

# editorial

This issue of *risk&regulation* deals with the role and relevance of emergencies in and for regulation. In recent years, we have become increasingly exposed to, and made aware of, various kinds of emergencies: natural disasters (hurricanes, earthquakes and floods in the North and South), financial system crashes, disease outbreaks, political system breakdowns, migration crises, and much else besides. Governments are declaring 'states of emergency' with an increased frequency, at least so it seems, to deal with the threats posed by terrorism, civil unrest, health epidemics, among others. In the area of banking, the European Central Bank's President Mario Draghi's comment on 'whatever it takes' to save the Euro continues to attract controversy, but also highlights the kind of exceptional circumstances European political systems have found themselves in.

This issue considers implications of such developments for regulation. It assembles articles that explore different understandings of emergencies, emergency powers and emergency regulation across policy sectors and national jurisdictions. The contributions address questions ranging from the problem of defining and detecting (potential) emergencies to issues of accountability and legitimacy.

Whereas there exists a considerable body of literature on civil-military relationships and the impact that 'states of emergency' have on constitutional principles and power, less attention has been paid to the use of emergency powers by civilian authorities, including regulators. How should the exercise of emergency powers by independent regulatory agencies be organized and decided upon? Who should have the power (and legitimacy) to declare and end the exercise of emergency powers? What capacities are required for the exercise of emergency powers? How can the exercise of emergency powers be controlled and held to account?

Bruno Queiroz Cunha, Sergio Collaço and Francisco Gaetani, discuss the difficulty of regulatory 'lesson learning' from disasters focusing on the Brumadinho and Mariana dam collapses in Brazil. Arjen Boin and Martin Lodge consider at a more general level challenges that 'creeping crises' pose for risk and crisis management. Alison Harcourt considers risks

and opportunities of FinTech and the challenges that regulators face when dealing with unknowns.

Emergencies need to be understood not only in terms of systemic challenges to functioning existing institutions, including critical infrastructures. Alejandra Elizondo and Mauricio Dussauge-Laguna discuss the institutionalization of a new regulatory body and question whether such capacity building has relied on exceptional circumstances. The article by Jose Bolanos shows that an emergency, such as a terrorist attack or hurricane, is not merely challenging the capacities of regulatory actors to mitigate effects that are seen as a threat to systemic survival; it can also challenge the very foundations on which the authority of these actors is based. Emergencies present exceptional stress-tests for existing regulatory frameworks. They can quickly turn into emergencies for the regulators themselves, as capacities are found wanting, frameworks become contested, and authorities delegitimized.

This applies to novel areas of regulation, such as FinTech or emissions trading schemes, but also morally laden fields of intervention, as the article by Kristian Krieger and Nathalie Schiffino on the role of ethics experts in the regulation of biomedicine demonstrates. Finally, Chase Foster rounds off this issue of *risk&regulation* by critically assessing recent advocacy for technocracy in American government in his review of Cass Sunstein's new book on The cost-benefit revolution.

More generally, these are exceptional times for the practice and study of regulation. Beyond the continued state of emergency that is Brexit, fundamental questions are raised about the efficacy and legitimacy of regulated capitalism in general, and the role of regulation and regulatory institutions more specifically.

**carr** seeks to offer a venue for leading these debates and we hope that this issue contributes to the international conversation about the future of regulation.

**Andrea Mennicken and Martin Lodge**