Sue Guan
Post-doctoral Research Scholar
Columbia Law School / Columbia Business School

Sue Guan is the post-doctoral research scholar in the Program in the Law and Economics of Capital Markets at Columbia Law School and Columbia Business School. Before joining Columbia in 2018, Sue was in private practice at Cleary Gottlieb Steen & Hamilton LLP in New York, where she focused on complex commercial litigation. From 2012-2013, she clerked for the Honorable Carlos F. Lucero on the United States Court of Appeals for the Tenth Circuit. Sue holds a J.D. from Yale Law School, a B.S. in Economics from the Wharton School and a B.A. from the College of Arts and Sciences at the University of Pennsylvania. In the Fall of 2020, Sue will be joining the faculty at Santa Clara University School of Law.

Benchmark Competition

Over-the-counter (OTC) markets—those for currencies, derivatives, swaps, bonds, commodities—make up an immense and critical component of global financial markets. Certain benchmarks, such as the London Interbank Offered Rate (LIBOR), are hardwired throughout these markets and play crucial roles in pricing and valuation. For example, interest payments on instruments ranging from student loans and mortgages to synthetic derivatives are tied to the value of LIBOR. In 2016, estimates of notional exposure to U.S. dollar LIBOR totaled about $200 trillion—ten times U.S. GDP that year. Correspondingly, miniscule variations in a benchmark's value will impact vast numbers of assets and transactions for hundreds of millions of people.

These benchmarks have become so ubiquitous for an important reason: they have introduced substantial harmonization effects in otherwise decentralized, opaque dealer markets. These benefits fit within the prevailing view of financial regulation: because sophisticated market participants, through wealth-maximizing behavior, tend to select towards structures that maximize efficiency, in aggregate social welfare is maximized, meaning that observed equilibria are likely the most efficient equilibria. And thus, OTC markets have remained largely unregulated for decades.

This Article argues that this understanding is incomplete, and identifies a fundamental misalignment between what is privately optimal and what is socially optimal in OTC markets. By undertaking a novel structural analysis, the Article documents overreliance by market participants on benchmarks even when they are substantially suboptimal. Thus, in contrast to existing reform proposals, which overwhelmingly assume that a single benchmark will continue to dominate, this Article proposes an alternative competitive equilibrium—one where multiple benchmarks compete.