our measure of lobbying success, a comment to the SEC prepared by the law firm White & Case, LLP for the U.S. Chamber of Commerce, Americans for Limited Government, Ryder Systems, Inc., the Financial Services Institute, Inc., and Verizon. This highly-sophisticated comment included a 19-page cover letter with many technical citations underscoring the Chamber's "very serious concerns on the impact [that the rule's] whistleblower requirements will have on... companies' responsibilities to act in the best interests of their shareholders." This comment also included a marked-up draft of the SEC's proposed rule, suggesting specific changes, several of which were adopted by the SEC.

Other comments with high lobbying success scores include an 84-page comment from Standard & Poor's Global Ratings credit rating agency to the SEC, a 59-page comment from the Futures Industry Association to the CFTC, and several marked-up versions of proposed SEC rules from investment companies. Overall, Figure 4 shows a positive correlation between the number of technical banking terms in a comment and the amount of text it shares with the final rule. Using these data (comments, their sophistication, and their lobbying success), the following section assesses our hypotheses about the relationship between wealth, political participation, lobbying sophistication, and lobbying success. Notably, Section 4.2.5 further explores the correlation between sophistication and lobbying success by assessing comment sophistication as a mediator in the relationship between wealth and success.

3.6 Methods

We assess our hypotheses about the relationship between wealth inequality and policy influence using descriptive and statistical analyses.

We use Welch t-tests to assess differences between commenters and non-commenters (H1), for-profit and non-profit organizations (H2), and frequent and infrequent commenters (H3). We use regression analyses to assess whether wealth predicts various outcomes of interest. We employ Logit regression to model the binary outcome of commenting as a function of wealth (H1) and organization type (while controlling for wealth). We model differences between non-profits with for-profits overall and, separately, between for-profit and non-profit types of banks (H2). The resulting model coefficients allow us to estimate how changes in an organization's assets and organizational form produce changes in the odds that the organization will comment on a rule. We use Poisson regression to model the count of rules on which an organization comments (H3), the number of words from a comment added to the final rule (H4), and the number of technical terms used in a comment (H5), as a function

of wealth.

Finally, we employ causal mediation analysis to assess the extent to which campaign donations, lobbying expenditures, and comment sophistication mediate the relationship between wealth and lobbying success.

4 Results

In this section, we investigate each of our six hypotheses in turn. First, we examine inequalities in which organizations participate in financial rulemaking. Second, we examine inequalities in lobbying influence among organizations that participate. In doing so, we test our hypotheses about wealth and access to the policy process using two broad types of variation: (1) variation among organizations that did comment and similar organizations that did not comment during Dodd-Frank rulemaking and (2) variation in lobbying sophistication and success among organizations that did comment.

4.1 Wealth Inequality in Lobbying Participation

First, we compare levels of resources among commenting organizations and similar organizations that did not comment.

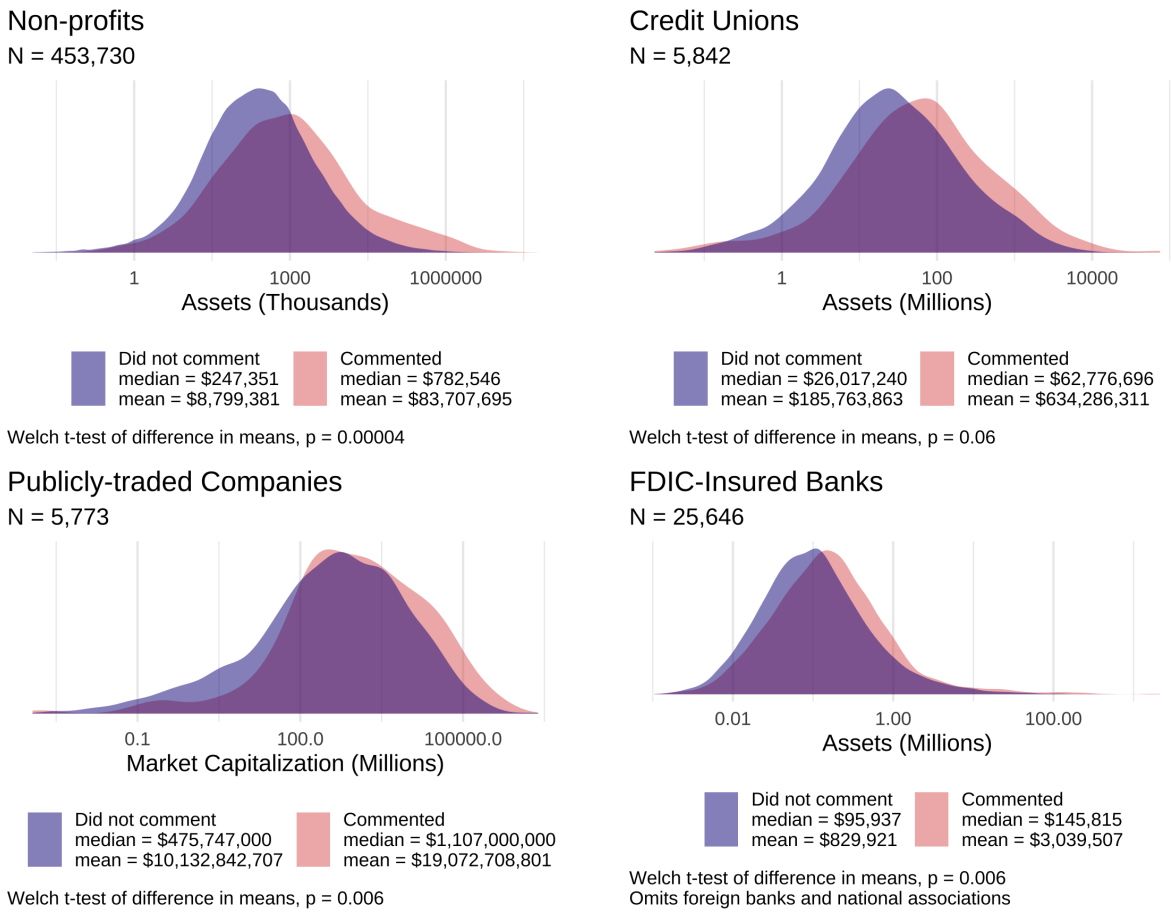
4.1.1 Wealthier organizations are more likely to participate

The *Differential Participation Hypothesis (H1)* posits that organizations that comment on financial rules will be wealthier than organizations that do not comment. Because our data included the full population of similar organizations that could reasonably be expected to submit comments (e.g., all banks and all non-profits), only some of which did submit comments, we can draw important new conclusions about the relationship between wealth inequality participation in the policy process.

Overall, we find strong support for the hypothesis: organizations that comment are much wealthier on average than similar organizations that do not comment. Figure 5 shows distributions of wealth for organizations that commented on any Dodd-Frank rule and those that did not. Organizations that comment have greater wealth than similar organizations that did not comment. Because the x-axes of the plots in Figure 5 are logged, small differences on the right side of the plotted distributions represent large substantive differences in wealth. Statistical tests for differences between means show that differences within non-profits, banks, and publicly-traded firms are significant at the 0.01 level. While differences between commenting and non-commenting credit unions are substantively large, the smaller sample

lacks the power to achieve statistical significance. Logistic regression results (Table 1) support the conclusion that the odds of commenting increase with an organization's wealth among banks, non-profits, and credit unions.

Figure 5: Financial Resources of Organizations that Did and Did Not Comment



Non-profits. The top left panel in Figure 5 shows that non-profits that comment on proposed financial regulations tend to be significantly better resourced than we would expect from a random sample of non-profits. The average assets of commenting non-profits were about ten times larger than non-profits that did not participate; the average non-profit that did not comment had about $9 million in assets, whereas the average non-profit that did comment had approximately $83 million in assets.

Credit unions. Similarly, the top right panel in Figure 5 shows that credit unions that comment on proposed financial regulations also tend to have more assets than those that did not participate. The median credit union that did not comment has about $26 million in assets, whereas the median credit union that did comment has $63 million in assets. The average commenting credit union is more than twice as large as the average credit union that

did not comment.

Publicly-traded companies. The bottom left panel in Figure 5 shows similar distributions over market capitalization for publicly-traded companies. Companies that comment on proposed financial regulations are wealthier than those that do not. Specifically, they have much more capital, as measured by the total value of their stock. The median market capitalization of companies that commented was more than double that of the median company that did not comment.

Banks. The bottom right panel in Figure 5 shows that, on average, banks that comment on proposed financial regulations are better resourced than we would expect from a random sample of banks. The x-axis shows assets in thousands of dollars. Banks that participated in financial rulemaking had almost 40 percent greater median assets and nearly double the average assets.

4.1.2 Organizations that spend more on political campaigns are more likely to comment

Figure 6: Campaign Spending of Organizations that Did and Did Not Comment

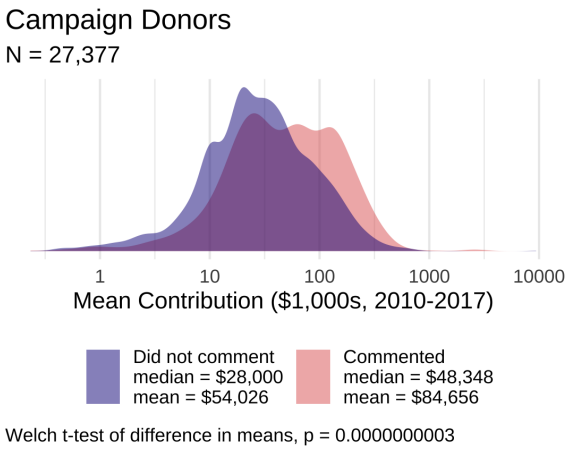


Figure 6 shows that organizations that comment on Dodd-Frank rules also donate more to political campaigns via PACs compared to PAC donors who do not comment. This aligns with the *Differential Participation* Hypothesis (H1). Among organizations that donate to PACs, the average campaign spending per two-year cycle was $54,000 for those that did not submit a comment, while the average for those that did comment on a Dodd-Frank rule was $85,000. This difference is significant at the 0.01 level in a Welch Two Sample t-test.

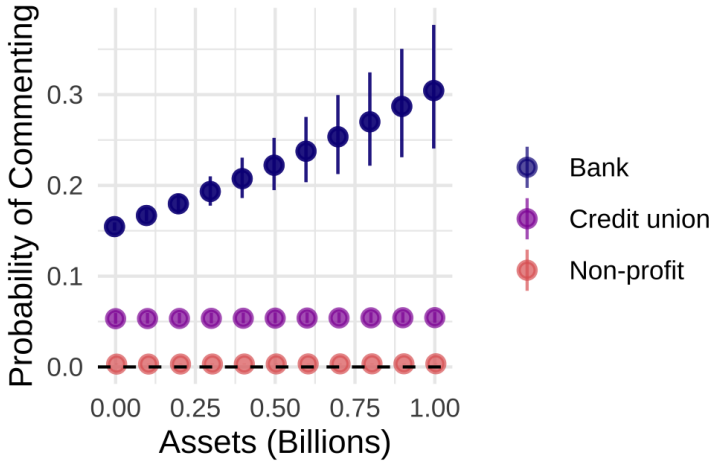
4.1.3 Profit-driven organizations are more likely to comment than non-profits

The *Profit-Motivated Participation* Hypothesis (H2) posited that for-profit organizations are more likely to participate in rulemaking than non-profit organizations. We find strong

support for this hypothesis when we analyze the data overall (i.e., comparing banks with non-profits) and when we compare banks that are for-profit to those that are non-profit. Twelve percent of for-profit commercial banks commented on Dodd-Frank rules. In contrast, only three percent of non-profit savings associations, two percent of non-profit credit unions, and 0.2 percent of other non-profits commented. This means that commercial banks were six times more likely to comment on a Dodd-Frank rule than the average Credit Union and 60 times more likely to comment than the average non-profit organization.

Wealth is also a larger driver of commenting behavior for banks than non-profits. Credit unions and other types of non-profits are significantly less likely to comment than banks, even when controlling for differences in assets. Table 1 shows the results of logit models predicting the log odds of commenting by organization type (bank, credit union, other non-profit organization) and total assets. Credit unions and other non-profits are much less likely to comment than for-profit banks. Figure 7 shows that the predicted probability of commenting increases rapidly as banks gain more assets (Also see Table 1. Wealthier credit unions and other non-profits are more likely to comment than less wealthy ones, but the differences are much smaller than they are for banks.

Figure 7: Predicted Probability of Participating in Dodd-Frank Rulemaking by Assets and Type of Organization



To further test this hypothesis, we subset our data to banks and estimate the odds of commenting across different types of banks. We find that for-profit banks (i.e., commercial banks) are significantly more likely to comment than non-profit savings associations and savings associations, further supporting the link between profit motives and lobbying activity. For example, among banks with a mean asset amount of $1,175,970, our model predicts a commercial bank to have a 12 percent probability of commenting.

Table 1: Log Odds of Commenting on Any Dodd-Frank Rule

	(1)	(2)	(3)	(4)	(5)	(6)
Dependent Variable	**Commented**	**Commented**	**Commented**	**Commented**	**Commented**	**Commented**
Assets (in Billions)	0.013***	0.442**			0.031***	0.912***
	(0.002)	(0.146)			(0.004)	(0.175)
Credit union	−1.168***	−1.170***	−1.733***	−1.397***	−1.215***	−1.180***
	(0.060)	(0.061)	(0.073)	(0.076)	(0.061)	(0.062)
Non-profit	−4.065***	−4.060***	−4.102***	−4.126***	−4.068***	−4.075***
	(0.031)	(0.031)	(0.032)	(0.032)	(0.031)	(0.032)
Assets x Credit union		−0.427**				−0.891***
		(0.146)				(0.175)
Assets x Non-profit		−0.430**				−0.788***
		(0.146)				(0.175)
Log Assets			0.751***	1.607***		
			(0.038)	(0.259)		
Log Assets x Credit Union				−1.201***		
				(0.265)		
Log Assets x Non-profit				−0.610*		
				(0.263)		
Assets Squared					0.000***	−0.040***
					(0.000)	(0.010)
Assets Squared x Credit Union						0.040***
						(0.010)
Assets Squared x Non-profit						0.039***
						(0.010)
Num.Obs.	495 105	495 105	495 105	495 105	495 105	495 105
Log.Lik.	−22 265.396	−22 254.971	−22 137.406	−22 097.046	−22 249.481	−22 198.625

+ p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001
Reference category = Banks

Meanwhile, a non-profit savings associations with the same asset resources has only a three percent probability of commenting.

Figure 8 and Table 2 show that commercial banks were disproportionately represented in Dodd-Frank rulemaking and non-commercial banks (e.g. savings associations) were less represented, even controlling for asset differences (see Appendix Table 5 for estimates for all bank types). This provides further support for the *Profit-motivated Participation* Hypothesis (H2).

Likewise, assets remain a significant predictor of whether an organization comments even controlling for differences in the type of bank institution. This provides additional evidence for the *Differential Participation* Hypothesis (H1).

The main takeaway from our analysis thus far is that resources correlate with commenting behavior; wealthy organizations are more likely to participate in regulatory lobbying than less wealthy organizations. If representation is largely about who shows up to participate in the policy process, companies with high market capitalization, organizations that give more to political campaigns, and banks, credit unions, and non-profits with more assets are represented better than those with lower market capitalization, less lobbying spending, and fewer assets. Both within and across different types of organizations, wealthier organizations

Figure 8: Predicted Probability of Participating in Dodd-Frank Rulemaking by Type of Bank

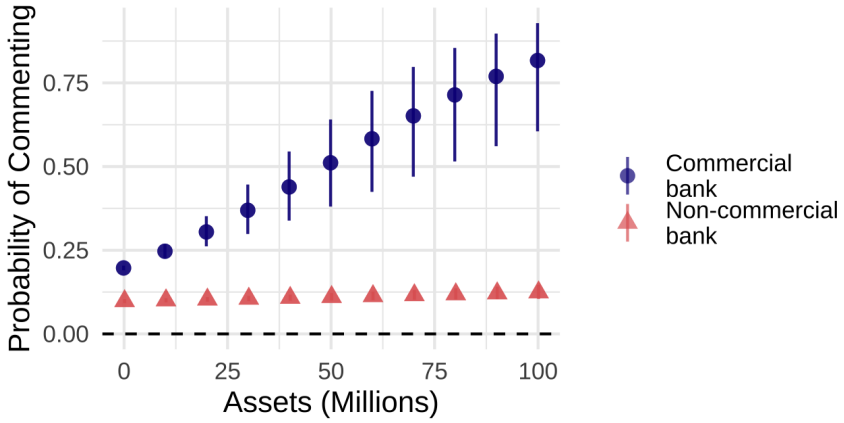


Table 2: Log Odds of Commenting on Any Dodd-Frank Rule by Bank Type

	(1)	(2)	(3)
Dependent Variable	**Comment**	**Comment**	**Comment**
Assets (Millions)	0.004**	0.006***	0.029***
	(0.001)	(0.002)	(0.005)
Non-commercial bank		−0.836***	−0.814***
		(0.038)	(0.038)
Assets x Non-commercial bank			−0.026***
			(0.006)
Num.Obs.	25 646	25 646	25 646
Log.Lik.	−11 089.986	−10 829.024	−10 811.589

+ p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001

Non-commercial banks include savings associations, national associations, and commercial banks.

are more likely to be at the table when important policy decisions are made.

4.2 Wealth Inequality among Organizations that Lobby

We now investigate wealth inequalities within the subset of organizations that do participate in rulemaking. By focusing on variation among organizations that all commented on at least one Dodd-Frank rule, we can have even more confidence that we are comparing similar organizations.

4.2.1 Frequent participants are wealthier than those who participate less frequently

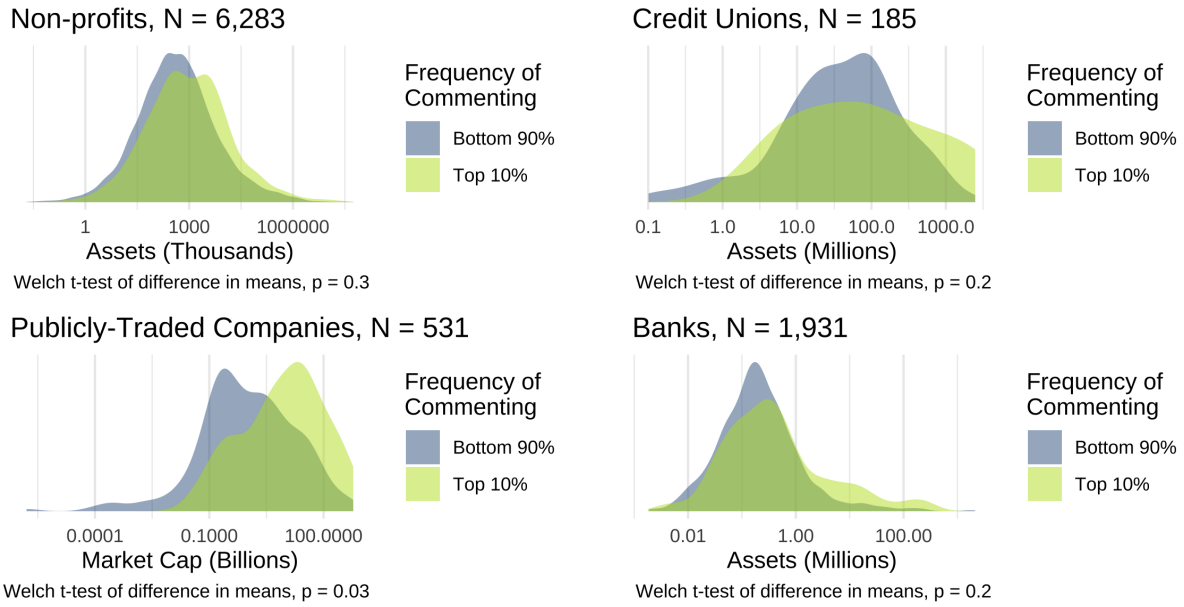
The Differential Frequency of Participation Hypothesis (H3) posits that, among commenters, wealthy organizations will participate more frequently. To test this hypothesis, we count the number of Dodd-Frank rules on which each participating organization commented. Figure 9 shows that organizations that comment on more rules tend to be wealthier. Given that most organizations comment on few rules, we sort commenters by the number of rules on which they commented and compare the wealth of the top ten percent to the average of the bottom 90 percent.[7]

The top-left panel of Figure 9 shows that most of the non-profits in the top ten percent of most frequent commenters had assets over $10 million. In contrast, non-profits in the bottom 90 percent (i.e., low-frequency commenters) had assets under $10 million.
The top-right panel of Figure 9 shows that most of the credit unions in the top ten percent of most frequent commenters had greater assets than credit unions in the bottom 90 percent (i.e., low-frequency commenters). The bottom-left panel of Figure 9 shows that, among publicly-traded companies, the majority of frequent commenters had market capitalization over $10 billion. In contrast, most companies that were less frequent commenters had under $10 billion in market capitalization. This difference is significant at the .05 level. The bottom-right panel of Figure 9 shows that, even among banks, a large share of the most frequent commenters had assets over $1 million, and many had assets over $100 million. Yet, nearly all banks that were less frequent commenters—most of which only commented on one rule—had under $1 million in assets. This difference is significant at the .05 level.

Overall, while these differences are not statistically significant, the general pattern across these figures is in the direction predicted by Hypothesis 3: frequent commenters also tend to be more wealthy organizations.

[7] In the appendix, we show similar results comparing organizations that commented on five or more rules to those that commented on fewer than five rules.

Figure 9: Frequent and Infrequent Commenters (By Percentile of the Number of Dockets on Which Each Organization Commented) by Resources (Log Scale)



4.2.2 Wealthier commenters have greater lobbying success

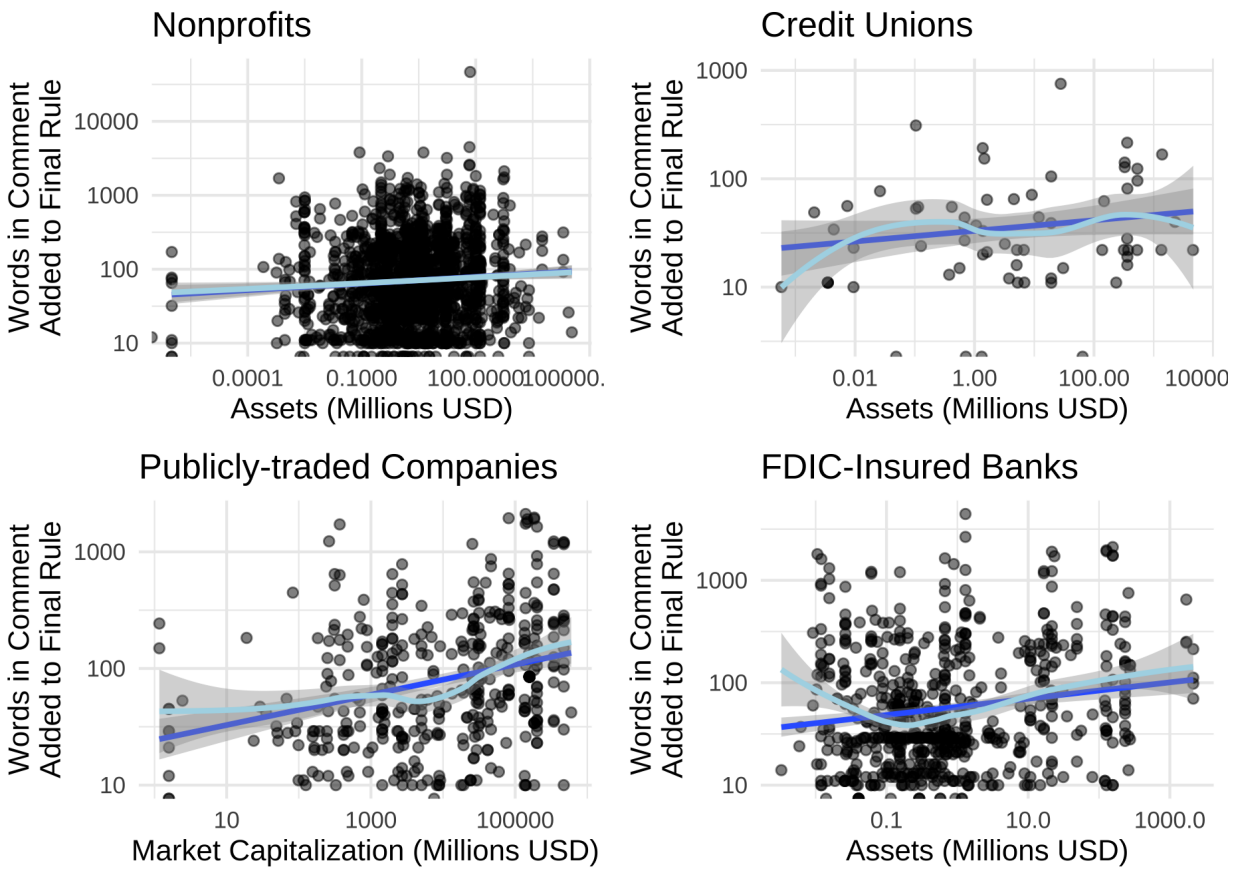
The final three hypotheses focus on the association between wealth inequality and lobbying success: The Differential Lobbying Success Hypothesis (H4) posits that wealthy organizations will be more successful in their regulatory lobbying. The final two hypotheses address why we may see this pattern emerge.

Figure 10 provides descriptive support for Hypothesis 4. Across organization types, we see a strong positive correlation between an organization's wealth and its lobbying success. In other words, wealthier organizations appear to be more successful in shifting the content of final rules than similar—but less wealthy—organizations. The y-axes of plots in Figure 10 indicate the number of words that appear in 10-word phrases in both an organization's comment and the final rule (but are not present in the proposed rule). The x-axes of each plot in Figure 10 represent different indicators of wealth. The positive slope for each of the relationships captures the extent to which wealth is correlated with lobbying success (as measured by the amount of text added to an agency's final policy documents containing exact phrases used by or suggested by an organization's comment).

4.2.3 Wealthier companies are more sophisticated at lobbying

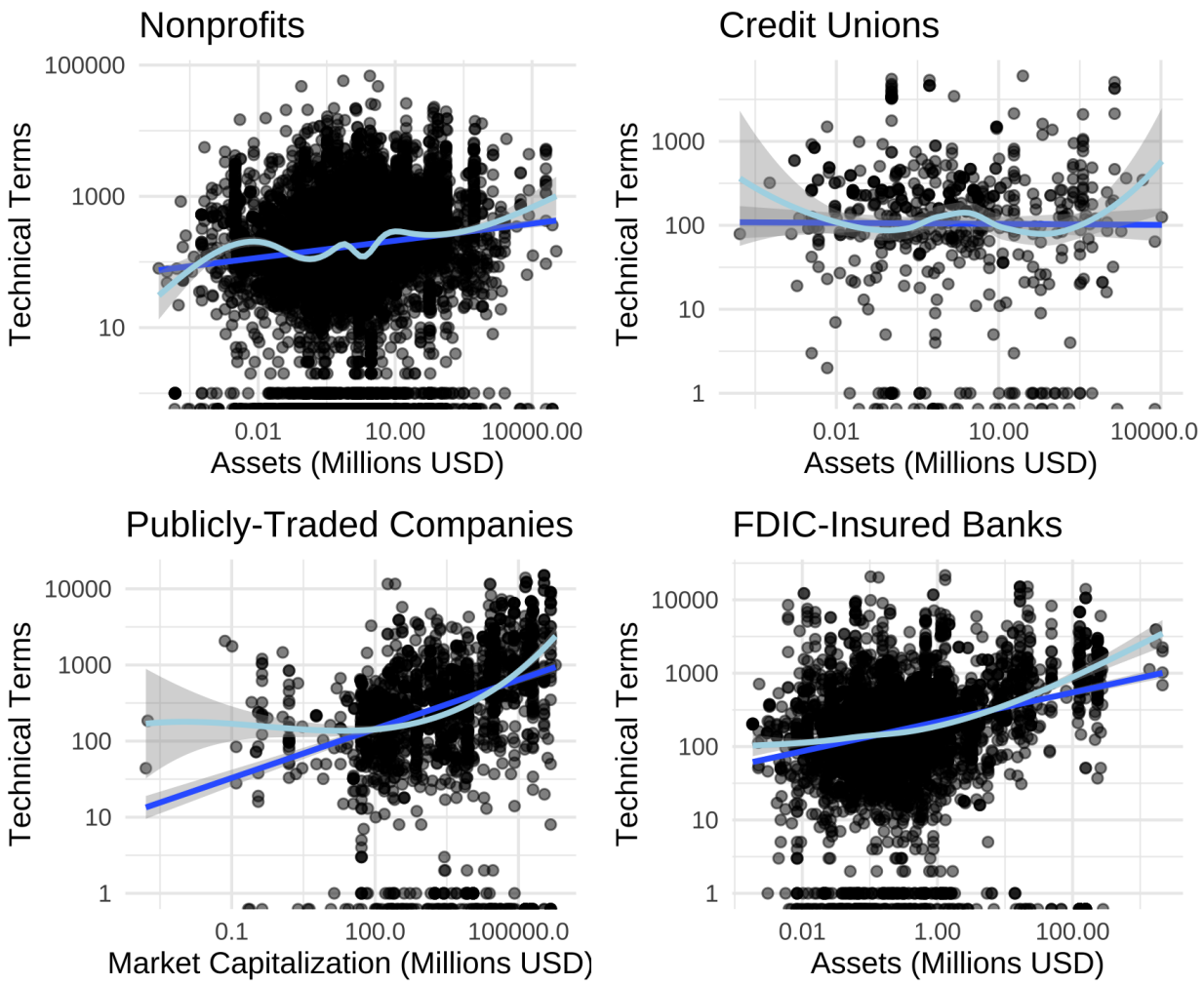
We now turn to possible explanations for the positive relationship between wealth and lobbying success. The *Differential Sophistication Hypothesis* (H5) suggests wealthier organizations

Figure 10: Amount of Text Repeated in Final Rules by Commenter Resources



submit more sophisticated comments than less well-off entities. Figure 11 provides evidence of just such a relationship. It shows that the comments from wealthier organizations tend to include more technical language specific to finance and banking. This pattern is especially strong for banks and publicly traded companies. For example, nearly every comment from a company with market capitalization over $50 billion contained over 100 technical terms, while companies with lower market capitalization tended to submit less sophisticated comments.

Figure 11: Amount of Technical Language by Assets (Among Comments from Banks on Dodd-Frank Rules)



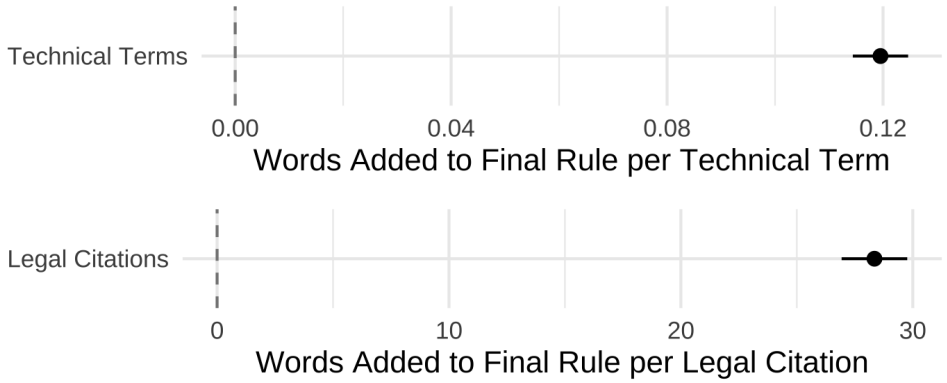
4.2.4 More sophisticated comments correlate with greater lobbying success

We theorize in the *Dividends of Sophistication* Hypothesis (H6) that comments from wealthier organizations are more successful in shifting the content of financial rules because wealthier organizations submit more sophisticated comments. We investigate this proposed mechanism

for unequal influence by first assessing the relationship between technical sophistication and lobbying success.

Figure 12 shows that comments that use more sophisticated technical language are more likely to contain text that was added to the final rule. Figure 12 shows estimates of lobbying success from regression models where the key predictor variable is the number of technical terms or legal citations in a comment. Both models suggest a statistically significant relationship. Substantively, the use of ten additional technical finance or banking terms in an organization's comment is associated with an additional word from a phrase in the organization's comment being included in the text of the final rule. Each additional legal citation in a comment is associated with nearly 28 additional words from a comment in the final rule.

Figure 12: OLS Models of Lobbying Success by Comment Sophistication



4.2.5 Legal and technical sophistication explains the lobbying success of wealthy companies

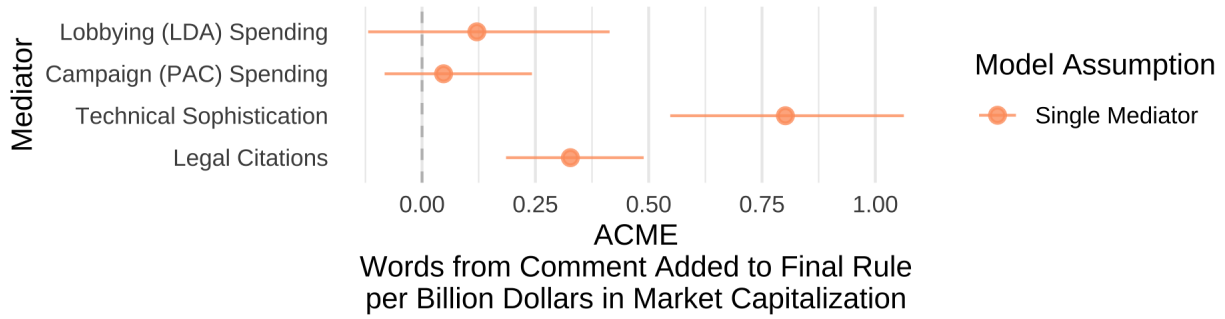
Finally, to further evaluate the *Dividends of Sophistication* Hypothesis (H6), we use mediation analysis to estimate the extent to which the sophistication of the comments explains the relationship between wealth and lobbying success. Here we concentrate our analyses on the publicly traded companies that submitted comments to our Dodd-Frank rules. Because the correlation between wealth and lobbying success was highest in these companies (see Figure 10), this subset offers the best test of a mediated effect. In this analysis, the company's market capitalization is the key predictor variable, lobbying success is the dependent variable in the main models, and comment sophistication is the proposed mediator (i.e., the dependent variable in the mediator model).

To interpret the mediation analysis as causal requires assuming that the relationship between wealth and lobbying success is causal and that the mediator(s) examined are the only possible causal pathways between wealth and lobbying success. That is, we assume there

is a direct effect of wealth and a mediated effect through the proposed mediator. We test each mediator individually. We examine four causal pathways between wealth and lobbying success: (1) donating to political campaigns via PACs, (2) spending on lobbying covered by the Lobbying Disclosure Act, (3) Using more technical language in public comments, or (4) using more legally-sophisticated language in public comments.

We find that the bulk of the relationship between wealth and lobbying success can be attributed to wealthier organizations submitting more sophisticated comments. Market capitalization is highly correlated with the use of technical terms in comments, which is associated with lobbying success. Figure 13 shows that the Average Conditional Marginal Effect (ACME) shows that both technical and legal sophistication appear to help explain the relationship between wealth and lobbying success. The conditional effect of both technical and legal sophistication is statistically significant at the 0.05 level. Moreover, Appendix Figure 29 shows that the ACME for technical sophistication is a large share of the Total Effect of wealth on lobbying success. Thus, we conclude that there is support for Hypothesis 6: much of the effect of market capitalization on our measure of lobbying success results from wealthier organizations submitting more sophisticated comments.[8].

Figure 13: Political Spending, Lobbying, Technical Sophistication, and Legal Sophistication as Proposed Mediators between Wealth and Lobbying Success



Mediation analysis allows us to compare alternative influence mechanisms. One alternative mechanism goes through campaign contributions and power in Congress. If organizational wealth enables greater political contributions, political contributions buy power in Congress, and agency officials are concerned about congressional sanction when revising rules, campaign contributions may drive lobbying success. This argument is similar to Gordon and Hafer's (2005) research suggesting that large organizations exert influence through repeated political contributions. To test this alternative argument, we use mediation analysis but this time with an organization's PAC contributions as a mediator. Finally, we use lobbying expenditures

[8]In the appendix, we replicate these results using the number of legal citations as an alternative measure of comment sophistication

as the mediator. Since disclosed lobbying expenditures target both Congress and agency officials, this causal pathway could go operate via congressional sanction as with the campaign spending, or more directly through lobbyists persuading agency officials to adopt their client's preferred policy language. In both cases, the ACME is small and not statistically significant. This implies that increasing a corporation's wealth increases its expenditure on candidates and lobbyists, but this does not then translate into influence on change from draft to final agency rule.[9] The findings, therefore, suggest that PAC contributions and reported lobbying expenditures are not key mechanisms of influence for this outcome.

4.2.6 Alternative interpretation: wealth is a stand-in for membership.

Like previous research (Bartels 2008, Gilens 2012, Enns et al Hijacking the Agenda), our research makes descriptive inferences from associations between wealth and policymaking influence. Since nearly all comments come from organizations (Judge-Lord 2019), organizational wealth is the right conceptual target and the right measure. However. if organizational wealth is merely a stand-in for organizational membership, our findings would not necessarily contradict an account of individual-level political equality in the administrative process. If wealthy organizations have more influence *because* they represent more people rather than *because* they have more resources, our findings would be consistent with pluralist conceptions of democracy.

Upon investigation, the wealth-membership association fails to explain the patterns we find. First, we examine the active membership base of non-profits and find that organizations with larger numbers of volunteers are no more likely to comment or have lobbying success when they do (Appendix Figure 17). Controlling for volunteers, assets remains a significant predictor of whether an organization will comment. Indeed, the coefficient on assets is unaffected by including an organization's number of volunteers in the model. Second, our findings in section 4.1.3 suggest that net of wealth, for-profit organizations still enjoy greater advantages than non-profit organizations.

5 Conclusion

Scholarship has documented profound and durable patterns where wealth inequality in the United States leads to disproportionate influence during congressional policymaking. Still,

[9]This does not rule out that political spending and lobbying have large effects on earlier stages of the policy process, including the drafting of proposed rules.

whether the inequalities observed during legislative lawmaking are magnified or reduced within administrative policymaking has thus far escaped large-scale, systematic study.

We offer a new perspective on inequality in bureaucratic policymaking by combining multiple methods and data sources. Our systematic approach—covering all rules across multiple agencies implementing the same landmark piece of legislation—allows unique comparisons within and across agencies and types of organizations. It is the first study of which we are aware to systematically measure the wealth of those participating in agency rulemaking. By combining data, we can assess the relative level of lobbying access and lobbying effectiveness that different types of organizations enjoy.

We find support for our hypotheses predicting that disparities in wealth lead to inequality in administrative policymaking. We find two kinds of bias in rulemaking: bias in participation and bias in influence. Wealthy organizations are more likely to participate in regulatory lobbying than less wealthy organizations. These findings hold even when comparing within similar organizations—such as when comparing wealthy banks to less wealthy banks. In the end, if representation is largely about who shows up, then these results suggest that wealthy organizations are better represented during financial rulemaking.

We also find evidence that inequalities in wealth drive lobbying influence. For example, market capitalization is strongly correlated with lobbying success among publicly-traded firms. Market capitalization is also highly correlated with comment sophistication, which, in turn, is associated with lobbying success. Mediation analysis suggests that much of the effect of market capitalization on a firm's lobbying success is a result of the technical and legal sophistication present within the organization's comment, not political power gained through campaign contributions or spending on lobbying firms.

These results hold important implications for reform efforts aimed at ameliorating the effects of wealth inequality on government policy. For instance, reforms that provide resources to select organizations to develop more sophisticated comments and policy recommendations may be an effective means to level the playing field between differentially resourced lobbying entities. Efforts similar to this are already underway at some agencies, including at the U.S. Federal Energy Regulatory Commission.[10] This article's findings suggest that such reforms merit close study.

Future work is needed to extend this article's findings. For instance, following Ban and You (2019), additional research is needed to make explicit comparisons between the legislative and regulatory policymaking processes to provide a more complete picture of how inequality may manifest across policymaking in America's key political institutions. Future work could also assess the relationship between wealth inequality in other areas of agency decision-making,

[10]See: https://www.ferc.gov/equity

such as spending, permitting, and enforcement decisions. Finally, we focus on what may be a "best case" for finding evidence of the effects of our wealth inequality hypotheses: financial regulation. Unequal levels of power and access to the government may be especially acute in this area suggesting that additional investigation in other regulatory policymaking contexts is warranted.

In the end, this study presents a model for studying inequality in U.S. policymaking. With the rise of the administrative state, scholars have documented the importance of agency rulemaking (Kerwin and Furlong 2018), institutional bias toward businesses (J. W. Yackee and Yackee 2006), and the massive value businesses gain from lobbying agencies (Libgober and Carpenter 2020). Our data and analysis methods enable a new view of the biases in participation and influence in agency rulemaking. The consistent patterns in wealth disparities and impacts that we uncover advance our understanding of lobbying, money in politics, and how these pressures shape democracy in the modern administrative state.

Table 3: Comments, Comment Attachments, Comment Sophistication, Comment Lobbying Success, and Commenter Wealth Data on Rules Implementing the Dodd-Frank Act

Agency	Attachments	Comments	Lobbying Success and Sophistication Measures	Wealth Measures
CFPB	85,192	231,589	231,589	10,652
CFTC	13,728	37,675	37,675	2,630
FDIC	811	807	807	46
FRS	7,156	7,116	7,116	3,489
NCUA	66	66	66	27
OCC	11,926	12,017	12,017	4,460
SEC	10,240	9,368	9,368	648

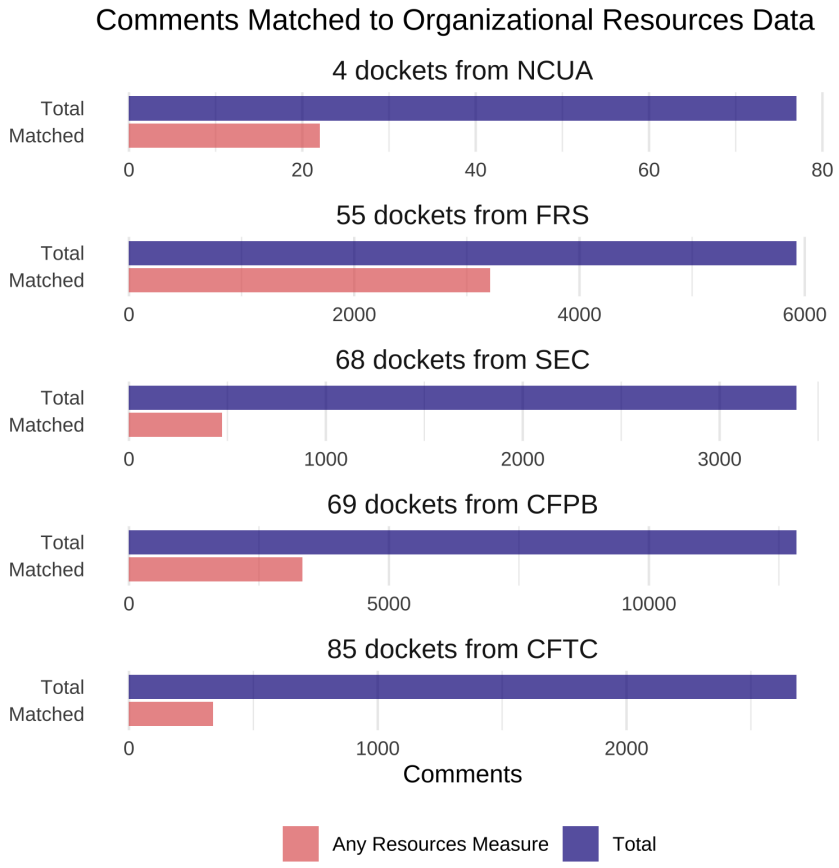
A Data collection and processing

Table 3 and Figure 14 show the status of data collection and processing. We have yet to attempt to match comments on rules by the OCC and FDIC to organizations with asset data. These comments will be included in the above analysis shortly. To match comments to organizations found in various databases, we first extract entity names from the text or from comment metadata where available. We then use a custom probabilistic matching algorithm that was iteratively built to correctly match organizations in these data using a combination of term-frequency times inverse document frequency (TF-IDF) and Jaccard distance. For each commenter, we start with the most uncommon token (word) in the entity name string and search for names in each dataset that have that token. For example, if Klamath First Federal Bank submitted a comment, the algorithm first looks for names with the token "Klamath.". We then rank the resulting candidate matches using a modified Jaccard index that scores each token in the commenter's name that matches a token in the candidate name in inverse proportion to the token's frequency in the commenter dataset (normalizing by the sum of the inverse frequencies of all the tokens in the commenter's name, matching or otherwise) so that 'more informative' words contribute more to the 'match score. We then set a threshold match score that, upon inspection, yields correct matches. Finally, we inspect all matches that occurred ten times or more and a sample of others and implement a custom set of corrections.

A.1 Entity extraction and matching

Figure 14 shows the number of rulemaking dockets and the number of comments matched to organizations with resource data by agency.

Figure 14: Dockets and Comments Matched to Asset Data by Agency

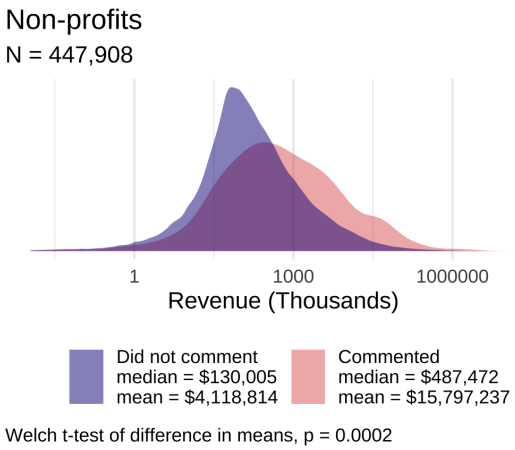


B Additional descriptives

B.1 Non-profit revenue

Figure 15 shows that the relationship between assets and commenting shown in Figure 5 also appears when we look at revenue rather than assets. Indeed the relationship between revenue and commenting is much stronger than the relationship between assets and commenting. We focus on assets in the body of the text because it is more comparable to wealth measures from for-profit organizations.

Figure 15: Revenue of Non-profits that Did and Did Not Comment



B.2 Non-profit volunteers

Figure 16 shows that the a non-profit's assets and the number of volunteer it has are not especially correlated for the sample of organizations that commented on a Dodd-Frank rule. This offers further evidence that the relationship between wealth and lobbying success we observe should not be interpreted as larger membership organizations being more successful. Rather, it is wealthy organizations, regardless of membership that enjoy success rulemaking.

Figure 17 shows that the a non-profit's number of volunteer does not predict its level of lobbying success.

B.3 Variation within classes of banks

When we look within categories of banks, we see that the wealthier banks within each class are also more likely to submit comments on financial rules than similar banks with less wealth. Figure 18 shows that, within each class of bank (i.e., commercial banks, commercial banks, state banks, and savings associations), wealthier banks participate in financial rulemaking more than less wealthy banks. While the differences within types of banks are fairly large, these differences in means only reach statistical significance at the 0.05 level for for-profit categories of banks.

Figure 18 shows wealth distributions for four prominent types of banks: commercial banks, commercial banks, state banks, and non-profit savings associations. The top-left panel of

Figure 16: Volunteers of Non-profits that Did and Did Not Comment

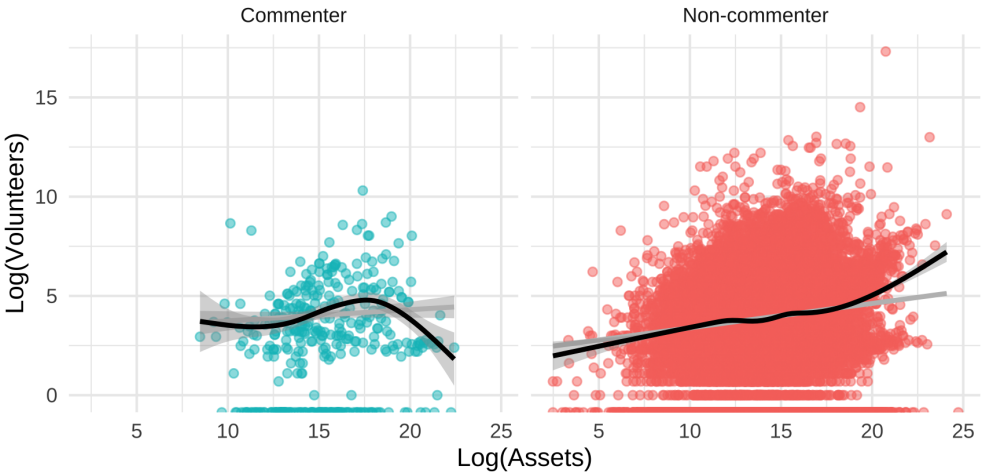


Figure 17: Efficacy by Number of Volunteers

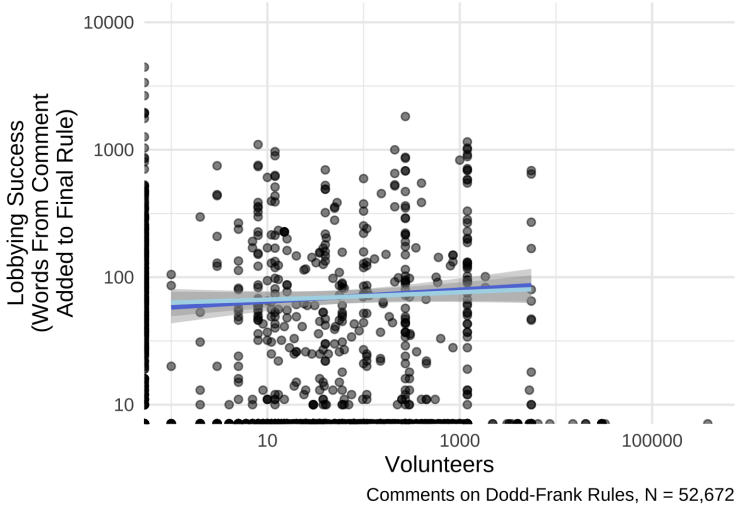
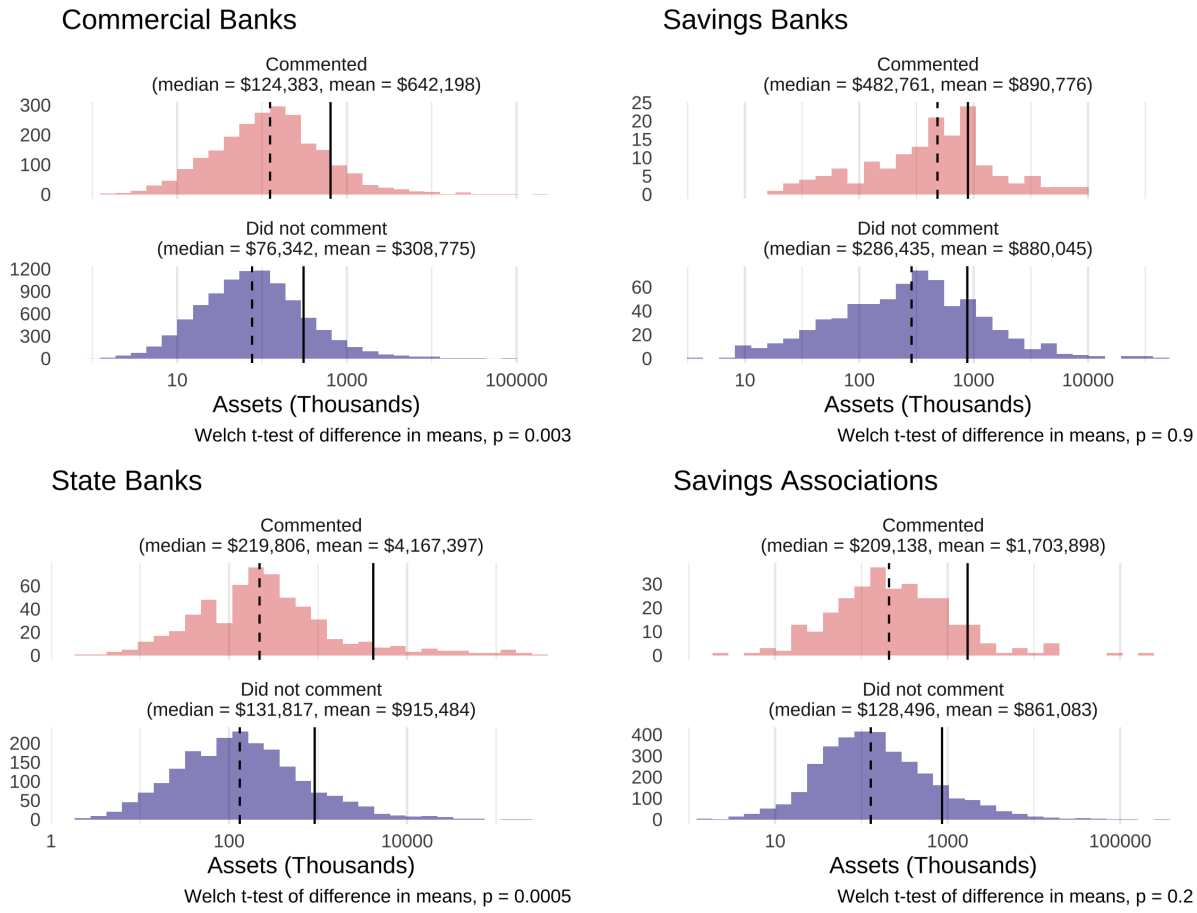


Figure 18 shows that commercial banks that comment are wealthier than those that did not comment. The modal commercial bank that commented has 40 percent more assets than the modal commercial bank that did not comment. The top-right panel of Figure 18 shows that commercial banks banks that comment are wealthier than those that did not comment. The modal commercial bank that commented has nearly twice the assets of the modal commercial bank that did not comment. Similarly, the bottom-left panel of Figure 18 shows that the average assets of state banks that commented were three times the average assets of the state banks that did not comment. While savings associations are less likely to comment than more profit-oriented banks, such as commercial banks (see Figure 24), the bottom-right panel of Figure 18 shows that when savings associations do comment, they tend to be the wealthier ones.

Figure 18: Financial Resources of Banks that Did and Did Not Comment



Figures 19, 18, and 20 present histograms of wealth distributions by whether an organization commented on a Dodd-Frank rule.

Figure 19: Financial Resources of Organizations that Did and Did Not Comment

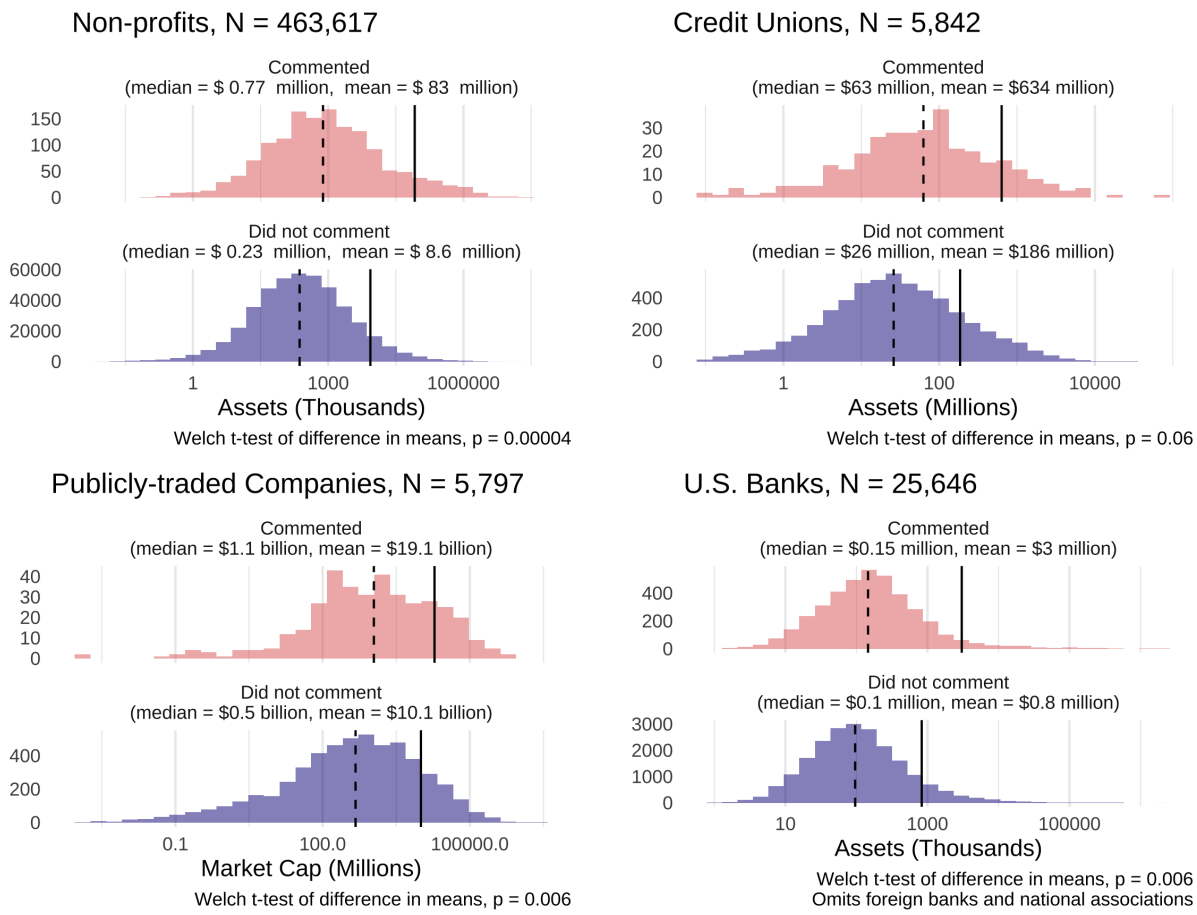


Figure 20: Campaign Spending of Organizations that Did and Did Not Comment

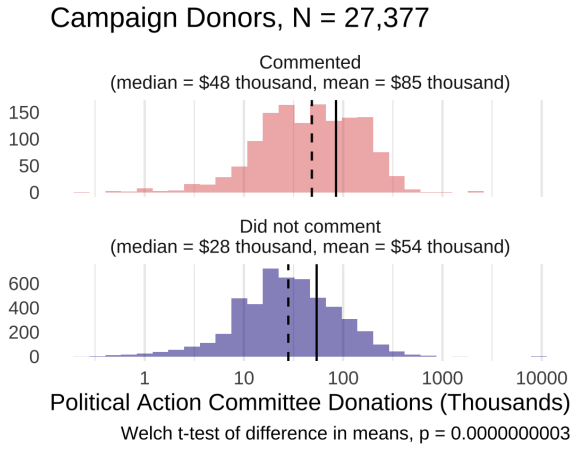


Figure 21: Number of Dockets on Which Each Type of Organization Commented

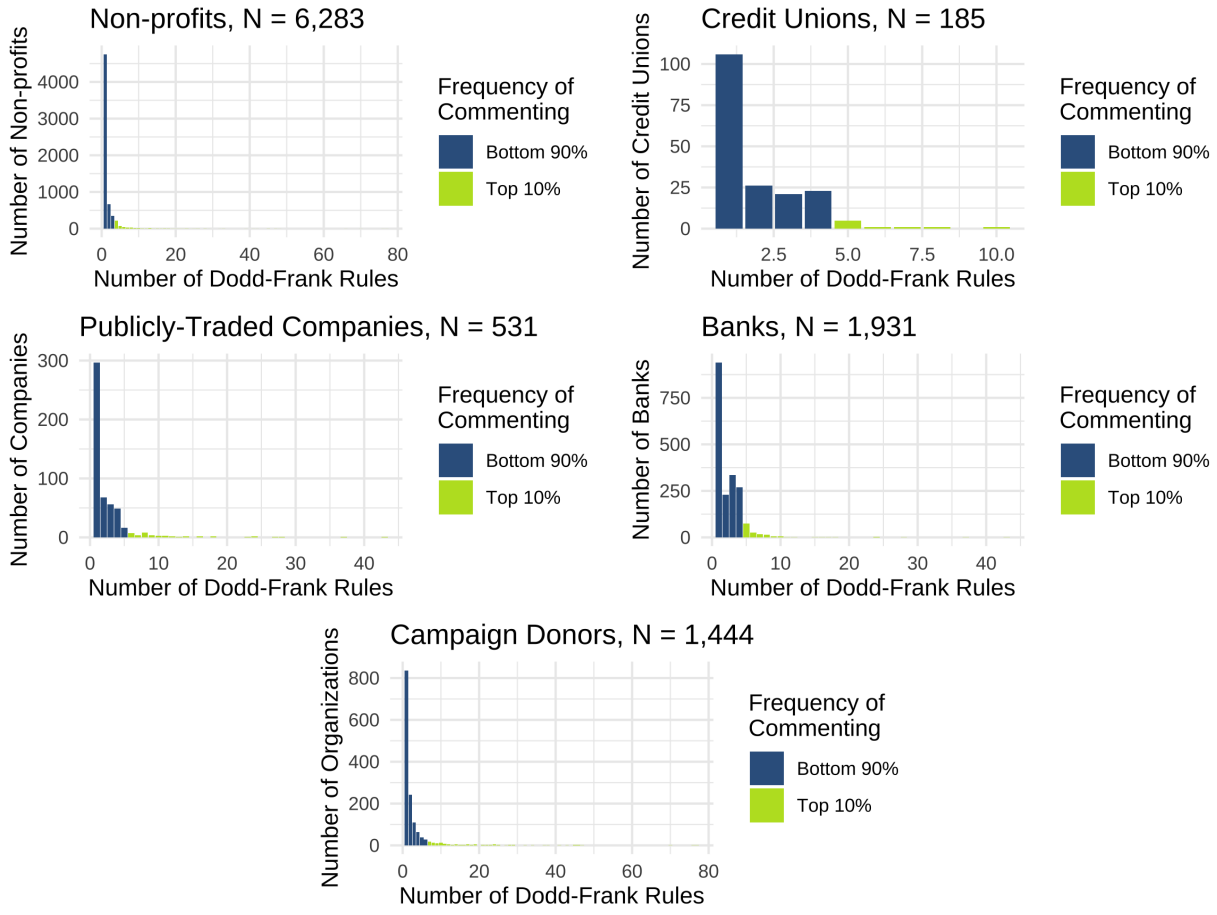


Figure 22: Frequent and Infrequent Commenters (By the Number of Dockets on Which Each Organization Commented) by Resources (Log Scale)

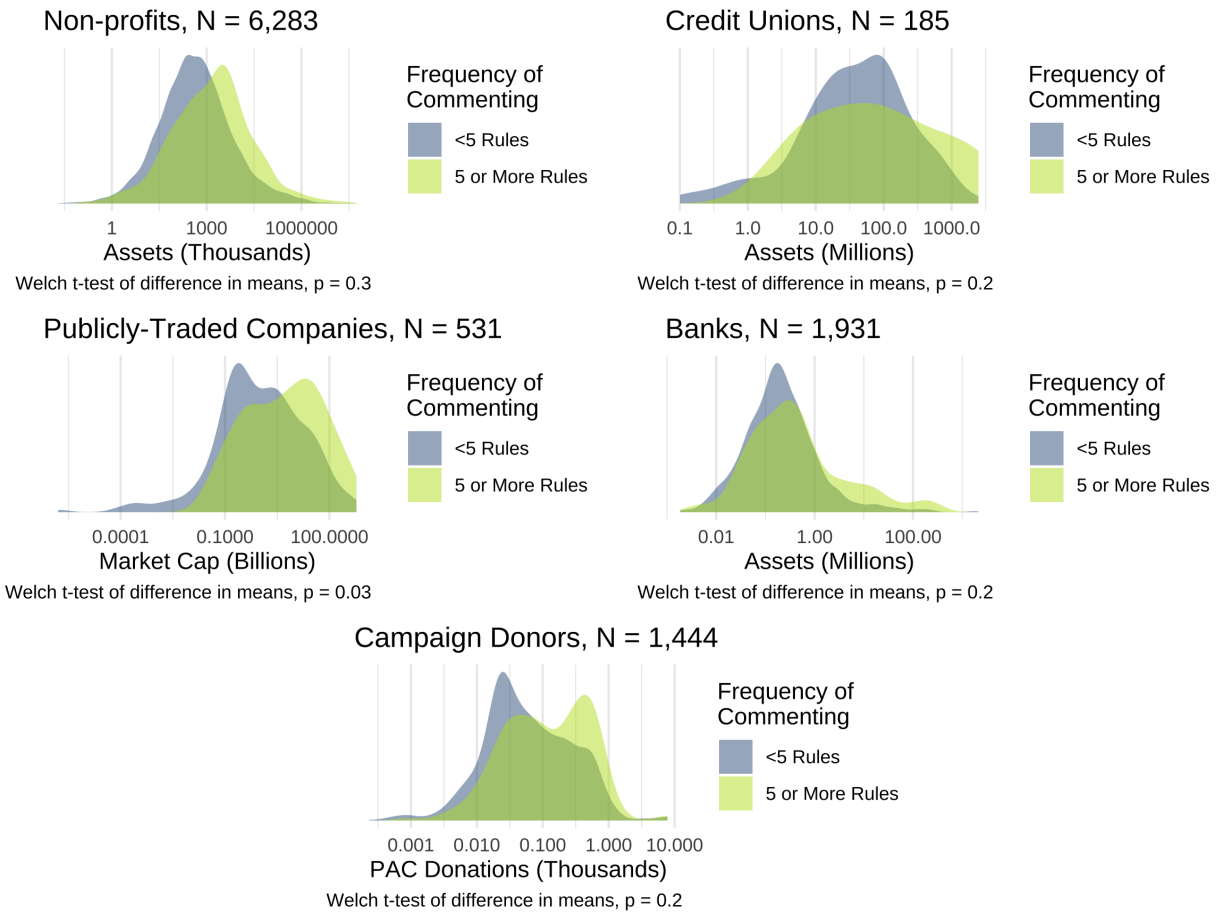


Table 4: Log Odds of Commenting on Any Dodd-Frank Rule

	Banks	Non-profits	Credit Unions
Dependent Variable	**Commented**	**Commented**	**Commented**
Assets (Billions)	4.421**	0.119***	0.154***
	(1.455)	(0.024)	(0.046)
Num.Obs.	25 646	463 617	5842
Log.Lik.	−11 089.986	−9910.539	−1254.445

+ p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001

C Regression tables

C.1 The Odds of Commenting by Wealth

Figure 23 (Table 4) shows the results of logit models predicting the log odds of commenting on a Dodd-Frank rule by assets for banks, credit unions, and non-profits. These models show that wealthier organizations of all three types are significantly more likely to comment. Of these three types of organizations, the marginal effect of assets on the log odds of commenting is the largest for banks.

Figure 23: Log Odds of Participating in Dodd-Frank Rulemaking by Assets

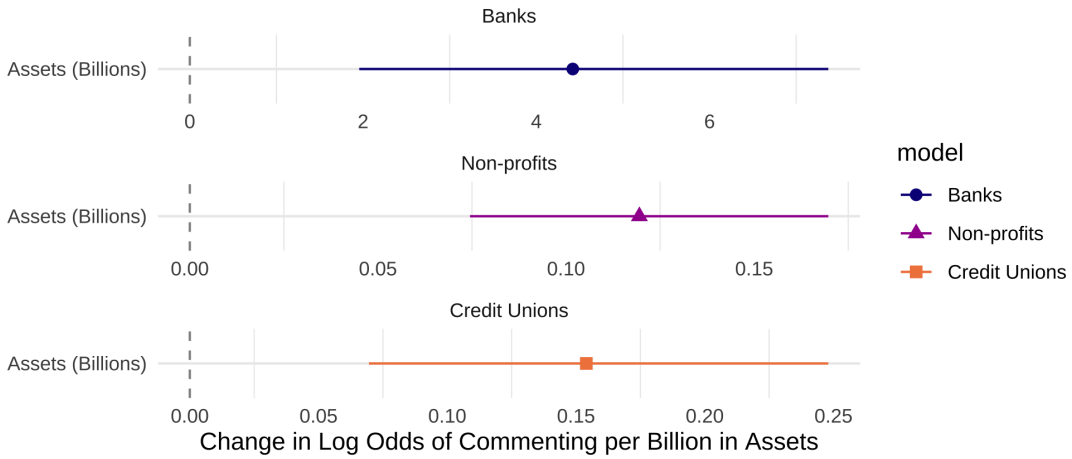


Table 4 presents the full regression table for models shown in Figure 23.

Figure 24 and Table 5 show that commercial banks were disproportionately represented in Dodd-Frank rulemaking and non-commercial banks (e.g. savings associations) were less represented, even controlling for asset differences. This provides further support for the *Profit-motivated Participation* Hypothesis (H2).

Likewise, assets remain a significant predictor of whether an organization comments even controlling for differences in the type of bank institution. This provides additional evidence for the *Differential Participation* Hypothesis (H1).

Figure 24: Predicted Probability of Participating in Dodd-Frank Rulemaking by Type of Bank

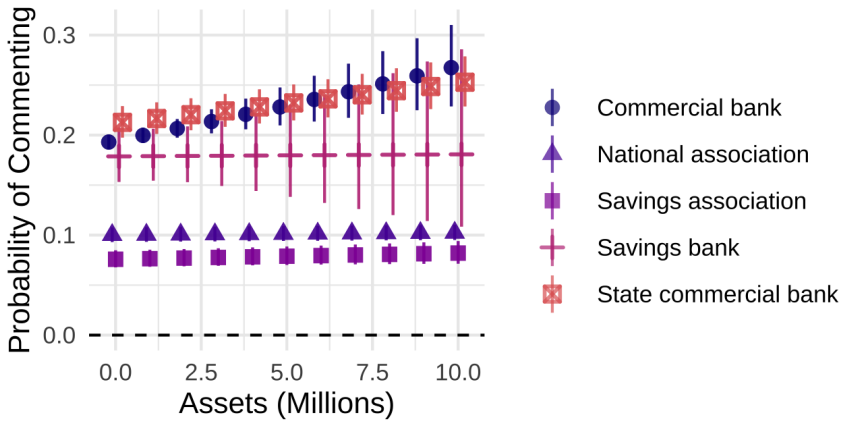


Table 5: Log Odds of Commenting on Any Dodd-Frank Rule by Bank Type

	(1)	(2)
Dependent Variable	**Comment**	**Comment**
Assets (Millions)	0.004**	0.006***
	(0.001)	(0.002)
National Bank		0.292***
		(0.074)
Commercial Bank		1.081***
		(0.066)
Savings Bank		0.968***
		(0.109)
State Commercial Bank		1.217***
		(0.077)
Num.Obs.	25 646	25 646
Log.Lik.	−11 089.986	−10 789.229

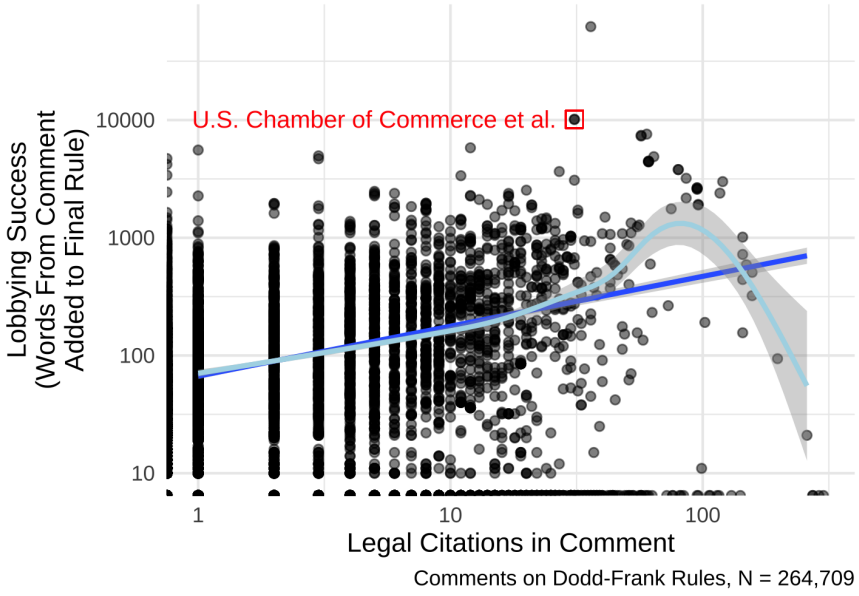
+ p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001
Reference category = savings associations

D Measuring comment sophistication with legal citations

Our analyses investigating the *Differential Sophistication* (H5) and *Dividends of Sophistication* (H6) hypotheses rely on a measure of comment sophistication based on the number of technical terms used in a given comment. However, using technical terms is only one way to gauge sophistication. An alternate measure would be the number of legal citations in the comment. Wealthier organizations may be more influential by using sophistical legal arguments in commenting.

This section replicates the descriptive and regression analyses conducted in sections 4.2.3 and 4.2.4, using the number of legal citations as the measure of comment sophistication. We count the number of citations to the U.S. Code, Supreme Court cases, appellate and district court cases, the code of federal regulations, and the federal register. Like in the analyses relying on technical terms, we sum up citations across all the submitted documents of a commenter. Figure 25 shows a strong relationship between legal citations and comment lobbying success, again highlighting the comment from the Chamber of Commerce discussed in Section 3.

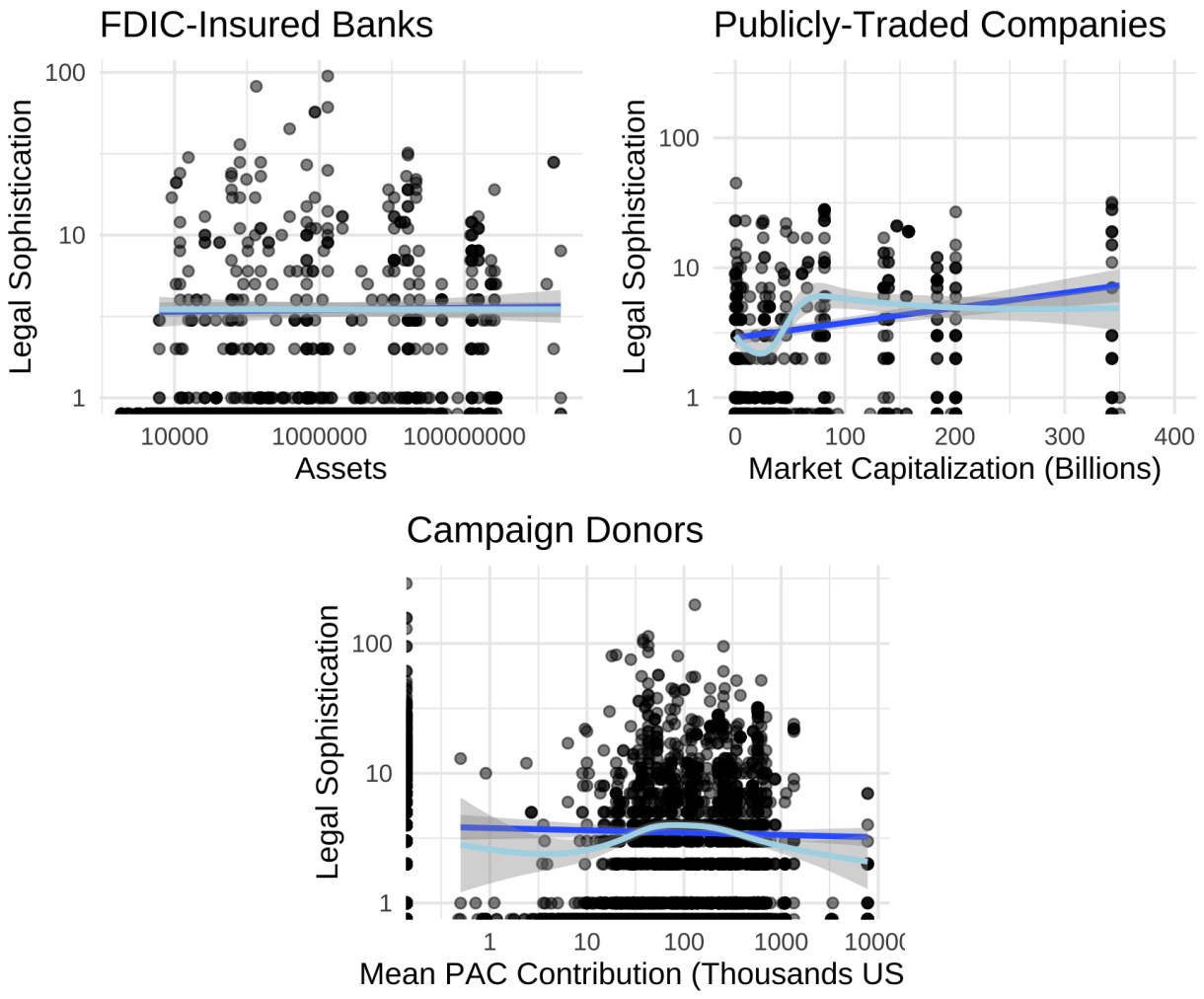
Figure 25: Lobbying Success by Comment Sophistication



Our findings on wealth technical sophistication (H5) hold even with an alternative legal measure of sophistication. Figure 26 shows that the number of words from the comment added to the final rule is correlated with the number of legal citations. Like the analyses using technical terms, the figure also shows a positive correlation between the number of legal citations in a comment and the amount of text it shares with the final rule.

Figure 26 also corroborates with regression findings on technical sophistication. Here, comments from wealthier organizations tend to include more legal language, a pattern permeated across banks, publicly traded companies, and campaign donors. Similar to the relationship between technical terms and commenter wealth, most of the comments from

Figure 26: Amount of Legal Language by Assets (Among Comments from Banks on Dodd-Frank Rules)

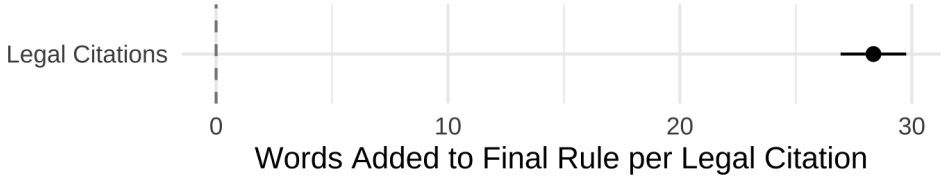


publicly traded companies with ten or more legal citations were submitted by companies with over $50 billion in market capitalization.

Figure 27: Amount of Legal Language by Market Capitalization (Among Comments on Dodd-Frank Rules)

Analyses on sophistication and influence (H6) also hold up when using a measure of legal sophistication. 25 shows that comments using more legal language are more likely to contain text added in the final rule.

Figure 28: OLS Models of Lobbying Success by Legal Language



E Mediation

Figure 29 demonstrates that the Average Conditional Marginal Effect for technical sophistication is nearly identical to the Total Effect of market capitalization on lobbying success. This means that technical sophistication explains nearly all of the greater success of wealthier companies. Legal sophistication also explains a large share of the total relationship when we use legal citations as an alternative mediator. This means that legal citations explain much of the greater success of wealthier companies.

Figure 29: Political Spending, Lobbying, Technical Sophistication, and Legal Sophistication as a Proposed Mediators Between Wealth and Lobbying Success

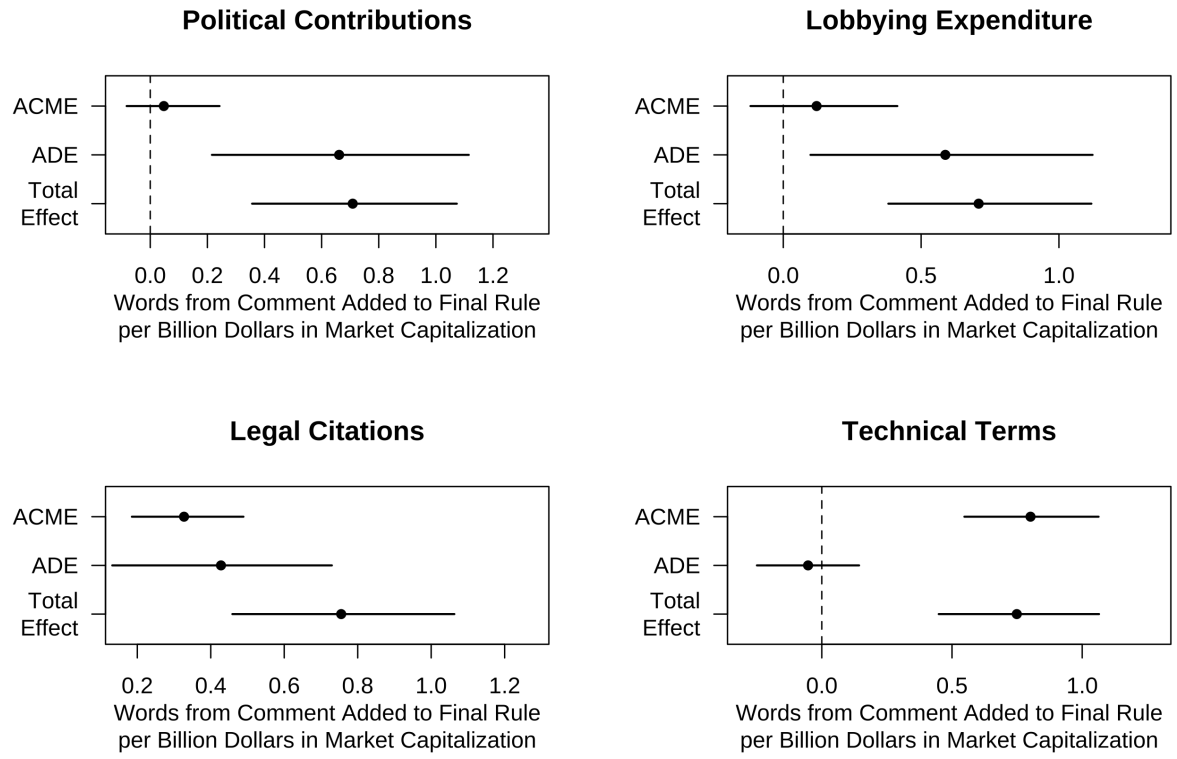


Table 6: Models for Mediation Analysis

	(1)	(2)	(3)	(4)	(5)
Dependent Variable	**Campaign (PAC) Spending**	**Lobbying (LDA) Spending**	**Technical Terms**	**Legal Citations**	**Efficacy**
Market Capitalization (Billions)	121.287***	50.977***	6.688***	0.015***	−0.317*
	(13.818)	(4.107)	(1.036)	(0.003)	(0.126)
Lobbying Spending					0.012***
					(0.004)
PAC Spending					−0.003**
					(0.001)
Technical Terms					0.118***
					(0.006)
Legal Citations					2.090
					(2.216)
Num.Obs.	299	299	299	299	299
Log.Lik.	−3505.358	−3142.570	−2730.868	−992.886	−2001.372

+ p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001

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