

Financial supervision workshop 2018

“A Swedish outlook on the field of enforcement action
research”

Presenter: Rebecca Söderström and Mikael Wendschlag, Uppsala
University



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A Swedish outlook on the field of enforcement action research

Rebecca Söderström, rebecca.soderstrom@jur.uu.se

Mikael Wendschlag, mikael.wendschlag@ekhist.uu.se

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Presentation

- Research survey
- Research proposal





Research survey

- "Take stock"
- Some 30 articles
- Law, economics, finance
- Selection: enforcement powers, their use and/or effects



Motive for more research (in general)

- Financial supervision more legalistic turn since global financial crisis?
- Stricter sanctions raises stakes
 - E.g. Maximum administrative fine 10 % of last year's turnover
 - Administrative fines can target individual managers



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Motivation for research on the Swedish case

We have:

- Access to data
- International relevance - Harmonised regulation in EU
- Stakeholder interest

But none so far...

- Legal studies: Private and/or public law?
- Market studies: ..?



The Swedish case

- Swedish FSA an "integrated supervisor"+
- Organised under the Dep. Of Finance
- FSA Board take decision on enf. Actions
- Appeals to the Administrative Court of Appeal
- Some 150-200 examinations per year
- Some 10-15 enforcement actions per year (since 2005)
- 1-5 appeals per year
- Decisions, meeting minutes, court rulings public

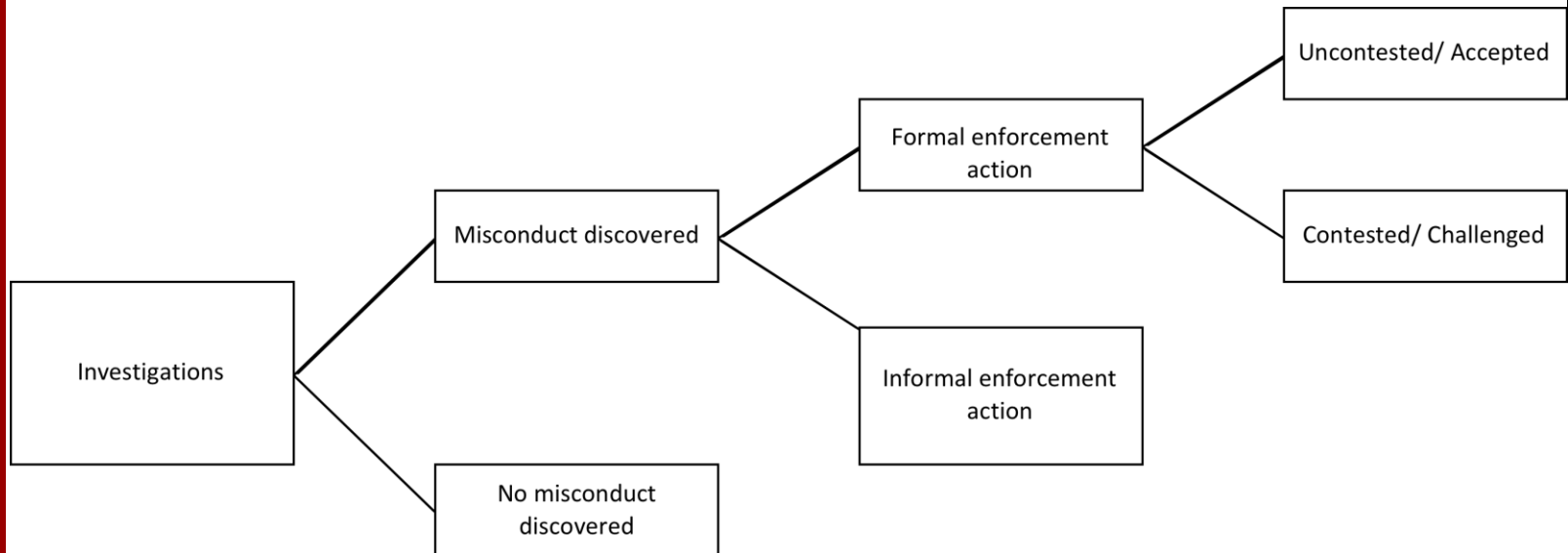


Connecting Swedish case to international research – survey findings

- US and UK overwhelmingly, both data and outlook
- Some exceptions (Thomann et al, Tsoumas et al, and EU/ECB growing)
- "Market perspective"
 - event studies
 - quantitative approaches
- "Legal perspective"
 - "rule of law"-themes
 - "effectiveness" of sanctions (less dev.)

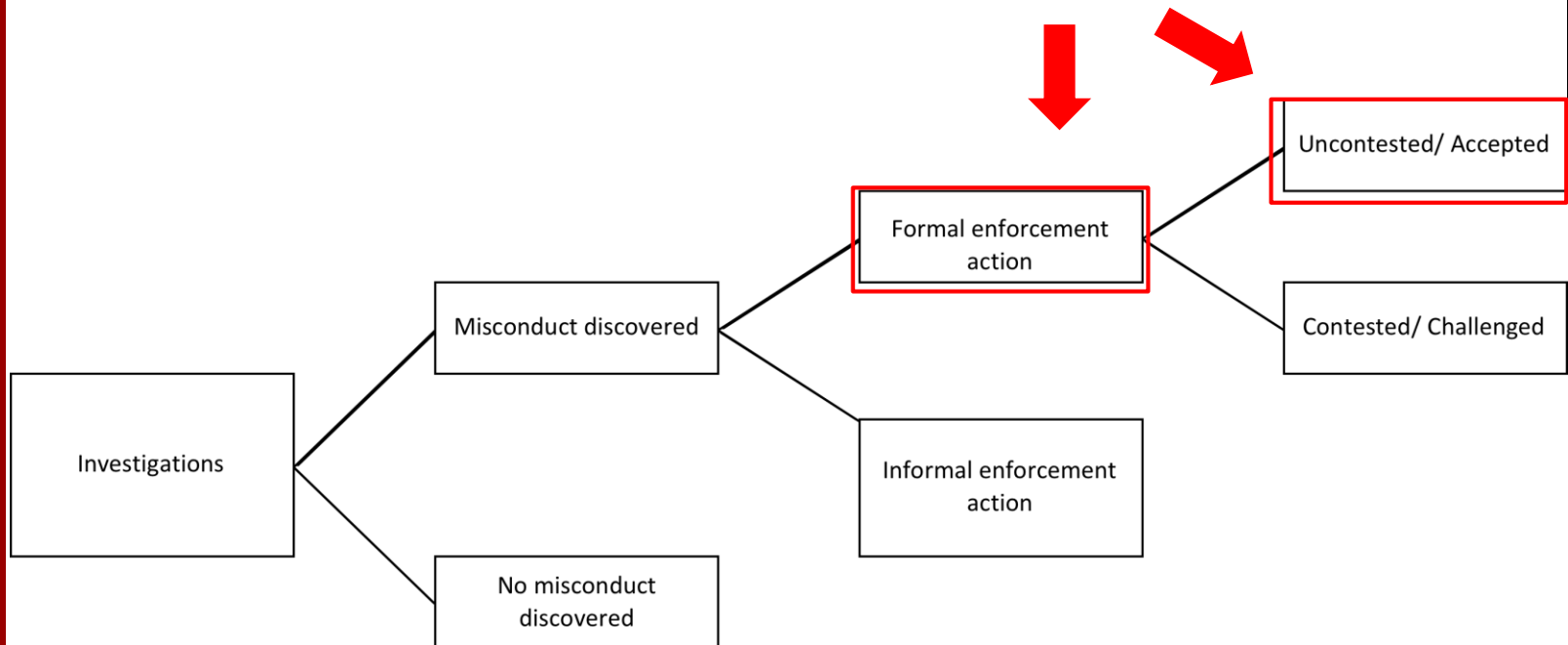


Studying supervisors by looking at enforcement actions





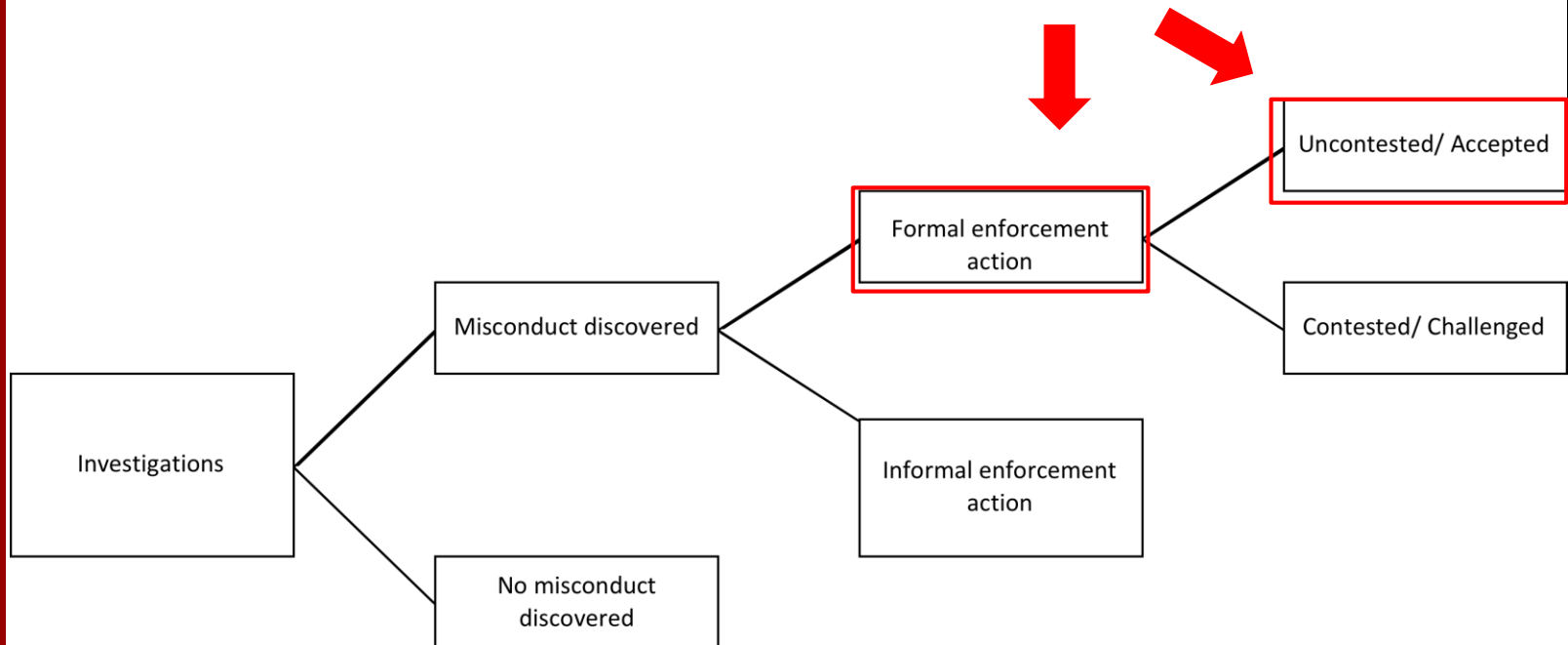
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Studying supervisors by looking at enforcement actions



Conclusions based on "tip of iceberg"



However, important questions can be addressed:

- Countries similar in enforcement powers, but very different in practice – why and to what effect?
- Increased use of formal enforcement actions – how to assess their effectiveness?
- More powers given to supervisors – how to ensure suitable "rule of law" checks and balances?
- Markets do react to enforcement actions, also corporate governance effects?



Our research proposal

- Effectiveness of enforcement actions
- "Praxis discovery" via FSA decisions
- Event studies
- Corporate governance effects of enf. actions



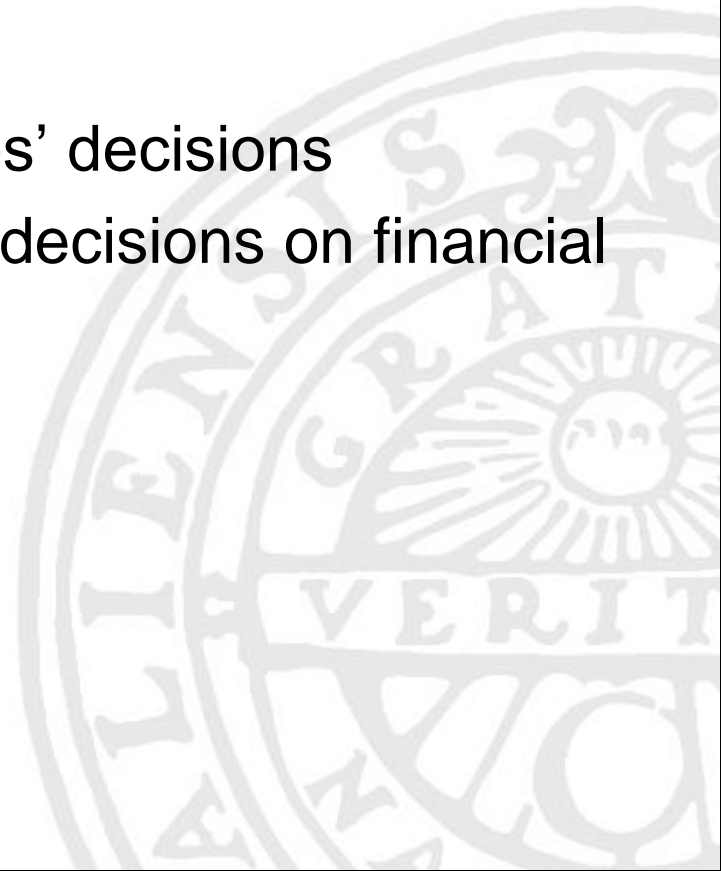
Research potential: Effectiveness of financial supervision

- A legal issue: the application of the legislation must fulfil its stated purposes
 - The employment of enforcement powers and sanctioning tools
 - Are regulatory aims and purposes met (wholly/partly) or even contravened?
- Market / economic perspective: Are benefits of enforcement actions exceeding costs



Research potential: A sanctioning praxis?

- Material: Swedish FSA's sanctioning decisions on financial firms
- Legal perspective
 - legal value of authorities' decisions
 - effectiveness: how are decisions on financial firms motivated?





Research potential: A sanctioning praxis?

- Material: Swedish FSA's sanctioning decisions on financial firms, meeting minutes, appeals, judgements etc.
- Legal perspective
 - legal value of authorities' decisions
 - effectiveness: how are decisions on financial firms motivated?



Corporate governance effects of enforcement actions

- Enforcement actions usually target legal person
- However, breaches / misconduct due to "human factor"
- Study corporate governance effects of enforcement actions
 - organisation
 - strategy
 - resources
 - careers



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Good prospects for international cooperation

- Contribute with small open economy case of Sweden
- Similar regulatory environment – conclusions of general relevance
- Access to data - Pooling of data
- Contribute with original approaches