

# Chapter IV

## Trans-regulatory networks and public administration

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# Trans-regulatory networks and public administration

1. Changing concept of global problem-solving: the rise of non-state actor as regulators
  2. Informal international law-making
  3. Transnational/trans-governmental regulatory networks (TRNs)
    - 3.1. Definition of the phenomenon
    - 3.2. Characteristics of the phenomenon: *sui generis*
    - 3.3. Informalities of TRNs
  4. Administrative law of TRNs
- 



Expertise

Legitimacy?

**Input**

**Process**

**Output**

# **Informal international law-making**

***International agencies/supranational authorities***

***Harmonisation networks/trans-governmental networks/transnational networks/TRNs***

**Group of Governors and Heads of Supervision (GHOS)**  
Chairman: Mario Draghi, President of the European Central Bank

The BCBS reports to the GHOS – its oversight body – comprising central banks Governors and (non-central bank) heads of supervision from the Committee's members.

## Basel Committee

BCBS Chairman  
Pablo Hernández de Cos, Governor of the Bank of Spain

Policy Development  
Group

Supervision and  
Implementation  
Group

Macroprudential  
Supervision  
Group

Accounting Experts  
Group

Basel Consultative  
Group

The BCBS has in place a rotating chairmanship to direct the Committee's standard-setting and research-based groups.

The Committee comprises five standard-setting and research-based groups, each of them having a number of specialised working groups and task forces.

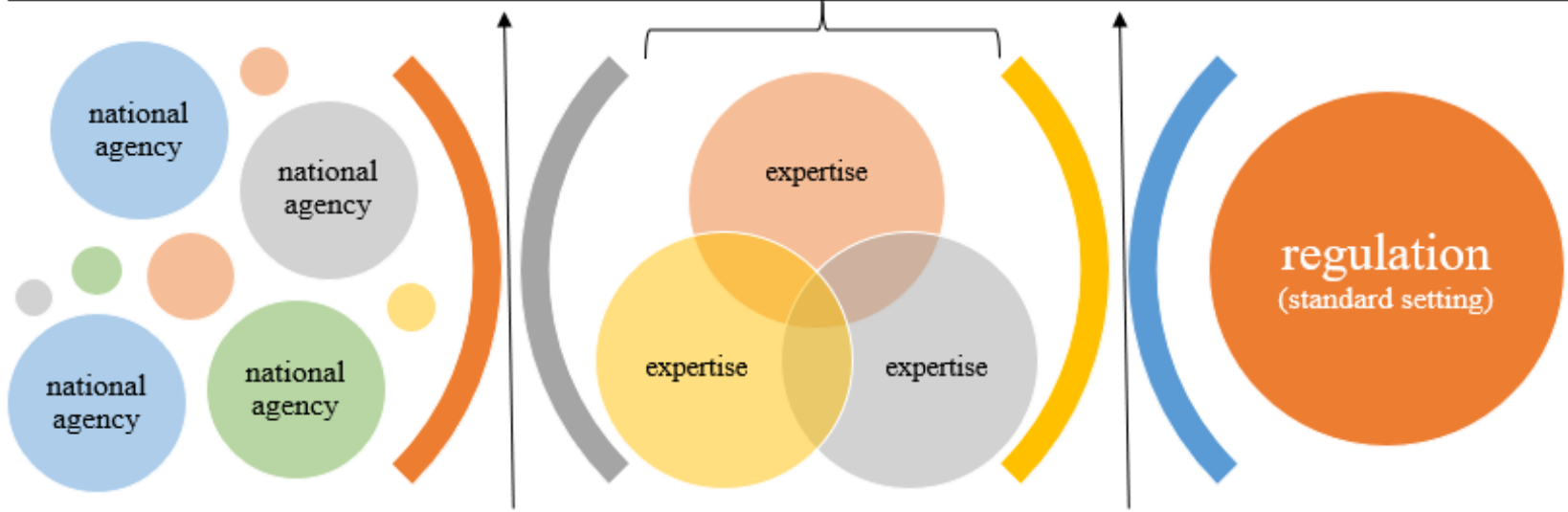
The Committee's Secretariat is hosted and supported by the Bank for International Settlements, located in Basel.

**Basel Committee Secretariat**  
Secretary General: Carolyn Rogers\*

\* As from August 2019

Its 45 members - central banks and bank supervisors from 28 jurisdictions (90% of the world's banking assets)

Legitimacy



Input

Process

Output

## Members

- national regulatory agencies, who are tied to national rules related to their activity
- expertise
- upon choice

## Status

- **no international legal personality**

## Organisation

- no centre
- it does not develop according to a plan, but spontaneously, therefore they can exist without the drawbacks of formal institutions or government procedures
- Consensual decision-making
- Transparency?

## Soft law

- do not create international legal obligations

## Success

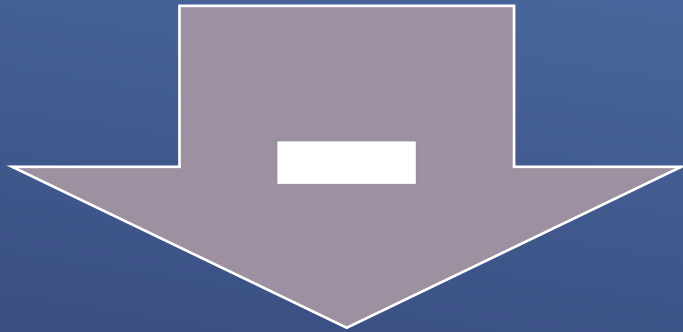
- speed, flexibility, and inclusiveness, and the capacity to dedicate sustained attention to complex regulatory problems



# Soft Law



- + Significant sources of interpretation
- + fillers of legal gap
- + best practice



- Ambiguous & pernicious
- Outside the frames of decision-making system
  - Democratic deficit
- Transparency (incl. publicity) problems
- Can never substitute formal legislation



**Legally binding force**

vs.

**legal effects**



# Typical TRNs

Financial  
world

Environmental  
issues

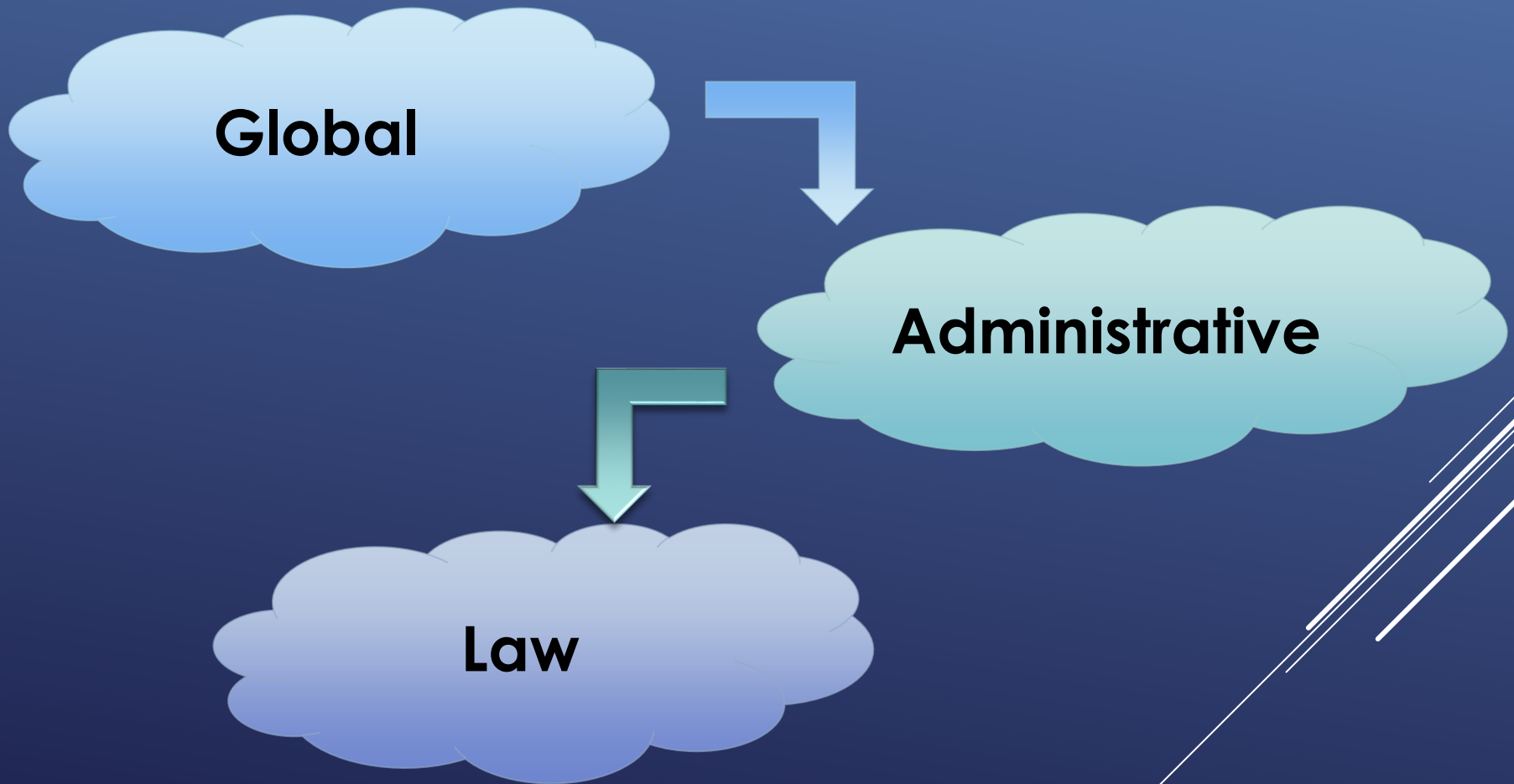
Security



International Organization of  
Securities Commissions (IOSCO)

## *Global administrative law*

is the closest notion to describe the TRN-phenomenon



TO BE CONTINUED....

EUROPEAN ADMINISTRATION AS  
A SUI GENERIS SYSTEM

