Out of Crisis

Rethinking Our Financial Markets

David A. Westbrook

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Great Barrington Books

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Preface and Acknowledgments

One should sympathize with the journalists who struggle to provide stories about at least the most striking of the facts in which we seem at risk of drowning, the numbers that "materialize and vanish and rematerialize in a different form."[1] What can be meant by payments reckoned in tens of billions, millions upon millions of unemployed people, trillions of dollars of debt and growth (certainly more than the velocity of money supply, whatever that really is) that might or might not have otherwise happened? Surely the transformation of our world, but perhaps one could be a bit more specific? And so we often read the life and times of the pundit, which can be amusing and even insightful, if the pundit is a good writer.

Another approach to confronting the confusion of our news is historical narrative, usually strongly chronological and explicitly, simplistically, causal. Just months after the crisis began, a stream of books explaining what "really" caused the crisis began to flow; the stream has become a flood with no signs of abating. Such accounts can be delivered at whatever level of detail the reader can tolerate, and we may rest assured that doctoral dissertations on the causes of this crisis will be written by people who are now infants. Narrative and its pitfalls are both further discussed and modestly indulged in what follows, but on the whole this book despairs of telling one convincing story with which blame can be assigned and from which noble policy flows, and so another approach to rethinking our crisis must be found.

A somewhat more muscular approach is suggested by the great mid-twentieth-century corporation law scholar and man of affairs Adolf Berle, who was said to have aspired to be the Marx of the capitalist classes. It would be nice to have a scientific grand theory, with a dynamic akin to class struggle, to explain or at least articulate what has happened to our financial markets over the past few years.[2] But this is not the nineteenth century, and monolithic theories of complex history seem sophomoric or even authoritarian. What might still be possible and even more useful, however, is to work more like some Walter Benjamin of the capitalist classes. Benjamin was the great interpreter of, among other things, Bert Brecht, who wrote *Threepenny Opera*, a scathing attack on capitalism that was a huge hit. That is, the current financial crisis provides us with an opportunity for the critical analysis of established patterns of thought, a chance to ask how are we to (re)think what began as "a housing bubble," went through a period as a "financial crisis," which quickly became "a credit crisis," or even "a liquidity crisis," and finally "a recession," with talk of "depression" in the air. Instead of narrative, this book is an exercise in interpretation, what might be read as a critique of the intellectual history of the present, that asks how we are to engage—think about—the largest financial crisis in several generations and, by extension, political economy more generally.

I teach business and international topics in a law school, and this book is an internal critique of the perspective of financial policy elites. This perspective is expressed in various ways and called different things, including simply economic or financial, law and economics, liberal or neoliberal, Chicago school, Washington consensus, deregulatory, and so forth. The roots of this perspective are old—one might plausibly argue going back to the development of accounting and/or probability in the late Middle Ages—but the "modern finance" with which this book is concerned is probably best understood as a result of development of more "scientific" (and quantitative) forms of economic discourse after World War II. It is associated especially with the development of portfolio theory since the 1950s, economic analysis of law since the 1960s and 1970s, deregulation since the 1970s, financial engineering since the 1970s but gaining speed throughout the 1980s and 1990s, advances in entity architecture since the 1970s over roughly the same time frame, and risk management (often based on both the new financial instruments and special-purpose entities) over the last few decades, but especially since the 1990s, and structured finance in the 1990s and the early years of this decade. As this partial yet long listing of intellectual sources and expressions suggests, modern finance is widespread and diffuse, a powerful yet somewhat unarticulated way of looking at the world and doing policy. It is, in short, both an intellectual tradition and an ideology.

In discussing finance as an ideology, and especially in talking about how this way of looking at the world may be changing under the pressure of current events, I have imagined a fairly sophisticated reader, one attuned to the discourses of the financial markets, especially in the United States. I have not had much choice. Both lack of space and my own limitations prevent me from articulating "the entire edifice," as former chair of the Federal Reserve Alan Greenspan called it, also somewhat vaguely. It is difficult enough to suggest how this ideology, which has been so vital to our political lives, may be entering a time of rupture and transformation. So, for example, the discussion of efficiency in Chapter 1 refers to the Efficient Capital Markets Hypothesis (ECMH) but does not survey the literature, and certainly does not try to teach ECMH to those who do not know it already. At the same time, however, I have struggled to make my broader argument as clear and accessible as possible. I believe that people who do not have substantial backgrounds in finance will be able to get the gist of my argument, and that people who do have such backgrounds will think that I am being fair, perhaps even generous, in my discussion of how financial thinking has developed and perhaps is being transformed.

Much of this book was written in the form of public talks given in the fall of 2008 and through the long cold winter of 2009. Some of the effrontery of the public presentation no doubt remains, but I find that having to speak—to say something, publicly and soon—forces me to decide what I think. And a question-and-answer session in front of a diverse crowd both encourages boldness of expression and helps to reveal weakness of analysis. ("I'm sounding like an idiot—need to work on this part.") For being great hosts and fine interlocutors, I would like to thank, in chronological order, Frank Partnoy at the University of San Diego, Rosa Lastra at Queen Mary College, Charles Goodhart at the London School of Economics, Christina Garsten at Stockholm University, and Edward Balleisen, David Moss, and others at the Tobin Project. In London, Andrew Haldane from the Bank of England was a very gracious commentator, who not only produced the PowerPoint slides that I should have, but who "translated" my remarks for central bankers (to their visible relief and my grateful chagrin).

My thinking has benefited from talks given under the auspices of the U.S. State Department Speaker Program, both in Brazil, mostly on transparency, and in China, where I spoke to a host of government, academic, and private-sector audiences, mostly on rethinking financial markets. I would like to thank Gretchen Weintraub and the many other foreign service officers who helped to make these trips possible.

In addition to those mentioned, I would like to thank a number of people with whom I have been discussing these ideas, some for many years, including Brandon Becker, David Franasiak, Vitor Gaspar, Phil Halpern, Doug Holmes, Fred Konefsky, Jack Schlegel, George Williams, and Jim Wooten. Patrick Fitzsimmons and Michael Halliday provided excellent research assistance.

I completed this project while teaching at the University of Kansas and at Washburn University, and gratefully acknowledge the warm hospitality of both institutions. I thank Raj Bhala, Chris Drahozal, John Head, and Stephen Ware at Kansas for their interest and helpful comments. Christopher Steadman, Lauren Van Waardhuizen, and especially Pam Tull in the Wheat Law Library were tremendous. My publisher, Dean Birkenkamp, and the rest of the team at Paradigm have continued to be friendly and supportive.

Over the years, my wife, Amy Westbrook, has protected me and sometimes reminded me that there is news outside the scope of my current obsession. My children, Thomas, Sophia, and Peter, reminded me that although "the news happens every day," as Peter put it once, it often should be put aside. I am quite blessed.

Let me close with a vignette. As an untenured professor, and acting on a whim, I sent a copy of an article on what Enron's implosion, and the ensuing accounting scandals, might mean to three old lions, John Kenneth Galbraith, his friend Charles

Kindleberger, and Ronald Coase. All three economists, having cut their teeth before and during the Depression, were concerned with essentially social questions of crashes, confidence, what holds institutions together, and the like—questions that were often dismissed as too fuzzy at the turn of the twenty-first century, but that, not so incidentally, seem far more relevant today.

Galbraith and Kindleberger actually read my article and wrote back. (What, if anything, should I make of Coase's silence?) Galbraith sent me a copy of his last book, *The Economics of Innocent Fraud,* with a scrawled inscription I have yet to decipher (he usually typed, on small pieces of paper). Kindleberger wrote to ask "permission" (!) to discuss my thoughts on Enron in the latest edition of his classic *Manias, Panics, and Crashes.* Our brief correspondence was heady stuff for an obscure young academic, but sadly, both men died before I had a chance to go to Boston and discuss such things in person. Of course, I should have made a chance, but.... Perhaps I know better now. I am at an age when I am beginning to lose my mentors, including, so far, G. P. Cutino, Abram Chayes, and Hal Berman. So this book is dedicated to the encouragement of old men.

David A. Westbrook

An Introduction to the Argument

> This modern risk-management paradigm held sway for decades. The whole intellectual edifice, however, collapsed in the summer of last year.
>
> —*Alan Greenspan, former chair of the Federal Reserve*[1]

"CRISIS" IS COMMONLY UNDERSTOOD AS A DRAMATIC AND PAINFUL DEVIATION from a well-established norm. Reversion to the mean is, however, expected, and as soon as the old norm has been reestablished, then the crisis will be over. In this view, the present global financial crisis and concomitant economic recession is an anomaly, and sooner or later (but when?) we will return to "normal" (perhaps represented by the state of affairs in 2005?). We hear this imagination of the crisis every day, in speculation about when the "recovery" of the stock market, and the economy more generally, will occur.

One may also imagine a crisis in a very different way, as the stress that accompanies the birth of a new state of affairs. In this view, the old order no longer exists but is largely destroyed as our circumstances are transformed. It is pointless to speak of the period after the Great Depression as a "return" to the economy of the late 1920s, for example. The world was transformed not only by the Depression but also by the ensuing world war—and when prosperity returned, nobody thought it was a return to the status quo ante. Although it is too soon to tell how significant this crisis will be, as Chou En Lai reportedly said of the French Revolution, the current financial crisis increasingly seems to be historically transformative, more than an anomaly.

The present crisis appears to be important not least as a matter of how the economy is understood by our policy elites. Indeed, the former chair of the Federal Reserve testified to Congress that the paradigm through which he had conducted monetary policy, "risk management," had collapsed. But the understanding of risk management that Greenspan used to conduct monetary policy, and to argue against various forms of regulation, was an expression of what variously might be called an imaginary, an ideology, or *Weltanschauung,* a way of looking at the world that, in its time and place, made sense to a group of people. Not only did this way of looking at the world make sense, it served as the basis for economic policy on both sides of the aisle, and indeed around the world. The understanding of financial markets, and the way various actors participate in such markets, that informs modern risk management and no small amount of monetary policy also informs modern law and economics, and so corporation law, securities law, banking law, monetary policy, much of our foreign policy, and so forth. Without being in any way unkind, there is little reason to believe that this generation of policy thinkers, who were trained in the old, now largely discredited paradigm, really knows how to tackle the problems before it. (Nor, for that matter, is it so clear how to teach finance.) The ways, or many of the ways, (but which ones?) that these problems have been considered are at least compromised, perhaps simply wrong. So for Greenspan to tell Congress that his way of looking at the world, their way, had collapsed was deeply embarrassing, not only to Greenspan but to his audience, and therefore not without courage.

Unsurprisingly, Greenspan was attacked in Congress, largely by people who had neither the intellectual creativity nor the independence to attack him, and more fundamentally, his worldview when he and it were politically strong. Such attacks were distasteful and intellectually dishonest, if hardly surprising, especially during a crisis. More deeply, however, such attacks suggest just how embarrassing Greenspan's admission was. The simple truth is that the Washington elites, insofar as they knew about finance in any formal sense, were trained in the tradition of which Greenspan unquestionably was a master and that he admitted had collapsed. Greenspan in effect devalued not merely his own intellectual capital but that of his audience. No wonder our elected representatives were angry.

As the management of this crisis since Greenspan gave his testimony in the autumn of 2008 has rather conclusively demonstrated, no consensus exists to take the place of "the modern risk-management paradigm." This is a problem, a problem so grave (or hilarious, for those with a mordant sense of humor) that it has not really been addressed publicly. Without a disciplined way of thinking about financial markets, how are our leaders to confront the current crisis? Something must be done, as we are incessantly reminded, but what, exactly? No doubt money must be spent, but how? As of this writing, two administrations, from two different parties, have done a mediocre job, at best, of coping with the crisis. Confidence has spiraled downward. Credit has dried up, except for credit that is guaranteed by the government (ultimately by the power to tax, or, in Max Weber's term, the monopoly of force). Foreclosures have risen, along with unemployment. Productivity has fallen, in the United States and elsewhere. International trade has contracted mightily. In response, the United States and other governments around the world have moved decisively, energetically, and effectively to address this global crisis. Here at home, two administrations have moved boldly, even aggressively, to address our problems. And so forth. The fact that this crisis is not now as bad, and does not at this writing look to get as bad, as the Great Depression is hailed as evidence of our wisdom. Really. One need not be particularly angry or disappointed about these shortcomings in our leadership: Once the dominant structure of thought collapsed (that is, because Greenspan was right), then subsequent actions were unlikely to be particularly thoughtful, even when well intentioned. Learning by experience is often awkward.

With little to replace the thinking in which we were trained that has so signally failed, policy elites have excused their (mis)handling of the present situation by emphasizing how strange and bad the crisis is, as if the financial markets were struck by an act of God, a financial "tsunami," for which no one is to blame, and which was not even reasonably foreseeable. Less dramatically, we read that this crisis is "unprecedented," as we are in "uncharted waters." Such characterizations are too convenient. It is financial policy—the understanding of markets that our elites have constructed with great energy over recent years—that has collapsed. Indeed, the staff has hardly changed. The financial crisis is, in some very deep way, the fault of the very elites who are charged with rectifying the situation. Again, and not to mince words, the situation is embarrassing.

One must hope for new thinking to replace the old, and no doubt some such thinking will emerge in due course. Humans cope. But creativity is unpredictable under the best of circumstances. And Washington policy elites rarely have the skills, the inclination, the time, or the space for real thought, much less creativity. The men and women who tend our bureaucracies, and who give our elected officials their talking points, were, almost every one, astonishingly excellent students and diligent underlings, broadly educated and hypercompetent. As adults they are deeply conventional and, in that sense, conservative. Though we have reasons for hope, it is sociologically and psychologically implausible that our administrative agencies will rethink our financial markets at all well and except under extraordinary circumstances. Such is the nature of mandarin bureaucracy and, unfortunately, the situation of our financial policy bureaucracies in this crisis. And so the crisis arose almost unseen and has been badly managed for several years now.

But coping with this crisis is only the immediate task. Without a considered worldview, it is difficult to think about the reform of financial policy. (The word "paradigm" is inevitable but not quite right, as will emerge especially in Chapter 4.) Clearly, financial regulation needs reforming. In light of the tendency of policy elites to deflect responsibility, it is needful to emphasize that U.S. financial policy failed, and by definition. It seems doubtful that this failure was inevitable, though perhaps it was. But just as a conquered nation cannot claim to have had a successful defense policy, after this crisis we cannot claim to have had a very successful financial policy.

Yet the recent failures of U.S. financial regulation are far from total. It should be remembered that the U.S. financial markets are still the deepest and broadest in the world. Although it would be foolish to claim that wise financial regulation caused the success of U.S. capitalism, surely much of modern financial regulation is correct. We are thus presented with difficult analytic problems: Which aspects of our financial regulation failed, and should be reformed, and which should be preserved? Sorting out such difficulties presumes a perspective, perhaps even a philosophy of regulation—just the sort of confident and reasonably principled understanding that we no longer have.

More broadly, modern risk management was rooted in a host of assumptions that, taken together, formed an idealized but nonetheless powerful view of the public and the private, the government and the market. It would not be too much to say that this view was, in a highly capitalized society such as that of the United States and the nascent global society, a sort of constitutional imagination. Marketplace actors were expected to behave in certain ways, and governments were expected to act in certain ways. Investors, whether individuals or institutions, were entitled to rely on such expectations with their funds for education, retirement, health care, and even operating income. To say that this vision is now substantially fractured is also to say that this is not merely a financial crisis, but a political or even a constitutional crisis—we are not so sure how the pieces of our society fit together or should fit together.

The United States is a profoundly capitalistic society. The lives of ordinary people are deeply and directly involved in the capital markets, most obviously through retirement savings. But Americans also rely on the capital markets to provide savings and credit for housing, transportation, education, health care, and many of the pleasures of life. Much the same point may be made institutionally. In the United States, a vibrant civil sector is largely made up of not-for-profit institutions, which are generally dependent upon endowments, that is, on the ability of the financial markets to store and perhaps even increase value. In a very real sense, the old Marxist division between capital and labor no longer applies. We—at least all of us with fair to middling jobs, and so in the middle class—are all capitalists now. This reconfiguration of the relationship to capital is one of the many reasons that Marxism, that is, the ideology that legitimated both Stalin's purges and Mao's "30 percent mistake," the Cultural Revolution, is not due for a revival.

More deeply, the history of modern (since the development of portfolio theory in the 1950s) finance may be understood as the brilliantly successful collective effort to use contract law (financial instruments) to make property more liquid, that is, more like money. The securitization of bank loans is but one, not unimportant, example of this process. Thus what were once local assets—for example, real property—are now owned globally, everywhere and so in some sense nowhere. We may think of this vertiginous reality as not only the globalization, but also the socialization, of capitalism. More on this in due course. For now, it suffices to note that the American citizen outraged over multimillion-dollar bonuses at companies receiving tax dollars, or the Chinese businessperson worried about the fall in U.S. consumer demand, is correct to be engaged—capital markets are key terrain for contemporary political life. By extension, in rethinking financial regulation, we are in a real sense rethinking what we mean by the social and the political.

To suggest that a crisis might be understood as a birth is also to suggest that the current financial crisis may present an intellectual and political opportunity to rethink our understanding of financial markets, and so our understanding of financial regulation, and, more broadly, our understanding of markets and governments—in short, of the capitalism under which we live. Conveniently enough, the Chinese word for "crisis," *wei ji*, also signifies "opportunity," and so perhaps we should view the current financial crisis not only as a very bad thing, which it is, but also as an opportunity for the renewal of our political economy. Maybe we will learn from this crisis and emerge with a better, more responsible, and more humane understanding of our markets. Probably not, but this book nonetheless pursues this hope for the renewal of financial policy and, more broadly, for the way we global citizens think about markets.

It must be stressed that this is a hope, and hopes often do not come true. The fact that a crisis presents an intellectual opportunity does not mean that the opportunity will be seized and that something important will be learned. Most financial crises are fairly uninteresting as a matter of intellectual history and policy thought, however gripping they may be to the participants. Most crises can be more or less comfortably accounted for within existing conceptual frameworks, or acknowledged (and dismissed) as anomalies. For example, very little was learned by the policy community from the Enron ordeal and the accounting scandals, from the implosion of the Silicon Valley bubble, or, perhaps in the case most relevant to the present difficulties, from the failure of Long Term Capital Management. Until September 2008, it looked unlikely that the policy communities would lose faith in their own understandings and find new ways of seeing things. Even as this book goes into production, in the late summer of 2009, the talk emanating from Washington is in many ways very old-fashioned, well within existing paradigms, however discredited. Not that this is very surprising. Establishments are, by definition, set in their ways. We have no guarantee that as a society we will learn from the present financial crisis instead of merely enduring it.

Today one hears a great many explanations and proposals that may be more or less true or wise, but that are well rehearsed, part of established discourses, and so—to be blunt—irrelevant to the question of whether we stand at a historic moment of financial policy, and so, in a capitalist society, at a historic moment in our constitutional imagination. Arguments about failures of boards of directors, regulatory negligence, the imprudence of government bailouts, the greed of executives, and the like fall into this category. Little is said that has not been said countless times before. More subtly, genealogical explanations of the crisis as a tale of subprime mortgages gone terribly wrong (of crazed lower-class borrowers and/or fantastically successful Shylocks) are like accounts of derivatives markets that begin with farmers selling futures contracts on harvests to come, just true enough to be distracting. Worse, such explanations subtly provide comfort, by rendering familiar patterns of thought barely plausible and sparing us the anxiety of trying, and quite possibly failing, to think anew.

There seem to be two prerequisites for the renewal of policy thought: first, a big event or set of events, and second, the emergence of a substantively new consensus. The week of Sunday, September 14, 2008, should have provided sufficiently big news to occasion rethinking. To recall: It was announced that Lehman Brothers, an ancient firm with global operations, was insolvent, and its bankruptcy filing, and failure to trade, Monday morning triggered a global wave of insolvencies, with many firms saved only by massive government interventions. Meanwhile, Merrill Lynch, the nation's largest securities broker and a huge investment bank, was sold under duress to Bank of America. On Monday, the Dow Jones Industrial Average (DJIA) fell 504 points. On Tuesday, AIG, which recently had been the world's largest insurer, was failing and received the first tranche of many billions of dollars. On Wednesday, credit markets worldwide froze. It must be admitted that, even after the unreal morning of Monday, September 15, we were subjected to a slew of rationalizations as pundits and others tried to preserve the traditional way of seeing things, but these turned out to be like the epicycles that were used to square the Ptolemaic model of the solar system with observations of planets that were not where they were "supposed" to be. The next weeks brought more excitement. The last of the big investment banks, Morgan Stanley and Goldman Sachs, were allowed to become bank holding companies, and Washington Mutual failed—the largest bank collapse in U.S. history. The congressional failure to authorize a $700 billion rescue package nominally agreed upon by both parties was met by one of the largest single day point drops ever in New York Stock Exchange history. Such dramatic events, especially the death of venerable institutions, many of which had survived for a century or more, should prompt all but the willfully obtuse to reconsider our capital markets.

The second requirement for a substantial rethinking of our financial markets—the emergence of a new consensus—has proven elusive. Thinking is hard, and innovation is by nature ephemeral (that much, at least, of the Efficient Capital Markets Hypothesis is correct). The real difficulty with creating a new policy consensus, however, is not intellectual, but political. It is not enough to have new ideas, even good new ideas. Intellectuals can generate new ideas without much difficulty; ideas as such are relatively cheap. But ideas are not politically significant until powerful parties believe them. Thus, in order to rethink our financial markets, we need ideas that the Washington establishment can believe in—even though they were trained and have made their careers on the basis of different understandings of the world. As has already been suggested, such wholesale self-denial does not happen very often; establishments are conservative.

In the abstract, of course, the shock of events, with ancient giants like Merrill and Lehman gone, and AIG falling, would seem to demand fundamental rethinking on the part of policy intellectuals as well as the formation of a new policy consensus, what we teach in schools and place in op-eds and expect to hear in confirmation hearings and professional luncheons, the imaginations that inform our policies, institutions, and laws. But there is no guarantee that a consensus will form, that people will agree on a relatively consistent set of new ideas, especially in times of stress. Losses of faith in shared intellectual frameworks, and the construction of a new frameworks, along with changes in confidence in given markets, perhaps auction-rate securities or commercial paper offered by structured investment vehicles (SIVs), raise questions of collective psychology, how people believe together, and so think and communicate with one another, do business. It is very difficult to know how such questions will be answered. It is therefore difficult to know whether communities of discourse, especially the U.S. Congress, will develop new ways of understanding political economy. As of this writing, the news is not too good.

And yet, even here, there is reason for hope. The pressure of events begs explanation; surprising circumstances may inspire us to rethink our old assumptions. Perhaps events cannot force us to be creative or to reach agreement. But events certainly can give us plenty to talk about, keeping issues "on the table." Intellectual discourse, and hence policy discourse, can be transformed by changing social realities, sometimes quite suddenly. John Kenneth Galbraith's words, from over fifty years ago, resonate today:

> I am not wholly barren of hope, for circumstances have been dealing the conventional wisdom a new series of heavy blows. It is only after such damage has been done, as we have seen, that ideas have their opportunity.
>
> ... Ideas are inherently conservative. They yield not to the attack of other ideas but to the massive onslaught of circumstances with which they cannot contend.[2]

If Galbraith was right, then we should look for intellectual and political opportunities in the very seriousness of this crisis, and particularly its surprising aspects. This effort to rethink our financial markets is not, at bottom, situated within the United States. It is true that specific aspects of U.S. policy, such as federal encouragement of home ownership through mortgage debt securitization, and easy money as a response to various difficulties, have informed how the financial crisis has unfolded in the United States and so elsewhere. But sticking with these examples, and there are of course others, U.S. housing debt was sold worldwide, and the easy money for which Greenspan is now widely blamed arose in the context of, among other things, a symbiotic and problematic relationship with China, terrorist attacks, and wars—international security concerns. It is trite to say that markets are global, but they are.

More deeply and perhaps less obviously, the scope of capitalist social thought is global rather than national. As Louis Pasteur touchingly said, science knows no country. That is, insofar as we take seriously the proposition that the risk-management paradigm has collapsed, then this is a crisis at the heart of an intellectual tradition, finance. But finance is practiced all over the world, in China and Latin America and Europe and Africa—to name a few places affected by the crisis. The University of Chicago is not just in Illinois, and the financial crisis raises questions of intellectual history, a history by no means confined to the United States. What was the grammar through which we thought, and not incidentally constructed, financial markets? Can we already discern the outlines of a new paradigm, or, more precisely, an emergent aesthetics or imagination of markets, and hence of the conduct of financial regulation?

The stakes are quite high. This book is written in part to help draw the curtain over an era of especially striking irresponsibility on the part of officials in both the so-called public and private sectors. It is silly and unhealthy to rage, especially because irresponsibility is a characteristic sin of both government bureaucrats and financiers, but there is little point in denying that my hope for a revived political economy is grounded in real anger and no small amount of fear. The strategy here is simple enough:

- On an epistemological level, and as suggested above by reference to Benjamin in lieu of Marx, political economy should make the turn to interpretation that the other humane sciences have made. The "rethinking" of this book's title is meant quite literally—we have been thinking about our financial markets, and therefore political economy more generally, in the wrong mode.
- On an ontological level, it is high time that we revive and extend the social understanding of markets, that is, the minor tradition of economic thought running back through Galbraith and Kindleberger (and even Samuelson, to some extent) to Keynes and Knight, Veblen, Maus, Durkheim, Weber, and yes, Marx, albeit in his less than scientific (easily authoritarian) moments. Understanding markets socially, as a way of doing politics, would bridge the division between left and right that deeply structures economic policy across what is uncritically called the political spectrum.
- On the level of political morality, conceiving of financial markets as ways of doing politics should help those on the left to be less squeamish about markets, those on the right to lose their fear of the social, and bureaucrats of all dispositions to take more responsibility for the structures through which our society constructs itself.

This book sets forth an interpretation of the financial crisis as a matter of intellectual history, and then explores what such an understanding might mean for policymakers who understand markets as a preferred mode of governance and who take at least limited responsibility for our social structures. In short, this book is a map, however sketchy, of a third way.

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As mentioned in the Preface, the usual way to approach problematic events, for purposes of both analysis and explication, is by telling a story. So books like this generally offer their own versions of what "really" happened. And if the books offer reflections on the revolution, as this one does, then the story is likely to have the following, by now conventional, structure, which serves to make the radically new seem understandable, perhaps even necessary.

This crisis is often said to be the most significant since the 1930s, which begs the question: Will future institutions, law, and regulation hearken back to 2008/2009 as a time of rupture, rebellion, and founding? Is this a time of policy revolution, using "revolution" in a sense like Thomas Kuhn's idea of scientific revolution, a time when an old paradigm is no longer felt, within the relevant discursive community, to be able to cope with contemporary realities, and new paradigms are demanded and constructed? Is this a time for a renewal of capitalism, or at least a revision of the way we understand our capitalism?

Revolutionary thought mediates between three times: the present crisis brought on by the oppressive establishment, mocked as the ancien régime; the future, as represented by the revolutionaries; and a distant past, whose virtues must be recovered. If this proves to be a time of conceptual revolution, then the role of the ancien régime will be played by the policy consensus that arose in the 1970s, and that has dominated economics, business, and law faculties since the 1980s; that has ruled the Federal Reserve since former chair Paul Volcker in the late 1970s; and that has shaped the International Monetary Fund (IMF) and the World Bank for much the same period. As remarked in the Preface, this cultural understanding has different names in different contexts: neoliberal, the Washington consensus, Chicago School economics, the law and economics movement, and so forth. (There is something more than a little funny about Harvard's assemblage of financial luminaries to discuss the present crisis, the academic equivalent of a gathering of nobles to consider that annoying unrest in the streets.)

All revolutions are, as the name says, returns, even if only partially successful. In the present crisis, if the role of the ancien régime is represented by orthodox neoliberalism, then the distant past must surely be the 1930s, when government acted swiftly and surely to restore confidence in the markets. Or so a nation must believe if it contemplates suddenly charging its taxpayers with costs equivalent to the out-of-pocket expense of a medium-sized war in order to provide markets with "confidence." We are all Keynesians now, even if we do not admit it, and even though the world of the 1930s neither can nor should be re-created. So, as discussed below, if this time is revolutionary, it will in many ways resemble, yet be substantially different from, the liberalism that grew out of the New Deal.

Although this sort of story has its attractions, I want to resist the urge to ground our present situation in a revolutionary tale, with an answer ideologically foretold. The purpose of this book, after all, is to begin rethinking our financial markets, and thereby how we understand our capitalism. And in order to get ready to do this, I want to emphasize just how strange our intellectual situation is, how much has changed, and hurriedly, in what we assume, if not necessarily admit, about markets. The game is different; the intellectual goalposts have been moved. The next chapter discusses some of the more salient differences between what has become suddenly obvious, already decided, about our financial markets and the ideology that we believed, and that some of us published and taught, not long ago.