## 1AC

### 1AC---Plan

#### Plan: The United States federal government should substantially increase internationally coordinated prohibitions on anticompetitive mergers by systemically important private sector financial institutions by expanding the scope of its core antitrust laws.

### 1AC---ADV---Too Big Too Fail

#### The current scope of antitrust law has exacerbated the “too big to fail,” or, TBTF, subsidy---that jeopardizes the systemic stability of the economy.

Kress 22 (Jeremy C., Assistant Professor of Business Law and Michael R. & Mary Kay Hallman Fellow, University of Michigan Ross School of Business, “REVIVING BANK ANTITRUST,” Forthcoming, Duke Law Journal, volume 72, DOA: 2-28-2022) //Snowball //~~rhetoric~~ [modified]

B. Expanding the Aperture: Considering Non-Price Competitive Harms

Even with stronger analytical tools, however, a purely consumer welfare-focused approach will not prevent harmful bank consolidation. That is because excessive bank concentration inflicts numerous societal costs that a consumer welfare-focused approach ignores. As documented above, bank consolidation diminishes product quality, increases entry barriers, and intensifies macroeconomic fragility—yet an antitrust enforcement regime premised on limiting consumer prices and maximizing efficiency fails to grapple with these broader harms.376 To better protect the public, therefore, antitrust enforcers should renounce their narrow focus on consumer prices and efficiency in favor of a more complete analysis of the numerous nonprice harms that bank consolidation threatens to impose. This Section sketches out how antitrust enforcers could incorporate non-price considerations into their bank merger analyses and thereby shield the public from the broader costs of excessive financial sector concentration.

As an initial matter, preventing non-price competitive harms is firmly within bank antitrust enforcers’ statutory remit. As Professors Lina Khan and Tim Wu have documented, the U.S. antitrust laws were originally designed to protect not only a broad array of consumer interests but also far-reaching societal priorities including the preservation of open markets and system stability.377 The antitrust laws, as initially understood, sought to prevent extreme concentrations of economic and political power that could distort not only free enterprise but also democracy itself.378 Although the Chicago School has narrowed antitrust’s focus to consumer prices and efficiency, this circumscribed approach is neither required nor supported by statute.379 To the contrary, history suggests that Congress intended antitrust enforcers and courts to adopt expansive interpretations of the ways in which market concentration ~~impairs~~ [impedes] economic and political liberties.380

To faithfully effectuate antitrust policy, therefore, bank antitrust enforcers must consider non-price competitive harms such as market distortions created by the “too-big-to-fail” subsidy. As discussed above, certain large banks benefit from a perception that the government would bail them out if they were to experience economic distress.381 This perception enables “too-big-to-fail” banks to borrow at favorable rates relative to smaller competitors, thereby granting big banks a competitive advantage and deterring new entrants.382 Despite evidence that large mergers exacerbate the “too-big-to-fail” subsidy, however, “antitrust enforcers and courts d[o] not account for … the competitive distortions in creating [too-big-to-fail] firms.”383 Going forward, antitrust enforcers should routinely perform econometric analyses to assess whether a bank would accrue a new or expanded “too-big-to-fail” subsidy following a proposed merger. If models suggest that a merger such as BB&T’s combination with SunTrust would enlarge the “too-big-to-fail” subsidy, antitrust enforcers should block the merger to prevent further competitive distortions.

Antitrust enforcers could further bolster their analysis by considering ~~impairments~~ [impediments] in product quality likely to stem from a bank merger, including branch closures. Recall that antitrust enforcers do not currently consider reductions in branch access as part of a bank merger evaluation, and the law prohibits the banking agencies from blocking a branch closure after consummation of a merger.384 To evaluate potential deterioration in product quality, antitrust enforcers should require merging banks to disclose planned branch closures during the antitrust review process instead of waiting until after consummation of the merger, as is current practice.385 Once disclosed, enforcers should assess the extent to which an applicant’s proposed branch closures would inconvenience consumers and deprive communities of financial services, with heightened scrutiny of planned branch closures in LMI areas. In addition to branch closures, antitrust enforcers should assess whether a proposed merger might ~~impair~~ [impede] customer service or threaten consumer privacy.386 At a minimum, these potential diminishments in product quality should be weighed against any purported public benefits that might result from a proposed merger.387 In addition, as part of the antitrust review process, enforcers could seek commitments from a merging bank not to curtail certain services or sell consumers’ personal data.

In addition to distortive subsidies and product quality, bank antitrust enforcers ought to consider macroeconomic resilience when reviewing a proposed merger. As discussed above, bank consolidation may threaten competition by intensifying risks to financial stability.388 After the 2008 financial crisis, Congress amended the bank merger statutes to instruct the federal banking agencies to assess whether a proposed merger “would result in greater or more concentrated risks to the stability of the United States banking or financial system.”389 To date, however, the banking agencies’ financial stability analyses have been conceptually rudimentary and permissive of large bank mergers.390 In the absence of effective financial stability analyses by the banking agencies, the DOJ should incorporate financial stability into its antitrust reviews to prevent systemically risky mergers that could inflict severe economic damage and diminish competition throughout the economy.391 Numerous empirical metrics for assessing systemic risk already exist—such as the Basel Committee on Bank Supervision’s “global systemically important bank” score—and could inform the DOJ’s financial stability assessments. 392

#### Under TBTF, banks experience a moral hazard to undertake risky investments.

Lesche 21 (Tom Filip, Professor of Management and Economics at Witten/Herdecke University, “Too Big to Fail in Banking: Impact of G-SIB Designation and Regulation of Relative Equity Valuations,” 2021, Springer, https://link.springer.com/book/10.1007%2F978-3-658-34182-4) //G-SIB = globally, systemically important bank, IGG = implicit government guarantee, EGG = explicit government guarantee

4.2 Implicit Government Guarantees (IGGs)

An IGG extends deposit insurance to uninsured bank liabilities without payment of any insurance premium by the insured G-SIB. This is why the fundamental consequences of deposit insurance (see Sect. 2.5) are also applicable here, only more strongly. The first two subsections explain why (see Sect. 4.2.1) and how (see Sect. 4.2.2) banks receive IGGs and are able to shift the liability for their potential losses to the state. This expected government intervention on a selective basis in a free-market economy results per defnitionem in the distortion of market forces and incentives—more precisely, in moral hazards. The subsequent sections discuss how the behaviour of various bank stakeholders changes—namely, that of the creditors (see Sect. 4.2.3), the bank (management) (see Sect. 4.2.4), and the shareholders (see Sect. 4.2.5). Empirical evidence, where available, complements the findings.

4.2.1 IGG Origin

An IGG has two possible origins:

1. An official government statement designates a bank TBTF for two possible reasons:

a. to pre-emptively give certainty to bank stakeholders and other market participants, and to stabilise the overall banking system, or

b. to impose special regulatory requirements on the bank.

2. The market perceives a bank to be TBTF. This, in contrast, is based on the expectation of potential public bailout measures. The market participants that would potentially benefit from an EGG know what motivates policymakers to opt for a bailout (Sect. 4.1.1). Hence, even if a bank is not officially designated as TBTF, market participants will treat a bank as such if they are aware of the systemic importance and react to it by reasonably anticipating the EGG.40

4.2.2 IGG Strength

Even if a bank has been officially designated TBTF, the scope of any potential bailout will rarely be defined ex ante. This said, the strength of the IGG—and so the moral-hazard effect—depends in general again on market expectations: i.e., on the expected probability and scope of EGGs (see Sect. 4.1.2). These expectations are usually derived from past public interventions and bailout experiences.41

The value of such an IGG for a bank and its counterparties is not only dependent on the strength of the expected bailout, but also on the condition of the financial system. The more uncertainty or volatility there is in a market (such as during a banking crisis), the higher the value of a potential protection. This free insurance works like a put option getting closer to the money.42

It is worthwhile to note several factors that mitigate the strength and value of IGGs:

1. TBTF regulation: TBTF regulations constitute additional regulation and supervision of G-SIBs. These may include legislation concerning the contractual liability writeoffs during a bailout—a so-called bail-in (see Sect. 6.3).43

2. ‘Too-big-to-save’: The public finance capacity of some countries is insufficient to credibly protect G-SIBs. In such situations, banks may be called ‘too-big-to save’, which implies that TBTF failures can cause national insolvency.44

3. ‘Too-many-to-fail’: This term names a general weakness of an entire banking sector that implies that a government is less likely to protect one bank because it cannot protect all similarly weak G-SIBs.45 This scenario is also known as a ‘too-many-to-fail’.46

Due to the above-named complexities, the extent of IGGs differs across countries and across banks within one country.47

4.2.3 Creditor Moral Hazard

The creditor moral hazard (see Sect. 2.5) extends simply from the depositors, who are already covered by the statutory deposit insurance, to all liability holders that are expected to be protected under a bailout of a G-SIB. Ultimately, creditor moral hazard leads to lower funding costs and larger counterparty positions for G-SIBs. This is the result of the lower return requirements of the creditors and is driven by the following:

• Lower default probability of bank liabilities: In event of bank bankruptcy, liabilities are generally repaid out of the insolvency estate. For the creditors, the IGG works like a double bottom and results in a downward shift in the probability of the default of the respective liabilities, including counterparty risk of derivative contracts.48 Bank creditors not only lend at a lower rate according to the fundamental risk/return tradeoff, but bank counterparties are also willing to accept larger positions and to price in lower counterparty risk. Two main approaches are analysed in the literature to support the foundation of the lower default probability:49

– An ‘objective argument’, mostly measured by market CDS spreads, and

– A ‘subjective argument’, measured by credit rating differences.

• Lower bank monitoring costs: The IGG partly replaces the necessity of monitoring the counterparty bank, which results in a decrease in associated costs.

Economic costs, or negative public economies, accrue when investors come to regard a bank as TBTF. These equal the total costs the bank and its creditors save due to its TBTF status: viz., the asserted argument of lower funding costs and lower bank-monitoring costs. What follows are the empirical results of different studies and methods analysing the above theoretical assertions with regard to the lowered default probability measured by credit ratings and CDS spreads. The lower monitoring costs and the larger counterparty positions are not as well analysed empirically. It also seems unclear to what degree the creditors versus the banks benefit from creditor moral hazard. Studies of the overall funding cost advantage of G-SIBs dominate this research field. All studies, regardless of the method applied, find very large and significant funding cost advantages of G-SIBs.

Stronger Credit Ratings

Rating agencies publish a variety of credit ratings about banks’ creditworthiness, the issuer itself, and certain (classes of) financial obligations. Credit ratings represent the probability of default on the rating agency’s own rating scale. Such credit ratings are a subjective assessment and do not always prove accurate. Nevertheless, to some degree, the rating also reflects and influences the market view of a bank’s solvency because debt holders often base their investment and pricing decisions to a significant degree on such ratings. Hence, a better rating generally leads to cheaper funding conditions. Moreover, external ratings of bank debt are often a benchmark for central banks and wholesale operations and define minimum collateral requirements. This also means that better ratings indirectly result in better funding conditions in this case as well.

The three major credit-rating agencies—Standard & Poor’s (S&P), Moody’s, and Fitch—calculate and publish two (or more) separate issuer ratings that are of particular interest for our purposes: (i) a stand-alone issuer rating,50 that reflects a bank’s intrinsic capacity to repay its obligations, and (ii) an overall issuer rating,51 that reflects a bank’s capacity to repay its obligations with potential external support.

In order to measure the TBTF effect, several studies simply compare both ratings.52 The difference reflects the impact or value of possible external support, primarily by the government. All of the studies find that banks considered TBTF receive overall rating uplifts—i.e. credit rating upgrades—compared with other banks.53 This rating “bonus” varies: it is stronger after government interventions54 and ranges from one to four notches. Furthermore, it is found that, higher IGGs are driven by a lower stand-alone rating of a bank,55 a larger domestic market share of the bank, and greater solvency of the bank’s sovereign.56

Lower CDS Spreads

Credit default swaps (CDSs) are credit derivatives used to insure against default of debt instruments. That means that CDSs securitise and reflect the default risk, while debt instruments also comprise interest rate risks in their market prices. Because IGGs only affect default risk, CDS are an intuitive measure for teasing out the insurance costs of an IGG. CDS investors might also rely on credit ratings; however, CDS markets are dominated by institutional investors that are potentially able to independently and accurately assess a bank’s probability of default.57 Moreover, market discipline in the CDS market is usually strong.

Many studies have illustrated that TBTF status affects CDS prices.58 One study using regression analyses finds that ‘a one percentage point increase in size reduces the CDS spread of a bank by about two basis points’. However, scholars agree that IGGs have a threshold, above which some banks are considered ‘too-big-to-be rescued’59. Event studies identify widening CDS spreads prior to government interventions at other banks that are followed by narrowing CDS spreads around and after events.60

Lower Funding Costs

Funding costs reflect investors’ assessment of risk levels. Risk is measured in terms of spreads above the risk-free rate, which is normally defined as the rate on bonds fully guaranteed by the government, such as government bonds. This is why spreads are generally aligned with credit ratings and CDS spreads. However, systemic market factors and issue-specific factors (such as liquidity) also affect bond prices and yields.61

When investors perceive a bank as TBTF, the risk is primarily in the probability that the government will unexpectedly not rescue the bank weighted by the likelihood of a threatening default. The funding-cost advantage is calculated by translating the rating62 or CDS63 uplift associated to TBTF into the yields paid on banks’ liabilities. Alternatively, some authors apply econometric models64 and control for factors other than TBTF. Other event studies that observe sudden credit-spread changes such after merger-related events65 or government interventions66. Regardless of the research methodology, the observed yield difference—also called the spread—is an estimate of the monetary measure of IGGs. It is denoted in relative terms as a credit spread or in absolute terms as a monetary amount67 and it represents the reduction of funding costs. This funding-cost advantage comprises both the structural strength of the IGG and the time-varying market valuation of the IGG.68 A wide range of studies illustrate robust and very large funding benefits for banks considered TBTF of up to 600 basis points or several-hundred billion US$ per year per bank.69 The relative and absolute funding advantages change materially over time and across banks and jurisdictions.70 Only explicit guarantees to (partially) government-owned banks are stronger than IGG.71 In other words, empirical studies, as a whole, suggest that even the uninsured liabilities of G-SIBs exhibit little sensitivity to banks’ risk-taking.72 It is noteworthy that G-SIBs are also more flexible in their funding strategies and more readily change their funding mix compared to non-G-SIBs.73 This is why the full funding advantage extends beyond a simple comparison of the yields of the same debt instruments.

4.2.4 Bank Moral Hazard

The increased creditor moral hazard caused by the extension of guarantees of the retail depositors (see Sect. 4.2.3) to quasi all creditors of G-SIBs—even if only implicit—also exacerbates bank moral hazards.74 Banks exploit IGGs in terms of (i) increased risk-taking and (ii) increased growth.75

Increased Risk-Taking

There are two reasons increased risk-taking is caused by creditor moral hazard stemming from the TBTF doctrine:

• Less monitoring: The typically well-informed and fast-moving institutional market participants are the driving forces behind a bank’s market discipline. Without sufficient monitoring, engagement and signalling from creditors, bank management increasingly works to benefit shareholders and increase profitability by increasing risk, according to the risk-return principle.

• Lower funding costs: G-SIBs pay lower funding costs for a given level of risk and capital. This makes investment projects profitable at a lower return level: i.e., the relationship of risk and return worsens.

Concerning the increase in risk-taking, ample empirical studies exhibit several different forms of risk-taking:

• Higher leverage: Holding less equity in relation to total assets or liabilities incurs greater risk.76

• Higher asset risk: Engaging in high-risk investments with higher default rates77 and tail risk results in higher asset risk.78

• Higher liquidity risk: G-SIBs take on liquidity risk by pursuing a higher risk funding strategy and holding less stable funding.79

• Higher operational risk: Poor management of all other operational risk categories results in operational risk.80

Higher riskiness of a bank’s overall activities leads to a higher variance in returns.81 This, in turn, results in higher potential losses82 and higher stress to the economy. This suggests that G-SIBs ‘may have a distinct, possibly more fragile, business model’.83 In addition, non-G-SIB competitor banks are also indirectly encouraged to keep the pace with regard to profitability and increased risk.84

Market Discipline and Charter Value

A bank is endogenously incentivised by its creditors and shareholders to exercise market discipline—i.e., to implement prudent risk management. Creditors want to ensure the repayment of their borrowings at par. Shareholders want to ensure that the bank maximises the profits after (re)paying the creditors, but without breaching regulatory requirements—i.e., without losing the banking license.85 This charter value is the shareholders’ value generated by the ownership of the banking license, which is foregone after a bank bankruptcy. Hence, the charter value has an importance for G-SIBs depending on the expected EGG. When creditor monitoring is weak, charter value is the intrinsic motivation to exercise market discipline that most reduces the moral hazard of risk-taking by G-SIBs. There is a trade-off between preserving a bank’s charter value, which decreases as bank risk increases, and maximising the put option value from the IGG, which increases as bank risk increases.86 This implies that the optimal risk management strategy is to increase risk either when the bank’s charter value declines87 or when the risk of losing it declines, and vice versa88. That means the cross-sectional distribution of bank risk-taking is non-uniform. Empirical studies confirm that higher capital levels are associated with higher charter value and lower risk, and vice-versa.89 However, it seems that charter value and risk only exhibit a strong, inverse relationship during economic expansion; the opposite holds during economic contradictions.90 Furthermore, due to higher regulatory capital requirements, the disciplining effect of charter value diminishes.91 Findings92 suggest that charter value has been declining over time, contributing to the increase in risk-taking in the years before the GFC.93

Increase of Size

There are basically two reasons why banks increase in size because of the TBTF doctrine:

• Increasing systemic importance: Several studies show that banks sometimes grow larger than the size providing the greatest scale and scope economies (social optimum), especially to achieve or extend TBTF status and thereby exploit IGGs. Deposit insurance only incentivises extending the magnitude of insured deposits to benefit from cheaper deposits, as deposit insurance is generally underpriced. The relatively stable retail deposits are, per se, beneficial to the stability of the financial system. The TBTF doctrine, however, not only incentivises increasing the ratio of liabilities to insured deposits but also incentivises increasing the entire balance sheet to thereby increase IGGs. There are also other categories of achieving systemic importance (Sect. 3.3), but size remains the most prominent. Also, regarding motivations for M&A activities (i.e., to grow inorganically), TBTF is among the most relevant.94

• Increase of risk-taking: Firm size and risk-taking among banks are highly positively correlated.95 Banks manage risk increase mostly through increased leverage, which means balance-sheet expansion. Moreover, more risky and more profitable banks are also able to grow faster.

#### Furthermore, merger-based consolidation short-circuits monetary policy, which makes the economy highly vulnerable.

Kress 22 (Jeremy C., Assistant Professor of Business Law and Michael R. & Mary Kay Hallman Fellow, University of Michigan Ross School of Business, “Re: Comment letter on ‘Banking Guidelines Review,’” 15 February 2022, https://www.justice.gov/atr/page/file/1474311/download, DOA: 2-28-2022) //Snowball //rhetoric [modified]

3. Bank Mergers Intensify Macroeconomic Threats

The Bank Merger Guidelines also overlook the ways in which bank consolidation threatens the macroeconomy. A strong economy promotes competition by encouraging new start-ups, fostering foreign investment, and boosting consumer demand.71 Bank consolidation, however, imperils the macroeconomy—and thereby lessens competition—by impeding monetary policy transmission and intensifying systemic risks.

a. ~~Impaired~~ [Impeded] Monetary Policy Transmission

In order to achieve sustainable economic growth, the Federal Reserve sets monetary policy to stimulate economic activity during downturns and prevent overheating during expansions. Escalating concentration in the banking sector, however, disrupts the transmission of monetary policy. In uncompetitive markets, banks do not reliably alter their behavior in response to Federal Reserve policy changes and, as a result, monetary policy does not have its desired effect.72 For example, when the Federal Reserve loosens monetary policy to encourage economic activity, lenders in concentrated areas exploit their market power by maintaining high interest rates instead of passing on cheaper rates to borrowers.73 Thus, banks capture bigger profits but, in the process, they thwart the Federal Reserve’s goal of spurring borrowing and economic activity. In one estimate, Professors David Scharfstein and Adi Sunderam calculate that a one-standard deviation increase in county-level lender concentration reduces total monetary policy transmission by almost thirty percent.74 By blunting the effect of monetary policy, therefore, bank concentration weakens the United States’ resilience to macroeconomic shocks like the 2008 financial crisis and the Covid19 pandemic.

b. Increased Systemic Risks

In addition to impeding monetary policy, bank consolidation also threatens competition by intensifying risks to financial stability. In the lead-up to the 2008 financial crisis, antitrust enforcers authorized a series of megamergers that created “too big to fail” conglomerates.75 When some of these firms collapsed, they inflicted severe economic damage that diminished competition throughout the economy.76 Indeed, the ensuing financial crisis wiped out nearly one in four insured depository institutions, substantially reducing competition in the banking sector.77 The crisis also triggered a torrent of corporate bankruptcies, eliminating competitors in numerous industries.78 This economic meltdown was a predictable consequence of excessive consolidation in the banking sector. In fact, numerous empirical studies have demonstrated that large bank mergers increase financial instability.79 The Bank Merger Guidelines unwisely ignore systemic risks despite the threat that financial crises pose to competition.

#### A convergence of factors is setting the stage for World War III---structural financial reform solves.

Liu 18 (Qian, Managing Director, Greater China, The Economist Group, “The next economic crisis could cause a global conflict. Here's why,” 13 November 2018, <https://www.weforum.org/agenda/2018/11/the-next-economic-crisis-could-cause-a-global-conflict-heres-why>, DOA: 3-31-2022)

The response to the 2008 economic crisis has relied far too much on monetary stimulus, in the form of quantitative easing and near-zero (or even negative) interest rates, and included far too little structural reform. This means that the next crisis could come soon – and pave the way for a large-scale military conflict.

The next economic crisis is closer than you think. But what you should really worry about is what comes after: in the current social, political, and technological landscape, a prolonged economic crisis, combined with rising income inequality, could well escalate into a major global military conflict.

The 2008-09 global financial crisis almost bankrupted governments and caused systemic collapse. Policymakers managed to pull the global economy back from the brink, using massive monetary stimulus, including quantitative easing and near-zero (or even negative) interest rates.

But monetary stimulus is like an adrenaline shot to jump-start an arrested heart; it can revive the patient, but it does nothing to cure the disease. Treating a sick economy requires structural reforms, which can cover everything from financial and labor markets to tax systems, fertility patterns, and education policies.

Policymakers have utterly failed to pursue such reforms, despite promising to do so. Instead, they have remained preoccupied with politics. From Italy to Germany, forming and sustaining governments now seems to take more time than actual governing. And Greece, for example, has relied on money from international creditors to keep its head (barely) above water, rather than genuinely reforming its pension system or improving its business environment.

The lack of structural reform has meant that the unprecedented excess liquidity that central banks injected into their economies was not allocated to its most efficient uses. Instead, it raised global asset prices to levels even higher than those prevailing before 2008.

In the United States, housing prices are now 8% higher than they were at the peak of the property bubble in 2006, according to the property website Zillow. The price-to-earnings (CAPE) ratio, which measures whether stock-market prices are within a reasonable range, is now higher than it was both in 2008 and at the start of the Great Depression in 1929.

As monetary tightening reveals the vulnerabilities in the real economy, the collapse of asset-price bubbles will trigger another economic crisis – one that could be even more severe than the last, because we have built up a tolerance to our strongest macroeconomic medications. A decade of regular adrenaline shots, in the form of ultra-low interest rates and unconventional monetary policies, has severely depleted their power to stabilize and stimulate the economy.

If history is any guide, the consequences of this mistake could extend far beyond the economy. According to Harvard’s Benjamin Friedman, prolonged periods of economic distress have been characterized also by public antipathy toward minority groups or foreign countries – attitudes that can help to fuel unrest, terrorism, or even war.

For example, during the Great Depression, US President Herbert Hoover signed the 1930 Smoot-Hawley Tariff Act, intended to protect American workers and farmers from foreign competition. In the subsequent five years, global trade shrank by two-thirds. Within a decade, World War II had begun.

To be sure, WWII, like World War I, was caused by a multitude of factors; there is no standard path to war. But there is reason to believe that high levels of inequality can play a significant role in stoking conflict.

According to research by the economist Thomas Piketty, a spike in income inequality is often followed by a great crisis. Income inequality then declines for a while, before rising again, until a new peak – and a new disaster. Though causality has yet to be proven, given the limited number of data points, this correlation should not be taken lightly, especially with wealth and income inequality at historically high levels.

This is all the more worrying in view of the numerous other factors stoking social unrest and diplomatic tension, including technological disruption, a record-breaking migration crisis, anxiety over globalization, political polarization, and rising nationalism. All are symptoms of failed policies that could turn out to be trigger points for a future crisis.

Voters have good reason to be frustrated, but the emotionally appealing populists to whom they are increasingly giving their support are offering ill-advised solutions that will only make matters worse. For example, despite the world’s unprecedented interconnectedness, multilateralism is increasingly being eschewed, as countries – most notably, Donald Trump’s US – pursue unilateral, isolationist policies. Meanwhile, proxy wars are raging in Syria and Yemen.

Against this background, we must take seriously the possibility that the next economic crisis could lead to a large-scale military confrontation. By the logic of the political scientist Samuel Huntington, considering such a scenario could help us avoid it, because it would force us to take action. In this case, the key will be for policymakers to pursue the structural reforms that they have long promised, while replacing finger-pointing and antagonism with a sensible and respectful global dialogue. The alternative may well be global conflagration.

#### Inequality-driven collapse causes extinction from nuclear war and environmental devastation.

Maavak 21 (Mathew, PhD in Policy Studies from the Universiti Teknologi Malaysia, “Horizon 2030: Will Emerging Risks Unravel Our Global Systems?,” 2021, <https://salusjournal.com/wp-content/uploads/2021/04/Maavak_Salus_Journal_Volume_9_Number_1_2021_pp_2_17.pdf>, DOA: 3-31-2022) //~~rhetoric~~ [modified]

According to Professor Stanislaw Drozdz (2018) of the Polish Academy of Sciences, “a global financial crash of a previously unprecedented scale is highly probable” by the mid-2020s. This will lead to a trickle-down meltdown, impacting all areas of human activity.

[graph omitted]

The economist John Mauldin (2018) similarly warns that the “2020s might be the worst decade in US history” and may lead to a Second Great Depression. Other forecasts are equally alarming. According to the International Institute of Finance, global debt may have surpassed $255 trillion by 2020 (IIF, 2019). Yet another study revealed that global debts and liabilities amounted to a staggering $2.5 quadrillion (Ausman, 2018). The reader should note that these figures were tabulated before the COVID-19 outbreak.

The IMF singles out widening income inequality as the trigger for the next Great Depression (Georgieva, 2020). The wealthiest 1% now own more than twice as much wealth as 6.9 billion people (Coffey et al, 2020) and this chasm is widening with each passing month. COVID-19 had, in fact, boosted global billionaire wealth to an unprecedented $10.2 trillion by July 2020 (UBS-PWC, 2020). Global GDP, worth $88 trillion in 2019, may have contracted by 5.2% in 2020 (World Bank, 2020).

As the Greek historian Plutarch warned in the 1st century AD: “An imbalance between rich and poor is the oldest and most fatal ailment of all republics” (Mauldin, 2014). The stability of a society, as Aristotle argued even earlier, depends on a robust middle element or middle class. At the rate the global middle class is facing catastrophic debt and unemployment levels, widespread social disaffection may morph into outright anarchy (Maavak, 2012; DCDC, 2007).

Economic stressors, in transcendent VUCA fashion, may also induce radical geopolitical realignments. Bullions now carry more weight than NATO’s security guarantees in Eastern Europe. After Poland repatriated 100 tons of gold from the Bank of England in 2019, Slovakia, Serbia and Hungary quickly followed suit.

According to former Slovak Premier Robert Fico, this erosion in regional trust was based on historical precedents – in particular the 1938 Munich Agreement which ceded Czechoslovakia’s Sudetenland to Nazi Germany. As Fico reiterated (Dudik & Tomek, 2019):

“You can hardly trust even the closest allies after the Munich Agreement… I guarantee that if something happens, we won’t see a single gram of this (offshore-held) gold. Let’s do it (repatriation) as quickly as possible.” (Parenthesis added by author).

President Aleksandar Vucic of Serbia (a non-NATO nation) justified his central bank’s gold-repatriation program by hinting at economic headwinds ahead: “We see in which direction the crisis in the world is moving” (Dudik & Tomek, 2019). Indeed, with two global Titanics – the United States and China – set on a collision course with a quadrillions-denominated iceberg in the middle, and a viral outbreak on its tip, the seismic ripples will be felt far, wide and for a considerable period.

A reality check is nonetheless needed here: Can additional bullions realistically circumvallate the economies of 80 million plus peoples in these Eastern European nations, worth a collective $1.8 trillion by purchasing power parity? Gold however is a potent psychological symbol as it represents national sovereignty and economic reassurance in a potentially hyperinflationary world. The portents are clear: The current global economic system will be weakened by rising nationalism and autarkic demands. Much uncertainty remains ahead. Mauldin (2018) proposes the introduction of Old Testament-style debt jubilees to facilitate gradual national recoveries. The World Economic Forum, on the other hand, has long proposed a “Great Reset” by 2030; a socialist utopia where “you’ll own nothing and you’ll be happy” (WEF, 2016).

In the final analysis, COVID-19 is not the root cause of the current global economic turmoil; it is merely an accelerant to a burning house of cards that was left smouldering since the 2008 Great Recession (Maavak, 2020a). We also see how the four main pillars of systems thinking (diversity, interconnectivity, interactivity and “adaptivity”) form the mise en scene in a VUCA decade.

ENVIRONMENTAL

What happens to the environment when our economies implode? Think of a debt-laden workforce at sensitive nuclear and chemical plants, along with a concomitant surge in industrial accidents? Economic stressors, workforce demoralization and rampant profiteering – rather than [hu]manmade climate change – arguably pose the biggest threats to the environment. In a WEF report, Buehler et al (2017) made the following pre-COVID-19 observation:

The ILO estimates that the annual cost to the global economy from accidents and work-related diseases alone is a staggering $3 trillion. Moreover, a recent report suggests the world’s 3.2 billion workers are increasingly unwell, with the vast majority facing significant economic insecurity: 77% work in part-time, temporary, “vulnerable” or unpaid jobs.

Shouldn’t this phenomenon be better categorized as a societal or economic risk rather than an environmental one? In line with the systems thinking approach, however, global risks can no longer be boxed into a taxonomical silo. Frazzled workforces may precipitate another Bhopal (1984), Chernobyl (1986), Deepwater Horizon (2010) or Flint water crisis (2014). These disasters were notably not the result of [hu]manmade climate change. Neither was the Fukushima nuclear disaster (2011) nor the Indian Ocean tsunami (2004). Indeed, the combustion of a long-overlooked cargo of 2,750 tonnes of ammonium nitrate had nearly levelled the city of Beirut, Lebanon, on Aug 4 2020. The explosion left 204 dead; 7,500 injured; US$15 billion in property damages; and an estimated 300,000 people homeless (Urbina, 2020). The environmental costs have yet to be adequately tabulated.

Environmental disasters are more attributable to Black Swan events, systems breakdowns and corporate greed rather than to mundane human activity.

Our JIT world aggravates the cascading potential of risks (Korowicz, 2012). Production and delivery delays, caused by the COVID-19 outbreak, will eventually require industrial overcompensation. This will further stress senior executives, workers, machines and a variety of computerized systems. The trickle-down effects will likely include substandard products, contaminated food and a general lowering in health and safety standards (Maavak, 2019a). Unpaid or demoralized sanitation workers may also resort to indiscriminate waste dumping. Many cities across the United States (and elsewhere in the world) are no longer recycling wastes due to prohibitive costs in the global corona-economy (Liacko, 2021).

Even in good times, strict protocols on waste disposals were routinely ignored. While Sweden championed the global climate change narrative, its clothing flagship H&M was busy covering up toxic effluences disgorged by vendors along the Citarum River in Java, Indonesia. As a result, countless children among 14 million Indonesians straddling the “world’s most polluted river” began to suffer from dermatitis, intestinal problems, developmental disorders, renal failure, chronic bronchitis and cancer (DW, 2020). It is also in cauldrons like the Citarum River where pathogens may mutate with emergent ramifications.

On an equally alarming note, depressed economic conditions have traditionally provided a waste disposal boon for organized crime elements. Throughout 1980s, the Calabria-based ‘Ndrangheta mafia – in collusion with governments in Europe and North America – began to dump radioactive wastes along the coast of Somalia. Reeling from pollution and revenue loss, Somali fisherman eventually resorted to mass piracy (Knaup, 2008).

The coast of Somalia is now a maritime hotspot, and exemplifies an entwined form of economic-environmental-geopolitical-societal emergence. In a VUCA world, indiscriminate waste dumping can unexpectedly morph into a Black Hawk Down incident. The laws of unintended consequences are governed by actors, interconnections, interactions and adaptations in a system under study – as outlined in the methodology section.

Environmentally-devastating industrial sabotages – whether by disgruntled workers, industrial competitors, ideological ~~maniacs~~ or terrorist groups – cannot be discounted in a VUCA world. Immiserated societies, in stark defiance of climate change diktats, may resort to dirty coal plants and wood stoves for survival. Interlinked ecosystems, particularly water resources, may be hijacked by nationalist sentiments. The environmental fallouts of critical infrastructure (CI) breakdowns loom like a Sword of Damocles over this decade.

GEOPOLITICAL

The primary catalyst behind WWII was the Great Depression. Since history often repeats itself, expect familiar ~~bogeymen~~ to reappear in societies roiling with impoverishment and ideological clefts. Anti-Semitism – a societal risk on its own – may reach alarming proportions in the West (Reuters, 2019), possibly forcing Israel to undertake reprisal operations inside allied nations. If that happens, how will affected nations react? Will security resources be reallocated to protect certain minorities (or the Top 1%) while larger segments of society are exposed to restive forces? Balloon effects like these present a classic VUCA problematic.

Contemporary geopolitical risks include a possible Iran-Israel war; US-China military confrontation over Taiwan or the South China Sea; North Korean proliferation of nuclear and missile technologies; an India-Pakistan nuclear war; an Iranian closure of the Straits of Hormuz; ~~fundamentalist-driven implosion in the Islamic world~~; or a nuclear confrontation between NATO and Russia. Fears that the Jan 3 2020 assassination of Iranian Maj. Gen. Qasem Soleimani might lead to WWIII were grossly overblown. From a systems perspective, the killing of Soleimani did not fundamentally change the actor-interconnection-interactionadaptivity equation in the Middle East. Soleimani was simply a cog who got replaced.

### 1AC---ADV---Regulatory Capture

#### Bank consolidation is the root cause of broader economic concentration---it locks in regulatory capture and undermines democracy---only expanding the scope of bank antitrust can solve.

Kress 22 (Jeremy C., Assistant Professor of Business Law and Michael R. & Mary Kay Hallman Fellow, University of Michigan Ross School of Business, “REVIVING BANK ANTITRUST,” Forthcoming, Duke Law Journal, volume 72, DOA: 2-28-2022) //Snowball //~~rhetoric~~ [modified]

More broadly, the banking agencies and the DOJ should take into account the full macroeconomic consequences of bank consolidation when making antitrust enforcement decisions. As discussed above, consolidation in the banking sector hastens consolidation throughout the economy.393 Larger banks lend to larger businesses, thereby favoring incumbent firms, cutting off funding for new entrants, and ~~impairing~~ [impeding] competition.394 Bank mergers, in turn, are associated with less competitive labor markets throughout the economy.395 Accelerating bank concentration also impedes monetary policy transmission and limits the Federal Reserve’s ability to stimulate economic activity when conditions warrant.396 Moreover, “financialization”—when finance constitutes an increasingly large proportion of a country’s economy—is associated with declining productivity and increased economic inequality.397 Going forward, therefore, bank consolidation’s far-reaching anticompetitive consequences should inform the intensity of bank antitrust enforcement, and preventing excessive bank concentration ought to be a top priority of the broader antimonopoly agenda.

Finally, beyond the direct economic consequences of bank consolidation, policymakers should remain cognizant of political economy when making antitrust enforcement decisions. Bank consolidation threatens to distort the democratic process through large banks’ legislative and regulatory lobbying, “revolving door” hiring practices, and sizeable political donations.398 As Professor Art Wilmarth has documented, big banks’ “political influence has expanded along with the growing significance of the financial sector in the U.S. economy.”399 Concentrating additional economic and political power in large banks may therefore lead to further distortions of public policy that facilitate banks’ rent-seeking and ~~impair~~ [impede] broader societal interests. Preventing this type of distortion in the democratic process is a foundational tenet of U.S. antitrust law and should therefore guide bank antitrust enforcement in the future.400

In sum, to faithfully effectuate bank antitrust policy, enforcers must consider not only consumer welfare and efficiency but also a much broader range of non-price competitive harms associated with excessive bank consolidation. The consumer welfare approach can play a role in effective bank antitrust enforcement if appropriately strengthened using the strategies proposed in Section IV.A. Because of the consumer welfare standard’s narrow focus, however, bank antitrust enforcers must augment their analysis with a more expansive evaluation of potential non-price harms. This dual approach—encompassing both price- and non-price considerations—is necessary to protect the public from the full range of anticompetitive consequences of excessive bank consolidation.

CONCLUSION

Bank antitrust has lost its way. For much of the twentieth century, Thomas Jefferson’s vision for diffused, localized banks prevailed over Alexander Hamilton’s preference for a centralized financial system. Over the past forty years, however, the Chicago School’s emergence has produced rapid consolidation within the financial sector. Escalating bank concentration, in turn, has hurt consumers and small businesses, ~~impaired~~ [impeded] macroeconomic resilience, and spurred conglomeration throughout the economy. Bank antitrust enforcers have failed to prevent these harmful consequences because the prevailing antitrust framework—guided by the consumer welfare standard—is narrowly focused on consumer prices and efficiency, with a misguided belief that markets are self-correcting and that antitrust intervention is typically unnecessary. A new approach is therefore needed to enhance bank competition. By strengthening analytical tools used to detect anticompetitive bank mergers and expanding the scope of bank antitrust to encompass non-price harms, policymakers can better protect society from the economic and social costs of excessive bank consolidation. As this Article has demonstrated, robust bank competition is essential to thriving and fair commercial markets. Reviving bank antitrust should therefore be an essential cornerstone of a comprehensive pro-competition agenda for the U.S. economy.

#### The financial sector is key---it wields dramatically more influence than any other.

Foroohar 16 (Rana, American business columnist and an associate editor at the Financial Times, “Makers and Takers: The Rise of Finance and the Fall of American Business,” May 17, 2016, Crown Business, DOA: 3-31-2022) //~~rhetoric~~

Part of this adverse impact stems from the decrease in entrepreneurship and economic vibrancy that has gone hand in hand with the growth of finance. Another part is about the mounting monopoly power of large banks, whose share of all banking assets has more than tripled since the early 1970s. (America’s five largest banks now make up half its commercial banking industry.)45 That growing dominance means that financial institutions can increasingly funnel money where they like, which tends to be toward debt and speculation, rather than productive investment on which it takes longer to reap a profit. Power—in terms of both size and influence—is also the reason the financial sector’s lobby is so effective. Finance regularly outspends every other industry on lobbying efforts in Washington, D.C.,46 which has enabled it to turn back key areas of regulation (remember the trading loopholes pushed into the federal spending bill by the banking industry in 2014?) and change our tax and legal codes at will. Increasingly, the power of these large, oligopolistic interests is remaking our unique brand of American capitalism into a crony capitalism more suited to a ~~third-world~~ autocracy than a supposedly free-market democracy. 47 Thanks to these changes, our economy is gradually becoming “a zero-sum game between financial wealth-holders and the rest of America,” says former Goldman Sachs banker Wallace Turbeville, who runs a multiyear project on financialization at the nonprofit think tank Demos.48

#### Increased prohibitions of anticompetitive mergers under antitrust law is necessary to remediate consolidation.

Kress 22 (Jeremy C., Assistant Professor of Business Law and Michael R. & Mary Kay Hallman Fellow, University of Michigan Ross School of Business, “REVIVING BANK ANTITRUST,” Forthcoming, Duke Law Journal, volume 72, DOA: 2-28-2022) //Snowball //~~rhetoric~~ [modified]

IV. REVIVING BANK ANTITRUST

As this Article has demonstrated, the erosion of foundational antitrust principles over the past forty years has led to unprecedented concentration in the U.S. financial sector. Widespread bank consolidation, in turn, has harmed customers, small businesses, and the broader economy. Accordingly, this Part proposes a two-pronged roadmap to revive bank antitrust. First, Section A recommends strategies to enhance the prevailing antitrust framework by strengthening and expanding existing analytical tools. Section B then urges antitrust enforcers to broaden their focus beyond the narrow consumer welfare approach by conducting more comprehensive analyses of the competitive harms that bank consolidation imposes on society. Collectively, these reforms would help alleviate concentration in the financial sector and thereby mitigate harms from consolidation throughout the U.S. economy.

A. Strengthening Analytical Tools

As a first step toward revitalizing bank antitrust, policymakers should strengthen and expand the analytical tools used to identify anticompetitive bank consolidation. This Section proposes four specific enhancements: (1) reducing the HHI threshold in the Bank Merger Guidelines, (2) deemphasizing mitigating factors in bank merger reviews, (3) evaluating the mix of large and small institutions in markets experiencing mergers, and (4) considering the effects of common ownership of competing banks. Each of these reforms is broadly consistent with the consumer welfare approach’s emphasis on restraining consumer prices. By better calibrating the analytical toolkit, however, these strategies would increase the likelihood that antitrust enforcers actually protect consumers and small businesses from anticompetitive mergers.

1. Lower the HHI Threshold

To mitigate competitive harms from bank consolidation, policymakers should reduce the HHI threshold that triggers enhanced scrutiny of bank mergers. Recall that under the 1995 Bank Merger Guidelines the enforcement agencies are unlikely to challenge a proposed merger if the post-merger HHI would be below 1,800 or the merger would cause the HHI to increase by less than 200 points.330 This 1800/200 threshold has proven insufficient to prevent anticompetitive harms. 331 Indeed, even bank mergers that comply with the 1800/200 threshold are associated with higher cost and lower availability of financial products.332 Accordingly, the DOJ and the banking agencies should reduce the HHI threshold for enhanced screening of bank mergers. As one possibility, the agencies could commit to heightened scrutiny of a bank merger that would increase a market’s HHI by more than 100 points to a level above 1,500—the same HHI threshold at which nonbanking mergers “potentially raise[s] competitive concerns,” according to the DOJ’s general merger guidelines.333

Reducing the HHI threshold would reinforce a bank’s obligation to demonstrate that a proposed merger’s public benefits outweigh its anticompetitive effects. In contrast to mergers in other industries, a bank merger that would “substantially lessen competition” is not necessarily unlawful.334 Unique to banking, an otherwise anticompetitive merger is permissible if the merging banks “establish that the merger’s benefits to the community outweigh its anticompetitive disadvantages.”335 The banks could show, for example, that the proposed merger would enable the combined firm to offer new products, better service, or greater convenience for customers.336 As the Supreme Court has emphasized, however, in order to offset anticompetitive effects, purported public benefits must be specific, and the banks must demonstrate that they would not be achievable absent the proposed merger.337 Thus, lowering the HHI threshold would not necessarily result in more bank merger denials, but it would intensify banks’ burden to demonstrate the public benefits of potentially anticompetitive combinations.

To be sure, reducing the HHI threshold would elicit objections from the banking sector, which has argued that the 1800/200 threshold is already too stringent compared to the 2500/200 threshold that triggers a presumption of anti-competitiveness in other industries.338 The comparison to the 2010 Guidelines’ 2500/200 threshold, however, is inapposite. First, a proposed bank merger that exceeds the Bank Merger Guidelines’ HHI threshold merely receives enhanced scrutiny rather than a presumption of anticompetitiveness, as is the case for nonbank mergers that exceed the 2500/200 threshold. 339 In this way, the Bank Merger Guidelines’ HHI screen is more akin to the 1500/100 threshold in the 2010 Guidelines for potentially anticompetitive mergers that “warrant scrutiny.”340 Second, the costs of “false negatives”—or misguided decisions to allow anticompetitive mergers—are higher in banking than in other industries.341 Compared to other industries with lower entry barriers, regulation and competitive disadvantages deter de novo banks from forming to counteract the harmful effects of an anticompetitive merger.342 Moreover, in light of banking’s unique and essential role in the economy, anticompetitive bank mergers inflict more extensive and longer-lasting societal harms than anticompetitive mergers in other industries.343 Thus, policymakers should strengthen the Bank Merger Guidelines’ HHI threshold despite the banking sectors’ objections.

As an alternative, or in addition, to lowering the HHI threshold, the enforcement agencies could supplement their analyses with other concentration metrics. While widely considered to be a conceptual advancement over the four-firm concentration ratio previously used in bank antitrust, the HHI has nonetheless been subject to criticism. 344 Skeptics contend, for example, that the HHI undervalues smaller firms’ competitive significance and is insufficiently sensitive to inequality in firms’ market shares. 345 To mitigate the HHI’s shortcomings, the DOJ and banking agencies could use other measures of concentration, such as the Hall-Tideman Index (HTI) or comprehensive industrial concentration index (CCI), in addition to the HHI.346 If appropriately calibrated, these alternative metrics could augment the traditional HHI analysis and thereby help antitrust enforcers identify anticompetitive consolidation in the banking sector.

2. Deemphasize Mitigating Factors

In addition to reducing the HHI threshold, policymakers should stop relying on mitigating factors in bank antitrust analysis. Recall that under the Chicago School’s influence, the banking agencies and the DOJ have frequently cited factors—including branch divestitures and potential market entry—as mitigating the potential anticompetitive effects of a bank merger. 347 In practice, however, these purported mitigants do not significantly alleviate the harmful consequences of bank consolidation. Accordingly, antitrust enforcers should place little weight on mitigating factors in future bank merger evaluations.

One of the most common mitigating factors cited in bank antitrust— branch divestitures—appears to be of dubious societal value. When a proposed merger exceeds the 1800/200 HHI threshold, the banking agencies and the DOJ often require the merging banks to sell certain branches and their associated deposits as a condition of approval.348 In theory, branch divestitures mitigate anticompetitive harms because they reduce the merged banks’ presence in the market and bolster the acquirer’s competitive position.349 In reality, however, divestitures have proven ineffective in maintaining the competitiveness of local banking markets.350 Despite having their accounts transferred to a new bank as part of a divestiture agreement, many customers—especially small businesses—voluntarily choose to remain with their original bank because of existing relationships with loan officers and other bank personnel.351 As a result, merging banks often maintain their market shares notwithstanding branch divestitures, leading to anticompetitive outcomes.352 Thus, although policymakers previously assumed that branch divestitures would neutralize the potential anticompetitive effects of a proposed bank merger, divestitures have proven to be an ineffective remedy, and antitrust enforcers should therefore deemphasize them as a mitigating factor.

Another commonly-cited mitigating factor—a market’s attractiveness for new entry—is equally unproven in alleviating the harms of bank consolidation. Under the Bank Merger Guidelines, the agencies may approve a merger that exceeds the 1800/200 HHI threshold based on “expectations about potential entry by institutions not now in the market.”353 To evaluate a market’s attractiveness for entry, the agencies consider recent de novo entry by out-of-market banks and demographic factors such as population growth rate and per capita income.354 Attractiveness for entry is now “the most prominent mitigating factor cited when potentially anticompetitive consolidations are allowed.”355 However, the Federal Reserve’s own research has cast doubt on the extent to which attractiveness for entry actually mitigates anticompetitive harms. Indeed, Federal Reserve economists have found that past entry and demographic variables are generally not correlated with—and thus not predictive of—future entry.356 Even bank lobbyists acknowledge that attractiveness for entry is unproven as a mitigating factor.357 In the future, therefore, antitrust enforcers should discount a market’s attractiveness for entry when evaluating a proposed merger’s potential anticompetitive effects.

3. Evaluate Mix of Large and Small Institutions in a Market

As a supplement to the traditional HHI analysis, bank antitrust enforcers should expressly consider the mix of large and small institutions that would remain in a market following a merger. The Bank Merger Guidelines’ narrow focus on deposit-based HHIs obscures an important determinant of a market’s competitive dynamics: the size of the competing banks. Small, locally-rooted community banks and large, multinational megabanks typically serve different customers, specialize in different products, and use different underwriting techniques. 358 Thus, two markets with identical deposit concentration metrics may nonetheless perform differently if one market is dominated by large banks and the other by small banks. 359 The HHI’s ~~blindness~~ [ignorance] to competitors’ size is part of the reason why large bank acquisitions of small firms often harm customers even when the HHI does not suggest the merger would be anticompetitive. 360 As former Federal Reserve Governor Jeremy Stein and coauthors have asserted, “The key issue might be not so much about banks having market power in the traditional Herfindahl-index sense but rather, the degree to which [customers] have choice over the size of the bank they do business with.”361

To address this issue, the banking agencies and the DOJ should affirmatively consider the mix of megabanks, regional banks, and community banks in a market in addition to the HHI and other concentration metrics. The OCC’s bank merger framework from the 1960s provides a good model. After Congress adopted the Bank Merger Act, the OCC implemented a “balanced banking structure” approach to bank merger analysis.362 This approach “stressed the range of bank size,” and the OCC sought to ensure that “each market [w]ould have a range of small, medium and large banks.”363 Contemporary antitrust enforcers should implement a similar approach, striving to avoid mergers that would deprive a market of competition among banks of a certain size. This approach would subject transactions like First Citizens BancShares’ 2020 acquisition of Entegra Bank to heightened scrutiny.364 That deal eliminated Entegra—a small, $1.7 billion bank in southwest North Carolina—and left more than ninety-five percent of the deposits in one market controlled by medium and large banks. 365 Even though the relevant market’s post-merger HHI was consistent with the 1800/200 threshold when accounting for mitigating factors, the lack of size diversity among the remaining banks threatens to ~~impair~~ [impede] competition, particularly for small business loans.366 Accordingly, a more effective bank antitrust framework would evaluate the mix of large and small institutions in a market in addition to the HHI.

4. Consider Effects of Common Ownership

As a further enhancement to the bank antitrust framework, authorities should consider how common ownership of banks by institutional investors could affect post-merger competition in ways that are unobservable by the traditional HHI analysis. A growing body of literature has demonstrated that markets behave less competitively when institutional investors own sizeable stakes in competing firms.367 Researchers have documented the anticompetitive consequences of common ownership in several industries, including banking.368 A greater level of horizontal shareholding among banks in a local market is associated with higher prices for deposit products, independent of the market’s HHI.369 That is, when competing banks are owned by the same institutional investors, the banks are more likely to raise their prices. As Professors José Azar, Sahil Raina, and Martin Schmalz put it, “[W]ho owns the banks matters for how the banks compete.”370

As currently implemented, however, the Bank Merger Guidelines ignore the role of common ownership in dictating a market’s competitive dynamics. Thus, the prevailing approach to bank antitrust “greatly understate[s] the threat to competition when common ownership exists.”371 As Professor Einer Elhauge commented, “the failure to consider horizontal shareholding levels in past merger analysis may help explain why merger retrospectives have repeatedly found that agencies and courts, despite their best efforts, have approved many mergers that (contrary to agency or court predictions) actually raised prices.”372

To prevent anticompetitive outcomes, antitrust enforcers should consider the extent of common ownership in a banking market when evaluating a proposed merger. Authorities should closely scrutinize—and potentially deny—mergers where the remaining competitors would have a high degree of horizontal shareholding. 373 This approach would subject transactions like BB&T’s 2019 merger with SunTrust to closer investigation. The Federal Reserve calculated that the BB&T–SunTrust merger would increase the Atlanta, Georgia banking market’s HHI by 270 points to 1743—just below the 1800/200 threshold for enhanced scrutiny.374 However, the antitrust authorities overlooked that the four largest banks in Atlanta following the merger—controlling almost three-quarters of the market’s deposits—would have a high degree of common ownership.375 Thus, while the traditional HHI analysis indicated that the Atlanta market would remain competitive, a more probing analysis of the competitors’ common ownership may have revealed the potential for anticompetitive conduct. To alleviate common ownership’s anticompetitive consequences in the future, therefore, bank antitrust enforcers should evaluate the extent of horizontal shareholding as part of their merger analyses.

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In sum, the traditional HHI analysis, as currently implemented, is not well suited to detect and prevent anticompetitive bank consolidation. To bolster the prevailing antitrust framework, policymakers should lower the Bank Merger Guidelines’ HHI threshold, deemphasize mitigating factors in bank merger reviews, consider the size of the banks remaining in a market, and evaluate the competitive effects of horizontal shareholding. To the extent that antitrust enforcers retain a consumer welfare orientation, strengthening the existing antitrust toolkit in this way is necessary to protect consumers and businesses from higher prices caused by anticompetitive bank mergers.

#### Regulatory capture undermines catastrophic risk management.

Treich and Rheinberger 16 (Nicolas, leads the thematic group on Environmental Economics and Natural Resources at the Toulouse School of Economics, and Christoph, was a post-doctoral researcher at the Toulouse School of Economics, “Catastrophe aversion: Social attitudes towards common fates,” June 2016, <https://www.foncsi.org/en/publications/collections/industrial-safety-cahiers/catastrophe-aversion/CSI-catastrophe-aversion.pdf>, DOA: 3-29-2022) //Snowball //rhetoric [modified]

Responsibility. Another crucial factor for understanding the regulation of risks is the question of responsibility. In a world that encounters ever more [hu]man-made risks, we forge our own destiny [Giddens 1999]. Two questions come to the fore: Who is to determine which risks society accepts and which ones it does not? And who is to blame in the event of a catastrophe? It seems natural that government has a particular responsibility in overseeing activities that involve the risk of possibly many fatalities. It does so by enforcing safety standards and by intervening if those standards are not complied with. Yet it often does so in a seemingly arbitrary way, so that society ends up spending hundreds of millions of euros on avoiding a statistical fatality from one cause, and barely fifty-thousand euros on avoiding a statistical fatality from another cause [Tengs et al. 1995; Ramsberg and Sjöberg 1997]. While this might be puzzling at first sight, it demonstrates that government does not exercise its regulatory responsibility in a social vacuum.

Firms engaged in hazardous activities are another social entity involved in the regulation of risks. Their responsibility is to operate in the safest way possible or, at least, so that the residual risk is as low as reasonably practicable [Paté-Cornell 2002]. While firms are generally liable for their activities, and may be required to outlay large sums to compensate victims of their activities, they may not be sufficiently capitalized to pay off the litigation cost associated with a big accident. A very big accident may even destroy the legal system and its institutions [Wiener 2016]. Hence, there is a rationale in favor of regulatory actions that intend to prevent catastrophic events. Yet there are also reverse effects. Think of climate change: impacts are on a global scale and span wide into the future. Thus, there is little incentive for a local regulator to act unilaterally.

In democratic countries, citizens themselves take a share of responsibility in that they either tolerate a risky activity in exchange for its social benefits or oppose it exactly because of the risk involved: think of nuclear power in France vs Germany. The difficulty is, of course, that public preferences are often erratic and change over time. Moreover, as safety preferences are often catalyzed by big accidents [Kasperson et al. 1988], citizens tend to emphasize immediate risks that have a clear cause. Consequently, they are often more concerned with ubiquitous or timely threats than with rare but disastrous events that may happen sometime in the future. This highlights the close connection between responsibility and perception of risks.

Group interest. We have already alluded to various interest groups that have a stake in risk regulation and may now ask what role they play in regulating catastrophic risks? The answer seems to largely depend on the characteristics of the risk. One key criterion for regulators’ response to catastrophic threats is how regulatory costs and benefits are shared. Consider a policy intervention that seeks to make road tunnels safer. The corresponding cost is borne by all taxpayers, while the benefits go primarily to road users in regions where there are a lot of tunnels. The possibility of a catastrophic accident affects the number of road users. It is not clear, however, whether their group size affects policy-making: if the user group is larger, the policy enjoys more political support; at the same time, there are stronger incentives to free-ride [Olson 1971].

The regulatory cost might be borne by a specific industry that contributes to generating the potentially catastrophic risk in the first place, as is the case with greenhouse gas emissions. It is well known that the polluter-pays principle triggers strong political opposition and the influence and visibility of various lobby groups matters a lot for “pricing” catastrophe avoidance. Regulatory capture — the fact that a firm or industry may gain control over the agency meant to regulate it — can be a problem in government decision-making [Laffont and Tirole 1991], which has been identified as a contributing factor in a number of major industrial accidents10. Interest groups exert pressure on politicians and/or policymakers who are concerned with their reputation [Kuran and Sunstein 1999]. They typically do so with the help of the media, which have an important role in shaping the public’s perception of risks that may (or may not) have the potential for a catastrophe. This explains why not all catastrophes receive the same level of public attention.

5 Conclusions

We have presented a framework to think systematically about catastrophes: the big ones that are going to increase both in frequency and size as ever more people are at risk, and the very big ones that threaten our existence on Earth. We have argued that standard economic approaches to assess health and safety risks do not account for important dimensions such as the sheer size of a catastrophe or the disutility of bereavement. Other approaches are conceivable, though. We have formally defined the notions of catastrophe aversion and acceptance as preferences for a mean-preserving contraction and spread in the distribution of fatalities, respectively. Evaluations based on these notions capture different ex post attitudes toward social risk. Our review of existing empirical choice studies suggests that, in many contexts, people tend to be catastrophe-accepting. This means that they prefer a gamble that offers the chance to escape the catastrophe over a certain loss, even if the expected loss is equal or smaller in the latter situation.

It is hard to tell which motives drive catastrophe-accepting attitudes. We have discussed several behavioral phenomena that may explain the observed empirical patterns. Perhaps the most important one is inequity aversion. Since a more catastrophic situation is generally also more equitable ex post, there is a clear link between catastrophe and equity. In the limit, maximal ex post equity is attained: either nobody or everybody dies. Framing is another factor that matters in choices over life or death prospects. People care about whether lives can be saved or must be sacrificed. We speculate that this emphasis on saving lives is hardwired to our moral instinct.

We end with a somewhat unsatisfactory reply to the two questions posed in the introduction. It is neither clear whether we are, nor whether we should be catastrophe averse. In future research, it may be interesting to study how the context systematically shapes our attitudes toward catastrophic risk. It may also be useful to identify the political forces (e.g. populism, responsibility, lobbying) that may induce or hinder regulatory action in face of a looming catastrophe. On the normative side, we see a need to characterize optimal risk policies in economic models under catastrophe-sensitive preferences. As our discussion has revealed, different disciplines including decision theory, behavioral economics, psychology, social choice and risk management have different perspectives on those issues. This calls for more integrated research on the management of catastrophic risks.

#### That guarantees extinction.

Avin et al. 18 (Shahar, senior researcher associate at the Centre for the Study of Existential Risk, et al. “Classifying global catastrophic risks,” 23 February 2018, <https://doi.org/10.1016/j.futures.2018.02.001>, DOA: 3-29-2022) //Snowball

1. Introduction

In our uncertain times it is good to have something we can all agree on: global catastrophes are undesirable. As our science advances we gain a better understanding of a broad class of global catastrophic risk (GCR) scenarios that could, in severe cases, take the lives of a significant portion of the human population, and may leave survivors at enhanced risk by undermining global resilience systems (Baum & Tonn, 2015; Bostrom, 2002; Bostrom & Ćirković, 2008; Posner, 2004; Rees, 2003; Tonn & MacGregor, 2009). Much progress has been made in identifying individual GCR scenarios, and in compiling lists of the scenarios of greatest concern, but there is currently no known methodology for compiling a comprehensive, interdisciplinary view of severe global catastrophic risks. While a fully complete list of GCRs may remain beyond reach, we present here a classification framework designed specifically to draw on as broad a knowledge base as possible, to highlight commonalities between risk scenarios and identify gaps in our collective knowledge regarding global catastrophic risks.

To date, research on global catastrophic risk scenarios has focused mainly on tracing a causal pathway from a catastrophic event to global catastrophic loss of life (Asimov, 1981; Bostrom & Ćirković, 2008; Coburn et al., 2014; Cotton-Barratt, Farquhar, Halstead, Schubert, & Snyder-Beattie, 2016; Turchin, 2015). Such research has been fruitful in identifying and assessing a range of such GCR scenarios. Some severe GCR scenarios have posed a persistent threat to humanity since our emergence as Homo sapiens (e.g. impact by a 10 km astronomical object, or a volcanic super-eruption of 1000 km3 of tephra). Other scenarios have increased in likelihood following human population expansion and the accompanying increase in resource demands (e.g. natural pandemics or ecosystem collapse). In addition, novel GCR scenarios can accompany new technologies: some of these are relatively well established (e.g. “nuclear winter” or an engineered pandemic); others are more speculative (e.g. accidents in or weaponisation of advanced artificial intelligence, or environmental shocks from ill-judged geoengineering efforts aimed at mitigating climate change).

However, compiling a comprehensive list of plausible GCR scenarios requires exploring the interplay between many interacting critical systems and threats, beyond the narrow study of individual scenarios that are typically addressed by single disciplines. The classification framework presented here breaks down the analysis of GCR scenarios into three key components: (i) a critical system (or systems) whose safety boundaries are breached by a potential threat, (ii) the mechanisms by which this threat might spread globally and affect the majority of the human population, and (iii) the manner in which we might fail to prevent or mitigate both (i) and (ii). For example, a major astronomical impact may lead to a global catastrophe if we lack the technology to deflect it (mitigation failure), and it raises a cloud of dust that spreads around the world (global spread mechanism), and that cloud of dust blocks sunlight for a sufficient length of time to undermine the global food system in a manner that we cannot overcome (critical system affected). Other scenarios will have different combinations of one or more mitigation failures, one or more global spread mechanisms, and one or more critical system breaches.

In order to gain a holistic picture of potential global catastrophes, knowledge about each of the three system components needs to be explored and shared. By first constructing a classification from the broad range of known critical systems, global spread mechanisms, and prevention and mitigation failures, and then by classifying known GCR scenarios according to these dimensions, we aim to: (i) showcase the GCR relevance of a variety of scientific disciplines, (ii) highlight how commonalities between threat scenarios have research and policy implications, and (iii) highlight areas where there are potential gaps in our knowledge of global catastrophic risks. We also propose concrete steps for coordinating the broad-based, interdisciplinary research required to meet the challenges highlighted by the framework.

2. Critical systems

We define a “critical system” as any system or process that, if disturbed beyond a certain limit or scale, could trigger a significant reduction in humanity’s ability to survive in its current form (see Fig. 1).

Building on the “life support systems” outlined in the research on so-called planetary boundaries (Rockström et al., 2009; Steffen et al., 2015) (many of which appear in our biogeochemical group), and their potential links to GCRs (Baum & Handoh, 2014), we identify critical systems and processes that, if disrupted, would affect human ability to survive. While we aim for comprehensiveness and minimal overlap, we acknowledge that different systems overlap. For example, while the processes affecting ocean acidity have direct effects on ecosystem stability and thus human life, there is significant overlap (causally, structurally and academically) with the global water cycle, carbon cycle and sulphur cycle systems.

In our classification framework, critical systems are grouped at different levels in a hierarchy, such that “higher-level” systems rely on the functioning of those at a “lower-level”. Thus, the framework builds up from the stability of life-supporting physical systems, through cellular and other systems, right up to species-wide ecological and sociotechnological systems. “Lower-level” systems are directly linked to human survival (which relies on functioning anatomical systems, which in turn relies on cellular systems, etc.). “Higher-level” systems, especially technology-enabled ones such as the food and health systems, help maintain the human population at its current size, and provide resilience. If these “higher-level” systems were to be disturbed significantly in some scenario, e.g. through a severe and prolonged disruption to utilities networks (such as water and electricity), or through shock effects (such as social unrest), these could cause more harm than the system disturbance itself.

Identification of critical systems, and their cross-links, could also come from historical and archaeological study of more limited instances of human population collapse. For instance, the collapse of the Easter Island civilisation shows how excessive resource extraction (of palms for the making of canoes) led to ecological degradation, undermining primary production and food chains, which in turn led to failure of the Easter Island society’s food system (Morrison, 2006). Further study of each critical system requires specialised expertise, often in more than one domain, as there is no one-to-one mapping from scientific disciplines to critical systems. Future work, conducted with collaboration with the wider scientific community, could lead to the demarcation of safe operating bounds for each critical system, following the example of Rockström et al. (2009).

3. Global spread mechanisms

For many critical systems, a failure of some instances of the system, e.g., regional crop failure, would fall far short of posing a GCR. In severe GCR scenarios, the failure of critical systems is coupled with some mechanism by which this failure spreads globally, thus potentially threatening the majority of the human population. In the framework, we separate the analysis of global spread mechanisms from the analysis of critical systems (Fig. 2). This separate focus on global spread allows us to identify relevant mechanisms (and means to manage or control them) as targets of study meriting further attention, and highlights interesting commonalities.

A critical system failure can spread globally without human intervention: some astronomical objects or events are sufficiently massive to have direct global effect, while other threats can spread through the dynamic systems of the natural environment, such as the air- and water-based dispersal systems. Dust and toxins could be spread naturally even if they do not replicate, though of course a self-replicating threat (e.g. a virus that affects multiple species of fish) could couple with a dynamic system (e.g. ocean currents) to achieve much faster spread.

In addition to natural spread, many risk scenarios, and especially emergent risk scenarios, rely on the highly connected nature of our species, both materially and conceptually. A modern pandemic can spread through airports and other mass-transit hubs of the globe-encompassing transit network, thus coupling a biological replicator (this might be, e.g., a bacterium itself, or a biological vector, e.g. a mosquito) to a highly connected anthropogenic network. A cyber attack can cascade through global critical systems at the speed of digital communication, shutting down health and security systems, and undermining resource extraction and utilities by disrupting mines and power plants (a digital replicator, such as a computer worm, could speed up the spread rate and reach).

Access to information can play a more abstract, but no less important, role in the spread of critical system failure. The widespread, and growing, access of individuals and groups across the globe to ideas, schematics, and manufacturing capabilities (e.g. Do-ItYourself, or DIY, biology) through digital and cultural exchanges (e.g. online fora), enables novel hypothetical GCR scenarios. Such a scenario could start with, say, the accidental or malicious release of a home-grown pathogen, or the one-sided deployment of geoengineering efforts in an attempt to mitigate climate change. Some ideas encourage their own spread, e.g. schematics for communication devices, or ideas that encourage further sharing of those ideas (e.g. ideologies or viral videos), coupling cultural replicators with human interaction networks.

Table 1 illustrates how analysis of critical systems and analysis of global spread mechanisms might be combined into a single classification framework. The table presents a mapping from eight hypothetical GCR scenarios to the critical systems that are most likely to be undermined in each scenario, for each type of global spread mechanism. We have chosen a selection of severe GCR scenarios that are (i) familiar, (ii) considered plausible, and (iii) cover both natural and anthropogenic threats. This is far from a comprehensive list of scenarios, as the very framework presented here aims to help explore possible scenarios.

4. Prevention and mitigation failures

Analysing GCR scenarios along the dimensions of critical systems and spread mechanisms draws significantly on our understanding of the natural world and technical systems, and complements existing endeavours to classify risks of a smaller scale (IRDR, 2014). Holistic risk management, however, must take into account the human elements that moderate GCR through prevention and mitigation efforts, and how these efforts might fail. The challenge of preventing global catastrophes thus requires integration of the work and expertise in and between the natural and the social sciences, on a global scale.

A particularly comprehensive existing risk management framework with such integrative characteristics and international scope is the Sendai Framework for Disaster Risk Reduction (SFDRR), adopted by 187 UN member states in 2015 (UNISDR, 2015). Although developed for natural rather than technological disasters, it considers many of the potential human factors that influence resilience and vulnerability to an unfolding disaster. We take a similar approach here, and identify potentially fragile areas in the global risk prevention and mitigation system (Fig. 3). Rather than aiming for comprehensiveness or exclusivity, it highlights that understanding these interdependent and complex human factors requires input from a wide range of disciplines beyond the natural sciences.

For instance, short-term thinking and a limited focus constitute cognitive biases affecting risk perception and management on the individual and institutional level (as studied in psychology and behavioural economics); unresolved political conflicts and competing ethical notions of justice undermine international cooperation and burden-sharing on the institutional and supra-institutional level (as studied in e.g. law, philosophy and political science).

Some risks (e.g. natural pandemics) are already the focus of well-developed institutional systems (e.g. the World Health Organization), robust research activity and technical know-how. For GCRs from emerging technologies, however, the institutional mix and a research agenda are only just becoming established. Conventional disaster response (e.g. recovery and compensation), and even newer, comprehensive strategies (e.g. the “build back better” principle adopted in some countries post-disaster) are inadequate for addressing threat scenarios where there is limited reaction time and no second chance. For these cases, we need a novel framework that is at least as interdisciplinary as the SFDRR, but moves away from uni-dimensional, natural hazards and instead addresses complex, anthropogenic risks, which are far more likely to cause a severe global catastrophe (Rees, 2003). In particular, we have to focus on the prevention and mitigation of multidimensional risk scenarios that involve cascades of socio-technological, natural-technological (“natech”) and technological-natural disasters.

As we confront emergent technological GCR scenarios, lessons can be learnt from previous smaller disasters. An instructive recent case of a multi-dimensional disaster scenario, albeit of local scope, is the Fukushima Dai’ichi nuclear accident, which laid bare failures at the interface of natural, scientific, technological, socioeconomic, legal and political realms. One such failure was the supervision of Japan’s nuclear industry by the very same authorities that were to promote nuclear technology. Such an institutional setup, aggravated by cognitive biases (e.g. groupthink) in a sector with revolving doors to the regulator, was lacking adequate incentive structures, and was destined to result in conflicts of interest and regulatory capture. The international science and policy community therefore has the opportunity and the responsibility to co-create better risk prevention and mitigation systems, by engaging with researchers in the social sciences and humanities.

#### Corporate consolidation is eroding democracy.

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We are three decades into a major global experiment. What happens when the nations of the world weaken their controls on the size and power of industrial giants? What happens when countries, in the name of globalism, grandly subsidize their wealthiest and most powerful firms?

The answers, I think, are clear. Look at the global economy and witness the rule of concentrated monopolies and oligopolies, the by-product of decades of consolidation across industries like agriculture, finance and pharmaceuticals. Witness the power of the great tech platforms, like Google and Facebook, which have gained an extraordinary power over our lives and collectively know more about everyone than anyone. And behold the unconscionable concentration of global wealth, the yawning gap between the rich and poor, most clearly manifest in the international class of billionaires who inhabit their own sovereignty.

Back in the 1990s, the promise of globalization was that the elimination of trade barriers and the rise of global supply chains would yield a broad spreading of wealth to everyone. There was, to be sure, debate over who would benefit from such competition, and worries about displaced workers and environmental impact. But in retrospect, the advocates of globalization – and even some of its critics – forgot something more fundamental about how capitalism works. They failed to realize that globalization might breed a new class of monopoly that would drain wealth from everyone: workers, suppliers and producers. They also forgot that some nations would seek precisely that outcome in the name of progress.

The result is that a great concentration of wealth and private power has now transformed and radicalized politics around the globe, as a disaffected and declining middle class, those who feel left behind, have come to support increasingly radical solutions. In nations around the world – Brazil, Britain, Hungary, the United States and others – have emerged nationalist movements that, in their more extreme forms, resemble the most dangerous movements of the 1930s. They blame the same scapegoats – immigrant workers, foreigners, gays or elite conspiracies – for the diminishment of the middle class, while calling for an enlargement of state power in a manner that can only be described as terrifying.

What we are facing is a global ‘Curse of Bigness’ that represents a profound and dangerous threat to economic thriving for the broader public, but also to liberal democracy itself. For we have, incautiously, given up on the ideal of economic democracy, while forgetting that economic dictatorship tends to beget political dictatorship. The operating premise of a democracy is that it makes the people of a nation sovereign over their affairs. Yet around the world, in so many nations, people do not feel that way.

The patterns we are seeing should be familiar to any student of twentieth-century history. If we learned one thing from the last century, it should have been this: the road to fascism and dictatorship is paved with failures of economic policy to serve the needs of the broader public. Gross inequality and material suffering feed a dangerous appetite for nationalistic and extremist leadership. Yet, as if ~~blind~~ to these lessons, we are going down the same path.

The questions we need to face are these: Is tolerance of global monopoly and oligopoly actually compatible with the premise of basic equality among citizens, industrial freedom, or democracy itself? Can we create broad-based wealth in many regions, not just a few, and also a real sense of opportunity in economies dominated by monopolists? Is there just too much concentrated private power in too few hands, which has too much influence over government? The questions, I think, answer themselves.

But it is not enough to diagnose the problem. The goal of this book is to rediscover a classic answer to the problem of bigness: a programme of antimonopoly and the redistribution of monopoly profit. To do this we need to relearn the lessons taught by two groups of important thinkers: the European Ordoliberals and those of the Anglo-American anti-monopoly tradition. These are thinkers whose influence was paramount after the catastrophe of the Second World War.

Unfortunately, over the last thirty years, beginning in the United States, the anti-monopoly tradition has begun to shrink, and in some instances, nearly disappear. The problem is an overindulgence in the extreme ideas first advocated by American conservatives in the 1960s that have been repackaged and globalized. Stated succinctly, an embrace of technocratic neoliberalism has transmuted into the tolerance or even an embrace of monopoly, while shedding the historic concerns over excessive political power and political influence.

The ideas that originated with the American right, and severely weakened the anti-monopoly tradition in its home country, have spread to the centre and around the world. In Europe, the home of the Ordoliberal tradition, competition officials, while superficially very active, have nonetheless too often accepted and approved the consolidation campaigns of global industries. While well intentioned, in the pursuit of technocratic rigour, Europeans have too easily accepted a narrow view of their powers, sensitive only to questions of efficiency and with greater indifference to the growth of private power or the potential corruption of democracy.

Finally, most of the major Asian economies have been too willing to accept close ties between private industry and government, sometimes embracing state-directed capitalism. This variety of capitalism can be very effective over the short term; but its longer historical record is troubling for not just economic but political reasons. Japan, both before and after the Second World War, is the most recent nation to demonstrate both the political and economic dangers, and China has begun to make clear the alarming possibilities that come from the potent mixture of private and public power.

The democratic nations desperately need to do something about concentrated private power and wealth and their effect on politics. It is striking that documents like the Magna Carta, the US Constitution, the Treaty of Lisbon and the UN Charter were written to restrain the exercise of unaccountable public power, yet we have nothing that really does the same for unchecked private power. If we do not act, the alternative is not appealing. The old cliché is that those who fail to learn from history are doomed to repeat it. We have returned to the struggle between democratic and authoritarian systems, and if democracy does not provide some answer to the problems caused by unrestrained capitalism, it may not win.

This book, in structure, is a simple story of there and back again. After detailing our current economic state, it returns to history to focus on the twentieth century’s struggle with bigness, and its political consequences, with a focus on Germany and Japan before the Second World War. The book introduces the principles that underlie the anti-monopoly tradition, through an examination of the Anglo-American anti-monopoly tradition, as well as the ideas of Louis Brandeis and of the European Ordoliberals. And it shows these ideals at the height of their influence in the post-war era, a time of great prosperity and increasing equality. Finally, this book includes a programme for fighting the curse of bigness in our time, based on the premise that the democracies of the world need to provide better answers to their populations or face their own extinction.

#### Democratic model cascades and prevents a global erosion to authoritarianism that causes nuclear war.

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The most obvious response to the ill winds blowing from the world’s autocracies is to help the winds of freedom blowing in the other direction. The democracies of the West cannot save themselves if they do not stand with democrats around the world. This is truer now than ever, for several reasons. We live in a globalized world, one in which models, trends, and ideas cascade across borders. Any wind of change may gather quickly and blow with gale force. People everywhere form ideas about how to govern—or simply about which forms of government and sources of power may be irresistible—based on what they see happening elsewhere. We are now immersed in a fierce global contest of ideas, information, and norms. In the digital age, that contest is moving at lightning speed, shaping how people think about their political systems and the way the world runs. As doubts about and threats to democracy are mounting in the West, this is not a contest that the democracies can afford to lose. Globalization, with its flows of trade and information, raises the stakes for us in another way. Authoritarian and badly governed regimes increasingly pose a direct threat to popular sovereignty and the rule of law in our own democracies. Covert flows of money and influence are subverting and corrupting our democratic processes and institutions. They will not stop just because Americans and others pretend that we have no stake in the future of freedom in the world. If we want to defend the core principles of self-government, transparency, and accountability in our own democracies, we have no choice but to promote them globally. It is not enough to say that dictatorship is bad and that democracy, however flawed, is still better. Popular enthusiasm for a lesser evil cannot be sustained indefinitely. People need the inspiration of a positive vision. Democracy must demonstrate that it is a just and fair political system that advances humane values and the common good. To make our republics more perfect, established democracies must not only adopt reforms to more fully include and empower their own citizens. They must also support people, groups, and institutions struggling to achieve democratic values elsewhere. The best way to counter Russian rage and Chinese ambition is to show that Moscow and Beijing are on the wrong side of history; that people everywhere yearn to be free; and that they can make freedom work to achieve a more just, sustainable, and prosperous society. In our networked age, both idealism and the harder imperatives of global power and security argue for more democracy, not less. For one thing, if we do not worry about the quality of governance in lower-income countries, we will face more and more troubled and failing states. Famine and genocide are the curse of authoritarian states, not democratic ones. Outright state collapse is the ultimate, bitter fruit of tyranny. When countries like Syria, Libya, and Afghanistan descend into civil war; when poor states in Africa cannot generate jobs and improve their citizens’ lives due to rule by corrupt and callous strongmen; when Central American societies are held hostage by brutal gangs and kleptocratic rulers, people flee—and wash up on the shores of the democracies. Europe and the United States cannot withstand the rising pressures of immigration unless they work to support better, more stable and accountable government in troubled countries. The world has simply grown too small, too flat, and too fast to wall off rotten states and pretend they are on some other planet. Hard security interests are at stake. As even the Trump administration’s 2017 National Security Strategy makes clear, the main threats to U.S. national security all stem from authoritarianism, whether in the form of tyrannies from Russia and China to Iran and North Korea or in the guise of antidemocratic terrorist movements such as ISIS.1 By supporting the development of democracy around the world, we can deny these authoritarian adversaries the geopolitical running room they seek. Just as Russia, China, and Iran are trying to undermine democracies to bend other countries to their will, so too can we contain these autocrats’ ambitions by helping other countries build effective, resilient democracies that can withstand the dictators’ malevolence. Of course, democratically elected governments with open societies will not support the American line on every issue. But no free society wants to mortgage its future to another country. The American national interest would best be secured by a pluralistic world of free countries—one in which autocrats can no longer use corruption and coercion to gobble up resources, alliances, and territory. If you look back over our history to see who has posed a threat to the United States and our allies, it has always been authoritarian regimes and empires. As political scientists have long noted, no two democracies have ever gone to war with each other—ever. It is not the democracies of the world that are supporting international terrorism, proliferating weapons of mass destruction, or threatening the territory of their neighbors.

#### Backsliding leads to global conflicts.

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The growing prevalence of personalized autocracies is cause for concern because they tend to produce the worst outcomes of any type of political regime: they tend to produce the most risky and aggressive foreign policies; the most likely to invest in nuclear weapons;7 the most likely to fight wars against democracies;8 and the most likely to initiate interstate conflicts.9 As the adventurism of Iraq’s Saddam Hussein, Uganda’s Idi Amin, and North Korea’s Kim Jong-un suggests, a lack of accountability often translates into an ability to take risks that other dictatorial systems simply cannot afford. Russia underscores the link between rising personalism and aggression. Although Putin’s actions in Crimea and Syria were designed to advance a number of key Russian goals, it is also likely that Putin’s lack of domestic constraints increased the level of risk he was willing to accept in pursuit of those goals. Putin’s tight control over the media ensures that the public receives only the official narrative of foreign events. Limited access to outside information makes it difficult for Russians to access unbiased accounts of the goings-on in the rest of the world and gauge Putin’s success in the foreign policy arena. Putin’s elimination of competing voices within his regime further ensures that he faces minimal accountability for his foreign policy actions. Politics in China show many of these same trends. Xi’s increasingly aggressive posture in the South China Sea has occurred alongside the rising personalization of the political system. Xi has amassed substantial personal power since coming to office in 2012 and continues to roll back the norms of the post-Mao collective leadership system. If Xi further consolidates control and limits accountability—particularly over military and foreign policy bodies—research suggests that he, too, could feel free to further escalate his aggressive rhetoric and actions in the South China Sea. Not only do personalist dictatorships pursue aggressive foreign policies—they are also often difficult and unpredictable partners. Research underscores that, thanks to limited constraints on decisionmaking, personalist leaders generally have the latitude to change their minds on a whim, producing volatile and erratic policies.10 Moreover, personalist leaders—think Putin, Bolivian President Evo Morales, and Venezuelan President Nicolás Maduro—are among those autocrats who are most suspicious of U.S. intentions and who see the creation of an external enemy as an effective means of boosting public support. Anti-U.S. rhetoric, therefore, is most pronounced in personalist settings.