

Jesse Eisinger writes on Pro Publica:

With their simultaneous display of hubris, remorselessness, incompetence and corruption, the banks have finally ignited a modicum of courage in banking regulators.

The postcrisis bad behavior — reckless trading at a JPMorgan Chase unit in London, the rampant mortgage modification and foreclosure abuses, manipulation of the key global interest rate benchmark — went just a tad too far. For the first time since the financial crisis, the banks are losing some battles on tougher regulation.



Last week, banking regulators, led by the Federal Deposit Insurance Corporation, but including the Federal Reserve and the Office of the Comptroller of the Currency, proposed a rule to raise the capital at the largest, most dangerous banks.

Separately, Gary Gensler, the head of the Commodity Futures Trading Commission, who has been waging an underfunded and lonely fight to tighten the markets for those side bets called derivatives, managed to push forward a rule to regulate the complex markets. Banks and his fellow commissioners had

resisted, pushing for more delay and more study. Nothing is ever killed in Washington; it's just studied into a perpetual coma.

These moves are heartening, if only because financial regulation has been so parched in the years since the financial crisis. There are many caveats, and I will get to them. But it's worth enumerating and celebrating some of the positives because reform advocates have been wandering this desert, searching futilely for honest regulators.

For the bank safety rules, regulators are going to require a higher capital ratio. Basel III, the international agreement on bank rules, put the rate at \$3 for every \$100 in assets. The new rules would raise it to \$5 for the holding company, and \$6 at its banking subsidiaries.

The measure is a victory for reality-based thinking in an important respect: how banks measure their assets. Under current accounting rules, assets are disclosed so poorly that banks are allowed to keep mysterious exposures out of view. Banks own pieces of businesses that reside off the balance sheet. They also make commitments using derivatives, creating obligations that are complex and difficult to quantify. The specifics of these vulnerabilities are poorly understood by everyone, including bankers themselves, but we know for sure that they can cause implosions.

Now regulators are making clear that they know what they don't know. So in addition to traditional measures, they are also going to emphasize the "leverage ratio." That's good news, because the leverage ratio doesn't allow for such accounting sleights-of-hand as adjusting the value of assets for their perceived riskiness. In that game, some investments — say, picking purely randomly, top-rated mortgage securities or Greek government debt — could be judged less risky than other assets.

The new rules' effect will be straightforward: banks will have to raise the amount of assets they report and sell more shares or retain more earnings based on that larger number. Analysts from Credit Suisse estimate that the average increase among the biggest banks will be 36 percent.

Banks will resist these measures, crying that they make our banks less competitive globally. And there's still plenty of time for the regulators to back away, as they so often have. That's why reformers and some voices in Congress — the senators Sherrod Brown, Democrat of Ohio; David Vitter, Republican of Louisiana; and Elizabeth Warren, Democrat of Massachusetts, mainly — have done much good. By pushing for more extreme overhauls, such as much higher capital requirements or the return of Glass-Steagall, they have both pressured regulators and provided them cover.

There are caveats: the capital measures are probably not high enough. The derivatives compromise allows foreign countries to substitute their own rules if they are “comparable,” raising the fear that banks will circumvent the rules by harboring activities in the most lenient country. And finally, we still have the essential cancer of a “too big to fail” banking system that takes up too great a share of the economy and dominates our political system.

Still, it’s important to recognize incremental victories where we have them. The message from these moves is that the United States is taking the lead in global change, at long last. It may sound like a jingoistic declaration, but the United States is the most important voice on banking regulation. Just as Congressional pressure creates safety for regulators, an American push for stronger regulation might help bring the world around.

And if it doesn’t, American banks will be at a competitive advantage, the exact opposite of what bankers argue. Jamie Dimon, the chief executive of JPMorgan, raised the ominous specter that global rules are out of “harmonization” and that United States banks are now held to a higher standard.

“We have one part of the world at two times what the other part of the world is talking about,” he said. “And I don’t think there’s any industry out there that would be comfortable with something like that in a long run.”

To rebut that, I bring in a banking expert: Jamie Dimon. This side of Mr. Dimon’s mouth has repeatedly boasted about what a competitive advantage JPMorgan’s “fortress balance sheet” is, how the bank was a port in the 2008 storm. He’s not the only one; Warren E. Buffett regularly makes the same argument about Berkshire Hathaway. Higher capital allows a company to be aggressive when others are weak.

Yes, American banks will be subject to American regulations. But the United States may well bring the rest of the world along. Small financial centers from Iceland to Ireland to Cyprus and even Switzerland have all seen how vulnerable they are to financial beasts that dwarf their economies.

If they don’t come around, so be it. Let other countries race to the bottom on regulation, setting themselves up for financial crises. By raising capital standards and installing tougher derivatives rules, regulators are helping banks that are too foolish (or rather, the top executives who are too narrowly self-interested in increasing their own compensation in the short term) to recognize their own interests.