Lawyers: Gatekeepers of the Sovereign Debt Market?

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Abstract

The claim that lawyers act as gatekeepers or certifiers in financial transactions is widely discussed in the legal literature. There has, however, been little empirical examination of the claim. In this article, we test the hypothesis that law firms have replaced investment banks as the gatekeepers of the market for sovereign debt. We document a sea change in the relationship between issuers and investment banks on the one hand, and the relationship between issuers and outside law firms on the other. Prior to World War II outside law firms had little to no involvement in the issuance of sovereign debt. However, since World War II, and particularly since the late 1970s, the relationships between issuers and outside law firms have strengthened and their relationships with investment bankers have waned. In examining this sea change we find that issuers that hire only outside counsel to work with an investment banker pay a higher cost of capital than issuers who hire no outside counsel. We interpret this result as evidence that hiring an outside counsel is a sign of weakness on the part of the issuing sovereign. Moreover, we find that if the issuing sovereign hires two outside law firms – one to work with the underwriter and one that monitors the negotiations with the underwriter – the issuer's cost of capital is higher than if it hires only an underwriter counsel. These results suggest that hiring outside law firms sends a negative signal to the market regarding the pending issue; a story inconsistent with the thesis that outside law firms play a certification role in the sovereign debt market.

I. Introduction

The "transactional lawyer" is a ubiquitous feature of most major international financial transactions today, at least for deals done in either the New York or London markets – the two biggest international financial centers. These transactional lawyers (law *firms,* to be precise) are generally involved in deals from start to finish. It would be unthinkable for most sovereigns or large corporations to do a substantial financial transaction without hiring a major law firm. But what do these transactional lawyers do that makes them so important? It turns out that this is something of a conundrum.

The reason for the puzzle is that much of what the lawyers do in these transactions seems far removed from what is ordinarily thought of as "lawyering": arguing cases, writing contracts, and finding loopholes in the tax laws. Put differently, changing the names and dates from a prior transaction, making a set of simple and routine regulatory filings, and putting all the documents together in an attractive binder, does not seem to require multiple Yale and Harvard Law School graduates, each charging $1,000 an hour.

For more than three decades now, legal scholars have struggled with the foregoing puzzle. The answer that appears to have the most adherents is that the modern transactional lawyer and his or her law firms serve as *reputational intermediaries*. We are sympathetic to this view. It is plausible that a function of an elite law firm -- like the function of an elite investment bank or accounting firm -- is to effectively "*rent*" its reputation to a pending transaction.[1] The real question, however, is not whether lawyers rent their reputations, but the extent to which this is a substantial portion of the function they serve. In other words, *how much* value do lawyers add in their reputational capacities? No one seriously disputes that lawyers also do a lot of other, more traditionally lawyerly things as listed above. No one also disputes that other institutions such as investment banks and accounting firms also serve as reputational intermediaries on many of the same transactions. So, the question is whether we can isolate, as an empirical matter, the effect of lawyers on these transactions.

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[1] Ronald Gilson, *Value Creation by Business Lawyers: Legal Skills and Asset Pricing*, 94 YALE L. J. 239, 290 (1984).

The classic work on lawyers as reputational intermediaries goes back roughly three decades, to Ronald Gilson's 1984 article "Value Creation by Business Lawyers".[2] Gilson posits that these lawyers help reduce transactions costs (he calls transactional lawyers "transaction cost engineers"). He observed that they do things like advise clients about future contingencies, identify differences in valuations among parties and generally help deals materialize.[3] The key element of Gilson's thesis regarding the value added by lawyers, however, has to do with information costs. The big law firms that that specialize in transactional work (M&A, private equity, debt issuances, public offerings, and so on) play the role of reputational intermediaries or, as it is often referred to, "gatekeepers".

Gilson's reputational intermediary story has received wide acceptance in legal academia, but also has generated a significant amount of debate.[4] The basic argument is that most large financial transactions involve significant asymmetric information or verification problems among the various players (investors, issuers, bankers, regulators, etc.). Because the parties involved in these transactions are generally not repeat "transactors", they cannot help solve these problems by credibly asserting that their own reputations are at stake. Counterparties are going to be concerned about the incentives to overstate the value of any transaction.[5] The large, modern law firms, however, are institutions that have built up reputations over decades, whilst serving a wide range of clients. They are classic repeat transactors, which gives them the ability to help solve the

[2] *Id.*
[3] *E.g.,* Peter J. Gardner, *A Role for the Business Attorney in the Twenty-First Century: Adding Value to the Client's Enterprise in the Knowledge Economy*, 7 MARQ. INTELL. PROP. L. REV. 17, 39 (2003); Ronald J. Gilson & Robert H. Mnookin, *Foreword: Business Lawyers and Value Creation for Clients*, 74 OR. L. REV. 1, 8–10 (1995).
[4] *E.g.,* Jonathan Barnett, *Certification Drag: The Opinion Puzzle and Other Transactional Curiousities*, 33 J. CORP. L. 95 (2008); George Dent, *Business Lawyers as Enterprise Architects*, 64 BUS. LAW. 279 (2009); Sung Hui Kim, *Lawyer Exceptionalism in the Gatekeeping Wars*, 63 SMU L. REV. 73 (2010); Jonathan Barnett, *Intermediaries Revisited: Is Efficient Certification Consistent with Profit Maximization*, 37 J. CORP. L. 475 n.25 (2012); *Keynote Discussion: What Exactly Does a Transactional Lawyer Do*? 12 TENN. J. BUS. L. 175 (2011); Jeff Lipshaw, *The Mythology of Value Creation: Lawyers*, *Neckties and Balinese Cock Fighting*, THE CONGLOMERATE, Oct. 23, 2008, available at http://www.theconglomerate.org/2008/10/the-mythology-o.html.
[5] *See* Gilson, *supra* note 1, at 295; *see also* Karl S. Okamoto, *Reputation and the Value of Lawyers*, 74 OR. L. REV. 15, 44–45 (1995); Stephen M. Bainbridge, *Corporate Lawyers as Intermediaries*, in CORPORATE GOVERNANCE AFTER THE FINANCIAL CRISIS (2012).

information/verification problems by acting as intermediaries and lending their reputation to the transaction.[6]

The puzzle in this story though, and one that Gilson recognizes, is that there is nothing particularly lawyerly about this function. Investment bankers and accountants also work in firms that are repeat transactors. Indeed, the bankers and accountants often have more money at stake if their reputations are tarnished – witness the case of Arthur Anderson's demise in the wake of the Enron debacle.[7] And these institutions should be, in theory, able to perform at least the same reputational intermediary role being posited for law firms.

Some critics of the Gilson thesis have made the foregoing point, suggesting that reputational bonding is but a small part of the lawyer value story.[8] Others, such as the late Larry Ribstein, have suggested that the reputational intermediary explanation has evolved over time and, while perhaps plausible at one time, has diminished in relevance in the modern era.[9] Yet others suggest that there might not be any real reason for lawyers to be so involved in financial transactions other than that they have always been involved and may be performing some kind of ritualistic role.[10] While the involvement of lawyers in financial transactions continues to be debated, there is little in the way of empirical evidence on the question. It is the purpose of this paper to add to this fledgling literature.

The theoretic literature has generated at least three open empirical questions. First, how plausible is the reputational intermediary model for lawyers? Second, to the extent that the Gilson model is plausible, can we quantify how much value *lawyers* add in their role as reputational intermediaries? Third, how has the role of lawyers as reputational intermediaries evolved over time? We believe that our empirical analyses shed light on these and other important questions.

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[6] Larry E. Ribstein, *Ethical Rules, Agency Costs and Law Firm Structure*, 84 VA. L. REV. 1707, 1714–18 (1998).
[7] *See, e.g.,* Stephanie Yates Rauterkus & Kyojik "Roy" Song, *Auditor's Reputation, Equity Offerings, and Firm Size*, 34 FIN, MGT. 121 (2005).
[8] *E.g.,* Steven L. Schwarcz, *Explaining the Value of Transactional Lawyering*, 12 STAN. J. L. BUS. & FIN. 486 (2007).
[9] *See* Larry E. Ribstein, *The Death of Big Law*, 2010 WISC. L. REV. 749.
[10] Jeffrey M. Lipshaw, *Beetles, Frogs and Lawyers: The Scientific Demarcation Problem in the Gilson Theory of Value Creation*, Suffolk University Law School Working Paper 51 (2008 draft).

II. The Sovereign Debt Market

We analyze the role of transactional lawyers through the lens of the market for sovereign debt. If the reputational intermediary thesis is correct, then the sovereign debt market is one in which it is particularly likely to manifest itself for the following reasons.

Sovereign issuers face three key problems. First, there is an asymmetric information problem. The finances of sovereigns tend to be opaque in the best of circumstances and difficult to observe even for local citizens. In addition, the primary asset of a sovereign is the willingness of its citizens to pay taxes – a notoriously difficult matter to predict. Foreign investors are at a particular disadvantage in terms of being able to observe the sovereign's finances or predict the future preferences of its voters.

Second, sovereigns are difficult to sue and even more difficult to enforce contractual agreements against. Even with explicit waivers of sovereign immunity, finding assets to serve as collateral or repayment is an onerous task.

Third, while sovereigns are, in theory, infinitely lived entities, their agents (politicians and bureaucrats) are not. The primary goal of most politicians is to win elections, which necessarily gives them a short-term focus.

Reputational intermediaries, in theory, could solve the foregoing problems.[11] But they would have to: (1) demonstrate themselves as having the skill and ability to evaluate the complex and opaque information about the sovereign; and (2) be able to credibly show that they would have much to lose if their representations regarding a sovereign and a pending issue turned out to be incorrect. In theory, both investment banks and law firms that ply their trade in the sovereign debt market and earn large fees for advising clients, have both the abilities and incentives described above.[12]

Furthermore, the market for sovereign debt is a market in which the alternate explanations for what transactional lawyers do may be of limited importance – at least, in comparison to, for example, domestic corporate issuances in the US. For example,

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[11] The literature on the economics and politics of sovereign debt has long recognized the first two problems that we described in the text and posited that the sovereign's interest in maintaining its reputation provides a solution. *See* MICHAEL TOMZ, REPUTATION AND INTERNATIONAL COOPERATION: SOVEREIGN DEBT ACROSS THREE CENTURIES (2007). However, the agency problem presented by governments with short-term interests has only recently begun to receive attention in this literature. *E.g.,* Viral Acharya & Raghuram Rajan, *Sovereign Debt, Government Myopia and the Financial Sector*, NBER Working Paper (October 2011 draft), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1950960

[12] *See* ROBERT SCOTT & MITU GULATI, THE 3½ MINUTE TRANSACTION, CH. 2 (2012).

consider three primary competitors of the reputational intermediary story: (1) lawyers primarily add value in terms of helping clients negotiate regulatory barriers (e.g., tax, environmental or securities regulations); (2) they do due diligence in anticipating future contingencies and making sure that the terms of the debt contracts (covenants) protect against things going wrong; and (3) they stand ready to assist the sovereign in the event of trouble – such as when angry investors try to seize assets or when the sovereign needs to obtain the consent of its investors to a modification of its obligations to them. At first cut, none of these explanations seems particularly strong in this market. There are few regulations governing the issuance of sovereign debt. Countries themselves are the primary players, and they make it as easy as possible to raise funds without the assistance of outside counsel. As for the effort that might be exerted in drafting and revising contracts, most of the documents involved are boilerplate. As we have found in prior work, lawyers seem to be doing little in the way of revising contracts to anticipate new contingencies.[13] Instead, for the most part, the deal documents are copied with minimal updating from prior deals. Given that the transactions themselves are relatively easy, why do sovereign debtors feel the need to hire the most expensive law firms from Wall Street and Canary Wharf? One explanation that holds promise has to do with lawyers providing protection against the possibility of trouble in the future. But as a general matter, sovereign restructurings and attempts to seize sovereign assets are relatively rare, except with the weakest issuers. Given the foregoing then, the reputational intermediary story is a plausible explanation.[14]

Fourth, the basic transaction and the nature of the asymmetric information problem have remained the same for over 200 years. This allows us to examine data over a long period of time – ranging from the period before the existence of large law firms to the modern day. We can also look at these transactions across multiple markets (in particular, New York, London and Frankfurt) – markets in which the structures of the law and law firms vary significantly.

[13] *E.g.,* Michael Bradley et al., *The Market Reaction to Legal Shocks and Their Antidotes*, 39 J. LEGAL STUD. 289 (2010); Scott & Gulati, *supra* note 12.

[14] Some practitioners also suggest that the reputational intermediary story partially explains the use of lawyers in the sovereign debt context. Lee C. Buchheit, *The Sovereign Client*, 48 J. INT'L AFFAIRS 527, 531-32 (1995).

Of course, focusing on this market limits the ability to extrapolate our results to other markets and other transactions. This is so for at least four reasons. First, sovereign issuances are relatively unique in the world of financial transactions, especially in terms of the lack of regulatory oversight. Second, this market has a heavier degree of involvement of politicians than most, and most politicians care more about (domestic) votes than any (international) financial embarrassment that would accompany a default. Third, these are huge transactions, often in the tens of billions of euros or dollars. Fourth, is the active participation of large and powerful multinational organizations such as the International Monetary Fund, the European Central Bank, and the World Bank.

Finally, while we have been able to compile an extensive database going back 200 years, including more than 2,000 sovereign issuances, we encountered numerous data limitations along the way, due in part to the lack of regulatory requirements mandating very much disclosure on the part of issuers. For example, we do not have information on how much individual law firms were compensated on specific transactions. The absence of information on the price of a product as vague as "reputational intermediary" makes it difficult to evaluate the quality of the product. So, even if we are able to say that it is likely that law firms are serving a reputational intermediary function, the lack of information on how much they are charging makes it difficult to draw conclusions of how important this role is. Indeed, Gilson's 1984 article itself suggests that the proposition may be untestable.[15] However, we do provide some empirical analysis that sheds light on this and related issues.

III. Indicia of Lawyers as Reputational Intermediaries

Lawyers do not necessarily have an important role to play in a sovereign debt issuance. The requirements in terms of mandatory disclosures and regulatory filings tend to be simple, given that these are sovereign issuers who are assumed to be relatively safe (reliable) for the most part. The two primary participants in a sovereign issuance are the issuer and the underwriter.[16] Given the size and sophistication of the types of sovereigns and underwriters who participate in this market, it is safe to assume that both sets of

[15] *See* Gilson, *supra* note 1, at 247-48.

[16] Throughout this article, we use the terms underwriters and investment bankers interchangeably.

entities will tend to have in-house counsel. In other words, sovereign issuances could probably be done without the need to hire any outside lawyers, which is the case for the very largest and most reputable issuers such as Germany and the United States. Less reputable sovereigns and underwriters, who do hire outside counsel, are possibly incurring expenses that they could avoid.[17] This is particularly so since the law firms that tend to work in this business are among the most elite (and, therefore, most expensive) in New York and London. According to the reputational intermediary theory, these expenditures are paid to outside lawyers because they lend their names, prestige and reputations to certify the quality of an issue.

In theory, both the issuer and underwriter can hire outside counsel. The data show that there are a handful of instances in which the issuer is represented by an external law firm and the underwriter is not. There are many cases in which the underwriter is represented by outside counsel but the issuer is not. Finally, we have a large number of cases in which both parties are represented by outside counsel.

Before we continue, we pause to note an important fact concerning the hiring of outside counsel in these transactions. For the roughly 1,500 issuances written under New York and English laws in the post-war era, the major portion of the deals have at least one outside law firm working on the transaction. The two primary categories of deals are those where both the issuer and the underwriters have separate outside counsel (618 deals) and those where only the underwriter has outside counsel (612 deals). At first cut then, it looks as if there is a large fraction of deals where the issuer foregoes using outside counsel and only the underwriter hires an outside firm. That, however, would be a misunderstanding of how this market functions. In this market, the ***issuer*** either hires one set of outside lawyers for the deal or hires two sets of outside lawyers – one for themselves and one for the investment bank. In other words, while as a formal matter, the name of the underwriter's counsel is featured on the issuing materials, these tend to be what are called "designated underwriter's counsel". This means that the ***issuer*** chooses the outside law firm that it wishes to work on the underwriter's side. Thus the lawyer selection process begins with the issuing sovereign choosing an investment bank (IB) to

[17] We are assuming that using outside counsel is more expensive than having in-house counsel do the same work.

underwrite the deal. The next decision for the sovereign is whether or not to hire an outside law firm to work with the chosen underwriter. If no underwriter's counsel is chosen, we classify this as a zero-lawyer transaction. If the issuer selects an outside law firm to work with the investment bank, then we designate this law firm the underwriter counsel (UC) and classify the transaction as a one-lawyer deal. Finally, if the issuer designates both an UC and a second outside firm to oversee the transaction, we designate the second law firm as issuer counsel (IC) and classify the transaction as a two-lawyer transaction.[18]

As we show later, the underwriters for any given sovereign's issuances frequently change from deal to deal. However, the counsel for the underwriter's side generally remains the same (after all, they are chosen by the issuer). The explanation given for this practice, strange though it may seem, is that to be effective, the counsel for the underwriters need to have a good understanding of the sovereign's financial and political condition, and it would be too expensive to have new lawyers try to learn the complexities of a sovereign's situation every time an issuance is done, particularly for a sovereign doing frequent issuances.[19] To reiterate then, in deals that have two sets of

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[18] We have only a few observations in which the issuing sovereign identifies an outside counsel for itself but does not hire a law firm to work with the investment bank.

[19] Unsurprisingly, the practice of the issuer selecting and paying for the counsel on the underwriter side has raised conflict of interest issues. The explanation given in the text is one that we took from the New York State Bar Ethics report on this issue. In relevant part, the report explains:

> The appointment of a Designated Underwriters' Counsel is thought to benefit the frequent issuer, underwriters and investors. Because such counsel works consistently on offerings of the issuer's securities, it becomes particularly familiar with the issuer, and thereby better able to make judgments about the information that should be disclosed in offering documents. This familiarity may therefore improve the quality of disclosure in offering documents, lower transaction costs and promote the efficiency of the capital markets by allowing seasoned issuers to reach the capital markets quickly, as market and other opportunities arise. The ability to reach the capital markets quickly and opportunistically is particularly important in the context of so-called "shelf" offerings. In addition, having a single law firm as underwriters' counsel for frequent issuers rather than different firms chosen by the lead underwriter for different offerings gives the issuer the benefit of underwriter's counsel more familiar with the issuer's business and able to update its knowledge more quickly and cost effectively.

See New York State Bar Association Committee on Professional Ethics, *Conflicts of Interest: Designated Underwriter's Counsel*, Opinion # 818, November 28, 2008 (citation omitted), available at http://www.nysba.org/AM/Template.cfm?Section=Ethics_Opinions&template=/CM/ContentDisplay.cfm&ContentID=55866. On this matter, see also Municipal Securities Rulemaking Board Notice, *Issuer Selection Of Underwriters' Counsel*, September 3 1998, available at http://www.msrb.org/MSRB1/reports/0299v191/ucounsel.htm; *Comment Letter from New York State Bar Association on Implementation of Standards for Professional Conduct for Lawyers*, December 18, 2002, available at http://www.sec.gov/rules/proposed/s74502/gesbackman1.htm#P73_26356

outside counsel, one for the issuer's side and one for the underwriter's side, it is the issuer who has hired both firms and has stipulated particular roles for each.

Information on how much outside lawyers are compensated is difficult to obtain. However, based on informal discussions with lawyers who work on these deals, it seems safe to say that hiring two elite law firms as outside counsel is the most expensive way to do one of these transactions. Two factors produce higher costs. First, two law firms are involved. Even if they divide up the work on the deal, there would be greater transactions costs than if the deal were done by just one firm. But, second, the two law firms do not typically divide up the work. Instead, they stand in opposition to each other, protecting different sets of interests – those of the issuer and those of the underwriter. More lawyers means more friction, more billable hours and, ultimately, higher costs.

Our working hypothesis is that there are significant information asymmetries between issuers and investors in the sovereign debt market. It strikes us that this is an uncontroversial assumption for this market. The question though is whether lawyers help solve this problem by acting as reputational intermediaries. Economists who have examined the asymmetric information problem have focused on investment banks and rating agencies as serving as reputational intermediaries.[20] Gilson's thesis suggests that lawyers might also play a role.

We propose five analyses (empirical tests) that address the following three questions: (1) do lawyers serve as reputational intermediaries; (2) if they do, how much value do they add in this role; and (3) has their role changed over time. Each of the five analyses defined below is imperfect. But the hope is that the sum total of the results from performing these analyses will provide some answers to the questions set out above.

A. Name on the Sales Documents

The simplest test of whether lawyers play a reputational intermediary role is to examine whether their names appear on the sales documents being given to investors. If

[20] *See* Marc Flandreau et al., *The End of Gatekeeping: Underwriters and the Quality of Sovereign Bond Markets* 1815-2007, NBER Working Paper 15128 (2009 draft); Marc Flandreau & Juan Flores, *Bonds and Brands: Intermediaries and Reputation in Sovereign Debt Markets* 1820-1830, 69 J. ECON. HIST. 646 (2009); Marc Flandreau & Juan Flores, *Bondsellers versus Bondholders: Investment Banks and Conditionality Lending in the London Market for Foreign Government Debt* 1815-1913, EUR. REV. ECON. HIST. (forthcoming 2012).

their names do not appear, it is likely that the issuer sees little value in telling investors which lawyers worked on the transaction. Alternatively, displaying their names prominently throughout the documents suggests that the issuing sovereign believes that providing the names of the lawyers assures potential investors that the offering materials are stated correctly and that the issue is properly priced.

Analysis One, therefore, is whether law firms' names appear on the sales documents (prospectuses and offering circulars) that are presented to investors. If not, our inquiry can stop right here.

B. Long Term Relationships

The key economic problem for an investor considering the purchase of a sovereign bond is that she will find it hard, ex ante, to determine whether the issuing sovereign is likely to misbehave in the future. Institutions that have long-term relationships with a sovereign are bound to have better information about the sovereign's propensities to misbehave than the typical investor. An institution that is serving as a reputational intermediary is one that is implicitly saying that it (1) has better information about the sovereign debtor than others and (2) is willing to stake its reputation on its evaluation of the issue. Conversely, if we find that the institutions in question change from deal to deal (particularly for sovereigns that frequently accesses this market), then those institutions are more likely to be selling some temporary service for the deal rather than providing a credibility signal regarding the quality of the issuer.

Analysis Two asks which of the institutions – law firms or investment banks – have long-term relationships with issuers. The institutions that have long-term relationships are more likely to be serving as reputational intermediaries than those that are not.

C. ***One or Two Law Firms?***

As discussed earlier, one characteristic of the sovereign debt market is a remarkable lack of regulation. Even in the United States, where regulation governing the issuance of securities is generally considered high, there is little in the sovereign context

as compared to that which corporations face.[21] The lack of regulation means that sovereign issuances can be done without lawyers – or with just one set of lawyers. Indeed, the most established issuers such as Germany, the Netherlands, the United States, Japan and France do the majority of their issuances without any lawyers (for the most part, they do not use underwriters either, typically using auctions instead of managed underwritings). One explanation is that their reputations are such that they need no reputational enhancement; need to disclose almost no information; and do not have to agree to any contractual constraints.[22] Relevant for our purposes is the fact that there appears to be little perceived need for (external) lawyers to be involved in the debt issued by these sovereigns.[23] According to our working hypothesis, sovereigns that do feel the need to disclose information regarding the true worth of an issue would engage a reputable law firm to convey this information to the market.

As previously discussed, we assert that hiring an outside law firm to examine a sovereign's finances and verify its disclosure documents enhances credibility. But, in the sovereign issuance context, we have the added wrinkle that, among the deals where outside lawyers are hired, some deals are done with the issuer hiring only one set of lawyers and designating them to work for the underwriters, and other deals are done with the issuer hiring not only lawyers for the underwriters but also for itself. The question then is whether the two different types of deals – those involving only underwriter counsel and those involving both underwriter counsel and issuer counsel – yield different levels of reputational value.[24]

In evaluating the reputational intermediary story though, there is an alternate scenario that must also be considered. Under the first (reputational intermediary) scenario, it is the number of outside lawyers that matters for reputational enhancement. Outside firms, by definition, add a level of independent scrutiny to a deal, and hiring two

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[21] For a discussion of the securities regulations, see Stephen J. Choi & Mitu Gulati, *An Empirical Study of Securities Disclosure Practices*, 80 TULANE L. REV. 1023 (2006).

[22] *See* Anna Gelpern & Mitu Gulati, *The Wonder-Clause (or Contract Tofu)*, INET Working Paper (2012 draft) (describing the different types of sovereign bond issuances).

[23] It may be that lawyers are involved. In fact, the in-house legal departments for these sovereigns are undoubtedly involved. However, because those departments are unlikely to bring reputational value to the table, we disregard them.

[24] Throughout the remainder of this Article we refer to the first case as a one-lawyer deal and the second as a two-lawyer deal.

firms is likely to result in a more accurate assessment of the sovereign's ability and willingness to honor its debt obligation than hiring just one firm. This first scenario is, to our reading, the perspective that the theoretical literature on lawyers as gatekeepers generally takes. Under the second and alternate scenario, the hiring of lawyers is a signal of potential trouble. Hiring the first set of lawyers helps assuage the concerns of the investment bankers (the first lawyers are usually hired on the underwriter side) regarding potential liability for matters such as inadequate disclosures under the relevant securities laws. And the second set of lawyers (usually on the issuer side) help protect the issuer in case things go bad, by putting in place contractual protections at the outset and being able to activate those protections should trouble arise. Under scenario two then, hiring an outside law firm is likely to be seen by the market as a sign of weakness and hiring two law firms will be seen as signifying an even worse state of affairs. Here, the hiring of law firms is akin to having an ambulance standing ready outside one's home; it is likely to suggest to onlookers that the inhabitants might not be terribly healthy. Having two ambulances suggests that things are even worse.

Analysis Three therefore, is whether we see systematic differences in the types of issuers who hire two outside law firms to certify their deals as opposed to one.

D. The Relation between the Quality of Lawyers and the Quality of Issuers

In the literature on reputational intermediaries, the assumption is often made that high-quality lawyers work only with high-quality issuers.[25] This presumption is consistent with claims made in the literature on the roles that underwriters play in the corporate issuance context.[26] However, as a theoretical matter, it is also possible that high-quality lawyers are willing to work for any sovereign who wishes to have its bond issue certified. Thus, it could well be the case that a sovereign contemplating a below investment grade bond may seek certification by a reputable law firm. For example, an issuer may believe that its bond deserves a B rating, but due to asymmetric information, investors may assign a rating of B- or lower. Under these circumstances it may be in the

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[25] *See, e.g.*, Okamoto, *supra* note 5.

[26] *E.g.,* Chris Yung & Jaime F. Zender, *Moral Hazard, Asymmetric Information and IPO Lockups*, 16 J. CORP. FIN. 320 (2010).

interest of the issuing sovereign to obtain verification from a reputable law firm that its bond should be rated B instead of B-.

Analysis Four examines the relation between the quality of lawyers and the quality of the issuers they advise.

E. The Cost of Capital

If the reputational intermediary story is correct, then those issuers who hire the stronger reputational intermediaries should perform better than those who do not. The question then is how to measure (1) issuer performance and (2) the relative strength of the different reputational intermediaries. In the sovereign context, one measure of issuer performance would be the number of defaults. The test would be whether high status law firms represent issuers who rarely default. Karl Okamoto, in one of the few attempts to test the Gilson theory, used a measure akin to this. He looked at whether high-status law firms tended to represent only elite issuers of securities and found evidence consistent with that premise.[27] The problem with this measure though is that a low default rate says little about a law firm's ability to solve the informational asymmetry problem if that law firm only represents, for example, AAA rated issuers who have no likelihood of defaulting. A better test would be if we could identify issuers who were equivalent in every other way except the law firms who represented them. Then, we could examine whether issuers who utilize high-reputation law firms were less likely to default. And this test would be particularly meaningful with the lowest rated issuers, where the default rates would necessarily be higher.

Unfortunately for us, but not for investors, there were an insufficient number of defaults over the relevant time period to conduct any meaningful analysis. However, what we can do is examine whether the cost of capital for firms hiring higher reputation law firms is lower than that for those hiring lower reputation firms, whilst controlling for other relevant factors.

The primary proxy we use for "other relevant factors" is the bond rating of the sovereign. This approach may appear to be subject to an endogeneity problem in that the test is irrelevant if the rating itself is a function of which law firms are hired on the deal.

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[27] Okamoto, *supra* note 5, at 20.

Fortunately, for our purposes, sovereign credit ratings rarely change through time.[28] And that in turn makes it plausible to assume that the credit rating of the sovereign is unlikely to be a function of the law firm that was hired.

Analysis Five examines the relation between the reputational quality of the lawyers and the cost of capital at issuance.[29]

IV. Existing Literature

There is a considerable literature examining the effects of intermediaries in providing credibility enhancements for products that range across a number of markets.[30] The literature suggests that intermediaries do sometimes play a useful role in adding credibility, but the findings are not unambiguous.[31] In the financial markets in particular, there has been skepticism in recent years regarding whether the certifications provided by institutions such as auditors and rating agencies have added very much value.[32]

The majority of the literature on intermediary certification involves the issuance of financial assets. And within that context, the primary focus has been on the impact of underwriters as intermediaries.[33] In contrast, our focus on the role of law firms as intermediaries has received little attention. Moreover, the only examination of

[28] For a discussion, see Michael Bradley & Mitu Gulati, *Collective Action Clauses for the Eurozone,: An Empirical Analysis* (2012 draft), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1948534

[29] Following the literature we rely on when issued rates as opposed to market rates since the bonds are infrequently traded and market rates are extremely hard to find.

[30] Generally, see REPUTATION: STUDIES IN THE VOLUNTARY ELICITATION OF GOOD CONDUCT 195-96 (Daniel Klein ed. 1997); Ginger Zhe Jin, Andrew Kato & John List, *That's News to Me! Information Revelation in Professional Certification Markets*, 48 ECON. INQUIRY 104 (2010).

[31] *See, e.g.,* Stefano Gatti, Stefanie Kleimeier, William L. Megginson & Alessandro Steffanoni, *Arranger Certification in Project Finance,* _ FIN. MGT. __ (forthcoming 2012); Jin et al., *supra* note 30; John G. Riley, *Silver Signals: Twenty-Five Years of Screening and Signaling*, 39 J. ECON LIT. 432, 455 (2001).

[32] *E.g.,* Jonathan R. Macey, *The Demise of the Reputational Model in Capital Markets: The Problem of the "Last Period Parasites"*, 60 SYR. L. REV. 446 (2010); JOHN C. COFFEE, GATEKEEPERS: THE ROLE OF THE PROFESSIONS IN CORPORATE GOVERNANCE (2006).

[33] *See* Douglas Diamond, *Reputation Acquisition in Debt Markets*, 94 J. POL. ECON. 828 (1989); Christopher James, *Relationship-Specific Assets and the Pricing of Underwriter Services*, 47 J. FIN. 1865 (1992); Richard Carter, Frederick Dark & Ajai Singh, *Underwriter Reputation, Initial Returns, and the Long-Run Performance of IPO Stocks*, 53 J. FIN. 285 (1998); Manju Puri, *Commercial Banks as Underwriters: Implications for the Going Public Process*, 54 J. FIN. ECON. 133 (1999); Stephen J. Choi, *Market Lessons for Gatekeepers*, 92 NW. U. L. REV. 916 (1998); Lily Fang, *Investment Bank Reputation and the Price and Quality of Underwriting Services*, 60 J. FIN. 2729 (2005).

intermediaries in the sovereign debt market has been of underwriters (with minimal mention of rating agencies).[34]

Economics and finance scholars studying the reputational intermediary question generally assume that the reputation that underwriters bring to an issue is the primary mechanism for solving the asymmetric information problem.[35] This theoretical construct has led to an extensive literature relating the reputation of investment bankers to the cost of capital.[36] The evidence shows that investment banks with high reputations are associated with high quality, low-risk issuances, lower returns and higher banker fees. The evidence also shows that investors are willing to pay a premium for certification of the quality of an issue, as investors interpret an agreement with a reputable underwriter as a positive signal regarding the quality of the issue.[37] More generally, the finding in the corporate literature is that reputable and larger investment banks are associated with higher quality issues with lower yields and higher fees.[38]

Only a handful of studies have examined the impact of lawyers on the cost of capital, and all of them have been in the corporate context. However, a consistent theme emerges from the work. To the extent lawyer reputation matters in reducing the cost of capital, the relevant reputation is that of the underwriter's counsel.[39] The reputation of

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[34] Marc Flandreau & Juan Flores, *Bonds and Brands: Intermediaries and Reputation in Sovereign Debt Markets 1820-1830*, 69 J. ECON. HIST. 646 (2009); Marc Flandreau, Juan Flores, Norbert Gaillard & Sebastián Nieto-Parra, *The End of Gatekeeping: Underwriters and the Quality of Sovereign Bond Markets 1815-2007*, NBER Working Paper 15128 (2009 draft); Marc Flandreau, Norbert Gaillard, & Ugo Panizza, *Conflicts of Interest, Reputation, and the Interwar Debt Crisis, Banksters or Bad Luck?* HEID Working Paper 02/2010, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1588031

[35] *See* Paul Milgrom & John Roberts, *Predation, Reputation, and Entry Deterrence*, 27 J. ECON. THEORY 280 (1982); Carl Shapiro, *Premiums for High Quality Products as Returns to Reputations*, 98 Q. J. ECON. 659 (1983); Douglas Diamond, *Reputation Acquisition In Debt Markets*, 94 J. POL. ECON. 828 (1989).

[36] *See* Thomas Chemmanur & Paolo Fulghieri, *Investment Bank Reputation, Information Production, and Financial Intermediation*, 49 J. FIN. 57 (1994).

[37] *See* Fang, *supra* note 33.

[38] *See* James, *supra* note 33; Carter, *supra* note 33; Dark & Sing, *supra* note 33; Fang, *supra* note 33; Miles Livingston and Robert Miller, *Investment Bank Reputation and the Underwriting of Nonconvertible Debt*, 29 FIN. MGT. 21 (2000).

[39] *See* Royce de R. Barondes, Charles Nyce & Gary Sanger, *Underwriters' Counsel as Gatekeeper or Turnstile: An Empirical Analysis of Law Firm Prestige and Performance in IPOs*, 2 CAP. MKT. L. J. 164 (2007) (finding an impact of underwriter counsel reputation on pre-IPO price adjustment); Randolph P. Beatty & Ivo Welch, *Issuer Expenses and Legal Liability in Initial Public Offerings*, 39 J.L. & ECON. 545, 586–87, tbl 8 (1996) (finding no effect of issuer counsel market share on the cost of capital in IPOs); *cf. also* Fang, *supra* note 33 (primarily examining the impact of underwriter reputation on the cost of capital in bond issuances, but also finding a cost of capital reduction from reputation on the underwriter counsel side).

the issuer's counsel does not appear to help reduce capital costs and may even increase them.[40]

In the context of the sovereign debt market, there has been some examination of the reputational intermediary question, but there has been no examination of the role of lawyers. The most relevant studies have been conducted by Marc Flandreau.[41] Flandreau et al. have examined the historical evolution of the role of investment bankers as gatekeepers in the sovereign bond market. These studies find that in the nineteenth and early twentieth centuries, underwriters performed a gatekeeping role in the sovereign debt market. Underwriters such as the Rothschilds and Barings banks would commit to monitoring borrowers and ensure that these borrowers behaved themselves vis-à-vis investors.[42] Over long periods of time, these banks developed close relationships with particular sovereign debtors. A classic example is the relationship between the Rothschilds and Brazil; one that survived the Brazilian government transitioning through a variety of types of governments including a monarchy, a military dictatorship and a democracy.[43] It should be noted that Brazil as well as other Rothschilds clients were of the highest quality.[44] Investors might not be able to obtain good information about a sovereign's financial condition, but they could rely on the historical performance of the bank that was underwriting an issue. Quantitatively, the Flandreau et al. studies find a strong relationship between sovereign bond defaults and underwriter reputation in the 1800's and early 1900's. However this relation disappears in the post-World War II era.[45]

V. Data

Our dataset covers roughly a two hundred year period, from 1823 to 2012. In constructing our dataset we drew on a variety of sources. For the entire period, we have 2,091 sovereign bond contracts issued by 128 sovereigns.

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[40] *See* Fang, *supra* note 33 (suggesting that in some cases, higher quality issuer counsel might raise the cost of capital).

[41] *See* materials cited in note 34; *see also* Juan H. Flores, *Competition in the Underwriting Markets of Sovereign Debt: The Barings Crisis Revisited*, 73 L. & CONTEMP. PROBLEMS 129 (2010).

[42] Flandreau & Flores, *supra* note 34.

[43] For a historical treatment of the Rothschilds, see NIALL FERGUSON, THE HOUSE OF ROTHSCHILDS VOLUME 1: MONEY'S PROPHETS 1798-1848 (1999); THE HOUSE OF ROTHSCHILDS VOLUME 2: THE WORLD'S BANKER 1849-1999 (2000).

[44] *See* Flandreau & Flores, *supra* note 34.

[45] *See, e.g.,* Flores, *supra* note 41, at 130.

We divide the dataset into two separate sub-periods, depending on the source of the data and how they were collected. The first sub-period is from 1820 to 1945. In most cases, our sources for these data are the copies of the physical bearer bonds themselves. These bonds are not the actual contracts, but typically report the key contract terms to prospective purchasers of the instrument. Constructing this pre-World War II data was difficult, as compared to the post-war data. There is no single source of sovereign bonds for the pre-World War II period that comes close to being comprehensive. We constructed our dataset for this period using all of the materials that we were able to obtain from roughly a dozen museums, archives and libraries. These include the archives and libraries at the following institutions: Rothschilds, Barings, UBS, HSBC, Guildhall, the Library of Congress, the British Library, the Morgan Library, the Harvard Business School library, the Origins of Value Museum at Yale University, Cornell University, Duke University, Columbia University and Wertpapierwelt. We then supplemented the materials from these various sources with information that was available on these particular bonds in newspapers advertisements and discussions in investor reports from the time. In sum, from these various sources, we have put together information on the contract terms on roughly 600 bonds from the pre-World War II period. There are undoubtedly gaps in the data. For example, we have only a few offerings from the Amsterdam market of the early 1800s, and we probably under-sample bonds that were issued on the Paris market. Nevertheless, we believe that we have one of the most comprehensive datasets on sovereign bond contract terms for the period in question.

For the post-World War II period, public databases are available that provide fairly comprehensive data on sovereign bonds, particularly for the period 1980-2011. We accessed two databases for our post-World War sub-set: Thomson One Banker and Perfect Information. Bearer bonds are no longer common in the modern era. Consequently our sources of information for this period are the prospectuses and offering circulars that were filed with the relevant exchanges or regulatory authorities. These sales documents typically report on the key contract terms of the bond contract. Both the Thomson and Perfect Information databases are incomplete in terms of the data they report on bonds issued between 1945 and 1980. We were able to supplement the data for this period somewhat, however, from information available from the libraries mentioned

above. As a result of our data search we have a sample of 1,479 bonds, issued by 104 sovereigns over the years 1946-2012.

For each bond, we obtained (viewed) the actual bond and/or the relevant sales documents and coded nine parameters: issuer, issue date, maturity date, interest rate ***at issuance***,[46] governing law, lead underwriter, number of underwriters in the syndicate, issuer's counsel, and underwriter's counsel. From other public data, we obtained the rating of the particular sovereign issuer's debt. Bond ratings are not available for the full pre-World War II period. However, as we demonstrate later, they are very relevant for the post-World War II period. For that period, we rely on the bond ratings from S&P. Where ratings from S&P were not available, we looked for a rating by one of its competitors (Moody's, Fitch) and converted those ratings into their equivalent on the S&P scale.

In total, there are approximately 128 issuers and 2,091 issues in our dataset. Our sample varies from issuers who have conducted hundreds of offerings (e.g., Argentina) to those that have done no more than one or two (e.g., Namibia or Ghana). Table 1 presents the top 50 issuers in our sample and the number and timing of their issuances. All of these are bonds were issued in international markets, suggesting that the buyers were primarily foreign investors. Almost none of the bonds were issued in domestic currencies.[47]

V. Empirical Analysis

Our dataset covers fifteen different legal systems over a span of roughly two hundred years. We begin our analysis by demonstrating that lawyers in the 19th and early 20th century had little to nothing to do in the sovereign bond market. As discussed above, the evidence presented by Flandreau et al. shows that the role of gatekeeper in this period was filled by investment bankers. However, as we show below, there was a sea change in the two institutions after World War II, and especially after 1980. Thus, we begin our analysis by isolating the time period in which the reputational intermediary hypothesis is

[46] Following the literature our analysis focuses on the when-issued rate since these bonds rarely trade and market prices (rates) are unavailable.

[47] The exception here is the modern issuances from the countries of the Euro Zone, where the Euro has been attractive to both local and foreign investors.

implausible. The subsequent analyses then focus on the subsets of the data in which the hypothesis is plausible.

A. Names on Documents

In this section our inquiry is to ask if and when sovereign issuers feel the need to advertise the identities of their lawyers to their investors. If sovereigns are not touting the lawyers who worked on the issuance, then it is unlikely that the lawyers are serving any sort of signaling function. In other words, if we do not find the lawyers being advertised, we can reject the reputational intermediary story out of hand.

Based on our time series of issuances, there appears to be a significant difference in the role of lawyers before and after World War II. Lawyers do not appear to have played a reputational intermediary role in the pre-World War II data (1823-1945). Of the 614 issuances from the pre-war period, the identities of the lawyers are mentioned only 16 times and five of those are for the same issuer, Germany. Thus, law firms are mentioned in only 2.61 percent of the issues in our pre-war subset. Perhaps more telling, when lawyers are mentioned during this period, there is usually an explicit explanation for mentioning them in the offering materials. In 12 out of the 16 instances where lawyers were mentioned, the lawyers were mentioned simply to tell investors that, if they wished to examine background documents, those materials would be available at the offices of the lawyers. This is in contrast to the manner in which lawyers are mentioned in the post-World War II data, where their names are mentioned prominently on the back cover of the sales documents as having worked on the deal.

An illustration of both the importance of reputation and the marginal role that lawyers played in the pre-war period is the first sovereign bond that we found that mentions lawyers. This bond was issued by the Confederate States of America in 1863 and is known as the Cotton Bond. The bonds carried a 7 percent interest rate and matured when all hostilities had ceased. The bonds were convertible into cotton at $12 per bale. At the time of issuance, cotton was selling for twice that amount, thanks mostly to the Union blockade, and was steadily on the rise. Although it was sold at a discount (30 percent), the issue was oversubscribed. The underwriters fared well themselves, earning over $2.5 million for taking the issue to market. English bankers were the primary

buyers of the bonds and the ultimate losers in the failed investment. While the bonds traded in a narrow range for a while, they fell precipitously – ultimately to zero – when it became known that Jefferson Davis, the president of the Confederacy, defaulted on his States' bonds while he was governor of Mississippi, and investors feared that he would do the same even if the South prevailed. [48]

Disputes over the quality of the cotton to be delivered at maturity were anticipated. The bonds had an arbitration provision that allowed for disputes over cotton quality to be adjudicated by an arbitral panel. After describing the arbitral panel, one member to be appointed by each side and an umpire to be appointed thereafter, the bond then names the lawyers who will handle the administrative matters; the firm of London solicitors, Messrs. Freshfields and Newman.[49] Freshfields & Newman was a pre-eminent law firm, having represented the Bank of England since the mid 1700s.[50] The language in the bond is clear though, as to why the lawyers are mentioned: for investors to examine a certified copy of the Act of Congress that approved the conditions of the bond. Figure 1 is a reproduction of the bond. As an aside, another eminent London law firm was also involved in the deal, Crowder, Maynard, Son & Lawford, and it was not mentioned at all.[51] By contrast, the bankers, Emile Erlanger & Co. and J. Henry Schroeder & Co have their names prominently displayed both on the sides of the bonds and at the bottom.

Starting in late 1946, immediately after the war, the names of the law firms were being reported explicitly in the sales documents as a regular matter, and independent of any administrative or legal function that they might be performing. Indeed, if one starts in 1946, it is not until 1956, that we find the first post-war sovereign issuance where outside counsel are *not* mentioned. There are a number of possible changes or shocks to the sovereign debt market that might relate to the enhanced role of lawyers in the post-war

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[48] Note that if the South had won the war, the price of cotton would have declined dramatically, making the conversion feature virtually worthless.
[49] *See* 7 Per Cent Cotton Loan, Confederate States of America, 1863.
[50] *See* JOHN D. BENNETT, THE LONDON CONFEDERATES: THE OFFICIALS, CLERGY, BUSINESSMEN AND OFFICIALS WHO BACKED THE AMERICAN SOUTH DURING THE CIVIL WAR 88 (2008).
[51] For a detailed discussion of these bonds that does not mention the lawyers at all, see SHELBY FOOTE, THE CIVIL WAR 155-157 (1958). However the author does discuss the investment bankers who underwrote the deal. Almost none of the innumerable discussions of the civil war financing mentions the lawyers, let alone any reputational role they may have played. Along these lines, see also Marc D. Weidenmier, *The Market for Confederate Bonds*, 37 EXPLORATIONS ECON. HIST 76 (2000); Judith Fenner Gentry, *A Confederate Success in Europe: The Erlanger Loan*, 36 J. SOUTHERN HIST. 157 (1970).

era. First, the depression that preceded World War II produced perhaps the biggest crisis that the sovereign debt market will ever see, with roughly 40 percent of sovereign issuers defaulting between the period 1929-1937.[52] Second, in the wake of World War II, the global financial system was significantly altered with the establishment of the Bretton Woods Agreement and its attendant institutions.

The bulk of the sovereign bonds in our sample (82.4%) in the post-World War II era were issued under either New York or English law. (See Figure 2.) Of the remaining bonds, the majority were issued under German law (8.5 percent of the total sample), with fewer issued under Austrian, Swiss, Luxembourg, French, Spanish, Dutch, Portuguese, Japanese, and Italian laws. Many nations also issue bonds that are governed by local law and are primarily sold to domestic investors. However, the asymmetric information problems with bonds written under local law are likely to be quite different from those in externally issued bonds. Citizens have the power to vote their governments out of office and also probably have better information. Therefore, we do not include bonds written under local law in our dataset.

Figure 3 shows the number of bonds issued under each of the different types of laws that explicitly mention lawyers. We see a difference between the two high-volume jurisdictions (New York law and English law) and the other jurisdictions. In almost all of our bonds governed by English and New York law (over 97 percent), the identities of one or both of the law firms are mentioned prominently in the offering materials. In contrast, in the majority of the small jurisdiction issuances, such as those under German, French, or Luxembourg law (over 85 percent), the identities of the lawyers are not mentioned.

These data suggest that to the extent lawyers are operating as reputational intermediaries, they do so primarily in the two largest markets, New York and London, and only in the post-war period. In the smaller markets, advertising the identities of the lawyers is perhaps viewed as adding less value. We have been given at least three explanations from practitioners for the "no lawyer mentioned" phenomenon in the smaller markets. First, it may be that these markets are more heavily regulated than

[52] *See* Flandreau, Gaillard & Panizza, *supra* note 34. While there was an initial impetus towards SEC regulation of sovereign issuances in the U.S., in the wake of the many sovereign defaults during the depression, this waned in the post-World War II era. *See* Felice J. Batlan, *The Imperial SEC: Foreign Policy and the Internationalization of the Securities Markets 1934-1990* (SEC Historical Society Virtual Museum & Archive of the History of Financial Regulation) (December 2008).

either New York or London and investors therefore do not need additional certification. Second, perhaps the small size of these markets means that there are no more than a handful of firms who could work on large cross-border financial transactions, thereby obviating the need for disclosure of their identities. Third, it may be that the only issuers tapping these smaller markets are either the higher rated issuers or those with close ties to the national markets in which they are issuing (e.g., long standing trade relationships) such that defaults against the investors in that jurisdiction are unlikely.

In sum, the data from the post-war period suggest two conclusions. First, that the reputational intermediary story, to the extent it holds, is most plausible in the modern era. Second, even in the modern era, there is variation across jurisdictions. The reputational story may hold in the New York and London markets, where the identities of the lawyers are prominently signaled in the sales materials. But it is less plausible in the other, smaller, markets, such as Frankfurt and Paris, where lawyers are rarely mentioned in the sales documents.

B. Long-Term Relationships

Our second set of analyses is based on the definition of a reputational intermediary. In our view, a reputational intermediary is an entity that helps solve the asymmetric information problem between issuers and investors. Recall that the basic problem is that information about a complex entity such as a sovereign is hard to observe. The incentives of the sovereign debtor to maintain its reputation do not fully solve this problem because of an inherent agency issue. The governments (the agents who run the sovereigns) are typically short-term players and, therefore, investors have reason to be suspicious about their claims. This problem can be solved, however, if the sovereign issuer hires an intermediary who can certify the sovereign's information; that is, an intermediary who itself has a reputation to maintain. Investment banks and law firms, it has been suggested, are among the institutions that can perform this role. In order to perform this role, they presumably have developed long-term relationships with the sovereign issuers. There are at least two reasons for this. First, their long-term relationships can help them acquire specialized information about the sovereigns.[53]

[53] *See* Buchheit, *supra* note 14.

Second, to the extent that their access to future employment depends on their performance vis-à-vis investors on prior deals, they have an incentive to ensure that their sovereign clients provide accurate disclosures and representations.

Based on the foregoing, we examine the data on law firms and investment banks with respect to the length of their relationships with the issuers. We construct a simple measure of the rate at which sovereign issuers change their bankers or lawyers from deal to deal. If a sovereign changes these agents from deal to deal, then there is obviously no long-term relationship. If, on the other hand, issuers hire the same lawyers or banker on every deal, then there is reason to believe that these entities have access to privileged information and are in a position to certify the quality of the issue.

For each issuance by a sovereign, we count the number of times its lawyers or underwriters change from the prior deal. If there is a change, we count that as a 1 and if there is no change from one deal to the next, we count that as a 0. Over a given time period and set of deals, therefore, we have estimates of the rates at which sovereigns change the various intermediaries who work on their deals. Typically, there are two sets of lead lawyers on any deal (issuer's counsel and underwriter's counsel) and one set of lead bankers (the managing underwriter). We consider the relationships between bankers and issuers first.

As described previously, there are almost no deals in which lawyers were used in the pre-World War II period. Hence, there is nothing to measure in this time period. However, we can examine the extent of the relationships between issuers and investment banks in the pre and post-World War II periods. Figures 4 and 5 report the comparative numbers. In Figures 6 and 7, we separate the sovereign issuances according to the legal jurisdictions under which they were written. As seen in these figures, there is a difference between the issuer-bank relationships in the pre- and post-war periods. In the pre-war period, issuers tended to stay with the same banks. This finding is consistent with the research by economic historians on firms such as the Rothschilds, Barings, Credit Lyonnais and Paribas, who tended to have strong relationships with their sovereign clients. In the post-war period, however, the issuer-bank relationships became significantly weaker. As Figure 5 shows, this is particularly so, beginning around 1980 through 2012. Until around the 1978-1982 period, we see relatively long lasting

investment bank-issuer relationships. This is evidenced by the smaller number of changes in investment bankers per deal done as compared to the post-1982 period.[54] In other words, issuers tend to use the same underwriters over and over, until around 1980-1982, after which the duration of banker-issuer relationships shortens significantly.

The Latin American debt crisis may provide an explanation for this change. The crisis hit the hardest in the early 1980s.[55] One of the problems that the crisis revealed was that a number of western banks had become severely overexposed to particular Latin American countries. Significant pressure was then brought by regulators on the banks to induce them to diversity their portfolios and keep from getting overinvested in high-risk regions of the world.[56] What the data might be showing during this period, therefore, may be a manifestation of those pressures – with the financial institutions getting out of the business of building long-term relationships with issuers and lawyers filling the void.

Table 3 reports the Z-statistics of the Wilcoxon-Mann-Whitney test that confirm the suggestion from Figures 4 and 5. Table 3 reports the comparative numbers using two different break points. First, it reports the comparison in terms of the pre and post-war data (1946 being the break point) and then reports the comparison in terms of the pre and post-Latin American debt crisis (1982 being the break point). Between 1946 and 1982 little activity took place in the sovereign bond markets (Flandreau et al. call it the "sleeping beauty" period of the sovereign bond markets), so the two sets of comparisons show similar results.[57] For each of the comparisons in Table 3, we report two different specifications. In the first specification, we simply compare the numbers of deals before and after our specified break points. The results confirm the visual impression given in Figures 4 and 5 that investment bankers changed more often in the past (whether we look at pre 1946 or pre 1982) than in the modern era. In the second specification, we attempt

[54] What we calculate is the number of changes in bankers divided by the number of opportunities for change. In terms of number of deals, our denominator is actually the number of deals minus 1 (the number of opportunities for change).

[55] For a discussion of the impact of the Latin American crisis on contract terms in sovereign instruments more broadly, see Stephen J. Choi, Mitu Gulati & Eric A. Posner, *The Evolution of Contractual Terms in Sovereign Bonds*, __ J. LEGAL. ANAL. __ (2012), available at http://jla.oxfordjournals.org/content/early/2012/05/31/jla.las004.full

[56] For a discussion of the Latin American debt crisis of the late 1970s and early 1980s, see WILLIAM R. CLINE, INTERNATIONAL DEBT: PROGRESS AND STRATEGY (1988).

[57] The Wilcoxon-Mann-Whitney test is a nonparametric test that measures if two groups come from the same distribution. In this case the results suggest that there is a statistically significant difference between the pre and post-World War II distributions of long-term relationships between issuers and underwriters.

to separate the deals in terms of the markets in which they were executed. Starting in roughly the early 1900s, many sovereign issuers began issuing in multiple markets. Previously sovereigns tended to issue bonds in only one jurisdiction. For those issuances, it was sometimes the case that they would have to hire different investment banks for the separate jurisdictions. This was particularly so if their primary banker did not have operations in multiple jurisdictions. The Confederate bond we examined earlier is an example of this – the Confederacy used Emile Erlanger & Co. in Paris for an issuance in francs and J. Henry Schroeder in London for an issuance in pounds sterling. Since the pre-war contracts did not specify governing laws, we separate the data by currency of issuance. The results are consistent with the first specification, albeit stronger. In sum, consistent with the work of Flandreau et al., the data indicate a shift from a market where underwriters served as reputational intermediaries (the pre-war market and the period extending to the end of the 1970s) to one where they did not (the modern era, starting in about 1982).[58]

Flandreau et al. follow their observation regarding the disappearance of investment bankers as reputational intermediaries in the modern era by asking the question "what types of entities substituted for investment banks;" after all, the asymmetric information problem didn't disappear at the end of this time period. They suggest that rating agencies may have filled the void.[59] That may be a partial explanation. The question we are asking is whether law firms may have also emerged as substitutes for the bankers in playing the reputational intermediary role.

Figures 8 and 9 show the rate of change for issuer's and underwriter's counsel, respectively, in the post-war period. The strength of the relationships between lawyers and issuers in comparison to the relatively weak relationships between bankers and issuers during this same period is striking (See Table 4). In other words, the lawyers who work on a sovereign's debt issuances (whether on the issuer or underwriter side) rarely change.

Based on these results, we are left with at least an initial indication that law firms might have replaced bankers as reputational intermediaries in the post-war period.

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[58] *See* Flandreau, Flores, Gaillard, & Nieto-Para, *supra* note 34..

[59] *See* id; *see also* Marc Flandreau, Norbert Gaillard & Frank Packer, *To Err is Human: US Rating Agencies and the Interwar Foreign Government Debt Crisis*, 15 EUR. J. ECON. HIST. 495 (2011).

Flandreau et al. may be right about the enhanced role of rating agencies during the post-war period; but our results suggest the possibility that lawyers may also be part of the story. An aspect of these results that is important is the designated underwriter counsel phenomenon mentioned earlier. This phenomenon shows up in the data on investment bankers and investment banker's counsel, where we see that even though the investment bankers who are lead managers on the deals for a particular sovereign change frequently, the investment banker's lawyers remain the same.

As Figures 5 and 9 illustrate, there is a difference in the strength of the banker-issuer relationship and the banker's lawyer-issuer relationships. At first cut, this looks puzzling. The closeness of the relationships between bankers and issuers and banker's lawyers and issuers should be the same or at least similar. After all, it is the bankers who hire their lawyers. Yet, what we see, particularly after around 1980, are short duration relationships between sovereign issuers and their bankers, but long duration relationships between those same sovereign issuers and the banker's lawyers. As discussed earlier, what we are seeing is the manifestation of the practice of utilizing "designated underwriter counsel" – where the issuer chooses an outside law firm and designates them to work on the underwriter's side. The emergence of this phenomenon is important for our purposes. The fact that the investment banker tolerates the issuer choosing the investment banker's law firm might be an indication that a portion of the gatekeeper role has been passed to the lawyers by the investment bankers.

C. Two Lawyers versus One

As noted above, the sovereign issuances in our data written under New York and English law fall into two types. On the one hand there are those issuances where two sets of outside law firms work on the transaction, in adversarial capacities (one for the issuer and the other for the underwriter). On the other hand there are transactions in which only one set of outside lawyers are involved. As discussed earlier, if the outside law firms being hired on these deals are operating primarily as reputational intermediaries, then we should see differences between the types of issuers using two outside law firms versus one. And we do.

Table 2 reports the summary statistics on the one versus two lawyer distributions in the period 1946-2012 for 1,223 issuances. The first row pertains to the full sample. Of the high-rated issuances (investment grade), fewer than 30 percent use two outside law firms. The majority of these issuances (over 50 percent) use only one outside law firm. The numbers are reversed, however, if we look at the patterns for non-investment grade issuers. In this subsample, over 75 percent of the issuances use two outside law firms and fewer than 15 percent use one outside law firm.

To explore these differences further, we break the data down into New York and English law subgroups. In prior work, we found that stronger issuers have tended to use the English market and weaker ones the New York market.[60] It also could be the case that the difference between the use of one or two law firms is due to the different quality of bonds or the different legal cultures in New York versus London. The second and third rows of Table 2 suggest that this is not the case. In both markets we find that non-investment grade issuers are more likely to use two outside law firms. Investment grade issuers are more likely to use one outside law firm. That said, there are differences in the patterns across the markets — the preference for two-lawyer deals by non-investment grade issuers is stronger in the New York market than in the English market. The reverse applies for the investment grade issuers and their preference for one-lawyer deals (the preference is more distinct in the English market). Figures 11 and 12 illustrate these patterns. Figure 11, which reports the number of lawyers in the New York market (which is dominated by non-investment grade issuers), shows a large fraction of two-lawyer deals through the period 1980-2012 (prior to 1980, most of the issuances were by investment grade issuers). Figure 12 reports data from the English-law market, which is dominated by investment grade issuers, and shows the converse – a dominance of one-lawyer deals.

Table 6 provides a different perspective. It reports on the patterns of lawyer use for the highest volume (by number of deals) issuers. The two halves of the table are divided into the half reporting on the sovereigns using two law firms on most of their deals and the half reporting on the sovereigns using one law firm on most of their deals.

[60] *See* Michael Bradley & Mitu Gulati, *Collective Action Clauses for the Eurozone: An Empirical Analysis* (March 2012 draft) (available on ssrn.com).

The patterns are distinct, as the final column, in particular, reveals. The top issuers using two outside law firms are almost all below investment grade. The top issuers using one outside law firm are almost all investment grade.

In sum, we find evidence that the behavior of sovereigns in terms of how many outside counsel they hire varies as a function of their reputations as debtors, as measured by their bond ratings**.** Those with lower ratings typically hire two outside law firms for their deals. Those with higher ratings (reputations) typically hire one outside law firm. And, as mentioned at the outset, those issuers with the highest reputations (like the United States and Germany) generally utilize no outside law firms on their issuances. Given that the deals do not vary significantly in terms of the technical legal work that needs to be done, something else is likely going on in terms of the hiring of outside counsel. Two possibilities remain. One the one hand, perhaps the weaker issuers perceive a greater need to hire certifiers (two certifiers as opposed to one). On the other hand, it may be that the weaker issuers are more worried about being sued or having assets attached and, therefore, need good lawyers on hand to protect against legal problems.

The timing of the shift towards two-lawyer deals potentially sheds light on which of the two possibilities is more likely. The first two-lawyer issuance in our data comes as early as 1963 in an issuance by Japan (Milbank Tweed was the first issuer's counsel to show up explicitly on a sovereign bond deal). In 1964, there are three more two-lawyer issuances, by Austria, Japan and Norway. However, employing two law firms does not become prevalent until the mid-1990s (roughly 1996-98); and when it does, the impetus comes from the big Latin American issuers such as Mexico and Brazil. The 1995-98 period is significant in sovereign debt history because it is the period that covers both the Tequila crisis in Mexico (1995) and the Asian Financial Crisis (1997-98). In addition to the crises though, this period also witnessed a significant expansion in both the number of deals being done and the types of issuers doing them. Crucially, many more low-rated sovereign issuers entered the markets. Perhaps the combination of multiple financial crises in the mid-1990s and the expansion in the types of issuers increased the need for mechanisms that provided enhanced credibility. The data in Figures 11 and 12 show that in the 1950s and 1960s, the fraction of deals using two law firms was 0, and while the

number increases in the 1970s and 1980s, the number of deals involving two sets of law firms was only in the 10-20 percent range. The big change in terms of these types of deals constituting the majority of all deals being done only occurs starting around the mid to late 1990s. By 2011, the fraction of deals using two outside law firms was over 75 percent of all the sovereign issuances done under New York and English law.

The question then is what happened as a result of the crisis period of the mid 1990s that caused this apparent enhanced need for lawyers. The historical record suggests two related changes that occurred that may have impacted the need for lawyers, and in particular the need for lawyers on the issuer side for the weakest sovereign issuers. First, the mid 1990s is when we observe the emergence of the modern vulture creditor. That is, a creditor who holds out and refuses a sovereign's restructuring offer and then sues in court for the full amount. In earlier eras, holding out would have been a largely pointless exercise, since the sovereign, with its lawyers and large resource base, could simply outlast the creditors. In the mid 1990s, however, a new type of creditor emerged – one with the resources and litigation skill to be able to take on a sovereign debtor in court and, on occasion, even win. It is in 1995-96 that the first major vulture victory occurred with the litigation by the styrofoam magnate Kenneth Dart against Brazil (Dart is rumored to have made upwards of $1 billion from the eventual settlement).[61] Following on the heels of that were a series of litigations led by the billionaire, Paul Singer's hedge fund, Elliott Associates, against countries like Panama, Peru, Congo and Argentina.[62] Today, there are multiple such hedge funds in existence – each with highly sophisticated sovereign litigators on hand. The historical evidence suggests, therefore, that it might be the enhanced need for sovereigns to have protection against litigation by vulture creditors that produced the need for issuer's counsel; a need that emerges full blown only in the mid 1990s.[63]

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[61] The litigation out of which the settlement occurred was in 1995. CIBC Bank & Trust Co. (Cayman), Ltd. v. Banco Central do Brasil, 886 F. Supp. 1105 (S.D.N.Y. 1995). For a description of the case and its impact on sovereign debt litigation, see Julian Schumacher, Christoph Trebesch & Hendrik Enderlein, *Sovereign Defaults in Court – The Rise of Creditor Litigation 1976 -2010* (unpublished draft, 2012, on file with authors).

[62] These cases are described in Jonathan I Blackmun & Rahul Mukhi, *The Evolution of Modern Sovereign Debt Litigation: Vultures, Alter Egos and Other Legal Fauna,* 73 L & CONTEMP. PROB. 47 (2010).

[63] There is a large literature on the vulture litigation against sovereigns that began in the mid 1990s. *See e.g.*, Blackmun & Mukhi, *supra* note 62; Theodore Allegaert, *Recalcitrant Creditors Against Debtor Nations or How to Play Darts*, 6 MINN. J. GLOBAL TRADE 429 (1997); Jill E. Fisch & Caroline M. Gentile,

The second and related change that also, arguably, helped enhance the need for lawyers was the increased reluctance by official sector institutions (e.g., the IMF) to provide bailouts for sovereigns in trouble. This, in turn, meant that sovereign debtors who were in trouble had to come up with creative ways to engineer restructurings within the context of the debt contracts that they had agreed to. Put simply, the terms of the contracts the sovereigns had signed started becoming increasingly important. Starting in the late 1990s, a number of weaker sovereign issuers began having to do restructurings, with little or no official sector assistance (other than a "do it yourself" exhortation from institutions like the IMF). Pakistan, Ukraine, and Ecuador were among the early movers, whose experiences taught the rest of the market that having lawyers who knew the contract terms and knew how to work with them was of paramount importance; at least for those nations with a significant risk of facing a debt crisis.[64]

To summarize, our results indicate market participants increasingly turned to law firms in the post-war period, and especially so in the mid 1990s. Part of this story is about the increased perceptions of risk after crises such as the Latin American crisis of the 1980s. But the most significant part of the story seems to relate to the enhanced litigation risk that sovereign issuers began to face starting in the mid 1990s.[65]

As discussed above, it is possible that two outside law firms on a deal would add more reputational value than only having one firm (the Gilsonian thesis doesn't distinguish between issuer's counsel and underwriter's counsel). When we discussed this

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Vultures or Vanguards?: The Role of Litigation in Sovereign Debt Restructuring, 53 EMORY L.J. 1043 (2004); Laura Alfaro, Faisal Ahmed & Noel Maurer, *Lawsuits and Empire: On the Enforcement of Sovereign Debt in Latin America*, 73 L & CONTEMP. 39 (2010); Helen Thompson & David Runciman, *Sovereign Debt and Private Creditors: New Legal Sanction or the Enduring Power of States?* 11 NEW POL. ECON. 541 (2006); ROBERT E. SCOTT & MITU GULATI, THE 3½ MINUTE TRANSACTION: BOILERPLATE AND THE LIMITS OF CONTRACT DESIGN (2012).

[64] These restructurings are described in FREDERICO STURZENEGGER & JEROMIN ZETTELMEYER, DEBT DEFAULTS AND LESSONS FROM A DECADE OF CRISIS (2007); Udaibir Das, Michael Papaioannou, & Christoph Trebesch, *Sovereign Debt Restructurings 1950-2010: Literature Survey, Data and Stylized Facts*, IMF Working Paper 12/2012, available at http://www.imf.org/external/pubs/ft/wp/2012/wp12203.pdf

[65] Meaningful litigation against sovereigns became possible in the U.S. and U.K., in theory, in the late 1970s, after the passage of the foreign sovereign immunities act in the U.S. in 1976 and the state immunities act in the U.K. in 1976. However, it took a decade and a half for specialist firms to emerge that had the financial resources and litigation skills to conduct effective litigations against sovereigns. For a description of the impact on contract language of the immunities laws, see W. Mark C. Weidemaier, *Small Change and Empty Promises: The Evolution of Law and Contracts in the Sovereign Debt Markets* (unpublished draft, 2012, on file with authors).

premise with practitioners though, some suggested an alternative explanation. The alternate story is that the move to two-lawyer deals in the mid-1990s and thereafter was because weaker issuers, after the crises of the mid 1990s, realized that they could no longer afford to have the lawyers for the underwriters set all the terms of the deal; and particularly not the terms governing how the bonds would be restructured if that became necessary. Allowing underwriter's counsel to draft contracts in the absence of a meaningful issuer counsel presence was well and good for strong issuers like Norway and Sweden who at one time dominated the sovereign markets in the 1960-90 era. Those issuers did not face any meaningful likelihood of default. However, allowing underwriter's counsel to set the contract terms was too costly for sovereigns who perceived a meaningful risk of default. The results from the foregoing section suggest that it is the weaker issuers who are more likely to hire outside counsel.

D. Relation between Reputation of Lawyers and the Reputation of Sovereign Issuers

In this section we examine the relation between lawyers' reputation and the reputation of issuers. We seek to determine whether we see distinct differences in the type of lawyers (high-versus low-reputation) issuers use. The test here is to examine whether the high-reputation lawyers tend to limit their representation to high-reputation issuers, as tends to be the case in the corporate issuance market.[66] Based on the evidence from the corporate bond market, one might expect that the top reputational intermediaries would be careful to not associate themselves with anything but the top rated issuers. That is the basic idea behind gatekeeping; the weaker and less credible are not allowed to pass through the gates. Thus, if the top law firms are playing a reputational intermediary role, we should see them limiting their client lists to the strongest issuers – the ones they have investigated and can certify that the offering is of high quality.

Our proxy for lawyer quality is market share.[67] We assume that the top law firm acting as issuer counsel and investment counsel represent the high-quality law firms.

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[66] *E.g.,* Fang, *supra* note 33; Miles Livingston & Robert E. Miller, *Investment Bank Reputation and Nonconvertible Debt*, 29 FIN. MGT. 21 (2000).

[67] Market share is a commonly used measure of reputation, particularly when adequate substitute measures are not available. *E.g.,* Fang, *supra* note 33; William L. Megginson & Kathleen A. Weiss, *Venture*

Cleary Gottlieb dominates the market for issuer counsel for bonds written under both New York and English law, with a market share of 26% and 6%, respectively. Sullivan & Cromwell dominates the investment banking counsel with an overall market share of 18% and a market share of 31% of those bonds written under New York law.

Table 7 reports the relations between the quality of the lawyers based on market share and the quality of the bonds they issue. We divide the sample of bonds into two groups: those issues with an S&P rating of B- or lower (non-investment grade) and those with ratings higher than B- (investment grade).

In Table 7 we report the percentage of issuer counsel and investment bank counsel by jurisdiction and by bond rating. The table shows that the majority of bonds overseen by Cleary Gottlieb, the top issuer counsel, are non-investment grade: 67% of the total and 64% and 73% for New York law and English law bonds, respectively. Similarly, the majority of deals in which the top investment bank counsel, Sullivan & Cromwell, participated were non-investment grade bonds. Note that this pattern does not hold in the market for English law bonds. However, Sullivan & Cromwell only worked on only 3 deals on bonds written under English law. At bottom, the results in Table 7 refute the notion that high-quality lawyers represent high-quality sovereign issues. Apparently, high-rated issuers do not find the need to hire the most prestigious law firms. If anything, it is the weaker issuers who manifest this need.

The patterns we find for both issuer and underwriter counsel are at odds with the predictions from the reputational intermediary theory because the data reveal a ***negative*** relation between the reputation of the issuer law firms and the quality of the issuances that they oversee. High-reputation law firms work with weaker issuers and low-reputation issuers work with stronger issuers. If we assume that the higher-reputation firms are the ones that charge higher rates, this means that the stronger issuers are willing to spend less on legal fees than their weaker counterparts. These results appear stronger still, if one recollects the fact that the strongest issuers (the AAA issuers like the U.S., Denmark, France, etc.) do their sovereign issuances without any lawyers at all. That is, the strongest issuers are unwilling to spend as much on hiring outside counsel as do

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Capitalist Financing in Initial Public Offerings, 46 J. FIN. 879 (1994). In the sovereign context, we are unaware of any credible rankings of global law firms in terms of the quality of their sovereign practices.

weaker issuers. In sum, the model of sovereign issuers hiring prestigious outside lawyers to help signal their high quality as issuers is inconsistent with these data. Instead, we find that the strong issuers have no need to rely on outside law firms. It is the weak issuers who seem to perceive a need to hire top lawyers. As noted, this is perhaps because they anticipate more trouble in the future than strong issuers. If this is the case though, our results regarding the effect of hiring outside counsel are more consistent with the traditional conception of lawyers as people who one hires when one is in trouble, rather than lawyers as reputational intermediaries. We now turn to an examination of the relation between the cost of capital and the choice of outside counsel. As we will see, the results of this analysis are consistent with the suggestion above that outside lawyers are hired to protect the interests of issuers rather than provide reputational capital to buyers.

E. Cost of Capital

Our final empirical exercise is an examination of the effects of the choice of underwriters' and issuers' counsel on the cost of capital. Tables 8-10 report the results of OLS regressions in which the dependent variable is the spread between the stated rate and the rate on a U.S. Treasury Bond with the same maturity. For this analysis we delete all observations with zero lawyers. Thus, we can interpret the coefficients as the difference in the spreads as a result of hiring one or two law firms. Results are presented for all jurisdictions (Table 8), New York law (Table 9) and English law (Table 10). The first column in the first panel of Table 8 reports the results including all independent variables. We divide the bond ratings into six categories (AAA, AA, A, BBB, BB, B). Specifically, we combine ratings of pluses and minuses into these respective six categories. Category BBB is our hold out variable. Thus, we expect that all ratings above BBB will have negative coefficients and all below positive ones – and they do. The control variables we employ include the issue's size, maturity and the number of banks in the underwriting syndicate. All the regressions include year and currency fixed effects[68]

[68] Our sample consists of those sovereigns who chose to issue bonds at a particular time. Presumably, there were sovereigns who considered issuing bonds at the same time but decided not to do so. All regression were re-run with the Inverse Mills ratio, which corrects for this bias. None of our results are affected by the inclusion this variable.

Column 1 in Table 8 reports the results of the full model for all jurisdictions. Note that the coefficients on the ratings categories are monotonic and all are statistically significant. The only other independent variable that is significant is maturity and it is negatively related to spreads. Thus, the spread decreases as maturity increases. Finally note that none of the coefficients on our lawyer dummy variables are significant. This reinforces our earlier results that it is the rating agencies that perform a certification role in this market.

Since we have eliminated observations in which no lawyers are mentioned, the differential between the spread on one-lawyer deals and zero-lawyer deals is captured in the constant, which is positive and significant in all of the regressions. In column 2 we isolate the effect of having two law firms working on the issue by including a dummy variable that equals 1 if an issuer counsel is hired and zero otherwise. While this coefficient is insignificant when the ratings are included in the model, the results reported in columns 3 and 4 indicate that the coefficient is highly significant when the ratings are dropped from the model. The significant positive sign indicates that spreads are higher when two law firms are involved, which is more consistent with the thesis that the presence of two lawyers suggests a weak issuer rather than a certification of the quality of the issue.

In addition to the presence of two law firms, we also entertain dummy variables for observations in which Cleary Gottlieb is the issuer's law firm and Sullivan & Cromwell or Linklaters is the law firm working with the underwriter. The data show that neither variable is significantly different from zero, suggesting that the presence of these particular firms does not differentially impact the cost of capital.

Table 9 reports the results for the bonds written under New Your law. Other than the fact that the coefficient on the number of banks in the underwriting syndicate is significantly negative in all regressions, the results in Table 9 mirror those in Table 8. Thus, in the presence of an issuer counsel, i.e., when the bond issuance is a two-lawyer deal, the spread is significantly higher.

The results for the bonds written under English law are reported in Table 10 and are consistent with those reported above.

To summarize our results regarding the cost of capital, we find that when only an underwriter counsel is hired, the cost of capital is higher, presumably because only weaker sovereigns have an incentive to hire outside counsel. Moreover, when the issuer hires not only an underwriter counsel but retains a law firm to protect its interests in negotiating with the underwriter, i.e., an issuer counsel, the cost of capital increases even more. This suggests that investors become skeptical when there are two law firms working on a deal and they respond accordingly by demanding a higher interest rate.

VII. Conclusion

Research by Marc Flandreau and others indicate that underwriters have ceased to play a gatekeeping role in the sovereign debt markets in the modern era. This raises the question whether law firms might have stepped in to fill the role previously played by underwriters. Clearly, if there is a market in which the reputational intermediary thesis is likely to hold, it would be the sovereign debt market due to the informational asymmetries between issuers and investors.

Consistent with the findings of Flandreau et al., we document a sea change in the relationship between sovereign issuers and outside law firms. Prior to WW II, lawyers were nowhere to be found in the sovereign debt market. But after the war, law firms began to get more and more involved in the issuance process. As noted, our initial premise was that lawyers replaced investment banks as the gatekeepers of this market. Our empirical evidence, however, suggests that this is not the case. Rather, the results suggest that it is the rating agencies that have stepped in to fill the void left by investment banks, which is consistent with the existing literature.

Our most interesting results, however, have to do with the role that lawyers play. We know that the results are inconsistent with the story that they are acting as reputational intermediaries. However, they tell us more. The hiring of lawyers correlates with an increase in the cost of capital. Hiring one law firm increases the cost of capital and hiring two law firms increases the cost of capital even more. So, the question is, why would any rational sovereign issuer hire a law firm. The answer, we suspect, has to with the types of firms that are hiring outside law firms. The evidence indicates that the weaker the issuer is, the greater the need for outside lawyers.

The historical data reveals that the rise of lawyers and, in particular, the emergence of the concept of the issuer's counsel, correlates with the increase in litigation against the weakest sovereign issuers that occurred in the mid 1990s. This increase in litigation corresponds to statements made at the time by the "official sector" that they were less inclined to bailout the weakest nations (the ones whose financial crises are unlikely to cause contagion elsewhere). In other words, the need for lawyers doing traditional lawyering work on the issuer side – defending against lawsuits and finding creative interpretations of contracts – increases significantly in the mid 1990s and that is where we see the increased use of issuer counsel. And we see that increased use by the subset of nations where we would expect the need to be the greatest – the weakest issuers.

As of this writing, in October 2012, the sovereign debt markets are in turmoil. The past couple of years have not only witnessed a major crisis in the sovereign debt markets (the Euro Zone crisis), but have also seen the biggest sovereign debt restructuring in history (Greece, in March 2012[69]) and one of the most successful litigations against a sovereign (NML v. Peru, in October 2012[70]). Going by the findings in our paper, we may be on the cusp of seeing another significant change in the roles played by lawyers in sovereign debt transactions.

[69] Jeromin Zettelmeyer, Christoph Trebesch & Mitu Gulati, *The Greek Debt Exchange*: *An Autopsy* (2012 draft), available at

[70] *See* NML Capital Ltd. V. Republic of Argentina, __ F. 3d __ (2d Cir. 2012) (Decided, October 26, 2012; opinion available at http://www.ca2.uscourts.gov/decisions/isysquery/698b4d40-9200-4c40-957f-c2bdf0a6374).

Table 1: Top 50 Issuers

Countries	1800 – 1944	1945 – 2012	1980 - 2012	Total
Argentina	59	52	52	111
Australia	28	37	15	65
Austria	6	30	25	36
Belgium	9	61	58	70
Brazil	23	48	40	71
Canada	21	9	3	30
Chile	21	11	10	32
China	38	14	14	52
Colombia	9	32	25	41
Costa Rica	6	9	9	15
Croatia	0	18	18	18
Cyprus	2	12	12	14
Czech	6	10	10	16
Denmark	3	36	25	39
El Salvador	1	14	11	15
Finland	4	65	60	69
France	16	2	0	18
Germany	27	8	2	35
Greece	8	48	48	56
Hungary	4	13	13	17
Iceland	3	30	30	33
Indonesia	0	11	10	11
Ireland	4	28	24	32
Italy	6	50	45	56
Jamaica	4	21	19	25
Japan	22	33	16	55
Korea	0	11	11	11
Lebanon	0	21	21	21
Lithuania	0	20	20	20
Malaysia	0	19	15	19
Mexico	9	67	55	76
New Zealand	12	23	17	35
Norway	10	39	12	49
Panama	4	22	20	26
Peru	5	9	9	14
Philippines	0	46	42	46
Poland	6	28	28	34
Portugal	2	48	45	50
Romania	6	6	6	12
Russia	17	17	17	34
South Africa	13	32	19	45
Spain	2	14	14	16
Sweden	11	54	49	65
Tunisie	0	10	10	10
Turkey	3	50	50	53
United Kingdom	71	7	7	78
Uruguay	6	26	26	32
Venezuela	0	35	30	35
Other countries	105	173	169	278
Total	**612**	**1479**	**1286**	**2091**

Table 2: Number of lawyers by law and sovereign bond rating, 1946 - 2012

	# of lawyers	Non investment grade		Investment grade		Total
		Number	%	Number	%	
All Sample	0	48	10.17%	112	14.91%	160
	1	63	13.35%	424	56.46%	487
	2	361	76.48%	215	28.63%	576
	Total	472	100.00%	751	100.00%	1,223
New York Law	0	9	2.99%	2	1.02%	11
	1	17	5.65%	83	42.13%	100
	2	275	91.36%	112	56.85%	387
	Total	301	100.00%	197	100.00%	498
English Law	0	1	0.90%	10	2.64%	11
	1	37	33.33%	283	74.67%	320
	2	73	65.77%	86	22.69%	159
	Total	111	100.00%	379	100.00%	490
German Law	0	30	81.08%	56	90.32%	86
	1	4	10.81%	6	9.68%	10
	2	3	8.11%	0	0.00%	3
	Total	37	100.00%	62	100.00%	99

Table 3: Two-sample Wilcoxon rank-sum (Mann-Whitney) test for Investment Bank

long term relations for two samples

Specification 1				Specification 2			
Pre-WWII dummy	obs	rank sum	expected	Pre-WWII dummy	obs	rank sum	expected
0	1,254.0	1,054,317.0	1,032,042.0	0	1,254.0	1,038,609.0	1,006,335.0
1	391.0	299,518.0	321,793.0	1	350.0	248,601.0	280,875.0
combined	1,645.0	1,353,835.0	1,353,835.0	combined	1,604.0	1,287,210.0	1,287,210.0
Ho: Investment Bank long term relations is the same pre-WWII and post WWII?				**Ho: Investment Bank long term relations is the same pre-WWII and post WWII?**			
z = 3.317 Prob > z = 0.0009	**Reject the null with 99%**			z = 5.106 Prob > z = 0.0000	**Reject the null with 99%**		

long term relations for two samples, pre and post 1982

Specification 1				Specification 2			
Pre-1982 dummy	obs	rank sum	expected	Pre-1982 dummy	obs	rank sum	expected
0	141.0	118,941.0	88,477.5	0	150.0	120,487.5	93,450.0
1	1,113.0	667,944.0	698,407.5	1	1,095.0	655,147.5	682,185.0
combined	1,254.0	786,885.0	786,885.0	combined	1,245.0	775,635.0	775,635.0
Ho: Investment Bank long term relations is the same pre-1982 and post 1982?				**Ho: Investment Bank long term relations is the same pre-1982 and post 1982?**			
z = 9.346 Prob > z = 0.0009	**Reject the null with 99%**			z = 7.958 Prob > z = 0.0000	**Reject the null with 99%**		

Table 4: Underwriters and Lawyers long term relations composition by ratings, 1946 -2012

		Non-investment grade		Investment grade		
		Number	% of total	Number	% of total	Total
All sample						
Issuer Counsel	Change	54	15.21%	64	11.99%	118
	No change	301	84.79%	470	88.01%	771
	Total	355	100.00%	534	100.00%	889
Investment Bank Counsel	Change	70	20.83%	134	25.87%	204
	No change	266	79.17%	384	74.13%	650
	Total	336	100.00%	518	100.00%	854
Investment Bank	Change	265	66.75%	523	76.69%	788
	No change	132	33.25%	159	23.31%	291
	Total	397	100.00%	682	100.00%	1,079
New York Law						
		Non-investment grade		Investment grade		
		Number	% of total	Number	% of total	Total
Issuer Counsel	Change	34	12.98%	19	11.24%	53
	No change	228	87.02%	150	88.76%	378
	Total	262	100.00%	169	100.00%	431
Investment Bank Counsel	Change	46	18.40%	50	30.30%	96
	No change	204	81.60%	115	69.70%	319
	Total	250	100.00%	165	100.00%	415
Investment Bank	Change	177	66.79%	125	70.22%	302
	No change	88	33.21%	53	29.78%	141
	Total	265	100.00%	178	100.00%	443
English Law						
		Non-investment grade		Investment grade		
		Number	% of total	Number	% of total	Total
Issuer Counsel	Change	18	23.38%	38	12.50%	56
	No change	59	76.62%	266	87.50%	325
	Total	77	100.00%	304	100.00%	381
Investment Bank Counsel	Change	18	25.00%	57	19.19%	75
	No change	54	75.00%	240	80.81%	294
	Total	72	100.00%	297	100.00%	369
Investment Bank	Change	54	66.67%	275	79.02%	329
	No change	27	33.33%	73	20.98%	100
	Total	81	100.00%	348	100.00%	429

Table 5: Two-sample Wilcoxon rank-sum (Mann-Whitney) test for Investment Bank long term relations for two samples, post-WWII

Issuers counsel and Underwriters counsel				Issuers counsel and Investment Bank				Underwriters counsel and Investment Bank			
	obs	rank sum	expected		obs	rank sum	expected		obs	rank sum	expected
IC	979.0	929,029.0	983,895.0	IC	1,254.0	1,073,074.0	1,432,695.0	IB	1,254.0	1,125,701.5	1,400,718.0
IBC	1,030.0	1,090,016.0	1,035,150.0	IB	1,030.0	1,536,396.0	1,176,775.0	IBC	979.0	1,368,559.5	1,093,543.0
combined	2,009.0	2,019,045.0	2,019,045.0	combined	2,284.0	2,609,470.0	2,609,470.0	combined	2,233.0	2,494,261.0	2,494,261.0
Ho: Issuers counsel and Underwriters counsel change is the same?				**Ho: Issuers counsel and Investment Bank change is the same?**				**Ho: Underwriters counsel and Investment Bank change is the same?**			
z = -6.328 Prob > z = 0.0000	**Reject the null with 99%**			z = -26.713 Prob > z = 0.0000	**Reject the null with 99%**			z = -21.011 Prob > z = 0.0000	**Reject the null with 99%**		

Table 6: Top countries with one and two lawyers, all laws, 1946 - 2012

Country	No lawyer		One lawyer		Two lawyers		Total	Spread	Investment grade
	Number	% of total	Number	% of total	Number	% of total			
	Top countries with two lawyers								
Brazil	4	8.33%	3	6.25%	41	85.42%	**48**	3.428	27.08%
Mexico	5	7.46%	23	34.33%	39	58.21%	**67**	2.503	30.00%
Argentina	16	30.77%	2	3.85%	34	65.38%	**52**	3.868	0.00%
Philippines	3	6.52%	10	21.74%	33	71.74%	**46**	3.188	0.00%
Poland	1	3.57%	0	0.00%	27	96.43%	**28**	1.221	96.15%
Venezuela	5	14.29%	4	11.43%	26	74.29%	**35**	3.620	0.00%
Uruguay	1	3.85%	0	0.00%	25	96.15%	**26**	2.302	38.46%
Colombia	3	9.38%	5	15.63%	24	75.00%	**32**	3.770	44.44%
Turkey	10	20.00%	16	32.00%	24	48.00%	**50**	5.107	12.00%
Lebanon	0	0.00%	2	9.52%	19	90.48%	**21**	3.198	5.26%
	Top countries with one lawyer								
Italy	2	4.00%	48	96.00%	0	0.00%	**50**	-0.131	100.00%
Finland	22	33.85%	43	66.15%	0	0.00%	**65**	0.530	100.00%
Sweden	11	20.37%	40	74.07%	3	5.56%	**54**	-0.154	100.00%
Greece	7	14.58%	39	81.25%	2	4.17%	**48**	0.477	97.92%
Belgium	12	19.67%	38	62.30%	11	18.03%	**61**	-0.043	100.00%
Norway	4	10.26%	34	87.18%	1	2.56%	**39**	0.400	100.00%
Denmark	5	13.89%	30	83.33%	1	2.78%	**36**	0.895	100.00%
Portugal	16	33.33%	30	62.50%	2	4.17%	**48**	-0.446	100.00%
South Africa	4	12.50%	28	87.50%	0	0.00%	**32**	2.498	42.11%
Japan	3	9.09%	27	81.82%	3	9.09%	**33**	0.106	100.00%

Table 7: Relation between lawyers and sovereign rating, 1946-2012

	All jurisdictions				**New York Law**				**English Law**			
	Non Investment grade		Investment grade		Non Investment grade		Investment grade		Non Investment grade		Investment grade	
	Number	% total	Number	% total	Number	% total	Number	% total	Number	% total	Number	% total
	Issuer Counsel											
Others	345	33.40%	688	66.60%	206	58.86%	144	41.14%	84	18.54%	369	81.46%
Cleary Gottlieb	127	**66.84%**	63	**33.16%**	95	**64.19%**	53	**35.81%**	27	**72.97%**	10	**27.03%**
Total	472	38.59%	751	61.41%	301	60.44%	197	39.56%	111	22.65%	379	77.35%
	Underwriters Counsel											
Others	376	35.67%	678	64.33%	205	60.47%	134	39.53%	111	22.79%	376	77.21%
Top Underwriter[(1)]	96	**56.80%**	73	**43.20%**	96	**60.38%**	63	**39.62%**	0	**0.00%**	3	**100.0%**
Total	472	38.59%	751	61.41%	301	60.44%	197	39.56%	111	22.65%	379	77.35%

[(1)] Sullivan and Cromwell in All jurisdictions and New York Market, Linklaters in English market.

Table 8. OLS (time fixed-effects), dependent variable spread, all jurisdictions

	(1)	(2)	(3)	(4)
AAA	-1.918***	-1.927***		
	(0.450)	(0.442)		
AA	-1.663***	-1.686***		
	(0.408)	(0.414)		
A	-0.521**	-0.519**		
	(0.264)	(0.247)		
BB	2.100***	2.090***		
	(0.588)	(0.585)		
B	2.894***	2.880***		
	(0.281)	(0.278)		
Ln(amount)	-0.0802	-0.0755	-0.301***	-0.279***
	(0.0721)	(0.0710)	(0.106)	(0.103)
Maturity	-0.0208*	-0.0215*	-0.00514	-0.00292
	(0.0121)	(0.0120)	(0.0130)	(0.0125)
Number of banks	0.00994	0.00879	-0.00833	-0.0119
	(0.0322)	(0.0320)	(0.0313)	(0.0301)
Cleary dummy	0.173		0.0672	
	(0.221)		(0.256)	
Top Underwriter dummy[1]	-0.0190		0.388*	
	(0.215)		(0.225)	
Dummy=1 if Issuer Counsel	-0.299	-0.268	1.367***	1.391***
	(0.555)	(0.532)	(0.266)	(0.244)
Constant	6.257***	6.421***	7.347***	7.213***
	(0.824)	(0.818)	(1.026)	(1.048)
Observations	706	706	760	760
R-squared	0.308	0.308	0.164	0.162

Robust standard errors in parentheses
*** p<0.01, ** p<0.05, * p<0.1

[1] Sullivan and Cromwell in All jurisdictions and New York Market, Linklaters in English market.

Table 9. OLS (time fixed-effects), dependent variable spread, New York law

	(1)	(2)	(3)	(4)
AAA	-1.485***	-1.474***		
	(0.494)	(0.500)		
AA	-1.436***	-1.442***		
	(0.518)	(0.514)		
A	-0.360	-0.383		
	(0.258)	(0.245)		
BB	1.374***	1.377***		
	(0.231)	(0.228)		
B	2.677***	2.679***		
	(0.273)	(0.266)		
Ln(amount)	0.0824	0.0871	-0.0951	-0.0768
	(0.0960)	(0.0935)	(0.123)	(0.122)
Maturity	-0.0190*	-0.0183*	-0.0148	-0.0103
	(0.0107)	(0.0104)	(0.0125)	(0.0119)
Number of banks	-0.0575***	-0.0578***	-0.0621**	-0.0642**
	(0.0197)	(0.0191)	(0.0279)	(0.0273)
Cleary dummy	-0.0535		-0.335	
	(0.196)		(0.250)	
Top Underwriter dummy[1]	0.0584		0.316	
	(0.191)		(0.227)	
Dummy=1 if Issuer Counsel	0.429	0.409	2.043***	1.935***
	(0.307)	(0.304)	(0.345)	(0.326)
Constant	-3.751***	-3.724***	1.890**	2.075**
	(1.227)	(1.210)	(0.911)	(0.903)
Observations	350	350	366	366
R-squared	0.627	0.627	0.413	0.405

Robust standard errors in parentheses
*** p<0.01, ** p<0.05, * p<0.1
[1] Sullivan and Cromwell in All jurisdictions and New York Market, Linklaters in English market.

Table 10. OLS (time fixed-effects), dependent variable spread,English law

	(1)	(2)	(3)	(4)
AAA	-2.825***	-2.977***		
	(1.064)	(0.992)		
AA	-1.480**	-1.571**		
	(0.683)	(0.610)		
A	-0.912	-0.997*		
	(0.625)	(0.589)		
BB	3.240**	3.030*		
	(1.623)	(1.669)		
B	3.269***	3.183***		
	(0.759)	(0.766)		
Ln(amount)	-0.221	-0.280	-0.644**	-0.634***
	(0.201)	(0.194)	(0.250)	(0.230)
Maturity	-0.0374	-0.0393	-0.0490	-0.0494
	(0.0503)	(0.0491)	(0.0513)	(0.0512)
Number of banks	0.0947	0.100	0.0821	0.0807
	(0.0732)	(0.0723)	(0.0781)	(0.0729)
Cleary dummy	-0.779		0.163	
	(0.697)		(0.914)	
Top Underwriter dummy[1]	0.362		-0.0667	
	(0.350)		(0.421)	
Dummy=1 if Issuer Counsel	-0.566	-0.710	1.089*	1.114**
	(1.042)	(0.997)	(0.554)	(0.462)
Constant	5.468**	9.349***	4.654*	4.645**
	(2.444)	(2.758)	(2.591)	(2.224)
Observations	293	293	322	322
R-squared	0.260	0.259	0.137	0.137

Robust standard errors in parentheses
*** p<0.01, ** p<0.05, * p<0.1

[1] Sullivan and Cromwell in All jurisdictions and New York Market, Linklaters in English market.

Figure 1: Confederate Cotton Bond

7 PER CENT COTTON LOAN

OF THE

Confederate States of America,

FOR 3 MILLIONS STERLING OR 75 MILLIONS FRANCS.

Series C

No. 937

£200

F5,000

8000 lbs. COTTON.

J. HENRY SCHRÖDER & Co.

EMILE ERLANGER & Cie

THE CONFEDERATE STATES OF AMERICA are indebted to the Holder of this Bond in the Sum of Two Hundred Pounds Sterling, with Interest at the rate of Seven per Cent. per Annum, payable on the First Day of March and the First Day of September in each Year, in Paris, London, Amsterdam, or Frankfort o/M against delivery of the corresponding Coupon, until redemption of the Principal.

THIS BOND forms part of an issue of Seventy-five Millions of Francs, equal to Three Million Pounds Sterling, with Coupons attached till first September, 1883, inclusive, and redeemable at par in the course of twenty years by means of half-yearly drawings, the first of which takes place first March, 1864, the last first September, 1883.

At each drawing, one-fortieth part of the amount unredeemed by Cotton as indicated below is to be drawn; and all Bonds then drawn will be repaid at the option of the holder, in Paris, London, Amsterdam, or Frankfort o/M.

The Holder of the Bond, however, will have the option of converting the same at its nominal amount into Cotton, at the rate of sixpence sterling per pound—say 8,000 lbs. of Cotton in exchange for a Bond of £200—at any time not later than six months after the ratification of a Treaty of Peace between the present belligerents. Notice of the intention of converting Bonds into Cotton to be given to the representatives of the Government in Paris or London, and sixty days after such notice the Cotton will be delivered, if peace, at the ports of Charleston, Savannah, Mobile, or New Orleans; if war, at a point in the interior within 10 miles of a railroad or stream navigable to the ocean. The delivery will be made free of all charges and duties, except the existing export duty of one-eighth of a cent per pound. The quality of the Cotton to be the standard of New Orleans middling. If any Cotton is of superior or inferior quality, the difference in value shall be settled by two Brokers, one to be appointed by the Government, the other by the Bondholder: whenever these two Brokers cannot agree on the value, an Umpire is to be chosen, whose decision shall be final.

The said issue and the above conditions are authorised by an Act of Congress, approved 29th January, 1863, a certified copy of which is deposited with Messrs. Freshfields & Newman, in London, the Solicitors to the Contractors, and the faith of the Confederate States is pledged accordingly.

In Witness whereof, the Agent for the Loan of the Confederate States in Paris, duly authorised, has set his hand, and affixed the Seal of the Treasury Department, in Paris, the first day of June, in the year of Our Lord One Thousand Eight Hundred and Sixty-three.

LES ÉTATS CONFÉDÉRÉS D'AMÉRIQUE doivent au Porteur de cette Obligation la somme de Deux Cents Livres Sterling ou Cinq Mille Francs, portant intérêt à raison de Sept pour Cent l'an, payable le premier Mars et le premier Septembre de chaque année à Paris, Londres, Amsterdam et Francfort s/M, contre le Coupon respectif jusqu'à remboursement du Capital.

CETTE OBLIGATION fait partie d'une émission de Soixante-et-Quinze Millions de Francs, égale à Trois Millions de Livres Sterling, avec Coupons jusqu'au premier Septembre 1883 inclus, et remboursable au pair dans l'espace de vingt années moyennant des tirages semestriels, dont le premier aura lieu le premier Mars 1864, et le dernier le premier Septembre 1883.

Chaque tirage comprendra la quarantième partie du capital non-remboursé selon le mode indiqué ci-après, et chaque Obligation sortie sera remboursée au choix du Porteur à Paris, Londres, Amsterdam et Francfort s/M.

Le Porteur de l'Obligation aura le droit de réclamer le remboursement du montant nominal en Coton, au prix de sixpence sterling par livre de Coton, soit 8,000 livres par Obligation de £200 (Frs. 5,000), et ceci, en tout temps, jusqu'aux six mois qui suivront la ratification d'un Traité de Paix entre les belligérants. La déclaration de convertir l'Obligation en Coton devra être faite aux représentants du Gouvernement à Paris ou à Londres, et soixante jours après le Coton sera délivré, en cas de paix, dans les ports de Charleston, Savannah, Mobile ou de la Nouvelle-Orléans, et, en cas de guerre, dans l'intérieur du pays, à une distance de dix milles au plus d'un chemin de fer ou d'une rivière navigable jusqu'à la mer. La livraison sera faite libre de tous frais et impôts, à l'exception du droit d'exportation actuellement en vigueur de ⅛ cent américain par livre. La qualité du Coton devra être le type de "New Orleans middling." Si tout ou partie du Coton est de qualité supérieure ou inférieure, la différence en valeur sera réglée par deux Courtiers, l'un désigné par le Gouvernement et l'autre par le Porteur de l'Obligation. Dans le cas où ces deux Courtiers ne pourraient s'accorder, un Arbitre sera choisi et sa décision sera définitive.

Ladite émission et les conditions ci-dessus indiquées sont autorisées par un Acte du Congrès approuvé le 29 Janvier 1863, dont une copie légalisée est déposée chez Messrs. Freshfields & Newman, à Londres, Solicitors des Contractants: en conséquence les États Confédérés sont engagés.

En Foi de quoi, l'Agent pour l'Emprunt des États Confédérés à Paris, dûment autorisé, a signé et apposé le Sceau du Trésor à Paris, le premier Juin l'an mil huit cent soixante-et-trois.

CONTRACTORS.

AGENT FOR THE LOAN.

AGENTS TO THE CONTRACTORS IN LONDON.

(Countersigned.)

COMMISSIONER.

On 1st September, 1883, a further Sum of £7 will be paid by Messrs. J. Henry Schröder & Co., London; or Frs. 175 by Messrs. Emile Erlanger & Co., Paris; or the equivalents at the Exchange of the day by Mr. Raphael Erlanger, Frankfort o/M, and Messrs. B. H. Schröder & Co., Amsterdam; together with the principal Sum of £200, or Frs. 5,000, on surrender of this BOND and WARRANT.

Figure 2: Number of Issuances by Jurisdiction post-World War II

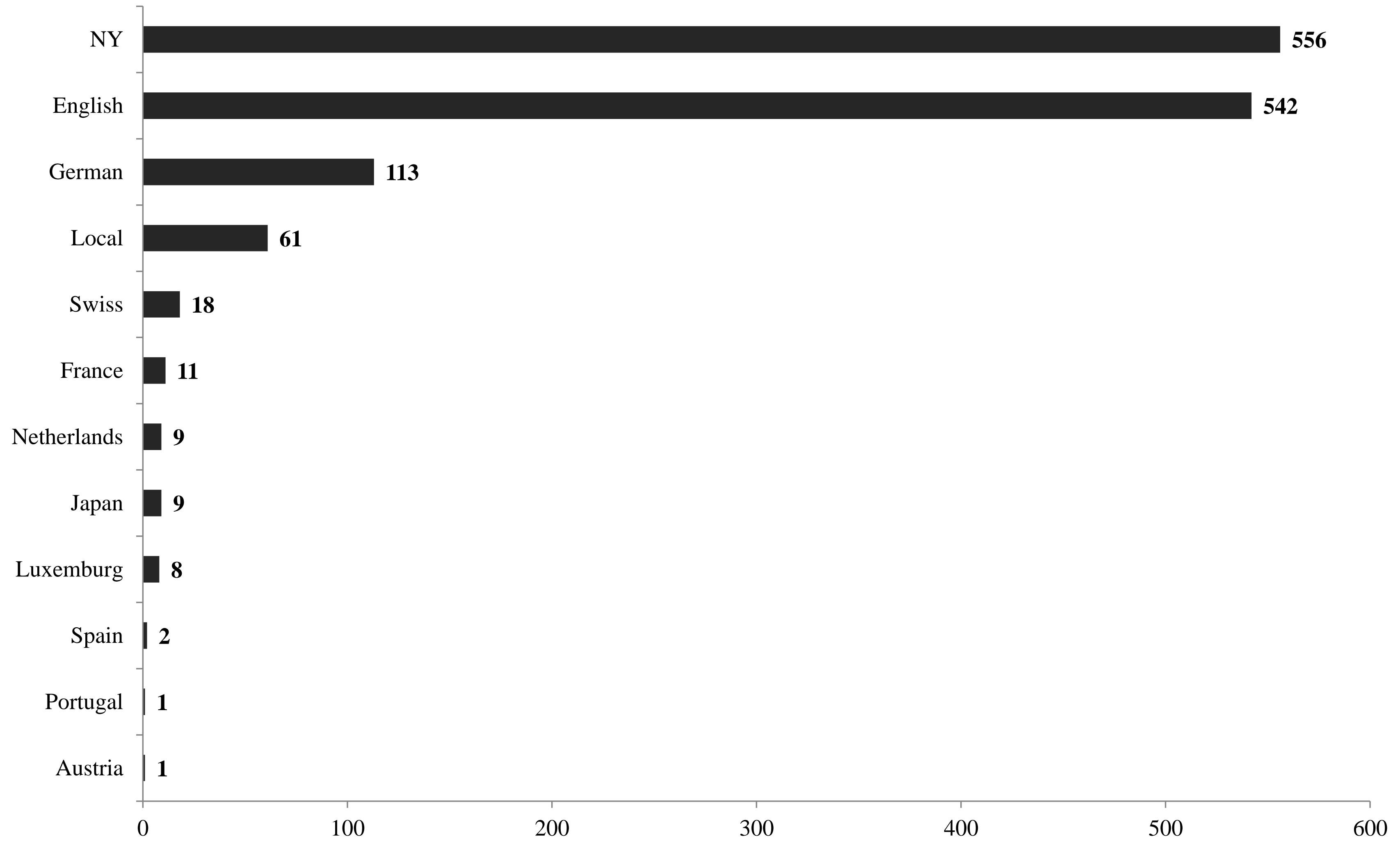


Figure 3: Issuances by Jurisdiction and Number of Lawyers post-World War II

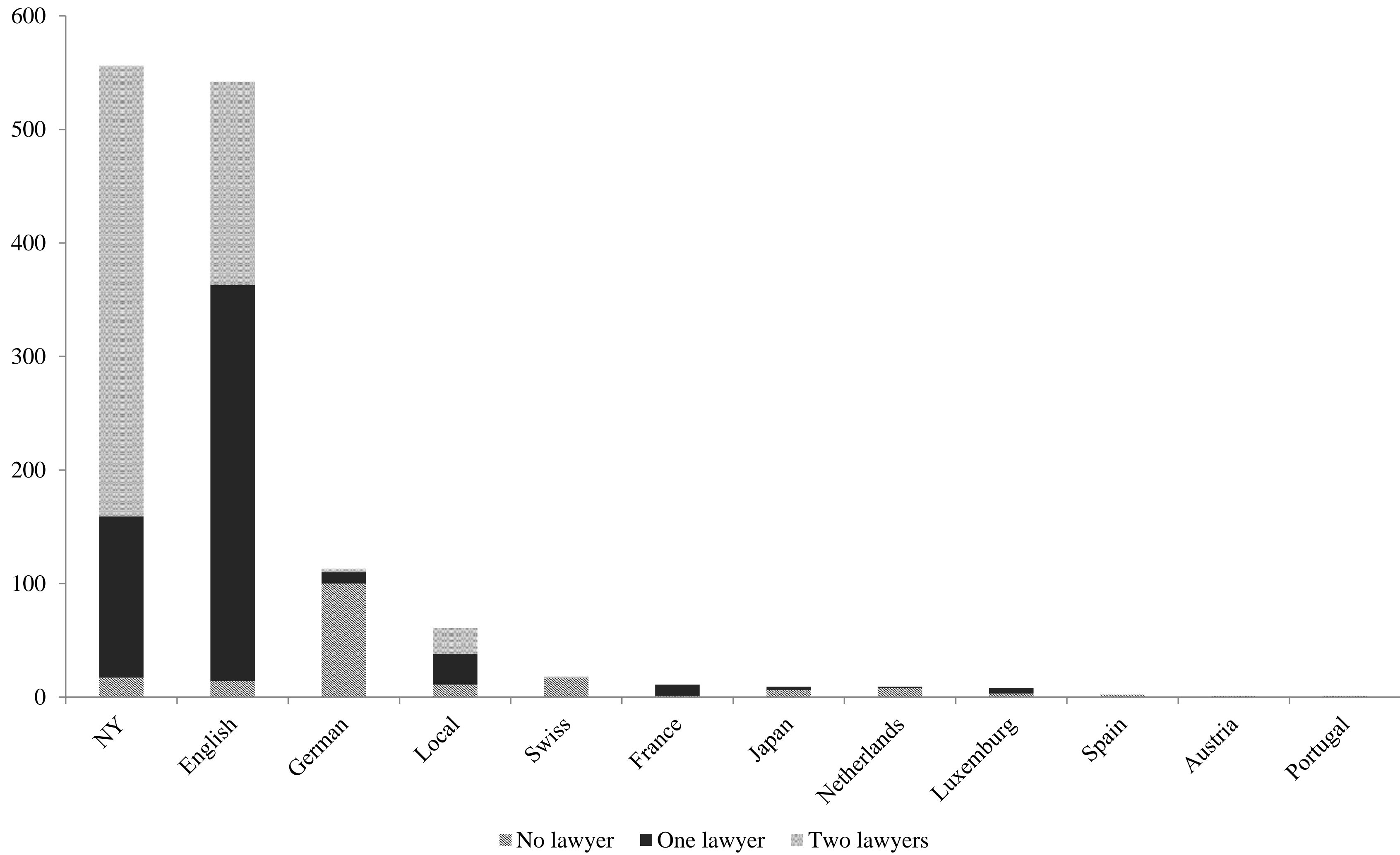


Figure 4: Investment Bank long term relationship, 1826-1945

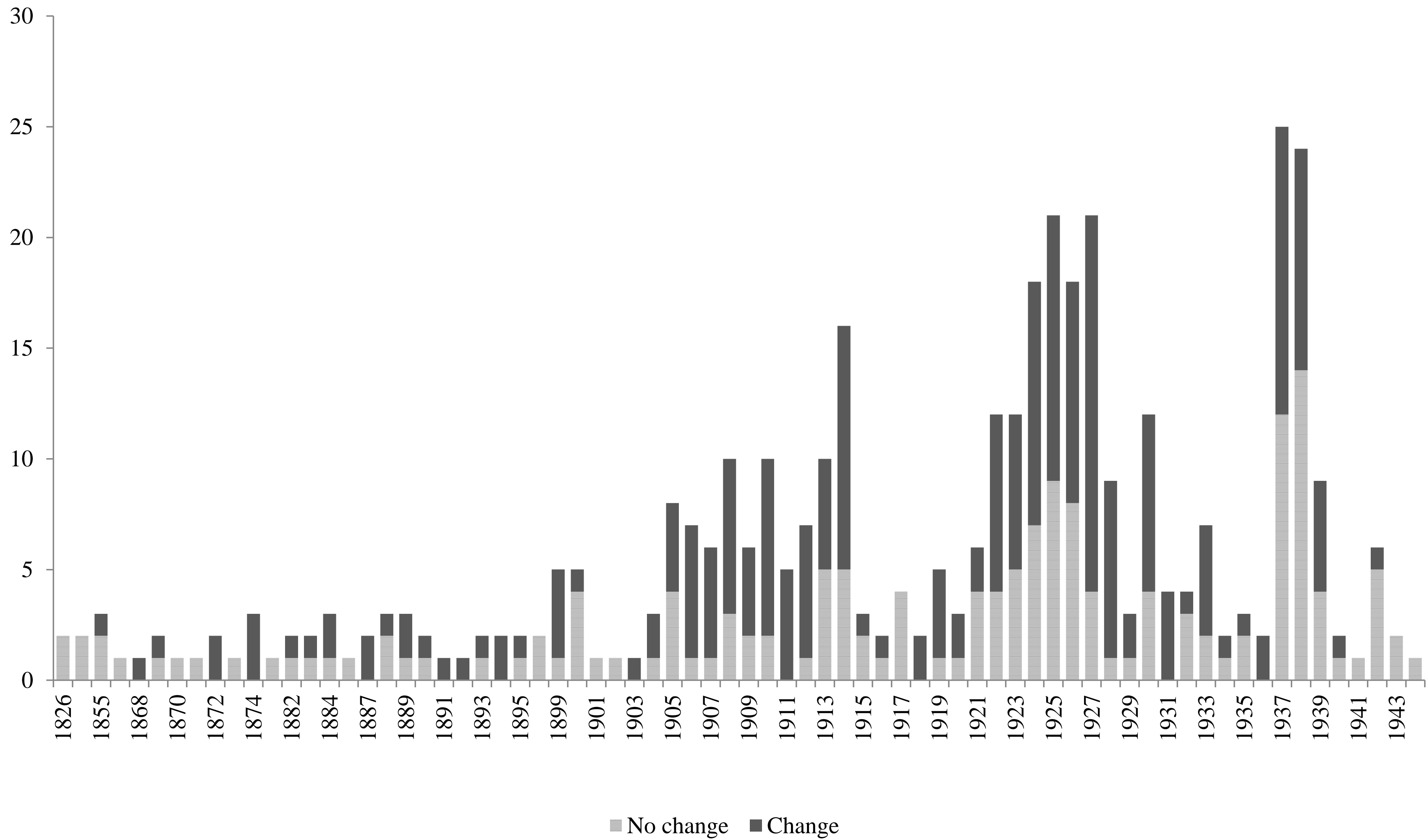


Figure 5: Investment Bank long term relationship, 1946-2012

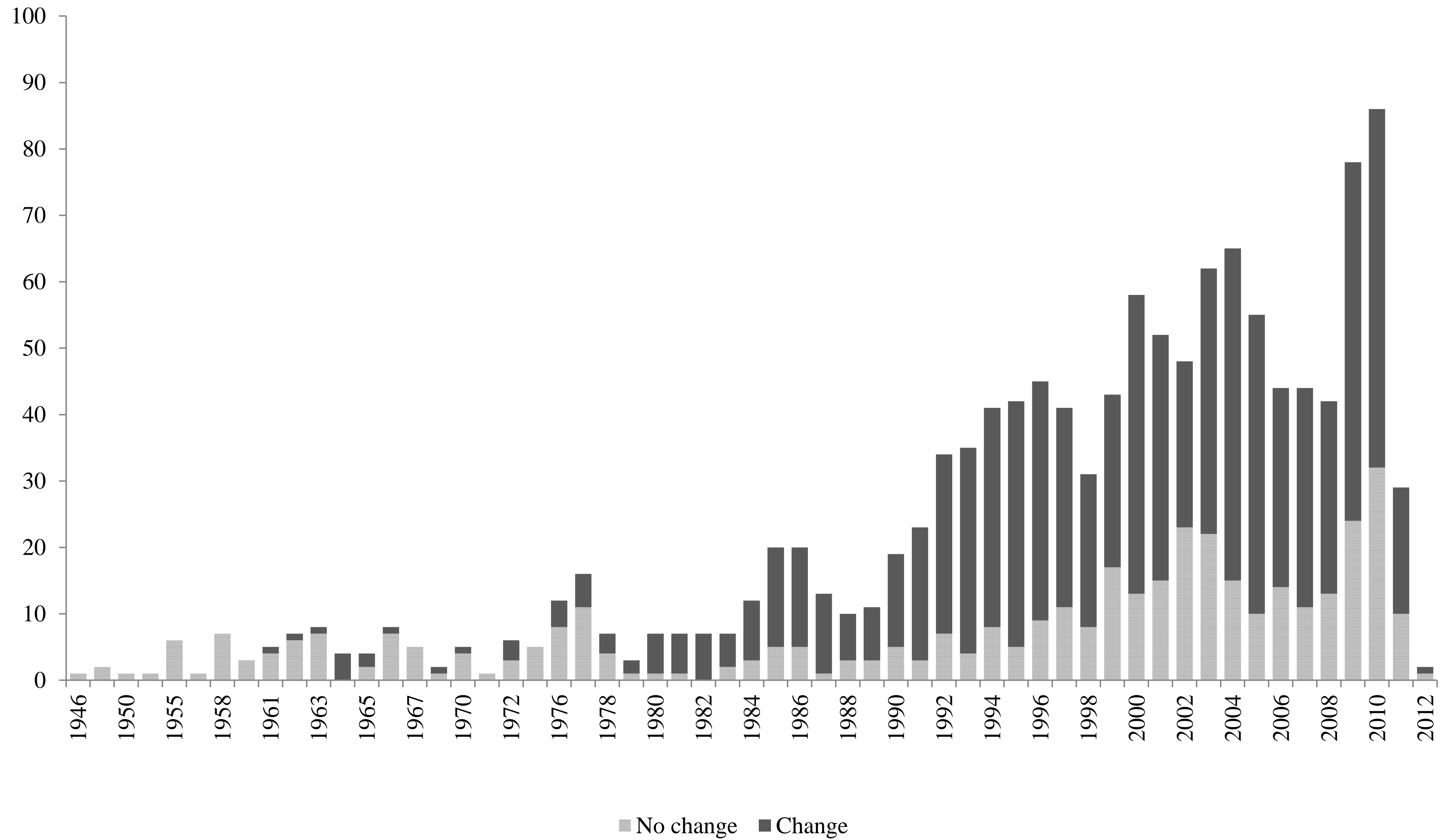
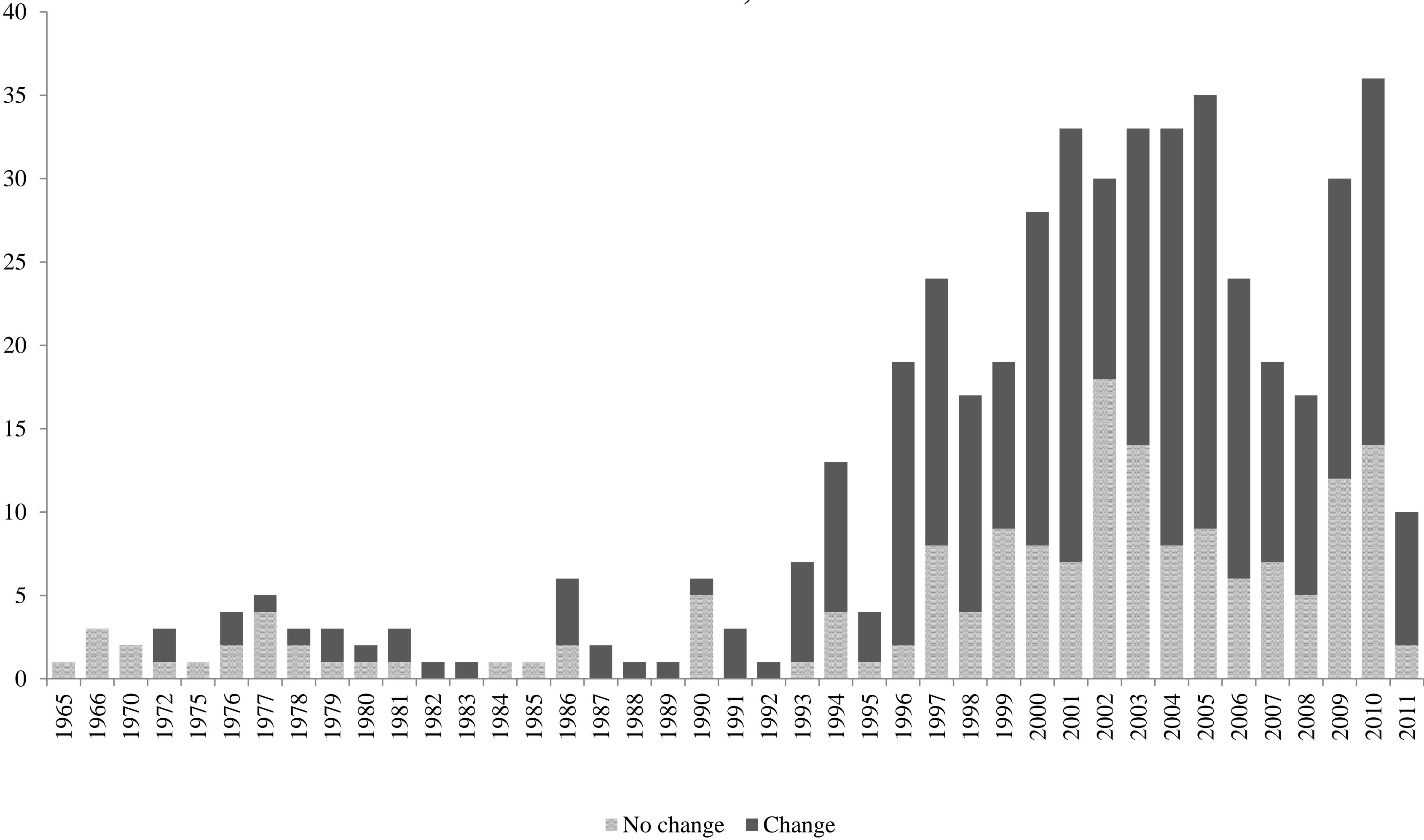


Figure 6: Investment Bank long term relationship New York Law, 1946-2012



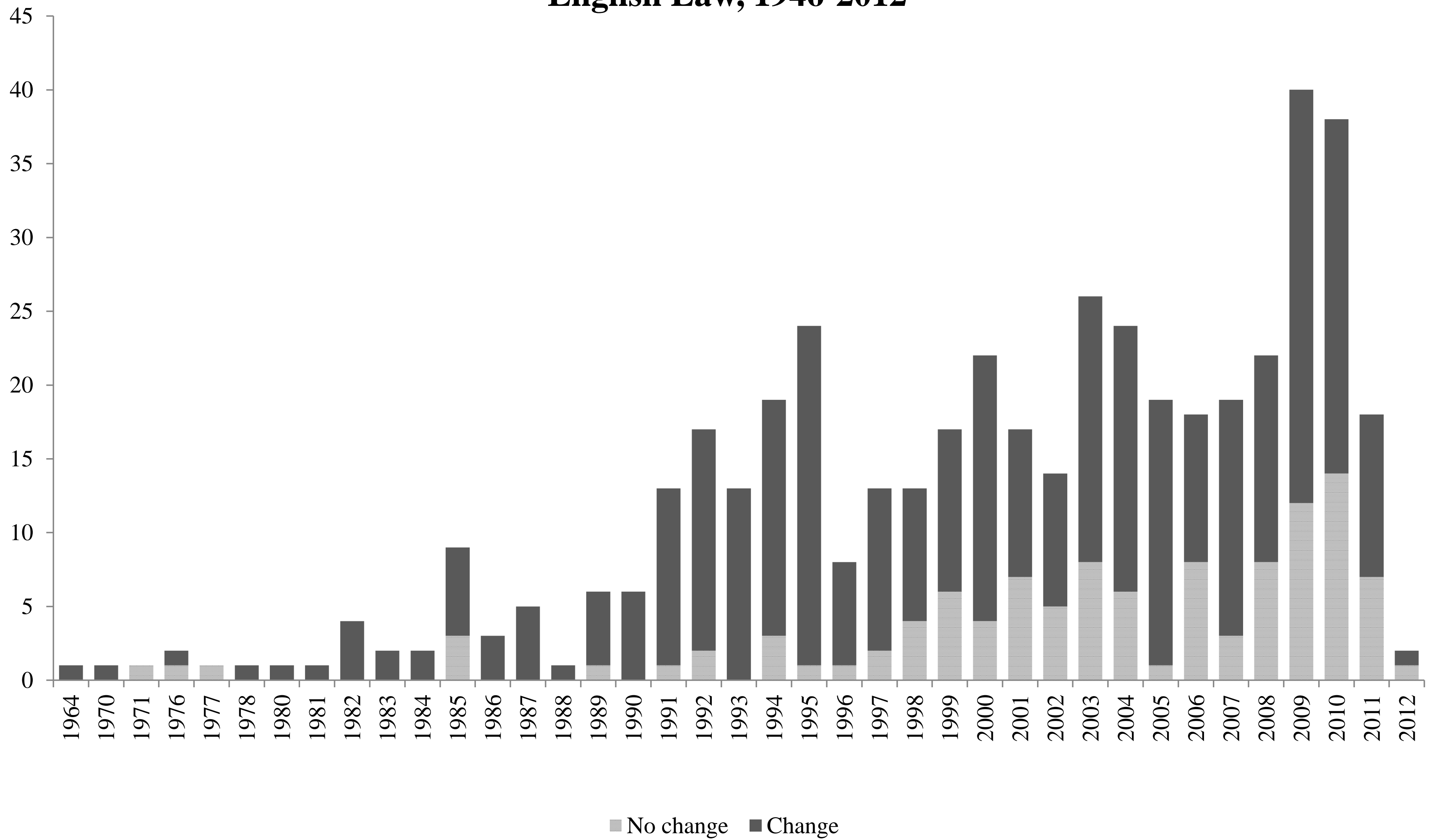


Figure 7: Investment Bank long term relationship
English Law, 1946-2012
45
40
35
30
25
20
15
10
5
0
1964
1970
1971
1976
1977
1978
1980
1981
1982
1983
1984
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1992
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1998
1999
2000
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2003
2004
2005
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2007
2008
2009
2010
2011
2012
No change
Change

Figure 8: Issuer Counsel long term relationship, 1946-2012

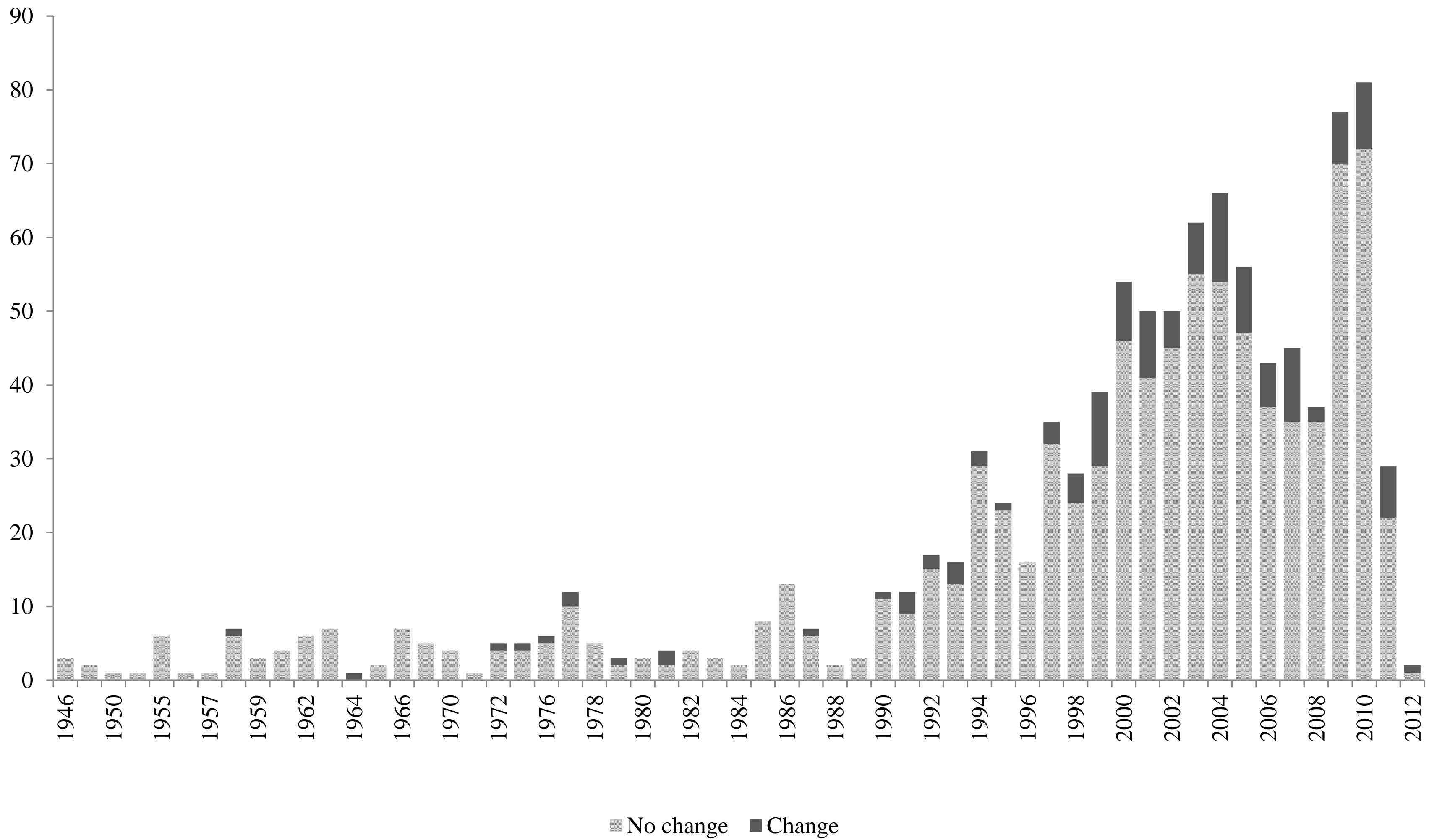


Figure 9: Investment Bank Counsel long term relationship, 1946-2012

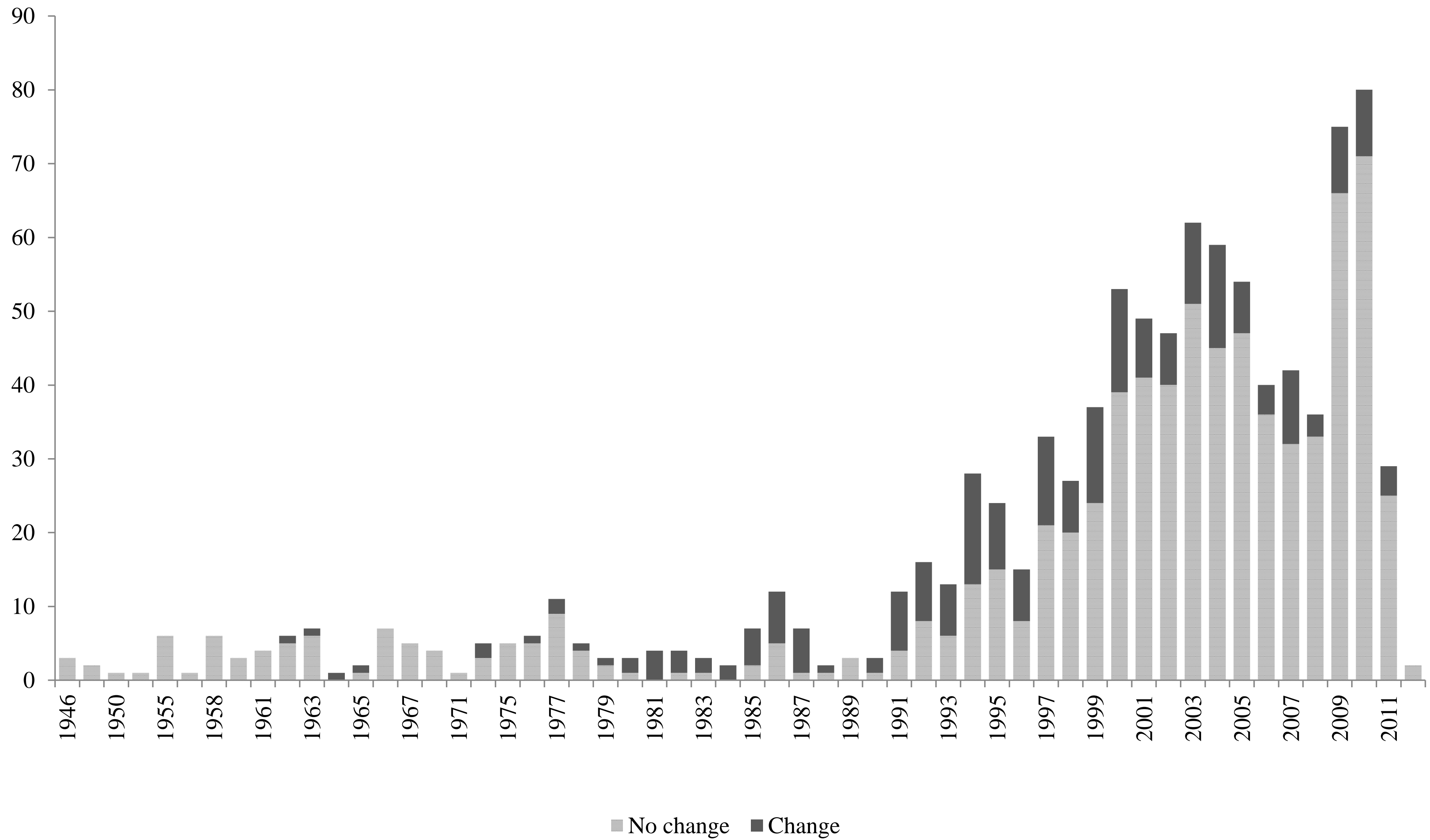
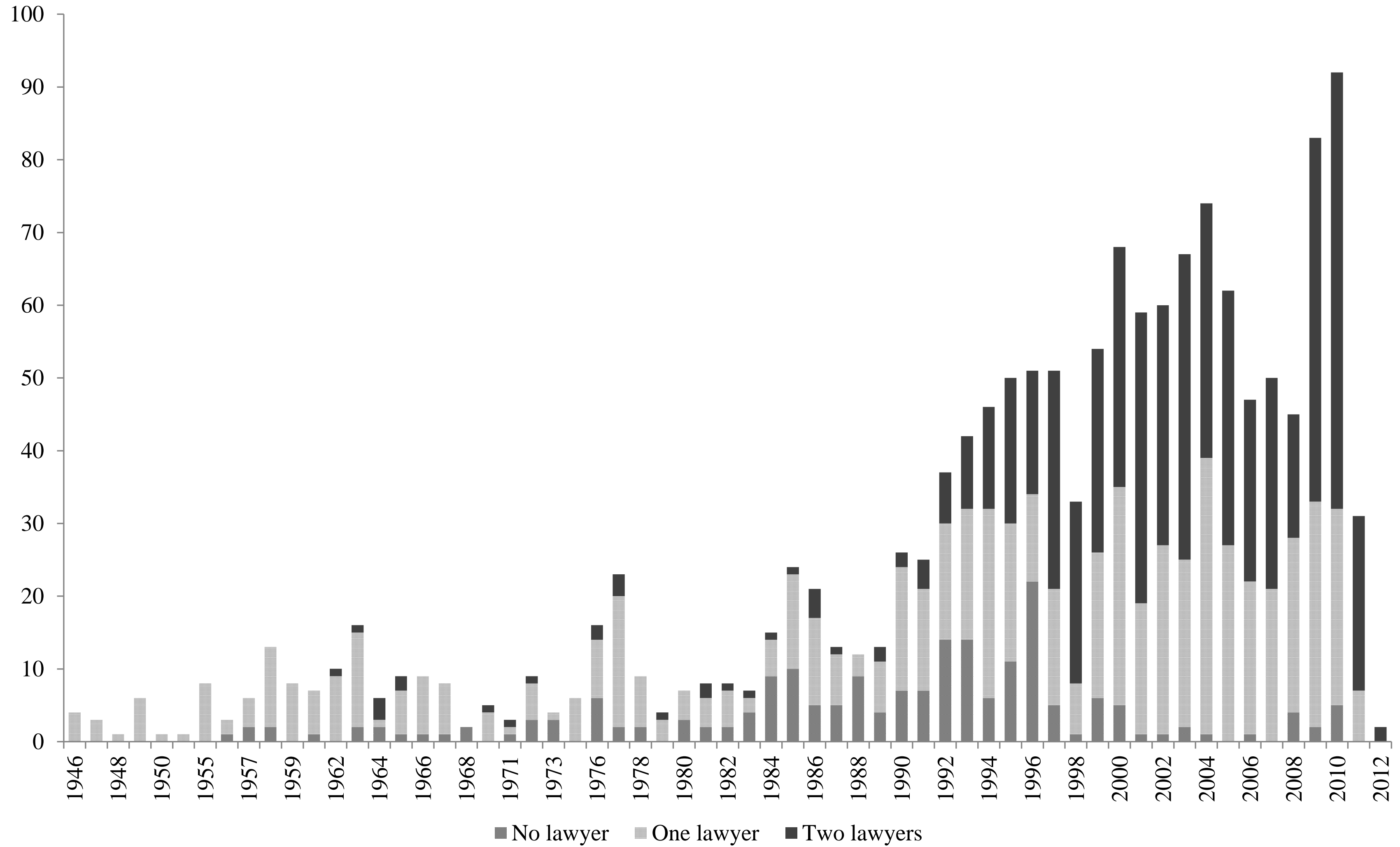


Figure 10: Number of lawyers, 1946 - 2012



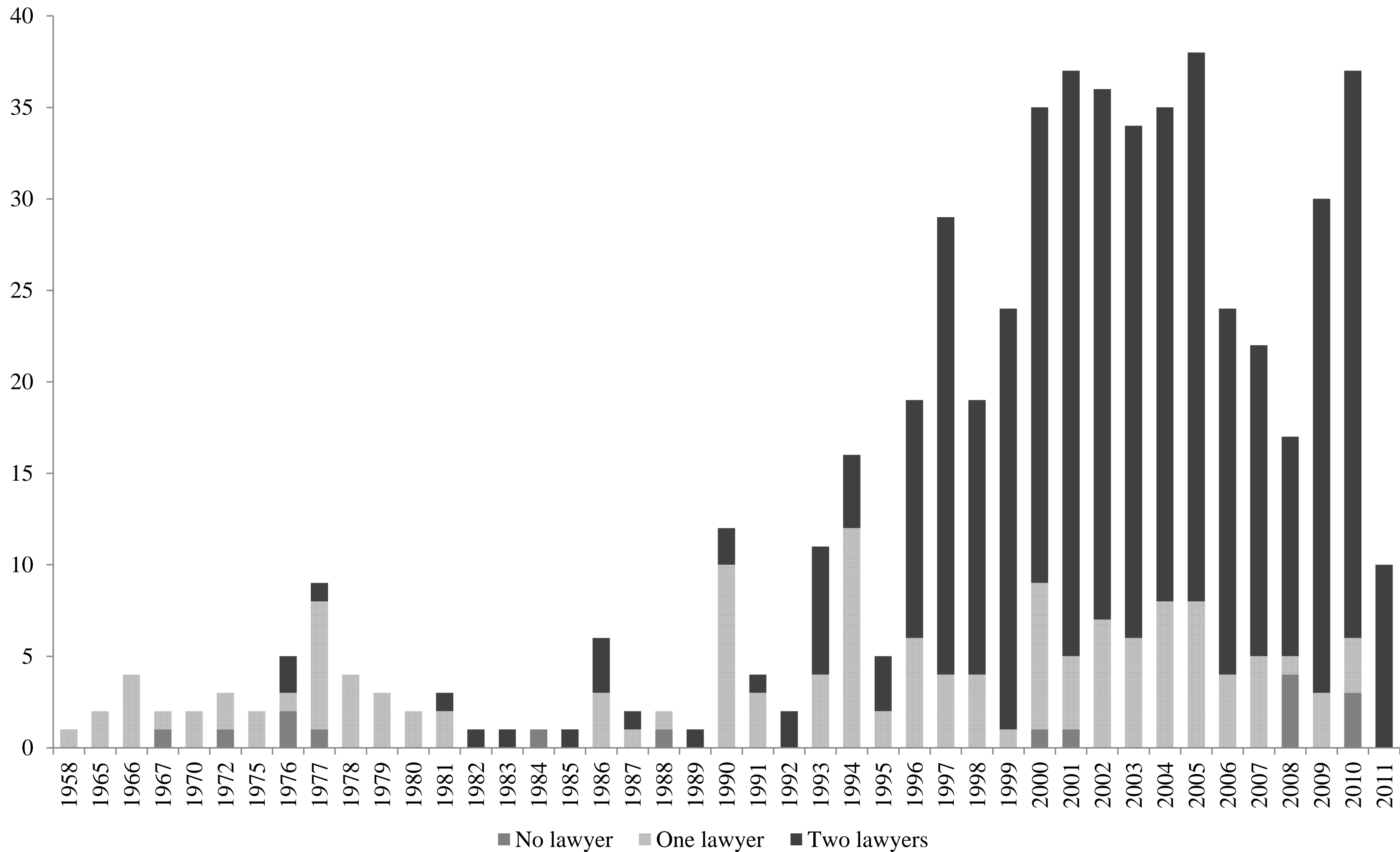


Figure 11: Number of lawyers under New York law, 1946 - 2012
40
35
30
25
20
15
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1958
1965
1966
1967
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1972
1975
1976
1977
1978
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2001
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2004
2005
2006
2007
2008
2009
2010
2011
No lawyer
One lawyer
Two lawyers

Figure 12: Number of lawyers under English law, 1946 - 2012