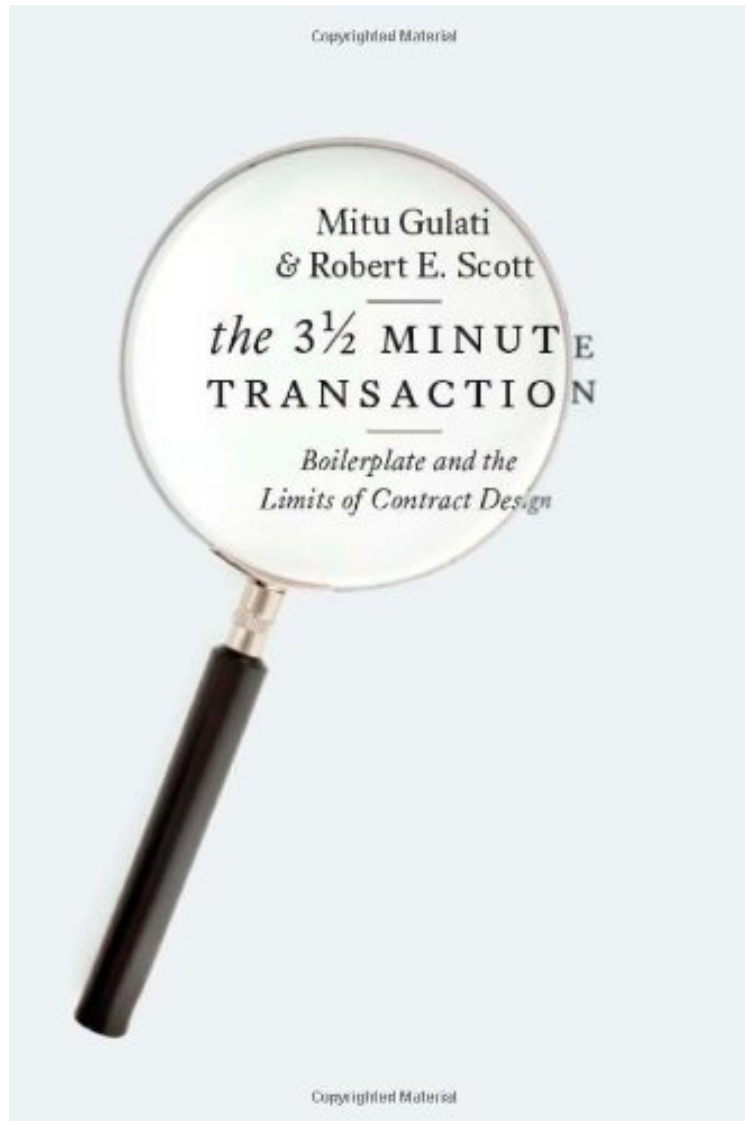


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## The Three and a Half Minute Transaction: Boilerplate and the Limits of Contract Design (Chicago Series in Law and Society)

Mitu Gulati, Robert E. Scott

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Design (Chicago Series in Law and Society):

Boilerplate language in contracts tends to stick around long after its origins and purpose have been forgotten. Usually there are no serious repercussions, but sometimes it can cause unexpected problems. Such was the case with the obscure *pari passu* clause in cross-border sovereign debt contracts, until a novel judicial interpretation rattled international finance by forcing a defaulting sovereign for one of the first times in the markets centuries-long history to repay its foreign creditors. Though neither party wanted this outcome, the vast majority of contracts subsequently issued demonstrate virtually no attempt to clarify the imprecise language of the clause. Using this case as a launching pad to explore the broader issue of the stickiness of contract boilerplate, Mitu Gulati and Robert E. Scott have sifted through more than one thousand sovereign debt contracts and interviewed hundreds of practitioners to show that the problem actually lies in the nature of the modern corporate law firm. The financial pressure on large firms to maintain a high volume of transactions contributes to an array of problems that deter innovation. With the near certainty of massive sovereign debt restructuring in Europe, *The Three and a Half Minute Transaction* speaks to critical issues facing the industry and has broader implications for contract design that will ensure it remains relevant to our understanding of legal practice long after the debt crisis has subsided.

Mitu Gulati and Robert E. Scott have assembled extraordinarily tantalizing evidence that even the most sophisticated contracting parties in this case, the top investment banks and law firms responsible for issuing the bonds at the center of the European debt crisis use contractual provisions that neither side understands, and they continue to use these clauses even when they stand to be interpreted in a mutually disadvantageous way. Modern law firms have become so obsessed with profitability that they simply maximize the number of deals they conclude, whether the documents make sense to anyone or not. The book draws the reader in as the authors explore what could possibly be going on in the law firms and investment banks of Wall Street. Like a good detective story, it is an absolute delight to read.