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Panelists Debate Financial Regulation at NYU Symposium.

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Did insufficient regulation cause Wall Street's dramatic collapse? A panel of academic and regulatory experts debated this question at an April roundtable forum hosted by New York University's Stern School of Business and its Vincent C. Ross Institute of Accounting Research.

Although not everyone agreed that increased regulation is the best course of action, no one argued against the importance of upgrading the caliber of regulation and its enforcement the objective, the panelists agreed, should not be to constrain individual risk-taking but to introduce intelligent regulation aimed at reducing risk-taking that could result in a systemic market collapse.

Restructuring the regulatory system seems to be a priority for the Obama administration, which in June released a proposal that would give the quasi-private Federal Reserve vast new powers to supervise previously unregulated aspects of the economy and reorganize existing oversight. The proposal would alter the authority of some agencies-like the Securities and Exchange Commission (SEC)-and create or eliminate others.

"Regulation is needed and the collapse of financial institutions has proven that...deregulation did not work," NYSSCPA member and event moderator **Mark S. Lilling** said after the forum. "It's clear that we need regulation, but it must be prudent and well thought out. There needs to be a bigger budget for [enforcement]. And more resources should be allocated to following up on the federal government's investment in major financial institutions."

During the roundtable discussion, Lilling presented a timeline of the Wall Street collapse and reviewed the steps the federal government has taken to keep capital markets flowing. He also gave an overview of mark-to-market accounting in which he detailed how securities were valued historically, the implementation of fair value accounting methods and how hard-to-value securities have been blamed by some for a systemic decrease in stock market prices. Lilling called Congress' attempts to regulate accounting rules and the Financial Accounting Standards Board's retreat on valuation methodology "short term political fixes."

As he has in many recent discussions on financial system regulation, Bernie Madoff, the multi-billion-dollar Ponzi schemer, was a popular topic during this discussion as well. Using Madoff as an example, Michael Koblenlz, of Mound Cotton Wollan & Greengrass, suggested the SEC's auditors need more training. He said Madoff's lack of annual reports and the flimsy financial statements were red flags that SEC auditors missed and suggested Congress beef up the commission's enforcement staff and find better ways to keep experienced employees.

In reaction to the missed Madoff scam, the SEC proposed in May to require broker-dealers to be subject to surprise audits.

"We are taking this action in response to major investment scams:-such as Madoff- and many other potential Ponzi schemes," said SEC Chair Mary Schapiro in her prepared remarks before the SEC, which

voted 5:0 in favor of the proposal.

Late last year, prior to the SEC's pro-posed surprise audit rule, the commission allowed a rule to expire that exempted nonpublic broker-dealers from having their financial statements certified by a registered public accounting firm. For fiscal years after Dec. 31, 2008, these broker-dealers must have their financial statements audited, according to the Public Company Accounting Oversight Board (PCAOB). However, the PCAOB still would not have the power to inspect, examine and discipline broker-dealer auditors. This led Rep. Paul Kanjorski (D-Penn.), chair of the House Financial Services Subcommittee on Capital Markets, Insurance and Government Sponsored Entities, to introduce legislation in February that would give the, PCAOB full regulatory powers over all auditors of broker-dealers, whether public or private.

However, during the panel discussion, former PCAOB member and frequent FAE conference speaker, Charles D. Niemeier, said the costs outweigh the benefits when it comes to inspecting the work of all nonpublic broker-dealer auditors. He suggested, instead, that regulation focus on auditors of broker-dealers who handle customer funds and securities.

Lilling, though, said he is a strong proponent of proposed legislation requiring PCAOB inspections on broker-dealer audits.

"It may be as big a risk as the administration thinks," he said.

Other topics of discussion at the forum included hedge fund regulation. Panelist Arthur Felsenfeld, a litigation partner with the law firm Andrews Kurth LLP, noted that while those who invest in hedge funds tend to be wealthy and financially sophisticated, fund failures pose a significant risk to other market participants, and to the U.S. financial system as a whole. He reviewed the history of attempts to regulate hedge funds and concluded that registration and regulation will not be enough without ongoing, capable oversight.