Too Big to Fail, Too Hard to Reform? Institutional Veto Points and Bank Business Power in Post-Crisis Banking Regulation

Thesis submitted in partial fulfilment of the requirements of the degree of

DPhil in Public Policy

Blavatnik School of Government at the University of Oxford

Robin Hsieh

Nuffield College

Trinity Term 2025

Word count: 59,400

Acknowledgements

Far from having been a solitary endeavour, this thesis has benefited from the support, guidance and friendship of a great number of people to whom I am indebted. First and foremost, my gratitude goes to my supervisor Pepper Culpepper, who has supported and inspired my work with his characteristic mix of relentless energy, incisive feedback and his understanding for the speed bumps I encountered. The BANKLASH project and the European Research Council-funded scholarship (Advanced Grant agreement 787887) financially enabled my doctoral studies. The BANKLASH team proved to be the perfect intellectual home for my research. Nuffield College is a truly unique academic and social environment that made my time in Oxford all the more enjoyable.

Academic work, full of challenges and insecurities, would not have been possible with the engagement of the many academics I met along the way, and whose work has informed and improved my own greatly. At Oxford, these include Ben Ansell, Luca Enriques, Tom Hale, Julien Labonne, Marek Naczyk, Tim Vlandas, Thom Wetzer and Martin Williams. Away from the cloistered halls of Oxford, I was privileged to discuss my work at conferences and workshops, and in particular during my research visit to Sciences Po while doing fieldwork in Paris. My thanks go to Patrick Emmenegger, Elsa Massoc, Leonard Seabrooke, Matthias Thiemann, Cornelia Woll, Kevin Young and Nick Ziegler.

Just as valuable are the friendships I made over the years, in my DPhil programme at the Blavatnik School and in the JCR at Nuffield College. As fellow travellers through the peaks and troughs of doctoral work, I would like to specifically thank Harry Begg and Lorenzo Moretti for their friendship and for uncomplainingly providing feedback on lengthy tracts about banking regulation. I thank Mika-Erik Möser and Jonathan Garson for research assistance.

Research of this type, and in particular on such tricky subject matter, is only possible thanks to the willingness of experts and policymakers to be interviewed, many remaining unnamed in this thesis. In the midst of the COVID-19 pandemic, they gave up their valuable time to jump on Zoom calls and patiently subject themselves to my questions. I learned a lot from them.

Finally, I would not be where I am without the support of my family. Hiu Ying has been by my side through thick and thin, including many moves between countries and my puzzling decision to pursue a DPhil. I am lucky she agreed to marry me nonetheless. My mother, Karin, sometimes similarly puzzled but always equally supportive, has shown tremendous resilience in difficult times. My father, Hsiang-hua, passed away during my writing of this thesis. His memory is a treasure, and I dedicate this thesis to him.

Abstract

The political and economic consequences of the 2007/08 banking crisis, which forced national governments to rescue troubled banks with taxpayer money, have been the subject of a wide field of scholarship. Faced with the problem of too-big-to-fail banks, governments and policymakers have attempted to prevent future bailouts and fix the underlying phenomenon through different regulatory policies, posing a question for the political economy literature: *Why did institutional settings with more concentrated banking sectors adopt stronger regulatory reforms to address too-big-to-fail?* This thesis examines the policy mix between two interlinked pieces of regulatory change: bank structural reform and resolution reform. It introduces the theory of *institutional veto points and bank business power* to explain how different institutional settings shape the policy conflict and scope for policy reform under high political salience. Institutional rules in different settings determine which political actors sit at the veto point, giving more power to their crisis-shaped regulatory preferences. Actors such as executives, the electorate, parliaments and bureaucrats are receptive to different types of business power, and policy outcomes depend on the crisis-contingent power resources that banks leverage in the struggle over too-big-to-fail regulatory reform. The theoretical framework is tested through process tracing in four empirical case chapters, using evidence from 43 interviews with key policymakers, for four major institutional settings: direct democracy (Switzerland), direct parliamentary rule (Germany), semi-presidentialism (France) and international standard-setting (Financial Stability Board). The thesis demonstrates that some institutional arrangements enhance democratic responsiveness to public demand for policy reform. For policymakers, shifting seemingly technocratic debates into the democratic spotlight can help counter the powerful position of interest groups.

Table of Contents

List of Figures

List of Tables

List of Acronyms[1]

ACP Autorité de contrôle prudentiel

ACPR Autorité de contrôle prudentiel et de résolution

BaFin Federal Financial Supervisory Authority

BCBS Basel Committee on Banking Supervision

BMF Federal Ministry of Finance

BRRD Bank Recovery and Resolution Directive

CDU Christlich Demokratische Union Deutschlands

CSU Christlich-Soziale Union in Bayern

CME Coordinated Market Economy

CoCos Contingent Convertible Bonds

CVP Christian Democratic People's Party

EU European Union

FDIC Federal Deposit Insurance Corporation

FDP Freie Demokratische Partei

FINMA Swiss Financial Market Supervisory Authority

FSB Financial Stability Board

G20 Group of 20

G-SIB Global Systemically Important Bank

GFC Global Financial Crisis

GDP gross domestic product

IIF Institute of International Finance

IPE International Political Economy

LAC Loss-Absorbing Capacity

LME Liberal Market Economy

[1] Acronyms are re-defined upon first use in each chapter.

MEDEF Mouvement des entreprises de France

MP Member of Parliament

MPE Multiple Point of Entry

RRI Resolution Reform Index

RRP Recovery and Resolution Plan

PS Parti socialiste

SFEF Société de financement de l'économie française

SIFI Systemically Important Financial Institution

SME small and medium-sized enterprise

SNB Swiss National Bank

SP Social Democratic Party

SPD Sozialdemokratische Partei Deutschlands

SPE Single Point of Entry

SPPE Société de prise de participation de l'etat

SRM Single Resolution Mechanism

SVP Swiss People's Party

TBTF too-big-to-fail

TLAC Total Loss-absorbing Capacity

UK United Kingdom

UMP Union pour un mouvement populaire

US United States

VoC Varieties of Capitalism

VoFC Varieties of Financial Capitalism

Chapter 1

Introduction

The 2007/08 banking and economic crisis, its economic legacy and lasting impact on the politics of advanced democracies have been the subject of a wide field of scholarship. The crisis forced governments to transfer risks from banks to the public by recapitalising ailing banks and providing liquidity guarantees using taxpayer money. In the aftermath of the crisis, governments attempted to fix the underlying phenomenon of too-big-to-fail (TBTF) banks in order to avoid the future need for such bailouts. Amid the lingering economic and political importance of the last set of bank regulatory reforms now more than a decade on, what explains the successes in passing far-reaching reforms of the regulation of the banking sector in situations of high political salience after crises, or the failures in implementation when their salience wanes?

Giving definitive answers to such questions following relatively recent events merits caution. When Zhou Enlai was asked about the impact of the French Revolution by United States (US) president Richard Nixon during his historic 1972 visit to China, the Chinese premier was said to have responded that it was "too early to say". Seen as a reflection of Chinese leaders' capacity for long-term thinking, it later transpired that Zhou was referring instead to the 1968 Paris student riots only four years prior (McGregor, 2011). The misunderstanding nevertheless highlights the perils of judging events in real time. Similarly, the final impact of the Global Financial Crisis (GFC) and its regulatory aftermath on Europe's economies may only now be coming into full view.

In March 2023, Swiss officials from the Swiss National Bank (SNB), Swiss Financial Market Supervisory Authority (FINMA) and the Ministry of Finance summoned the chairman of Credit Suisse to announce that the bank was to merge with its local rival UBS. The chaotic rescue came almost 15 years after the same troika of Swiss government institutions similarly mandated sweeping changes to UBS and its financing during the GFC of 2008, and 12 years after the country introduced far-reaching regulation aimed at ending the country's TBTF problem once and for all. The Credit Suisse collapse rekindled domestic debates about the country's TBTF problem, the merits of structural reform of its remaining Global Systemically Important Bank (G-SIB)[2] and the resolvability of large banks. In its renewed attempt to tackle TBTF, based on its report on banking stability (Swiss Federal Council, 2024), the Swiss Federal Council proposed a comprehensive package of reforms, including an increase in capital requirements and plans for UBS to fully capitalise its foreign subsidiaries. This led UBS investors to claim that it was not viable for the bank to stay in Switzerland given the Federal Council's message that UBS is too big for Switzerland, advocating for the bank to relocate its headquarters abroad (Foy & Ruehl, 2025). This thesis shows that Switzerland at first proved to be more responsive to its banking problems revealed by the GFC than other European financial centres. However, recent developments demonstrate that continued and persistent implementation of regulations is as important as the quality of one-off reforms[3]. Zhou Enlai may have quipped that it is still "too early to say" to judge the effectiveness of regulatory changes following the GFC.

This thesis aims to answer the research question *Why did institutional settings with more concentrated banking sectors adopt stronger regulatory reforms to address too-big-to-fail?* To provide a comparative answer to this question, it considers four relevant cases: Switzerland, Germany, France and international standard-setting at the Financial Stability Board (FSB). It focuses on two specific pieces of TBTF regulatory change: bank structural reform and resolution planning. Structural reform seeks to separate retail banking from riskier trading activity and constitutes a major intervention in banks' business models.[4] Bank resolution planning aims to curb the TBTF phenomenon by requiring regulators and banks to plan and institute measures for a bank's orderly resolution in case of its failure. These two measures can be viewed as a more radical departure from what has otherwise been characterised as "incremental change in post-crisis regulation" (Moschella & Tsingou, 2013) or the "Status Quo Crisis" (Helleiner, 2014)[5], since these reforms challenge Europe's predominant universal bank business model (Tilly, 1998).

2 Two motions advocating for splitting up UBS were (unsuccessfully) submitted in Parliament (Swiss Council of States, 2023; Swiss National Council, 2024).

3 Following the Credit Suisse collapse, former Bank of England Deputy Governor Paul Tucker highlighted "flaws in the implementation of the resolution regime" (which he helped conceive), such as only designating the domestic business as a systemically important function, while cautioning to "[r]emember, after the GFC, Switzerland was in the vanguard in addressing the 'Too big to fail' issue" (Dittli, 2024).

4 For "bank structural reform" this thesis uses the definition originally proposed by Oppolzer for "ring-fencing": "a bank structural reform [...] aims to shield deposits and services essential for the functioning of the real economy from services deemed riskier and less socially important by ensuring that they are provided legally, financially and operationally separately from each other within a banking group, thereby preserving universal banking" (2019, p. 99; see also 2016, p. 505). In this thesis, the term "structural reform" is preferred, since ring-fencing is often used to refer to the United Kingdom (UK) reform specifically.

5 It has been argued that the (British) structural reform effort is the "biggest shake-up of British banking in a generation" (Goff, 2011) and that resolution will "revolutionise banking" (Huertas, 2014).

The relationship between structural and resolution reforms continues to shift. The most visible evidence of structural reforms as an early policy response being overtaken by resolution as the main tool to curb TBTF comes from the UK's 2022 "Independent Review into Ring-fencing and Proprietary Trading" (led by Lord Skeoch). The review expresses a generally positive view of the effects of ring-fencing[6], but it concludes that "[t]he regime's benefits will diminish with time while the resolution regime overtakes it in providing a more comprehensive solution for tackling too-big-to-fail" (RFPT Review Panel, 2022, p. 8). It recommends that in light of this, regulators should have the powers to remove banks from the ring-fencing regime. The Skeoch review's conclusions are the clearest expression of the rival nature of structural reform and resolution and the argument that "if in the UK we had figured out how to do resolution prior to 2011, 2010, moot point whether we would have done ring-fencing"[7]. This proposal was rejected by the UK architects of ring-fencing (Noonan, 2022).[8]

Financial regulation is a policy area of great policy relevance to the workings of modern financialised democracies. Banks indisputably play a central role in economic development and the creation of economic prosperity. Meanwhile, banks can also cause banking and financial crises, which dramatically impact individual economic livelihoods as well as macro-political developments, such as populism (Tooze, 2018). Therefore, both the general public and politicians have an interest in maintaining financial stability (see Chwieroth & Walter, 2019, 2020; also Ansell, 2012a).[9] Given the importance of this policy field, this thesis also aims to generate policy lessons in answer to the question *What factors enable democracies to successfully reform regulatory policy in the face of resistance from powerful business interests?*

For the political economy literature, financial regulation as a policy area is particularly illustrative of the interaction between democracy and technocracy. In democracies, citizens expect the state to be both accountable and efficient. As in many policy areas of regulatory nature, elected politicians delegate the specification and implementation of rules to experts in bureaucracies and regulatory agencies (Müller et al., 2003) due to the complexity of banks' business models and uncertainty surrounding the systemic nature of the financial sector. This chain of delegation can weaken public accountability, which is typically justified by the idea that

6 Ring-fencing is the name for the UK's implementation of bank structural reform, which protects retail from investment banking.

7 Interview, Senior Bank of England Official #1, 9 April 2021

8 Similarly, debates around structural reform are not settled in other countries. Prominent politicians in the US, such as Bernie Sanders and Elizabeth Warren, from time to time demand to "reinstate Glass-Steagall" (for example Cirilli, 2015; The Economist, 2016).

9 TBTF reforms, as highlighted in a Financial Stability Board (2021) report evaluating the TBTF reforms since the GFC, have major benefits to society, such as reduced probability and severity of financial crises.

these decisions are often relatively unpolitical (for a critical discussion, see Tucker, 2018). But unpolitical financial regulation is not. In fact, in moments such as those following financial crises, these policy areas can gain political salience at the same time as uncertainty around the effects of potential policy solutions is at its peak. It has been argued that fluctuations in the political salience of financial regulation follow a "regulatory sine curve" (Coffee, 2012), in which latent interests for financial stability and stricter financial regulation can only be mobilised after a financial crisis. Yet, scholars are critical of policymakers' ability to design optimal regulatory policy given the uncertain and dynamic financial market environment (Romano, 2012).

Financial regulation is also a test case for theoretical conceptions of the relationship between politics and business power, since banks and their financial resources and structural position within the economy make them one of the most powerful business sectors. A detailed explanation of structural reform and resolution planning follows in Section 2.1, but it is worth emphasising that both policies generally aim at achieving two main goals: (1) reducing a bank's riskiness or likelihood of failure and (2) increasing a bank's resolvability or safety of failure. They constitute direct interventions in the business models of large banks for the purpose of promoting a socially desirable outcome (i.e. increased financial stability and avoiding the use of tax money to bail out banks).

1.1 Banking regulation in the political economy literature

The political economy literature offers a great variety of perspectives to explain why governments implement specific economic policies in the area of banking regulation and beyond. They can broadly be divided into explanations based on Varieties of Financial Capitalism (VoFC), party systems, structural business power, instrumental business power, partisanship and ideational approaches. Each of them is underpinned by different assumptions about the relevant actors, the source of their motivations and relevant constraints. The theoretical framework in this thesis builds on this literature, reviewed in more detail in Chapter 2, by identifying why existing explanations cannot comprehensively account for the empirical puzzle studied in this thesis.

Institutionalist perspectives emphasise how rules and norms shape policymakers' behaviour. Historical institutionalism, and in particular Varieties of Capitalism (VoC) (Hall & Soskice, 2001), link policy preferences to national institutional infrastructures. VoFC extends this logic to financial systems and whether they are either bank-based or market-based (Hardie & Howarth, 2013a; Hardie et al., 2013). Post-crisis structural reform debates illustrate this approach: France and Germany acted to protect their universal banks (Hardie & Macartney, 2016), while differences in reform scope have been linked to the political strength of factions opposing large banks (Massoc, 2020). However, VoFC faces limitations, including its difficulty distinguishing institutional effects from structural power and explaining outliers such as Switzerland's far-reaching reforms.

Party systems structure political incentives and shape how salient issues are translated into policy, mediating conflict and compromise. In financial regulation, they influence legislative outcomes: majoritarian systems, like the UK, tend to produce voter-oriented reforms, whereas coalition-based systems distribute influence across parties, requiring negotiation and compromise (Lijphart, 2012; Ganderson, 2020b). However, party systems alone do not fully determine outcomes, as they cannot account for the preferences of individual actors or the influence of external power sources.

Partisanship captures the ideological orientation of ruling parties and their preferences for state intervention. The partisan-policy financial cycle illustrates that right-leaning governments favour market-oriented policies and deregulation, while left-leaning governments pursue re-regulation (Broz, 2012). In practice, partisanship alone is insufficient to explain policy outcomes as parties are subject to influences from the public and interest groups.

The structural business power literature stresses that policymaking is also shaped by broader economic structures, particularly the capacity of businesses to influence outcomes. Structural business power contends that policymakers often act in the interest of business because of its central role in the economy, as captured by the 'privileged position of business' (Lindblom, 1977). Other work highlights the strategic mobilisation of structural and instrumental power (Culpepper & Reinke, 2014; Woll, 2014a, 2016). Structural business power is typically assessed through indicators of sectoral importance, such as contribution to gross domestic product (GDP), employment, or fiscal revenues and by examining the mobility of capital and the credibility of exit threats. In banking, international operations and cross-border capital flows can enhance structural power, enabling effective opposition to domestic reforms. However, this influence varies with economic conditions and the state's regulatory capacity, making it essential to analyse the conditions under which policymakers are sensitive to the structural power of the banking industry.

In contrast, instrumental business power refers to the direct means through which business influences politics, including lobbying, campaign donations and revolving doors. Classic accounts of regulatory capture (Stigler, 1971) and subsequent work in financial regulation (S. Johnson &

Kwak, 2011; Baker, 2010; Pagliari & Young, 2014) link these means directly to policy outcomes favourable to industry interests. This influence is most effective in low-salience contexts, where public scrutiny is limited and policymaking takes place in technical arenas. By contrast, in high-salience situations, the political costs of accommodating instrumental business power rise, limiting the effectiveness of instrumental power and opening space for electorally responsive policymaking.

The literature on ideas and policy learning examines how beliefs, knowledge, and expertise shape policymaking, complementing institutional and interest-based explanations. Traditionally treated as secondary in political economy (Blyth, 1997), ideas have been conceptualised through state-centred, coalition-centred, and economist-centred approaches (Hall, 1989). State-centred accounts link receptivity to ideas to institutional configurations and prior experience (Weir & Skocpol, 1985), while coalition-centred perspectives emphasise the ability of ideas and their advocates to mobilise societal support, connecting to structural and pluralist literatures, respectively. Knowledge can be a particular form of ideas and policy learning is a key mechanism for its influence. Epistemic communities (Haas, 1992), as networks of experts with shared normative and causal beliefs, can play a central role in framing issues and defining appropriate solutions. Salience and uncertainty are important moderators: high uncertainty can increase receptivity to expert input, whereas high salience can politicise expertise and reduce its influence (Neshkova, 2014; Rimkutė & Haverland, 2015).

Each of these approaches makes different predictions about the driving factors behind policy outcomes in the area of banking regulation. VoFC proposes examining pre-existing institutional conditions, such as whether the financing in a specific economy is primarily bank- or market-based and infers that policymakers have an interest in protecting the contours of their financial systems. However, as will be outlined further in Section 2.8, bank-based financial systems with similar institutional conditions, such as France and Switzerland, have taken markedly different approaches to banking regulation after the GFC. Further, the regulatory outcomes in Switzerland and the market-based financial system of the UK exhibit striking similarities. Partisanship-based approaches would predict that ideologically left-leaning governments are more inclined to regulate banking than their right-leaning counterparts, which is undermined by the observation that France and Germany have passed very similar regulatory policies while being governed by socialist and conservative-liberal governments, respectively. Structural business power theories suggest that policy is generally made in the interest of business where the structural power of business, such as their role in the economy and exit options, is high. Switzerland is the paradigmatic example of an economy with an outsized reliance on internationally-active banks, but its regulatory policy is far more stringent than, for instance, in the more diversified and domestic-orientated German economy. Instrumental business power is most useful in settings of low salience: given the public outrage following the GFC and the bailouts, the instrumental power of banks was reduced everywhere and little variation is left to explain divergent regulatory outcomes.

A literature gap is thus revealed by the inability of existing political economy work to comprehensively resolve the empirical puzzle that motivates the research question *Why did institutional settings with more concentrated banking sectors adopt stronger regulatory reforms to address too-big-to-fail?* Existing scholarship has shown that explanations based on VoFC, party systems, partisanship dynamics, structural power or instrumental business power, policy learning or expertise apply in some settings, some of the time. As a result, a theoretical framework is required to structure theoretical expectations about the conditions under which specific theoretical mechanisms offer the greatest explanatory power. For this, a comprehensive theoretical framework based on the concept of veto points is developed. It generates clear expectations about the relevant political actors in different settings under high salience, and whether their motivations and the business power exercised in the political struggle over policy is best explained by financial systems, structural or instrumental business power or ideational considerations.

1.2 Theory of institutional veto points and bank business power

This thesis, in Chapter 3, introduces the theory of *institutional veto points and bank business power*. It proposes that banking regulatory policy can be explained by examining the political struggles between banks and political actors over policy responses. The policy response preferred by the most powerful actor wins out. However, a framework is needed to determine both the actors' power resources as well as their preferences. The most relevant preferences are those of political actors sitting at the veto point which, in turn, is determined by the institutional setting within which the political conflict takes place. Banks' abilities to influence the policy process depend on their ability to exercise influence over the political actors sitting at the veto point. The theoretical framework can be considered as an extension of Ellen Immergut's essay on the 'rules of the game' (1992).

The main relevant institutional settings studied via the empirical chapters are direct democracy, direct parliamentary rule, semi-presidentialism and international standard-setting. They are summarised in Figure 1.1, including the relevant veto points (highlighted in red), the actors empowered by their positions as veto points, and their predicted power sources.

Institutional setting	**Last veto point**	**Political actors** **(by agenda-setting power)**	**Case**	**Regulatory outcome: Policy mix**
Direct democracy	Electorate →	- Government politicians - Bureaucrats - Parliament - Electorate		*"TBTF reform":* Strong resolution and structural reform through enforcement (2011)
Direct parliamentary rule	Parliament →	- Government politicians - Bureaucrats - Parliament - Electorate		*"Lex Deutsche Bank":* Selective structural reform and weak resolution (2013)
Semi-presidentialism	Executive →	- Government politicians - Bureaucrats - Parliament - Electorate		*"Status quo symbolism":* Weak resolution and structural reform (2013)
International standard-setting	Unclear	- Bureaucrats - National executives	FSB	*"Status quo innovation":* Resolution standards and bail-in (2011/2015)

Figure 1.1: Overview of institutional settings, veto point, corresponding cases and outcome

Figure 1.1 provides a visual overview of the theory and its predictions (and will be explained in greater detail in Section 3.1). For domestic institutional settings, it suggests a hierarchy of actors by their institutional agenda-setting power: government politicians and bureaucrats—the executive—followed by parliament and finally the electorate. In international standard-setting, the hierarchy of actors is more ambiguous and the number of actors significantly more limited.

The institutional framework does not, in itself, make any predictions about actors' actual *preferences* for regulatory policy design, merely which actors can translate preferences into policy outcomes and how they can do so. Actors' policy preferences are shaped by their experience with bank bailouts and corresponding policy lessons, the resulting political salience of the TBTF problem, and the degree of policies' international spillovers.

Developing hypotheses for the relevant veto point and the relevant actors' preferences alone is insufficient to predict whether the actors will be able to obtain their preferred regulatory policy. Instead, as a result of the political struggle between political actors and banks, policy outcomes are determined by the power sources of both sides. For the executive, this thesis develops the concept of "political-bureaucratic preference homogeneity", reflecting the degree to which elected politicians and bureaucrats share the same crisis diagnosis and priorities with regard to regulatory policy. The more aligned, the better the executive is able to withstand banks' sources of influence. Here, banks' main source of influence is their structural power within the economy, to which government politicians and unelected bureaucrats are most receptive due to their sensitivity to economic developments. Parliament's power sources are its elected majorities and its ability to clearly pass legislation without losing votes due to internal or external dissent in light of banks' influence. Banks' main influence over parliament is in the form of instrumental power, as they are in a better position to lobby individual MPs. For the electorate, as the least unitary actor, its issue attention (i.e. how politically salient an issue is to the public) determines its ability to influence the policy process. Naturally, banks can only influence public perception if they are sufficiently popular. In the area of international standard-setting, bureaucrats' power sources are determined by their ability to coordinate with other international bureaucratic actors. In these largely technocratic settings, banks influence bureaucrats through the provision of expertise.

Research methodology

The research focuses on understanding why countries adopt specific policies during economic crises and employs process tracing and cross-case analysis to examine complex causal chains. Financial crises offer opportunities to test the implications of different theories, highlighting the importance of understanding both the role of institutions and actors' preferences.

Methodologically, the study uses systematic process analysis to investigate how policies were formed and their underlying determinants, focusing on "causes-of-effects" questions. Data collection involves analysing actors' preferences and actions through causal-process observations, which include interviews with key actors. The author conducted 43 in-depth interviews with key actors involved in the process, which are listed in Appendix A. The study recognises the challenge of discerning true policy preferences from strategic actions and addresses this by independently deriving theoretically grounded expectations about groups' preferences. The approach allows for a nuanced understanding of how policy preferences evolve in response to financial crises.

1.3 Outlook on empirical cases

The cases are chosen to represent four institutional arenas of political conflict. In line with the theory's prediction that institutional rules create veto points empowering different political actors, the aim is to capture the widest variety of institutional conditions. The analysis includes three domestic settings—direct democracy (Switzerland), direct parliamentary rule (Germany) and semi-presidentialism (France)—and one international setting (FSB). The theoretical framework aims to provide broad explanatory power, applying not only to domestic contexts but to any arena where regulatory policy is formulated, including international standard-setting bodies. For comparability, it is essential to examine a setting without a clear veto point to show how its absence shapes policymaking. The FSB, responsible for standards on TBTF banking regulation, is the key case in this respect. France and Germany, the two largest economies in the euro area with significant banking centres, have a considerable impact on European Union (EU) policymaking. Switzerland is not an EU member but its economy is heavily specialised in financial services. For the domestic cases, the thesis thus adopts a method of most-similar design by selecting cases with bank-based financial systems. This controls for variables such as financial system type and the different impacts of policies on banks' business structures. The cases are chosen to provide variation in the dependent variable—the regulatory policy mix to address TBTF—while eliminating influences from partisanship, as reforms in these countries were enacted by governments from across the political spectrum.

Direct democracy in Switzerland: The referendum threat under high salience

The first case in Chapter 4 examines Swiss post-crisis banking regulation as a test of the country's model of liberal democratic corporatism under conditions of high political salience. The 2008 bailout of UBS radically diminished long-standing political support for large banks and created a cross-party coalition for stronger regulation. In Switzerland's consensus-orientated constitutional setting, the threat of a public referendum meant that business power was reduced when public attention was high. Bureaucratic and political elites shared a crisis interpretation focused on the risks of their large banks' exposure to volatile international markets, and acted within a political environment where public support for reform made inaction costly.

Interview evidence and legislative analysis show that bureaucrats, anticipating limited progress at the international level, used this window of opportunity to push reforms that explicitly targeted the size of the largest banks. The 2011 TBTF package not only imposed higher capital requirements but also quietly expanded FINMA's powers to mandate organisational measures, enabling de facto separation of domestic and international business lines in the two global banks. This outcome illustrates the argument in this thesis that, under conditions of high salience, the referendum threat strengthens the public's indirect leverage over policymaking, compelling political and bureaucratic actors to prioritise more far-reaching reforms than would otherwise be expected.

Direct parliamentary rule in Germany: "Lex Deutsche Bank" and the instrumental power of smaller banks

The case in Chapter 5 examines Germany's 2013 structural banking reform, widely referred to as the "Lex Deutsche Bank" due to its exclusive applicability to the country's largest universal bank. This is a surprising outcome given that Germany's GFC experience primarily involved the collapse or bailout of medium-sized public *Landesbanken* and a niche commercial bank, with Deutsche Bank emerging relatively unscathed. Drawing on the theoretical framework, the chapter shows that in Germany's system of direct parliamentary rule, parliament acted as the last veto point. The executive, sceptical of the merits of structural reform, nonetheless anticipated parliamentary preferences and adjusted its policy stance accordingly.

Interview evidence reveals how the instrumental power of smaller banks to oppose structural reform of *Landesbanken* was channelled through parliamentary influence, both through powerful banking associations and through "hyper-local structural power" derived from their role in local economies and constituencies. Combined with Deutsche Bank's weakened political clout following a series of scandals, this dynamic made it a politically convenient reform target, while deeper interventions in bank business models were dropped from the agenda. The result was a reform narrowly focused on the largest bank, illustrating the thesis's argument that in direct parliamentary rule, instrumental business power can operate most effectively on parliament as the veto point, shaping the scope of reform even when public dissatisfaction with banks is high.

Semi-presidentialism in France: A divided executive in the face of structural business power

The case in Chapter 6 examines the role of the bureaucracy in the design of French post-crisis regulatory reforms through a process-tracing account of TBTF banking regulation. Following the 2008–09 bailout programme and amid public pressure, President Hollande pledged far-reaching reforms. French bureaucratic elites, particularly within the *Trésor*, sought to impose their own preferences, shaped by their interpretation of the crisis and their preoccupation with maintaining credit provision to the real economy, while accommodating the President's political commitment. With the executive as the relevant veto point, France emerges as a paradigmatic case of semi-presidentialism (without 'co-habitation') in which concentrated executive authority does not guarantee substantive policy change.

The French case demonstrates how a political–bureaucratic clash over the need to intervene in the business model of French universal banks produced a political blockade of more far-reaching reforms. Interview evidence reveals how bureaucratic control over technical design, combined with a consensus between bureaucrats and large banks, limited parliamentary scrutiny and reinforced the status quo. The resulting 2013 legislation avoided major structural changes, yielding largely symbolic measures. This outcome illustrates the theoretical claim of this thesis that effective post-crisis reform requires preference alignment between government politicians and bureaucrats to overcome the constraints of structural business power; in France, the absence of such alignment meant that electoral mandates for reform were insufficient to produce transformative change.

International standard-setting in the FSB: Epistemic communities in the development of bail-in

The last case in Chapter 7 examines the international standard-setting process for bank resolution in the FSB, focusing on the emergence of the bail-in solution to TBTF. The FSB is an international body of national financial authorities (central banks, supervisory authorities and national ministries) from Group of 20 (G20) countries. Its aim is to coordinate and promote the development and implementation of effective regulatory, supervisory and other financial sector policies to support global financial stability. Based on document analysis and interview evidence, the chapter shows that bail-in was initially developed in the private sector, promoted by the Institute of International Finance (IIF), refined by specialist lawyers, and translated into policy by regulators. Bail-in gained traction as a market-based alternative to the politically popular structural reform agenda, offering a mechanism to convert debt into equity during resolution, and thus avoid the socialisation of risk. Proponents of this approach formed an epistemic community—termed the "Restore Market Incentives" Community—united by the belief that preserving existing global bank business models while strengthening market discipline was the preferred path to stability.

In contrast, advocates of structural reform, the "Reform Market Incentives" camp, did not form a comparable transnational epistemic community. The chapter shows that in the international technocratic arena of the FSB, business influence is exercised through the provision of expert knowledge that resonates with regulators' own policy paradigms. This finding supports the thesis's theoretical claim that the form and effectiveness of business power depend on the institutional context: in weakly institutionalised international standard-setting bodies, epistemic communities aligned with business interests can shape policy outcomes more directly.

1.4 Policy conclusions

In addition to the wider research question, the findings in this thesis also provide useful policy insights in answer to the question *What factors enable democracies to successfully reform regulatory policy in the face of resistance from powerful business interests?*

The thesis shows that business power over regulatory policy is contingent rather than fixed: outcomes hinge on whether crisis salience is transmitted through democratically accountable veto points and whether political and bureaucratic actors share a common policy objective. Where such alignment is absent, public pressure resulted in largely symbolic policy reform; where it was present and channelled through accountable institutions, authorities imposed more stringent TBTF measures on large banks. This turns the politics of financial regulation into a problem of coalition formation inside the state and elevates the preferences and power resources of the relevant veto points as a core explanatory variable.

Countering bank power depends on three domestic factors: the first is alignment between the political and bureaucratic parts of the executive around a shared diagnosis and clear objectives for policy reform; where this failed, as in France, public salience was translated into modest policy change that largely protected the existing banking model. The second is democratic accountability at decisive veto points that is not undermined by sectoral lobbying; in Germany, parliamentary responsiveness converted salience of the crisis into a visible constraint on its largest bank, but lobbying narrowed the policy scope. By contrast, Switzerland combined alignment among political and bureaucratic actors with democratically accountable institutions, which increased the costs of inaction and enabled regulators to translate crisis salience into binding constraints on large banks. Third, when technocratic policy areas such as financial regulation are politically salient, as they seldom are, policymakers need to act quickly. The window of opportunity during the peak of public attention closes rapidly—something Swiss policymakers used to their advantage, in contrast to their French and German counterparts.

Three further policy conclusions follow from the international and Swiss evidence. First, because expert coalitions in international standard-setting bodies often reflect industry preferences, bureaucratic agencies need to strengthen their international coordination to develop independent positions and to negotiate credibly in these fora. This reduces reliance on industry-provided expertise and shifts bargaining power towards policymakers. Otherwise, international standards are merely the lowest common denominator that still reflects business preferences. Second, and as a corollary, Switzerland treated FSB standards as a floor rather than a ceiling and coupled them with more stringent domestic requirements on resolvability, illustrating that going beyond international standards is often a necessity to achieve successful policy reform. Third, waiting for international or multilateral standards means it can be too late for successful domestic reform: whereas Switzerland pre-empted the standard-setting process at the FSB, French and German bureaucrats preferred a multilateral solution and did not capitalise on the post-crisis salience of banking regulation.

1.5 Thesis outlook

This thesis is structured into eight chapters. The following Chapter 2 provides a review of the political economy literature, including a particular discussion of explanations for financial regulatory policies. It also reviews the main concepts surrounding banking regulatory policy and identifies the empirical puzzle. Building on this, Chapter 3 presents the theory of *institutional veto points and bank business power* and its predictions for the empirical cases. This chapter also presents the rationale for the case selection and the methodology.

As the first of four case chapters, Chapter 4 analyses the post-GFC regulatory process in Switzerland in a setting of direct democracy. For the setting of direct parliamentary rule, Chapter 5 explains how the theory's predictions perform empirically in the case of Germany. Chapter 6 then discusses the regulatory process in France and the power dynamics in an institutional setting of semi-presidentialism. Finally, moving on to the setting of international standard-setting, Chapter 7 dissects the case of resolution standards in the case of the FSB.

Chapter 8 concludes by deriving implications from the thesis for policy and the political economy literature.

Chapter 2

Literature Review: Political economy of policymaking and the puzzle of too-big-to-fail banking regulation

The purpose of this chapter is to review and establish the theoretical insights from the political economy literature that this thesis draws on and to critically engage with the existing body of literature that has been advanced to answer the research question: *Why did institutional settings with more concentrated banking sectors adopt stronger regulatory reforms to address too-big-to-fail?* The review provides the foundations for the theory of *institutional veto points and bank business power* and the testing strategy put forward in Chapter 3. In order to situate this review of the literature in the context of post-crisis too-big-to-fail (TBTF) financial regulation, Section 2.1 starts by offering an overview of the relevant theoretical and empirical concepts within TBTF banking regulation.[10]

Scholars of political economy have conceptualised the process of public policymaking, including in the field of financial regulation, in a myriad of ways. Most scholars recognise that policymakers are constrained in their decision-making but disagree on the source of these constraints. The Varieties of Financial Capitalism (VoFC) literature (Section 2.2), focusing on the configuration of the financial system, has provided valuable insights into the incentives that actors face when designing regulatory policy. In complex policy fields, these incentives and constraints cannot adequately explain the policy process, particularly when some policymakers sit outside the incentive structure of electoral politics. Similarly, explanations based on party systems (Section 2.3) or the partisanship of governing coalitions (Section 2.4) cannot on their own account

[10] This chapter does not contain a review of the case-specific literature; instead, they are provided as part of the respective case chapters to situate the discussion of each case more closely within the relevant empirical work.

for different regulatory outcomes investigated in this thesis. Structural business power theories (Section 2.5) provide a useful baseline for policymakers' interests but have faced challenges measuring and operationalising the concept of structural business power influencing policy. As an interest group-based approach to business power, instrumental business power (Section 2.6) in Europe is less likely to work through campaign contributions or revolving doors but through intellectual capture. Finally, ideas and learning as a theoretical field (Section 2.7) are less unified and parsimonious, but offer promising approaches to the role of learning in policymaking. Most of the existing literature is weaker in theorising policymakers' agency and how their experiences influence their preferences. Only when policymakers are theorised to possess a larger degree of autonomy in policymaking does this give greater weight to their ideas.

This thesis argues that financial regulation after the Global Financial Crisis (GFC) of 2008, and particularly areas such as the problem of TBTF banks, is characterised by uncertainty about policy solutions and their effectiveness. These conditions weaken the explanatory power of commonly assumed preferences derived from financial systems, party systems, business power, or partisanship. However, even though institutions do not necessarily determine policy preferences in themselves, they can powerfully explain which actors are empowered and how they successfully advance their policy preferences. Section 2.8 summarises the literature gap and empirical puzzle that are addressed in the remaining thesis.

2.1 Banking regulation and too-big-to-fail: Concepts and developments

The dependent variable is the choice and stringency of the regulatory policy mix to address the TBTF problem: bank structural reform and bank resolution reform. Stringency refers to the invasiveness of banking regulation, measured by how much the policies adopted restrict the scope of banks' permissible activities, organisational structures, and risk-taking and funding options. Structural reform and resolution reform have traditionally been treated separately in the literature, but the choice between them represents a regulatory policy mix since both policies share the goal of addressing TBTF and avoiding taxpayer bailouts (Binder, 2014; Gordon & Ringe, 2020). While proponents of structural reform have pointed out its ability to increase a bank's resolvability, resolution legislation also has the potential to achieve structural bank separation[11].

2.1.1 Bank structural reform

Structural reform seeks to separate retail banking from riskier trading activity and constitutes a major intervention in banks' business models. For "bank structural reform" this thesis uses the definition originally proposed by Oppolzer for "ring-fencing": "a bank structural reform [. . .] aims to shield deposits and services essential for the functioning of the real economy from services deemed riskier and less socially important by ensuring that they are provided legally, financially and operationally separately from each other within a banking group, thereby preserving universal banking" (Oppolzer, 2019, p. 99; see also Armour et al., 2016, p. 505).[12]

Structural reform can be achieved in multiple ways. The two main variables are the "scope" and the "strength" of the (ring-)fence. The scope of the fence indicates which activities can or must be carried out within the same legal entity. The strength of the fence indicates the degree of independence between the different entities. One extreme is total separation (i.e. prohibition within the deposit-taking bank), whereas other proposals allow entities to belong to the same holding company. Independence is defined by the requirements for separate governance (Wetzer, 2019), regulatory capital and liquidity requirements and large exposure limits on transactions between entities. Oppolzer (2019, pp. 98–99) provides a useful shorthand to distinguish the two methods of ring-fencing: the defensive method, which separates the desired activities (usually deposit taking and/or small and medium-sized enterprise (SME) lending), and the containment method, which separates the risky activities.

To illustrate the stylised range of functions of a modern universal bank, it is instructive to consider Figure 2.1 further below. The functions of a universal bank consist of a (1) retail bank, which offers traditional banking services such as deposits for individuals and SMEs as well as small loans such as mortgages. The payment services provided by the bank are commonly seen as part of the retail bank. Crucially, deposits by retail customers and SMEs are often insured up to a limit by the government (or a government-backed guarantee scheme/fund). (2) Wholesale

[11] "Although the [Recovery and Resolution Plan (RRP)] comes into effect only when the bank faces financial difficulty, it generates a potentially significant ex ante impact on the way the bank is run as a going concern. Although certain elements of the plan may be triggered only at the resolution stage (for example, continued provision of information technology services), better alignment of business activities and corporate structures would need to be put in place in advance. [. . .] The RRP could thus operate as an indirect way of undermining the universal or investment banking model, if regulators take a tough line on what an acceptable RRP must contain." (Armour et al., 2016, p. 357)

[12] This means that a full activities ban, such as the United States (US) Volcker rule, cannot be considered ring-fencing. The term "structural reform" is preferred since ring-fencing is often used to refer to the United Kingdom (UK) reform specifically.

banking includes services to large companies, such as large loans (individual or syndicated), advisory on initial public offerings, mergers and acquisitions as well as securities issuance and underwriting (traditional “investment banking” services). Finally, universal banks also engage in trading, either on (3) clients’ or (4) their own behalf. The former allows the bank to provide clients with the ability to buy/sell securities or hedge risks using derivatives. The latter is a way for the bank to make profit on its own account and is called “proprietary trading”.

Client-orientated and proprietary trading are difficult to distinguish for regulators, mainly due to the banks’ “market making” function, which is where financial institutions buy and sell securities to create liquidity in the market for these securities. Particularly in markets for illiquid securities, banks offer to buy or sell securities from clients on the spot but may have to wait for a period of time to be able to buy or sell the securities in the market. Hence, the bank holds on to the security for an (undefined) period of time in which it is subject to market risk but may also make money on the transaction.

Discussions of structural reform are both technical and controversial, so it is useful to sketch the economic arguments in favour and against structural reform. The argument that structural reform can reduce banks’ riskiness relies on two beliefs about cause-effect relationships: first, trading is inherently riskier than the credit risk taken on by the retail and wholesale bank. Second, risk-taking in trading is exacerbated by a cross-subsidy from the public’s guarantee of the retail bank—the “TBTF incentive”. Structural reform would protect the rest of the desired banking services from being endangered by trading losses and at the same time eliminate the TBTF incentive by removing the deposit guarantee from the trading bank’s calculations. The Vickers Commission in the UK also put forward the argument that this provides insulation from international (non-UK) financial shocks. A specific proposition for the US is that separation prevents customer abuse. In addition, risk management and cultural reform are proposed as additional benefits. Structural reform also reduces the complexity and size of an institution.

Counterarguments can be split into arguments that focus on undesirable or unintended consequences of the policy and others disputing the underlying cause-effect relationships of the policy. The most important objection is that it is very difficult to distinguish between client-orientated market making or hedging and proprietary trading, which has given rise to two diametrically opposed policy prescriptions: opponents of structural reform argue that monitoring is too costly, prone to be gamed and structural reform is hence futile. Others, including the UK

Vickers Commission and European Union (EU) Liikanen Commission[13], argue that this simply means that all trading activity should be separated. Structural reform hurts the competitiveness of banks and their ability to serve large companies with the entire range of services, for example with credit and hedging services. The existence of economies of scale and scope in banking is fiercely debated in the economics literature (Gambacorta & Rixtel, 2013; European Commission, 2014, Annex 9; Beccalli et al., 2015; Canals, 1997; Laeven et al., 2014).

Theoretically and empirically, there is a question of whether the market risk from trading is indeed greater than the credit risk arising from lending. It can be argued that with a commercial bank and an investment bank with similar assets, the investment bank would have lower liquidity risk and fewer valuation issues (Huertas, 2015). Similarly, since credit and market risk are less likely to crystallise simultaneously, separated banks lose the diversification benefit of universal banks. It is also questionable whether removing the deposit guarantee from the trading bank would cause it to pursue less risk (absent moral hazard) or more risk to earn back the increased market funding costs for the separate trading bank. Moreover, more of the trading would move into the (unregulated) shadow banking sector and increase the interconnectedness of pure trading banks. Empirically, banks' instability during the financial crisis cannot be traced back to any single business model. In fact, no universal bank was the cause of the GFC (for a different account, see Wilmarth, 2009).

Bank structural reform in major jurisdictions

Figure 2.1 illustrates the heterogeneity of different structural reforms, either proposed or adopted in the US, the UK, the EU Liikanen proposal, EU Commission legislative proposal, Germany/France, and Switzerland. The policy responses for France and Germany are almost identical and were, in fact, coordinated by the two governments. In Switzerland, systemically important banks are required to demonstrate that a continuation of systemically important functions can be ensured in resolution. This gave the Swiss financial regulator, Swiss Financial Market Supervisory

[13] The Vickers Commission is the commonly used name for the Independent Commission on Banking (2010–2011) in the UK, chaired by former Bank of England Chief Economist Sir John Vickers, which recommended structural reforms including the ring-fencing of retail banking from investment banking (Independent Commission on Banking, 2011a) and whose recommendations were subsequently implemented into law. The Liikanen Commission refers to the "High-level Expert Group on Reforming the Structure of the EU Banking Sector" (2011–2012), chaired by Governor of the Bank of Finland Erkki Liikanen, which proposed measures such as the mandatory separation of proprietary trading and other high-risk trading activities from deposit-taking banks (High-level Expert Group on Reforming the Structure of the EU Banking Sector, 2012). The Liikanen proposals formed the basis for a subsequent draft EU legislation put forward by EU Commissioner Michel Barnier, which was withdrawn and never passed into law. The names of the chairmen are used throughout the thesis to refer to the respective commissions, their reports and proposals.

Authority (FINMA), a strong role in (informally and formally) steering banks to undertake structural separation.[14]

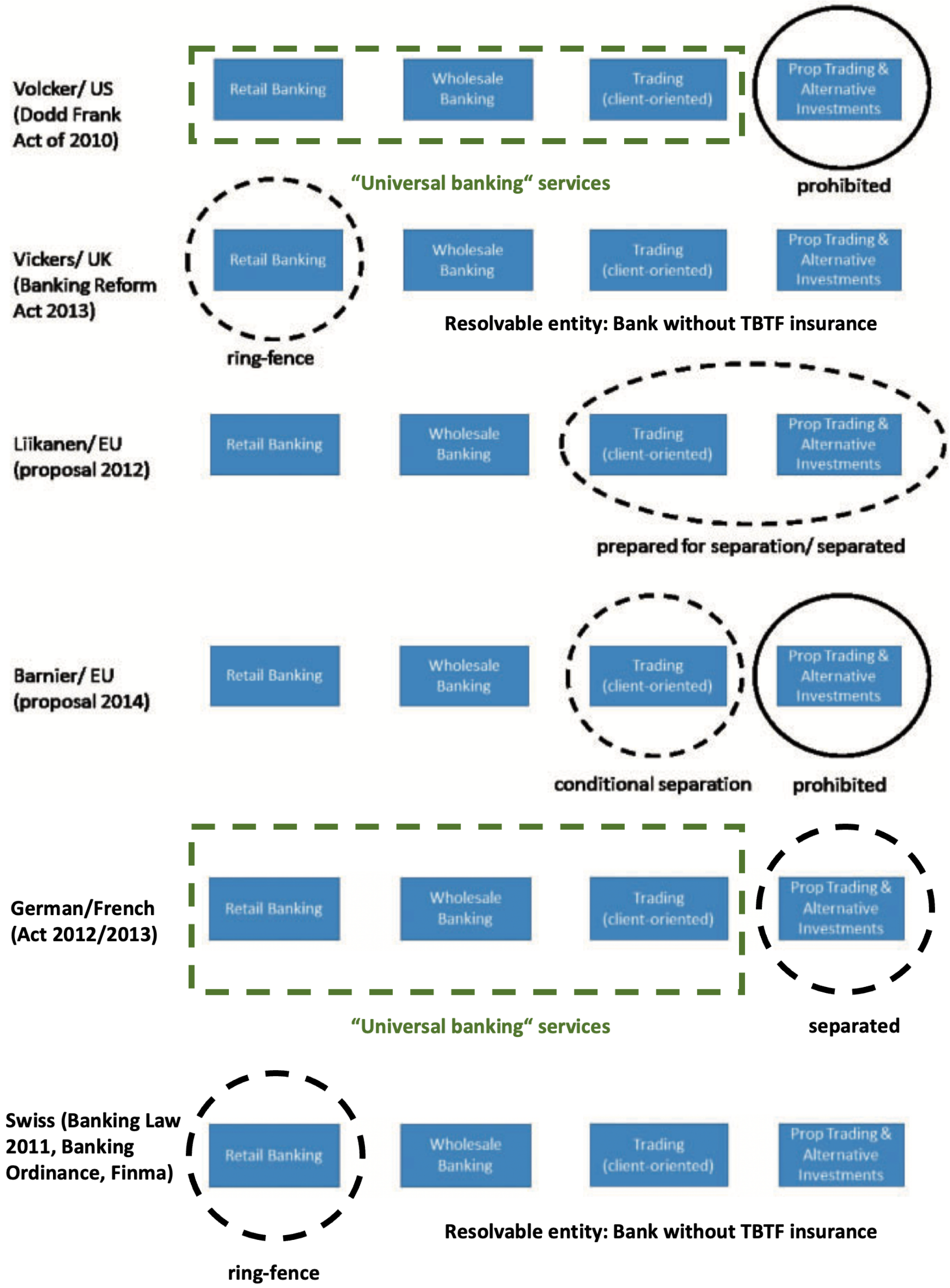


Figure 2.1: Different versions of structural reform (amended, based on Krahnen et al., 2017, p. 68)

The US Volcker Rule takes the most extreme form of the strength of the fence by completely prohibiting proprietary trading as well as investments in hedge and private equity funds. Its difficulty in implementation has revealed the challenge of identifying proprietary trading and distinguishing it from market making.

[14] A comparative legal analysis conducted by Oppolzer (2019) reveals that the resulting de facto strength of the fence is at least equal to that in the UK.

The UK Vickers ring-fence has a different scope by instead separating the retail bank. This avoids the difficulty of distinguishing client-orientated and proprietary trading, but means that banks are not able to offer the entire range of universal banking services to customers. The two entities are still allowed to operate under the same holding company, but need to be separately governed and capitalised.

The EU Liikanen proposal sought to retain the universal banking model by allowing retail and wholesale banking, including many investment banking services, to be provided together. It proposed to separate all trading, including market making and hedging, in order to avoid having to distinguish between client-orientated and proprietary trading.

The European Commission proposal for EU legislation, put forward by EU Commissioner Barnier, was based on the Liikanen proposal, but went further by seeking to prohibit proprietary trading and to entrust national supervisory authorities with the discretion to separate other trading business. The Barnier proposal was blocked by Germany and France and was eventually withdrawn in 2017 (Brunsden, 2017).

Shortly following the Liikanen proposals, both France and Germany passed their own national laws, which separate proprietary trading for the largest firms. They can still operate under the same holding company as deposit-taking institutions. Market making, complex derivatives and other (client-orientated) trading remain in the deposit-taking entity, and they can offer the whole range of universal banking services. The policy responses for France and Germany are almost identical[15] and were coordinated by the two governments.

In Switzerland, the legislature decided not to pass a direct structural reform law. Instead, it passed a so-called TBTF legislation package, according to which systemically important banks are required to demonstrate that a continuation of systemically important functions can be ensured in resolution. FINMA is tasked with verifying that banks' emergency plans are workable and mandating measures to remediate. This gave FINMA a strong role in (informally and formally) steering banks to undertake structural separation. It is now widely recognised that UBS and Credit Suisse, Switzerland's two Global Systemically Important Banks (G-SIBs) before 2024[16], separated out their domestic businesses due to this.

15 Differences are minor for the purposes of this thesis, such as concerning the independence of the trading subsidiary (commercial name, governance, funding, large exposure limits) and separated activities (high-frequency trading, commodity derivatives, transactions with hedge funds) (De Vogelaere, 2016; Lehmann, 2016).

16 G-SIBs are defined by the FSB as "financial institutions whose distress or disorderly failure, because of their size, complexity and systemic interconnectedness, would cause significant disruption to the wider financial system and economic activity" (Financial Stability Board, 2018).

2.1.2 Bank resolution planning

Like structural reform, resolution planning aims to address the TBTF problem. However, whereas structural reform (primarily) takes an ex-ante approach to reducing moral hazard and risk-taking, resolution planning prepares for the failure of a bank such that it reduces the impact on the financial system. Measures include the creation of resolution authorities, which are furnished with resolution powers, and the creation of Recovery and Resolution Plans (RRPs) and a resolution strategy. For G-SIBs, this involves the issuance of bail-in debt (i.e. debt that can be converted into equity to recapitalise the bank in case of bankruptcy). Regulators have a choice between Single Point of Entry (SPE) and Multiple Point of Entry (MPE) in cross-border bank resolution: the SPE approach applies resolution at the group level, while the MPE approach applies resolution separately to subsidiaries across jurisdictions. In SPE, the resolution authority intervenes only at the top-level holding company of a cross-border banking group, applying loss-absorbing measures centrally and allowing operating subsidiaries to continue functioning without entering separate resolution proceedings. In contrast, in MPE resolution authorities intervene separately in several parts of a cross-border banking group, with losses absorbed and resolution tools applied by national subsidiaries or regional sub-groups, reflecting a more decentralised approach. This choice of approach has repercussions for the need for international coordination and spillovers.

In contrast to structural reform, there has been international policy coordination on resolution regimes, both at the global level with the Financial Stability Board (FSB) 2011 "Key Attributes of Effective Resolution Regimes for Financial Institutions", the European Bank Recovery and Resolution Directive (BRRD) and subsequent Banking Union including a Single Resolution Mechanism (SRM).[17] SPE approaches in particular have some similarities to structural reform because they require particular corporate structures to facilitate resolution. Some argue that the structural reform can complement resolution regimes by creating an ex-ante operational and managerial separation that can increase the resolvability of the trading entity (see Vickers and Liikanen reports). However, Gleeson and Guynn (2016) claim that structural reform will impede SPE by trapping capital in domestic silos or at least be irrelevant for resolution. Yet others maintain that resolution planning has even superseded structural reform and that banks "need to reorganise themselves on a scale going beyond ringfencing" (Jenkins, 2013).

The FSB has created a Resolution Reform Index (RRI) to measure progress in the adoption of resolution reforms after the GFC, which incorporates jurisdictions' resolution powers, policies

[17] For an illustrative chart describing the more complicated EU Resolution Regime, see Giegold (2020).

and guidance, and loss allocation (2021, pp. 122–126). As shown for sub-index 1 (“resolution powers and recovery and resolution planning”) in Figure 2.2, Switzerland (CH) was a pioneer in the adoption and development of resolution policy. EU countries, such as Germany (DE), France (FR) and the UK, lagged behind Switzerland, and their scores unsurprisingly converge after 2014 and the harmonising BRRD. Ryan and Ziegler (2015) demonstrate the diffusion characteristics of resolution and the SPE approach, with Switzerland closely following the US lead.

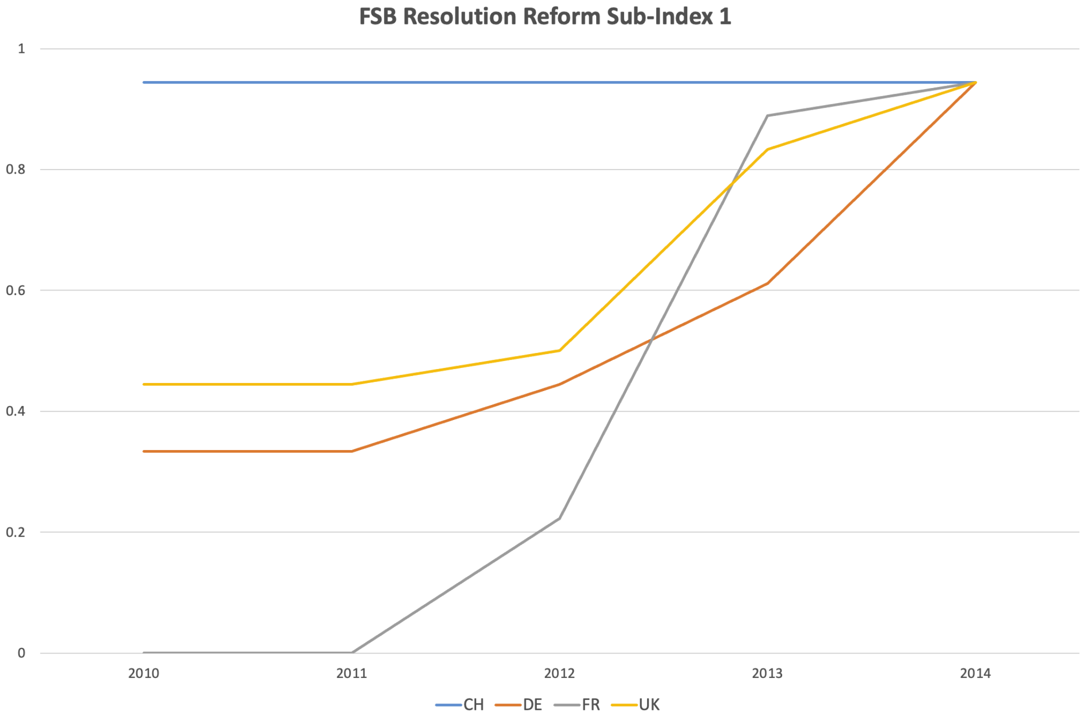


Figure 2.2: FSB RRI for Europe (Financial Stability Board, 2021)

From a political economy perspective, the most intriguing difference between the two policies is the degree of regulatory discretion and public visibility that they entail. Structural reform spells out banks’ responsibilities publicly in law. They generally do not confer any significant discretion on supervisors (only at the edges). In contrast, resolution legislation leaves decision-making about specific measures to regulators tasked with resolution planning, and thus constitutes a delegation from politicians to the discretion of experts in resolution authorities. The thesis investigates whether this functions as a way for business to contract conflict and capture regulation outside of the public and parliamentary scrutiny or to avoid ineffective one-size-fits-all regulation for banks.

2.1.3 Too-big-to-fail since the GFC

The FSB consultation report "Evaluation of the effects of too-big-to-fail reforms" (2021) assesses the TBTF reforms since the GFC. It reports that reforms, in particular capital surcharges and Total Loss-absorbing Capacity (TLAC), enhanced supervision and resolution regimes, have improved the banking sector's resilience and reduced moral hazard. Systemically important banks have lost market share and market concentration has fallen. Although the resolvability of G-SIBs has improved and banks have been able to place bail-in debt in the markets, there are still significant obstacles to resolvability. Most importantly, G-SIBs remain complex and there has been little change to balance sheet structures.

It is instructive to put the success in tackling TBTF since the GFC in an empirical and international perspective. Bank asset sizes are a crude but illustrative indicator. Schoenmaker's (2017) analysis of G-SIBs from 2007-2015 reveals that UK and Swiss banks have declined most in size, while euro area banks have declined less and US banks are even bigger than before the crisis. Figure 2.3 shows the changes in the size of European, UK and US G-SIBs.

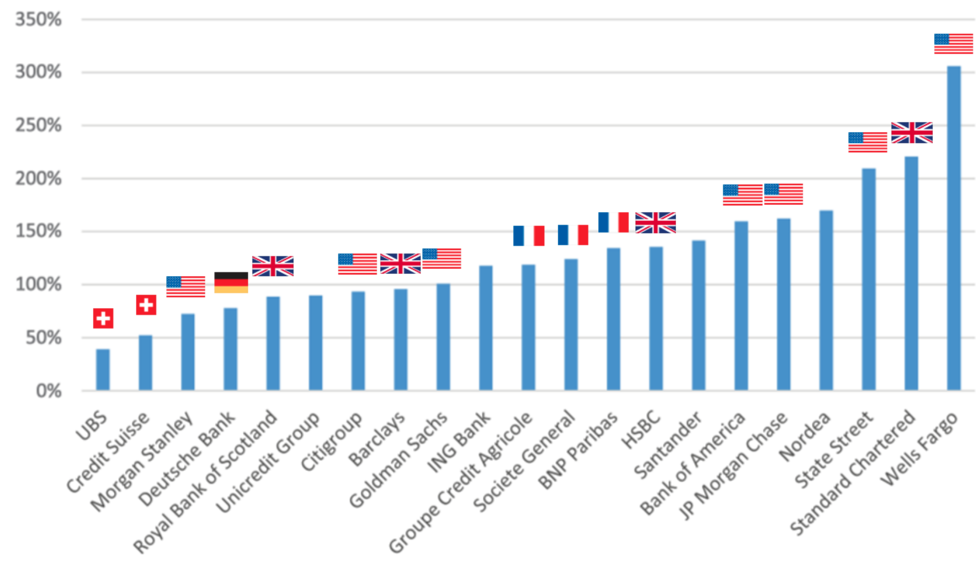


Figure 2.3: 2015 assets as a share of 2005 assets of European, UK and US G-SIBs (from Bell & Hindmoor, 2018, p. 16)

Schoenmaker (2017) traces this observation back to overbanking in Europe, the impact of the GFC and euro crisis, and major reforms including structural reforms in the UK and Switzerland (see also Schoenmaker, 2018). Similarly, Ioannou et al. (2019, p. 360) observe that the "two Swiss banks, Credit Suisse and UBS, have declined in size most dramatically, a phenomenon largely explained by tightened regulation of the Swiss financial sector".[18]

[18] Changes in these metrics of the G-SIBs are not merely, or even primarily, a result of regulatory policies. Indeed,

2.2 Financial systems as institutions: Varieties of Capitalism

Institutionalism has been immensely influential in the study of policymaking. New institutionalism moved away from classical institutionalism's focus on strictly formal rules to all "formal or informal procedures, routines, norms and conventions embedded in the organizational structure of the polity or political economy" (Hall & Taylor, 1996, p. 938), which explain the behaviour of actors. This widening of the scope has given rise to a smorgasbord of new "institutionalisms". Among the three most common versions—historical, rational choice and sociological institutionalism—historical institutionalism appears to have the greatest explanatory power for the area of financial regulation.

In historical institutionalism (see Culpepper, 2016; Thelen, 1999), historical contingencies contribute to the rules and norms that shape policymakers' behaviour. The historical growth of the financial sector in a country has shaped the way policymakers view banks' position in the economy and the way they interact and coordinate with finance. For instance, historical institutionalism has been employed to explain how the progressive liberalisation of the regulatory and market structure in the UK and US caused the GFC through increased competition between firms (Bell & Hindmoor, 2015a).

Rational choice institutionalism treats actors as having full knowledge of their own preferences in light of the available information; institutions merely provide the rules conditioning behaviour. While actors in finance—such as regulators—are often experts in their fields, it is doubtful that they are able to form preferences independent of context. For instance, preferences over the value of a large finance sector can be shaped by the pre-existence of a powerful financial sector.

In contrast, sociological institutionalism views institutions as governing "rules of appropriateness" (March & Olsen, 1984). The implication is that policymakers' preferences are shaped largely by the institutions in which they operate. State actors are imbibed with specific attitudes towards finance by their institutional culture, which may determine how they choose to regulate finance. These attitudes can, crucially, change after major events such as financial crises.

When comparing institutional variations in advanced economies, Varieties of Capitalism (VoC) argues that countries, in their ideal types, exhibit different institutional infrastructures that determine economic action. Institutions are a "set of rules, formal or informal, that actors generally follow, whether for normative, cognitive or material reasons" (Hall & Soskice, 2001, p. 9). A

they are influenced by the broader structural/market context (Bell & Hindmoor, 2018) or other political forces, such as changes in the geography of global economic growth, banking consolidation, monetary policy and quantitative easing or the geopolitics of global finance (Ioannou et al., 2019).

particular set of institutions, across different spheres of the economy (such as industrial relations, skill creation, corporate governance and financial systems), determines whether a market economy is a "Liberal Market Economy (LME)" or "Coordinated Market Economy (CME)". Institutional complementarities create comparative advantages as well as institutional path dependencies, which reinforce policy choices. The preferences of firms and policymakers are shaped by the existing institutional infrastructure and comparative advantages.

Varieties of Financial Capitalism

The specific application of VoC to financial systems has been termed VoFC. Financial systems, as one of the "building blocks" of VoC (Jackson & Deeg, 2006), distinguish economies into bank-based and market-based financial systems, depending on whether credit to non-financial corporates is primarily provided by banks as intermediaries or by capital markets. Explanations of government policy based on a country's financial system are also grouped under the umbrella of VoFC. Bank-based systems are associated with CMEs and market-based systems with LMEs. Hardie and Howarth (2013a, p. 15) and Hardie et al. (2013) propose a third type of "market-based banking", which reflects changes in domestic finance, particularly in Germany and France. In this model, banks use wholesale funding, including securitisation, and inflate their balance sheets by holding trading assets.

This distinction builds on earlier literature, which explored the relationship between a country's predominant financial system and its ability to conduct industrial policy (Zysman, 1983; see also Allen & Gale, 2000). In addition to banks' role in credit intermediation, financial systems are distinguished by different corporate governance systems such as the shareholder (in LMEs) vs stakeholder/blockholder model and the existence of "patient capital" (in CMEs, Deeg, 2010; Gourevitch & Shinn, 2007).

VoFC stands in the tradition of historical institutionalism by assuming that path dependency and institutional complementarities generate a lock-in effect. It is institutionalist in its relative disregard for traditional factors of political interests and power resources. Institutional change is often "rather marginal because the competitive advantages rooted in the existing system lead actors to resist more radical change" (Deeg, 2010, p. 324). In CMEs, institutional change in corporate governance can come from the changing preferences of large financial and multi-national enterprises (Culpepper, 2005). The most important institutional changes, particularly to the bank-based model and corporate governance in CMEs, come from globalisation and financialisation, including the rise of securitisation (Deeg, 2010; Lütz, 2005). Copelovitch and Singer (2020) argue that large securities markets can increase risk-taking of banks and lead to banking crises caused by increased and more volatile capital inflows. In welfare reform, institutional factors, such as the presence of statutory pensions, shape the preferences of financial firms toward pension privatisation (Naczyk, 2013).

Much of the International Political Economy (IPE) or Multi-level Governance literature argues in the tradition of VoFC. Here, national regulators form preferences based on their economy's institutional setup and then take them to international negotiations to protect their country's comparative institutional advantage. Regulators evaluate the various negative externalities, spillovers and domestic adjustment costs and determine their own stance towards international regulation. The literature has most notably applied this kind of explanation to the negotiations for the Basel III accord as well as its EU-level implementation (Howarth & Quaglia, 2013, 2016b; Quaglia & Spendzharova, 2017a, 2017b).

Several studies attempt to explain domestic structural reform initiatives in Europe based on the theoretical framework provided by VoFC. Hardie and Macartney (2016) argue that France and Germany pursued weaker legislation and eventually blocked the EU Commission's proposal for structural reform, in order to defend their universal banks' model of market-based banking (see Hardie & Howarth, 2013a; Hardie et al., 2013). At the core of the argument, the authors identify a disconnect between government public rhetoric about harming domestic lending and the governments' "real" motivations. While this may explain why both countries watered down initial proposals, the argument does not explain why these governments passed any domestic structural reform bills at all. After all, both countries could easily have decided not to implement any structural reform policy. This explanation would also be unable to account for Switzerland's and the UK's swift and more comprehensive TBTF reform.

Massoc (2020) presents a similar but more nuanced argument, which states that France, Germany and the UK all have a (structural) incentive to pursue global competitiveness and promote their G-SIBs. However, she adds that the institutional capabilities, i.e. political resources and access to decision-making, of factions opposed to the government's promotion of large banks can explain the outcome. These factions are weaker in Germany and France than in the UK.

Arguments based on VoFC are appealing because they allow scholars to derive policymakers' interests based on the institutional arrangement found within the economy. However, VoFC suffers from several challenges: first, it is highly mechanical and makes weak predictions about the behaviour of policymakers, being essentially agnostic about the role of policy. Second, due to policymakers' incentives to protect the comparative advantage of their country's institutional arrangements, it is difficult to empirically distinguish VoFC from structural power (see Section 2.5). If the comparative advantage of bank-based economies lies in the close lending relationships between banks and businesses, VoFC only argues that policymakers protect banks' business models. It does not sufficiently specify what exact function of universal banking policymakers want to protect. If, for instance, policymakers are concerned about the profitability and competitiveness of banks, then this prediction is instead closer to structural power. Third, as Hardie and Macartney's (2016) argument demonstrates, it is difficult to establish causality or a sufficient degree of plausibility when policymakers' motivations are ever only assumed but never expressly articulated as such. Finally, foreshadowing the empirical puzzle outlined in Section 2.8, VoFC cannot account for the more stringent reform in Switzerland.

2.3 Party systems

The literature focused on the role of party systems conceptualises actors' behaviour as conditioned by the incentives created by party systems. Here, party systems are a type of institution through which policy proposals and governments' legislative agendas are generated. Existing studies of financial regulation concentrate on how party systems mediate conflict and compromise in the political system.

Based on Lijphart (2012), Ganderson (2020b) conducts a comparative study of the UK and the Netherlands' institutionalised party systems to explain policy outcomes in bank structural reform, arguing that the party system mediates how issues of high political salience turn into policy outcomes. In the UK, with its majoritarian mode of democracy—where blame is more easily attributable to the governing party and coalitions are rare—financial regulation was transformed into a "voter oriented" policy area. In the Netherlands, with its consensus democracy—where parties need to build coalitions and blame is less attributable to single parties—financial regulation remained an "interest group oriented" policy area. The degree to which parties have an incentive to put forward competing policy proposals for electoral purposes and the need to compromise in the coalition-building process explains action in the UK and inaction in the Netherlands.

While this explanation provides a useful insight into the role of the party system in mediating politically salient issues, its explanatory value is highly dependent on the cases selected. This is demonstrated in the domestic case selection within the research design in this thesis (see Section 3.3), which incorporates cases across party systems. Following the classification by Lijphart (2012), France and Germany are different in their semi-presidential versus parliamentary style, respectively, but have both implemented similar versions of structural reform. In contrast, Switzerland has an extremely consensual political system, but implemented one of the most stringent versions of structural reform.

2.4 Governing coalition partisanship

Political parties can also be considered as the primary actors competing over their preferred policies, often conceptualised on a right-left scale, with regard to preferences regarding the state intervention in the free market. These explanations focus on the partisanship of the ruling party as the main explanatory variable (for instance Cioffi & Höpner, 2006; Roe, 2003). A representative example of theories about partisanship in financial policymaking is the "partisan-policy financial cycle" (Broz, 2012; see also Ansell, 2012b), in which right-wing governments deregulate financial markets in line with their pro-market ideology, and to benefit their asset-owning constituencies, and left-wing governments pursue re-regulation.

In the domestic cases selected for this research, partisanship cannot account for the differences in structural reform outcomes. Structural reforms in France and Germany were passed by a socialist government and a conservative-liberal government, respectively. In Switzerland, a system of permanent "grand coalitions" means that government composition is not able to account for changes, particularly temporal changes, in policy.

2.5 Structural business power of finance

While institutions as a set of rules, norms and expectations determine policymakers' behaviour within them, the structural business power literature identifies a wider set of constraints on policymakers that emanate from outside the narrower realm of financial systems. Policymakers need to anticipate how the effectiveness and consequences of policies are influenced by the structure of the economy, in particular the reactions of business. Structural business power argues that policymakers design policy in the interest of business, but this power varies depending on the role an industry such as banking plays in the economy and how it is organised.

In his seminal articulation of the view that the state's policy autonomy is constrained by the "privileged position of business", Lindblom (1977) asserts that in a market economy crucial decisions about investment, production and the allocation of labour are primarily taken by business. This means that the incentive to make policy in the interest of business does not need to rely on explicit pressure from business, but simply on the structural position that business occupies within the economy. In its Marxist formulation (Block, 1987), the state reproduces capitalist social relations due to the structural relationships among state managers, capitalists and workers. The state apparatus is dependent on capitalists' investment decisions for economic growth and hence pursues policies in favour of capitalists and work to rationalise the capitalist system. Iversen and Soskice (2019) argue that governments in advanced capitalist democracies pursue policies in the interest of capitalism because the electorate punish them if they do not.

However, this process is not fully "automatic"; rather, structural power is variable (Hacker & Pierson, 2002; Vogel, 1983). Instrumental business power (see Section 2.6) and structural power interact and can be mobilised or used as a strategic resource (Culpepper & Reinke, 2014). This contrasts with the automatism of the industry's "investment veto weapon" (Lindblom, 1977) in the earlier literature, as well as the automatism through which regulators in the VoFC literature are predicted to protect the competitiveness of the banking sector.

Vogel (1987) has critiqued structural power by pointing out the difficulty of attributing issues that are kept off the political agenda to the political power of business as well as the difficulty of distinguishing between commands and inducements for business. Other authors have described ways to conduct rigorous research on structural power (Culpepper, 2015; Hacker & Pierson, 2002).

The view that government policy responds primarily to forces external to the state is challenged by the state autonomy literature (Evans et al., 1985), which focuses on social policies such as the New Deal in the US (Block, 1987; Hacker & Pierson, 2002; Heclo, 1974; Skocpol, 1985, 1992; Swenson, 1997). Proponents of state autonomy argue that diminished structural power of business allowed policymakers, politicians and civil administrators to implement sweeping social reforms (see also Section 2.7).

Measurement and activation of structural business power

Bank structural power has been measured in two ways. First, the crudest measures of structural power are in terms of business's size—for instance, the share of economic output, contribution to the trade balance, number of employees or share of corporate taxes paid. The threat is disinvestment, but size alone indicates very little about the credibility of the threat; it may be diminished in recessions, when the threat of disinvestment is less credible (Block, 1987). While it is true to say that sectors or companies that are larger on these measures would, ceteris paribus, have more structural power, it also says almost nothing about their alternatives. Second, a sector's or firm's degree of internationalisation and hence exit option can confer structural power. This is either conceptualised as dependence on a domestic market or the ability of companies to relocate. Internationalisation is particularly relevant for banks, as banking capital has greater flexibility to cross borders than industrial capital (Marsh, 1983). For instance, Culpepper and Reinke (2014, p. 428) operationalise banks' structural power as the "ability to defy national regulators because of the internationalization of their markets" and argue that the US was more successful in its bailout programme than the UK due to US banks' higher reliance on the domestic markets. Other authors (Howarth & Quaglia, 2016a; Spendzharova, 2014) emphasise the importance of bank internationalisation on preferences for banking supervision in the EU. Moreover, it should be noted that states also have the power to shape exit options, known as states' "structuring power" (Farrell & Newman, 2015). This ties into a wider IPE literature that investigates the impact of capital mobility on state autonomy (for example Andrews, 1994; Mosley, 2000).

Several studies explore the mechanism through which banks are able to "activate" their structural power. First, Woll (2014a, 2016) argues that the main mediating factor of structural power is the degree of industry organisation. In this counterintuitive account, structural power can be reinforced by disorganisation. More precisely, in the bailouts following the GFC, a higher degree of disorganisation among banks caused a higher burden for taxpayers. Similarly, James and Quaglia (2018) argue that the UK's banking industry failed to organise and activate its structural power to influence the government's Brexit policy (see also Thompson, 2017). Second, a strand of literature pioneered by Bernhagen and Bräuninger (2005) argues that structural power is contingent on the ratio of business's reputation costs of making exaggerated claims about a policy's negative effects to actual lobbying costs as a signalling device. This ratio "communicates private information about the likelihood of adverse effects of a pending policy to the policymaker" (2005, p. 44). James (2018) develops a model of the "structural-informational" power of business, in which signalling by firms determines the credibility of their structural power, to explain why the UK was able to pass stringent structural reform in the face of industry opposition.

Pagliari and Young (2014) have written about the importance of actor plurality in financial industry groups' ability to affect financial regulatory policymaking. This refers to the ability of financial firms to tie their interest to those of other non-financial industry groups. An alternative dimension is "business unity" within the financial industry (Young & Pagliari, 2017). Actor plurality as a signalling device allows financial industry groups to signal broad support of their position and claims about the (adverse) impact of regulation on corporate bank customers (Pagliari & Young, 2014, p. 586). The concept of actor plurality has been convincingly applied to different policy areas such as capital requirements and lending to SMEs in Germany (Keller, 2018), the European Financial Transaction Tax (Kalaitzake, 2017; Kastner, 2018) and securities regulation (Chalmers, 2015).

The existing literature is weaker in articulating the precise source of universal banks' structural power that enables them to block more stringent TBTF regulation. Traditional metrics of bank internationalisation or size in relation to the economy across the largest banks in the three domestic cases in this thesis cannot account for differences in outcome (see Table 2.2). Instead, with regard to TBTF regulatory policies, structural power may instead originate from economies of scope, i.e. the business model of offering a variety of complementary banking services to customers more cheaply or efficiently, which is a characteristic trait of universal banks.[19] In this case, the structural power of banks' economies of scope would be reinforced by utilising support from non-financial corporations. This would bolster banks' arguments about the necessity of universal banks' breadth of services.

2.6 Banks as interest groups: Instrumental business power

The literature on the role and power of interest groups in political economy is extensive, including works such as Olsen's (1971) theory of collective action. Some stress how business groups and better represented interest groups can choose which conflicts to 'socialise' (Culpepper, 2011; Schattschneider, 1960), thereby suggesting that not all interest groups have equal access to policymaking. The discussion below examines explanations that mainly see policymaking as driven by well-organised interest groups, such as banks.

In his seminal article on regulatory capture, Stigler (1971) discusses how regulatory capture—where regulatory policymaking primarily benefits businesses—occurs due to interest groups lobbying the government. Since this original formulation, more nuanced approaches have been developed, particularly to explain financial regulation (for instance Baker, 2010; S. Johnson & Kwak, 2011; Pagliari & Young, 2014).

[19] Alternatively, banks' holding of domestic sovereign bonds on their balance sheets is another form of structural power (Culpepper & Tesche, 2021).

Instrumental business power "comprises the various means, unrelated to the core functions of the firm, through which business influences politics" (Culpepper & Reinke, 2014, p. 429) and can help illuminate the means of regulatory capture. These means include lobbying through interest groups and campaign donations as well as revolving doors. One of the seminal articulations of this is the conception of American "winner-take-all" politics (Hacker & Pierson, 2010). In this account, income inequality is the result of "politics as organized combat" in which organised interests shape public policy. Elections are merely a means to gain political authority to make policy. Politicians and parties care about the resources (financial, informational or otherwise) that organised interests are able to mobilise. In this view, policy is the product of the (shifting) balance of power among interest groups instead of the interests of the median voter. For instance, Hacker and Pierson (2010) attribute the gradual relaxation and eventual repeal of the Glass-Steagall Act to increased lobbying and contributions by the financial industry. In this view, one would expect regulatory policy to depend on the degree to which bank interests are organised in comparison to alternative interests. In financial regulation, as opposed to social policy, it is more difficult to identify an interest group that is organised around financial stability (Ziegler & Woolley, 2016; for a study of the role of civil society in financial consumer protection regulation, see Kastner, 2014).

Much of this literature, particularly on campaign contributions and revolving doors, is focused on the US and there is considerable doubt about the extent to which this is transferable to European countries. This is because private contributions play a smaller role in European electoral campaigns and other economic stakeholders such as trade unions are more developed (Woll, 2016; for the UK see Hopkin & Alexander Shaw, 2016). A channel of lobbying that is more applicable in Europe is the strategic deployment of private information and technical expertise.

Another credible approach to regulatory capture is the concept of intellectual and/or cultural capture to explain financial regulatory policy. The mechanisms of cultural capture are identity, status and relationships (Kwak, 2013; Seabrooke & Tsingou, 2009, 2020). This is different from revolving doors and is also more pronounced in the US (S. Johnson & Kwak, 2011). Revolving doors involve individuals alternating roles between banks and regulators or political positions, facilitating the cross-pollination of expertise but also leading to undesirable career incentives. Studies of revolving doors have shown banks with political connections to be more profitable (Braun & Raddatz, 2010; Luechinger & Moser, 2014). Conversely, cultural capture operates without such exchanges, using status and prestige as mechanisms, making it a more useful concept, as it endows policymakers' ideas with agency that goes beyond career incentives.

Very little of the literature considers that structural reform efforts in Europe were influenced by regulatory capture. Instead, the primary method for examining banks' interests has been by analysing their responses to EU financial regulatory consultations (James et al., 2021; Spendzharova et al., 2016), which provides insight only into the public dimensions of lobbying.

2.7 Ideas: Policy learning and expertise

Traditionally, ideas are treated as somewhat of an afterthought in the political economy trinity composed of institutions, interests, and ideas; an observation much lamented by constructivist scholars such as Blyth (1997). Hall (1989) outlines three approaches to explaining the impact of economic ideas on policy: coalition-centred, state-centred and economist-centred. Whereas the state-centred literature views receptivity to ideas as a function of the state's institutional configuration and prior experience (Weir & Skocpol, 1985), the coalition-centred approach focuses on the ability of ideas and their proponents to gain the support of economic groups and voters.

In this context, it is useful to think of knowledge as a particular form of ideas. Radaelli (1995) provides an overview of approaches that investigate the role of knowledge in the policy process: learning, knowledge utilisation, epistemic communities, policy diffusion, agenda setting and policy change. In the literature on ideas and learning, IPE and the literature on European policymaking have made greater strides than Comparative Political Economy in developing theories of the role of ideas, learning and expertise in the policy process.

2.7.1 Policy learning and knowledge utilisation

At the level of domestic policymaking, learning and expertise remain understudied. Gilardi and Radaelli (2012) categorise domestic approaches to learning into four categories (see also Bennett & Howlett, 1992; Radaelli, 2009): social, instrumental, political and symbolic learning.[20]

Instrumental learning involves policymakers who make policy decisions based on evidence about the effects of policies. In this mode of learning, policymakers consider expert advice. Instrumental learning is most relevant under conditions where policymakers and organisations face incentives to focus on policy effectiveness.

[20] Onto these approaches, corresponding modes of expert knowledge utilisation can be mapped (Schrefler, 2010; Weiss, 1979). A substantial body of literature exists concerning the employment of experts (commissions), especially within the European framework (Metz, 2013). This body of work frequently contends that the use of experts differs based on factors such as salience and uncertainty (Ballaert, 2015; Neshkova, 2014; Rimkutė & Haverland, 2015).

Under political learning (May, 1992), knowledge is used to advance policymakers' control of a policy domain. Political learning and knowledge utilisation can be legitimising, where actors draw on expert knowledge to enhance their legitimacy; or substantiating, where knowledge is used to lend authority to a particular policy position (Boswell, 2008, 2009; for knowledge utilisation of regulatory authorities, see Schrefler, 2010).

Social learning, which involves learning at the societal level instead of merely at the level of policymakers, assigns less importance to knowledge and its utilisation by policymakers. Social learning can lead to paradigmatic change in the framework of ideas that specifies not only the goals of policy but also its instruments (Hall, 1993; for a discussion see Blyth, 2013; Henriksen, 2013). Social learning works through changes in actors' preferences as a result of changes to the legitimacy of an old paradigm. This form of learning is of limited use in the study of financial regulation. Although political salience does reflect changing societal views of, or at least attention to, finance, the GFC did not lead to wholesale societal-level change of preferences with regard to financial regulation (for an application to macroprudential regulation see Baker, 2013).

Finally, policymakers and organisations seeking legitimacy (DiMaggio & Powell, 1983) in international environments engage in symbolic learning. The importance of identifying appropriate behaviour has been explored by March and Olsen (1998) in the context of political institutions. Whereas the "logic of consequences" governs the mechanism of (rational) learning, the "logic of appropriateness" governs the mechanism of symbolic learning. When institutions are motivated primarily by their legitimacy, learning is based on the actor's conceptions of policy desirability rather than effectiveness.

2.7.2 Learning in International Political Economy

The concept of learning and the role of knowledge have been applied most actively in the IPE literature in the form of epistemic communities and in sociological approaches to international policymaking.[21] Epistemic communities revolve around policymakers' own identities as members of a community of, for instance, financial regulators and their ideas and conceptions about policy desirability. Epistemic communities are particularly relevant under circumstances of uncertainty. Pioneered by Haas (1992), they have been used to address the puzzle of why states engage in

[21] Another perspective on learning in international political economy revolves around the concept of policy diffusion. Rather than a unified theory, policy diffusion constitutes a research programme that seeks to explain the particular empirical observation that adoption of similar policies clusters spatially and temporally (Elkins & Simmons, 2005, p. 34; Weyland, 2005, pp. 265–268). Authors have convincingly theorised and empirically demonstrated this phenomenon in the diffusion of financial regulation (Gandrud, 2013; E. Jones & Zeitz, 2019; Simmons, 2001; Way, 2005).

international policy coordination. An epistemic community is defined as a network of experts in a given policy area, who share similar world views, principled beliefs and causal beliefs (Goldstein & Keohane, 1993). World views are the broadest and most fundamental category (for example, assuming market rationality), and define the conceptions of possibility. Principled beliefs are normative ideas that help distinguish right and wrong, mediating between world views and policy conclusions. Finally, causal beliefs "are beliefs about cause-effect relationships which derive authority from the shared consensus of recognized elites" (1993, pp. 8–10). Central bankers are conceived of as the epitome of such epistemic groups (J. Johnson, 2016; Kapstein, 1992; King, 2005).

Uncertainty reduces the traditional importance of power and institutions. Under these conditions, actors' strategies to retain or gain power are unclear, and established institutions become unworkable. It follows that decision makers have several incentives to consult epistemic communities: to (1) elucidate cause-and-effect relationships, (2) enlighten the results of instituting a particular policy, (3) define the self-interest of a state, (4) help formulate policy (Haas, 1992, p. 15). Epistemic communities need to be carefully distinguished from other types of actors such as interest groups, entire professions (for example all economists) and bureaucratic bodies.

The most vibrant literature on the role of expertise in policymaking has developed around international financial regulatory governance within the IPE literature. Knaack and Gruin (2021) divide the sources of power in international regulatory governance into two sources: market size and expertise. While the market size literature argues that power is merely a function of the size of the domestic financial market (Drezner, 2007; Simmons, 2001; Singer, 2007), power can also derive from the regulator's expertise (for instance, from regulating a more sophisticated financial sector). Actors can have epistemic authority, a concept that is "particularly relevant in novel areas where the source of expertise is uncertain and contestable" (Knaack & Gruin, 2021). The reason why expertise and epistemic authority receive greater prominence is that international financial regulatory governance, and particularly financial standard-setting bodies, are more weakly institutionalised but heavily socialised. This provides a contrast to the domestic policymaking setting, in which institutionalisation and power hierarchies weaken the role of epistemic authority.

2.7.3 Expertise and business power

The work by Campbell and Pedersen (2014) on knowledge regimes shows how research organisations such as think tanks produce and disseminate policy ideas. A knowledge regime is a "sense-making apparatus", which is especially important "for policymaking during periods of crisis when ambiguity and uncertainty are extreme because problems are unfamiliar and conventional policy prescriptions no longer work" (2014, p. 3). In the context of financial regulation, business, such as the financial services industry, can equally create a body of expert knowledge, which can become a knowledge regime (Ziegler & Woolley, 2016). Regulators rely on this knowledge, supplied by the financial industry, to regulate the industry (2016, p. 251).

In fact, expertise can be a form of instrumental business power. Managerial lobbying employs expertise as a tool, which is particularly effective considering policymakers' dependence on expertise (Bernhagen & Bräuninger, 2005, p. 47; Culpepper, 2011, p. 9). An example of the role of technical expertise in low-salience policy areas are "thin political markets", which are areas of regulation where corporate managers possess the technical expertise necessary for informed regulation, such as accounting rule-making and banking regulation (Ramanna, 2015). In thin political markets, since technical knowledge often resides with vested interests, this can lead to a form of ideational capture (see Section 2.6).

Bell and Hindmoor argue that ideas mediate the potency of structural power in their case studies of structural reform and bank capital regulation in the UK (2015b, 2017) as well as subsequent bank reform in the US and UK (2014). Actors can deliberately shape the way structural power is perceived (this focus on perception distinguishes it from Farrell & Newman, 2015). Here, instead of power shaping ideas, ideas shape power (Bell, 2012). Specifically, ideas held by state leaders can moderate or reduce the power of business. These actors need to perceive the benefits, costs and threats in consequence of their policymaking as significant and meaningful. The authors' contribution is less convincing in its engagement with the structural power literature by rejecting "the assumption that structural power is a material reality which arises automatically in capitalist societies" (Bell & Hindmoor, 2017, p. 104). Instead, they suggest that factors that allow actors to regain agency are ideational. Yet, the authors do not consider that conversely ideational factors cannot also work to bolster business power, for instance pro-market ideas. This points to the analytical difficulty of interacting a rationalist framework with ideas as intervening factors.

2.8 Empirical puzzle and literature gap

The preceding review of political economy explanations of financial regulatory policy can be roughly divided into three sets of explanations: (1) explanations that look at pre-existing conditions exogenous to the regulatory policy process and the political conflict between policymakers and banks over regulatory outcomes: VoFC, party systems and governing coalition partisanship. (2) Explanations based on structural business power also rely partly on pre-existing conditions regarding banks' role in the economy, but, as discussed in Section 2.5, are trickier to measure since they depend on the dimension of structural importance posited and can be strategically "activated" by actors. Structural business power is therefore partly endogenous to the policy process, depending on banks' strategic deployment of and policymakers' receptivity to structural power. (3) Explanations that are more endogenous to the policy process, as they rely almost exclusively on the material and ideational resources and actions of the actors—banks and policymakers—within the specific empirical settings: instrumental business power and ideational explanations such as policy learning and expertise.

This section provides preliminary evidence to demonstrate that the political economy explanations reviewed in this chapter are unable to resolve the empirical puzzle that lies at the heart of this thesis. In order to do this, information about pre-existing conditions in the form of qualitative coding or quantitative data is used to indicate the explanations' predictions for post-GFC reform outcomes across the domestic cases. The ability to infer these *a priori* depends on the degree of the explanations' exogeneity to the policy process: (1) Indicators for the most exogenous explanations—VoFC, party systems or governing coalition partisanship—are qualitatively coded using classifications of financial systems and party systems in the existing literature or general political information. (2) Indicators for some measures of structural business power, due to the explanations' partly exogenous nature, are illustrated with quantitative data. This only partly captures the predictions of structural business power explanations, since they say nothing about the activation and receptivity of actors, which are endogenous to the policy process. (3) Instrumental business power and ideational explanations, such as policy learning and expertise, are largely endogenous to the policy process, and thus no indicators are provided. Rather, the theory of *institutional veto points and bank business power* and subsequent empirical case chapters will discuss in more depth the role of and conditions under which instrumental business power and ideas have explanatory power for the regulatory outcomes.

The following tables thus illustrate the puzzle using a sliding colour scale to indicate whether these indicators for each theoretical explanation would predict lax (red) or stringent (green) reform outcomes for France, Germany, Switzerland and the UK[22] Note that the UK is not an empirical case in this thesis but is included here for comparative illustrative purposes. It is a pertinent example as Europe's leading financial centre and market-based financial system that receives disproportionate attention in the literature. The indicators for the (1) most exogenous explanations—VoFC, party systems or governing coalition partisanship—are first shown in Table 2.1; measures for the (2) partly exogenous structural power explanations are in Table 2.2. The predictions are then compared with the actual regulatory policy mix observed and its stringency across the countries in Table 2.3.

As shown in Table 2.1, all domestic cases investigated in this thesis—France, Switzerland and Germany—are bank-based financial systems, which the VoFC literature predicts to be more protective of their comparative institutional advantages than market-based financial systems, such as the UK. Majoritarian party systems, where there are fewer parties in parliament and the government generally enjoys a comfortable majority in parliament, are predicted to be able to pass laws with fewer compromises and adopt more stringent regulation. This would predict more stringent regulatory outcomes in France and the UK[23] than in Germany and Switzerland. With respect to partisanship, left-wing parties in government are predicted to be more inclined to regulate the financial sector, while right-wing governments (such as conservative-liberal coalitions) are more business-friendly and favour the status quo. Finally, the unique set-up of the directorial multi-party government that governs in Switzerland needs to strike ideological compromises and has the greatest status quo bias.

In light of the existing political economy work, the puzzle that lies at the heart of the thesis' research question stems from the observation that countries that are more reliant on large and concentrated banking sectors have implemented more stringent structural reform regulations and earlier resolution reforms than countries in which banks are thought to exercise less power. This observation goes directly against the predictions made by the structural business power explanations reviewed in Section 2.5. Even though it may initially appear intuitive that economies with larger, and hence potentially more disruptive, banking systems would implement stronger measures to contain them, much of the existing political economy literature argues that financial

[22] The sliding scale goes from red (lax) - orange (lax) - yellow (stringent) - green (stringent) to show an illustrative spectrum.

[23] The UK is more difficult to classify, governing under a rare conservative-liberal coalition in a majoritarian party system.

Theoretical explanation	**France**	**Germany**	**Switzerland**	**UK**
VoFC: Financial system	Bank-based	Bank-based	Bank-based	Market-based
Party system	Majoritarian party system	Consensus party system	Consensus party system	Majoritarian party system
Governing coalition partisanship	Socialist majority	Conservative-liberal coalition	Directorial multi-party government	Conservative-liberal coalition

Table 2.1: Predicted regulatory outcomes based on exogenous indicators: financial system, governing coalition partisanship and party systems, sliding colour scale from green (predicts stringent regulation) to red (predicts lax regulation)

regulatory policy is driven by the interests of banks. Table 2.2[24] provides indicators for banks' structural power, such as their importance to the economy (gross value added (GVA), employment), sector concentration, size, internationalisation and financial centre importance. They show that Switzerland[25] and the UK are considerably more dependent on their banking sectors than France and Germany on these measures. The structural power literature would therefore predict that France and Germany are able to impose more stringent regulation on their large banks than Switzerland or the UK.

Structural business power measures	**France**	**Germany**	**Switzerland**	**UK**
GVA contribution of financial services sector	4.30%	4.20%	9.30%	7.20%
Workforce employed by financial sector	2.90%	2.70%	4.60%	3.30%
Bank Concentration (top 3, top 5)	44%, 62%	26%, 35%	50%, 57%	49%, 64%
Total assets of G-SIBs as multiples of GDP	2.2 times	0.5 times	2.6 times	2.3 times
Bank International-isation of G-SIB assets	32%	66%	70%	59%
Financial Centres Index ranking	Paris: 26	Frankfurt: 11	Zurich: 9	London: 1
Predicted regulatory outcome	**Stringent**	**Stringent**	**Lax**	**Lax**

Table 2.2: Predicted regulatory outcomes based on measures of bank structural power, sliding colour scale from green (predicts stringent regulation) to red (predicts lax regulation)

24 Data for Eurostat for 2016 (n.d.-a, n.d.-b), own calculations from S&L for 2019 (n.d.), Oppolzer (2019, p. 176) for 2016, French Bank Annual Reports for 2016, Long Finance for 2016 (2017, p. 4); Schoenmaker and Peek (2014) for 2011

25 UBS's 2023 takeover of Credit Suisse has reduced the number of Swiss G-SIBs to one. It may have conversely exacerbated the TBTF problem in Switzerland, creating a financial institution twice the size of Swiss gross domestic product (GDP) (see The Economist, 2023).

Table 2.3 summarises the predicted outcomes and compares them with the actual regulatory policy mix and its stringency. Structural reforms are qualitatively coded as stringent in Switzerland and the UK due to clear ring fences that shield substantial portions of the affected banks' business units (see Section 2.1.1). Resolution reforms are classified using the RRI[26] for 2010-2013 (Financial Stability Board, 2021, pp. 122–126). Moreover, the speed at which countries implemented resolution reforms is coded on a scale from pioneer (Switzerland) to laggard (France) based on the temporal evolution of the RRI, also shown in Figure 2.2.

(Predicted) Reform outcomes	**France**	**Germany**	**Switzerland**	**UK**
VoFC: Financial System	Lax	Lax	Lax	Stringent
Party system	Stringent	Lax	Lax	Stringent
Governing coalition partisanship	Stringent	Lax	Lax	Lax
Structural business power	Stringent	Stringent	Lax	Lax
Instrumental business power	Endogenous	Endogenous	Endogenous	Endogenous
Ideational explanations (learning & expertise)	Endogenous	Endogenous	Endogenous	Endogenous
Structural reform stringency	**Lax**	**Lax**	**Stringent**	**Stringent**
FSB Resolution Reform Sub-Index 1	**RRI 0.28**	**RRI 0.43**	**RRI 0.94**	**RRI 0.55**
Resolution regime adoption speed	**Laggard**	**Slower**	**Pioneer**	**Quicker**

Table 2.3: Comparison of theoretical prediction based on indicators and classifications, compared to observed regulatory policy mix

It becomes clear that none of the explanations can account for the outcome. France, Germany and Switzerland all have bank-based financial systems, yet exhibit different outcomes, with Switzerland's regulatory reform closer to the UK with its market-based financial system. France and Germany implemented similar types of structural and resolution reforms, but were governed by a socialist majority in a majoritarian party system and a conservative-liberal coalition in a consensus party system, respectively. In fact, Switzerland and the UK as countries with more powerful banking sectors have implemented more stringent structural reforms and adopted resolution reforms more quickly.

[26] RRI Sub-index 1, classifying "resolution powers and recovery and resolution planning".

Building on the inability of existing work in political economy to fully resolve the empirical puzzle that motivates the research question *Why did institutional settings with more concentrated banking sectors adopt stronger regulatory reforms to address too-big-to-fail?*, a literature gap becomes evident. The valuable insights provided by previous scholarship remain partial. They tend to account for outcomes in specific contexts, but without offering a generalisable framework that specifies when particular mechanisms dominate. Comparative political economy has largely examined the domestic politics of banking regulation, while IPE has also focused on global standard-setting. Yet both are arenas in which the regulation of too-big-to-fail banks is shaped, and they would benefit from analysis within a single framework. This limitation underscores the need for a theoretical approach that can systematically integrate these insights.

At the same time, the role of the public and the backlash against banks have been neglected. The possibility that regulation, and in particular structural reform, is at least partly a response to public demands after the GFC is not examined sufficiently by the political economy literature.[27] Moreover, it is surprising that in a policy area as technical as financial regulation, the focus is still on politicians and policy is viewed as extremely responsive to the interests of competing interests. This merits greater theoretical attention to the role of bureaucratic and technocratic actors in the policy process. The role of ideas, and in particular the crisis diagnoses that actors derive and the policy preferences they form as a result, has not been considered sufficiently outside of the IPE literature.

To address this, Chapter 3 develops a comprehensive theoretical framework rooted in the concept of veto points. By linking institutional configurations to the distribution of power among political and bureaucratic actors, the framework generates clear expectations about which actors are decisive under conditions of high salience and how their preferences and strategies interact with business influence. This framework not only integrates existing insights, but also provides the means to adjudicate between them by situating the exercise of business power within the institutional arenas where regulatory struggles unfold. It generates testable expectations about which actors are empowered at the last veto point, how their preferences are formed, and hence which theoretical explanations discussed in this chapter are most likely to determine policy outcomes under which conditions.

[27] A popular textbook on financial regulation argues that "it should come as no surprise that structural separation has been implemented only at times when it was possible for legislators to harness widespread popular demand for reform of the banking sector" (Armour et al., 2016, p. 505), echoing Coffee (2012).

Chapter 3

Theoretical framework and research design

The empirical puzzle that has been established argues that existing explanations that focus solely on the degree of business power, institutional constraints of policymakers or public policy preferences cannot account for the variation across too-big-to-fail (TBTF) banking regulation. This chapter introduces the theory of *institutional veto points and bank business power* and proposes that examining the institutional settings in which political conflict over policy takes place allows for a more nuanced understanding of the conditions under which each of these approaches is able to explain regulatory outcomes. These varying institutional settings empower different actors—politicians in government, bureaucrats, parliament and the electorate—and thus structure the political conflict over policy.

The theory[28] proposes that the way in which countries address the TBTF problem depends on: (1) how political institutions structure political conflict between actors pushing for policy change and those interest groups affected; (2) the policy diagnoses about the causes of the crisis that shape actors' policy preferences; and (3) the power resources of the most important actors in the relevant political arena.

Applied to the policy area of TBTF banking regulation, the experience with bailouts of large banks influences the political salience and policymakers' diagnoses of the root of the TBTF problem. This in turn affects politicians' choices to prioritise domestic legislative action and/or international coordination. When the regulatory process remains in the domestic arena, political salience does not automatically translate into policy action. Rather, policy outcomes

[28] The theory makes predictions about which political explanations and business power channels dominate under which conditions. As such, it is both a "theory" in the sense that it provides a comprehensive explanation and testable hypotheses for economic policymaking under high political salience as well as a "theoretical framework" in the sense that it guides the research and its design in answering the more specific research question posed (see Grant & Osanloo, 2014). The thesis refers to the theory as a "theoretical framework" where more appropriate.

depend on domestic institutional settings and the power resources of actors at the last veto point. Alternatively, when international coordination is the overriding driver, politicians push the regulatory initiative into international fora such as the Financial Stability Board (FSB).

This chapter first elaborates on the different institutional settings in which political conflict about banking regulation occurs and how they empower different actors in Section 3.1. It then outlines the sources of actors' policy priorities under high salience in Section 3.2. The actors are politicians in government, bureaucrats, parliament, the electorate and large international banks. The theory thus posits that regulatory reform is both a function of (1) how the institutional setting empowers different political actors at the last veto point in the order of agenda-setting power, (2) how the crisis affects actors' preference formation, and (3) the banks' contingent source of influence over the political actors.

The case selection and the methodology for testing the theory in the remaining thesis are explained in Sections 3.3 and 3.4, respectively.

3.1 Institutional veto points and bank business power

The theory of *institutional veto points and bank business power* proposes that banking regulatory policy after the Global Financial Crisis (GFC) is a result of political struggle between banks and various political actors over the policy response to the problems exposed during the crisis. The outcome of this struggle depends on the contingent preferences of the most powerful actors. Actors' power resources as well as preferences are not given *a priori*, however. Instead, power is conferred on the actor at the relevant last veto point in the policy process, which is determined by the institutional setting in which this political conflict takes place, defined by de jure (constitutional) rules and de facto rules from electoral results and party systems (where applicable). The position of the last veto point is relevant, as it determines whose political preferences for regulatory policy ultimately count. Moreover, the channel of banks' business power vis-à-vis this actor varies significantly.

This theoretical framework is an extension of Ellen Immergut's essay on the 'rules of the game' (1992; see also 1990). The theoretical propositions put forward therein, originally formulated to explain national health insurance policy, are highly applicable to this study of banking regulatory reform and to explain how constitutional and electoral institutions in different political systems determine the ability of change agents and interest groups to obtain (or block) desired policy outcomes. According to Immergut, policymaking occurs in different political arenas, which depend on the location of veto points in the process. Depending on parliamentary majorities and electoral systems, the effective points of decision are in either the executive or parliament. The possibility of popular referenda to override parliamentary decision moves the effective veto point to the electoral arena. For interest group power, "specific institutional mechanisms structure the decision process in a given polity, and by so doing, provide interest groups with different opportunities for influencing political decisions" (1992, p. 66).

It is worth clarifying the distinction between *veto players* and *veto points*: George Tsebelis' (2002) veto player framework conceptualises veto players as individual or collective actors whose consent is required for policy change, such as presidents, coalition parties, or constitutional courts. The key insight of this framework is that the number and ideological distance of veto players determine the "winset" of the status quo, and thus the likelihood of policy change or policy stability. Moreover, there are actors that act as "agenda setters", depending on the way political institutions sequence veto players. By contrast, Immergut's "rules of the game" approach does not focus primarily on actors, but on veto points, which are institutionally embedded junctures in the policy process where change can be blocked. Crucially, whereas Tsebelis emphasises the structural role of actors with formal decision-making power, Immergut highlights the dynamic interaction of institutional rules and political alignments in producing opportunities for obstruction. Thus, in Immergut's account, small changes in electoral outcomes or procedural rules may shift the location and salience of veto points, even if the formal set of veto players remains constant.

The following will draw on the 'rules of the game' where appropriate and point out where the theoretical framework differs. In the theoretical framework, the main relevant institutional settings are direct democracy, direct parliamentary rule, semi-presidentialism and international standard-setting. To illustrate this more concretely, Figure 3.1 summarises the four proposed institutional settings, the last veto points and empowered actors, as well as the predicted power sources.

The four different institutional settings are listed in the leftmost column. The second column predicts the last veto point in each institutional setting, as determined by the prevalent political institutions, i.e. the de jure (constitutional) rules and de facto rules from electoral results and party systems. Crucially, the international standard-setting arena is much more weakly institutionalised and thus does not have a predetermined veto point. To elucidate the location of this last veto point (coloured in red), the relevant actors are listed in descending order of their institutional

Institutional setting	Last veto point	Political actors (by agenda-setting power)	Actors' de facto power source	Bank source of influence	Case	Regulatory outcome: Policy mix
Direct democracy		- Government politicians - Bureaucrats	Political-bureaucratic preference homogeneity	Structural power		"*TBTF reform*": Strong resolution and structural reform through enforcement (2011)
		- Parliament	Electoral majorities	Instrumental power		
	Electorate →	- Electorate	Issue attention (salience)	← Bank popularity		
Direct parliamentary rule		- Government politicians - Bureaucrats	Political-bureaucratic preference homogeneity	Structural power		"*Lex Deutsche Bank*": Selective structural reform and weak resolution (2013)
	Parliament →	- Parliament	Electoral majorities	← Instrumental power		
		- Electorate	Issue attention (salience)	Bank popularity		
Semi-presidentialism	Executive →	- Government politicians - Bureaucrats	Political-bureaucratic preference homogeneity	← Structural power		"*Status quo symbolism*": Weak resolution and structural reform (2013)
		- Parliament	Electoral majorities	Instrumental power		
		- Electorate	Issue attention (salience)	Bank popularity		
International standard-setting	Unclear	- Bureaucrats	International coordination and community-building	Expertise and community-building	FSB	"*Status quo innovation*": Resolution standards and bail-in (2011/2015)
		- National executives	Political-bureaucratic preference homogeneity	Financial sector 'competitiveness'		

Figure 3.1: Overview of institutional settings and the veto point, power sources, bank sources of influence, corresponding cases and regulatory policy mix

agenda-setting power in the third column with their de facto power sources shown in the fourth column. Political actors that do not feature in the decision-making process, as they have no veto role and therefore sit after the last veto point, are greyed out. The fifth column then lists the potential sources of influence of banks to impact the policy outcome at each veto point.

For the three domestic institutional settings, the actors are listed in descending order of their institutional agenda-setting power in column three, these being government politicians, bureaucrats, parliament, and the electorate. In most democratic systems, the political component of the executive is in charge of proposing new legislation, which is then substantiated and drafted by the bureaucracy. This disaggregates the "executive" into its political and bureaucratic components. This is crucial, as the executive is only powerful enough to pass policy against the potential opposition of banks if politicians and bureaucrats share the same preferences regarding regulatory policy ("political-bureaucratic preference homogeneity").

In direct democracies, laws can be vetoed by the electorate via referenda. This effectively moves the last veto point to the electorate, whose de facto power source is its (collective) issue attention. For a referendum to be successful in overturning the executive's and legislature's policies, the issue must be of sufficient political salience and a large portion of the electorate must be invested in it. Interest groups can hope to influence the electorate's preferences only if they are sufficiently 'popular' at the time, i.e. have a good standing in society. As with other last veto points, the electorate does not actually need to veto the policy in order to exercise this power. Rather, actors that rank before the electorate in the order of agenda-setting power anticipating the electorate's preferences can be sufficient for other actors to pass the desired policy.

In institutional settings where a policy's passing in parliament is not a given, due to shifting electoral majorities, fragmentation through political coalitions or weaker party discipline (direct parliamentary rule), parliament becomes the last veto point. Its ability to pass policy against the potential opposition of banks is de facto dependent on the electoral majorities prevailing, both at the time and also in parties' political positioning for future elections. At this veto point, banks' ability to influence policy depends on their instrumental power over MPs or parliamentary groups. The focus here is on instrumental power, which can take the form of lobbying and personal connections, as opposed to structural power because MPs are generally less concerned about the wider (economic) impact of their policy preferences than the executive. However, MPs are concerned about the economic impact of banks on their local constituencies, for instance, equipping banks with greater influence ("hyper-local structural power").

In semi-presidential systems, in which a directly elected president shares executive power with a prime minister and cabinet responsible to parliament, the executive itself usually constitutes the last and effective veto point.[29] This is most reliably the case where the executive enjoys a stable parliamentary majority and party discipline is in force. (In France, periods where this is not the case are referred to as 'co-habitation'.) In this case, the majority of Members of Parliament (MPs) cannot be expected to vote against the executive decision and "the executive arena will remain the effective point of decision" (Immergut, 1992, p. 65). Immergut originally termed settings where the "executive government was able to make and enforce policy decisions with little probability of veto at later points in the chain" as 'majority parliamentarism' (1992, p. 78), based on Nyman's classification of Sweden after 1932 (1947). In order to adapt the classification of this setting more clearly to modern political settings, such as France's Fifth Republic with a powerful President, this thesis instead applies the term 'semi-presidentialism'. This term more clearly encapsulates the strong role of the president and the executive, whereas 'majority parliamentarism' may mislead by putting the nominal emphasis on parliament. It is noted that this nominal clarity comes at the expense of conceptual precision, since the mechanisms attributed to this institutional setting hold most clearly in settings without 'co-habitation'. As will be discussed more closely in the case chapter in Chapter 6, the period around 2013 under President Hollande qualified as one in which the executive enjoyed a stable parliamentary majority. Banks derive

[29] A semantic, rather than substantive, difference is that Immergut would classify semi-presidentialism/majority parliamentarism as a setting with no veto point. Given that with no other veto points the executive could "block" policy change by not introducing any (meaningful) legislation, this theoretical framework instead classifies executives as veto points, and in the case of semi-presidentialism/majority parliamentarism as the last veto point.

their influence over the executive's policymaking by convincing politicians, bureaucrats or both that the activities potentially affected by regulation are structurally important to the economy. In semi-presidentialism, the main determinant of policy change or stability is hence the conflict between a (unified or divided) executive and the structural power of banks.

This emphasises the role of agenda-setting power introduced by the theoretical framework: in all settings, except international standard-setting, the executive introduces legislation, which needs to be approved by parliament and may be subject to a popular referendum. On the one hand, this gives greater power to the actors that sit earlier in the sequence of agenda setting. On the other hand, these actors need to each anticipate the preferences of any veto points that come later in this sequence, since any policy change may still be vetoed at that point, giving the largest power to the *last* veto point. This is in line with the conception of political decisions as "sequences of decisions made by different actors at different institutional locations" (Immergut, 1992, p. 63).

There are also institutional settings in which the last veto point cannot be clearly determined. These are more weakly institutionalised settings, such as international bodies for standard-setting, an example of which is the FSB. These bodies mostly operate on the principle of decision-making by consensus and without legally enforceable policies. As a result, there are no clear de jure or de facto rules about who holds the final veto power. Standard-setting bodies normally have plenaries or steering committees which represent national authorities from the member jurisdictions which endorse the final policy standards, giving them no clear veto power as the endorsed policy standards are not enforceable and there are few (non-reputational) costs to endorsement without implementation. The technical work is done in working groups or committees, involving national bureaucrats who come up with and negotiate standards. Neither are formal agenda-setters: the national authorities often provide vague mandates, while bureaucrats have a large degree of autonomy and flexibility in designing the fundamental shape of policy standards. Since no clear order of agenda-setting power can be established, no last veto point exists. This leads to multiple avenues for business to influence both bureaucrats and national executives, both with "soft power" tools: providing expertise to the deliberations of bureaucrats, which need to take into account national considerations about their financial sector 'competitiveness'. Given the lack of a final decision maker to potentially drive policy change, the outcomes here are expected to be heavily shaped by interest group influence.

In order to illustrate how the theoretical framework informs the cases and outcomes discussed in this thesis, the two right-hand columns in Figure 3.1 show the corresponding empirical cases and observed regulatory policy mix. The outcomes can not be deduced through this framework alone, but are explained in combination with an analysis of actor preferences and power sources in the empirical case chapters. The empirical cases chosen are paradigmatic for each institutional setting and exhibit different regulatory policy mixes, each explained by its different configuration of the last veto point, the actors' de facto power sources and different type of bank influence that acted upon them (see Section 3.3 for the detailed rationale for the case selection): In Switzerland's direct democratic setting, the issue attention of the public combined with unpopular banks led to TBTF reform through strong resolution and structural reform through supervisory enforcement. Germany is a prime example of direct parliamentary rule in which shifting electoral majorities in parliament left it vulnerable to the instrumental power of small banks, resulting in a "Lex Deutsche Bank" that applied selective structural reform. France was a setting of semi-presidentialism (without 'co-habitation'), where the executive's lack of political-bureaucratic preference homogeneity enabled the banking sector's structural power to force a regulatory law that can be described as "status quo symbolism" with weak resolution and structural reform. The FSB is the epitome of an international standard-setting body without a pre-defined veto point, where national executives prioritised their financial sectors' competitiveness and bureaucrats were influenced through international banks' provision of expertise to develop a policy outcome of "status quo innovation" through the invention of bail-in standards.

The theoretical framework established here expands on the 'rules of the game' by adding new aspects of power sources, institutional settings and actors that provide a comprehensive explanation of post-crisis bank regulatory reform. While the actors and outcomes described apply specifically to this concrete empirical setting, the theory is broad enough to potentially be applied to other policy areas beyond banking regulation. First, it is more precise about the sources of "interest group power". For Immergut (1992, p. 66), interest group power is predominantly a function of the relationship of these groups to the political system and the receptivity of political institutions to political pressures via institutional mechanisms. Though crucial, this also under-specifies other important sources of interest group power in different political arenas, such as their popularity among the public or their capacity to provide expertise. Second, the proposed theory disaggregates the "executive" into politicians and bureaucrats. Although Immergut (1992, p. 62) dismisses the relevance of bureaucrats for the case of health policy, bureaucratic preferences and power here constitute a crucial explanatory variable. Further, this disaggregation into two separate actors introduces a variable of actor power called "political-bureaucratic preference homogeneity", which describes the extent to which the executive internally shares similar policy preferences. This further specifies the power resources of the executive to obtain its policy goals. With the increase in actors in the model, it is conceptually useful to specify who the actors at each veto point are and also to construct a sequence of agenda-setting power. Lastly, the framework adds another institutional setting to the three domestic settings of direct democracy, direct parliamentary rule and semi-presidentialism, namely international standard-setting. This highly relevant arena brings with it its own set of power dynamics.

This section has discussed the institutional framework of actor power, including the de facto power sources of actors and other variables in deliberately abstract terms. The specific nature of, for instance, banks' structural, instrumental, ideational business power and popularity will be discussed in more detail in the empirical case chapters. The next section moves on to the sources of actors' actual regulatory preferences.

3.2 Crisis experiences and actors' regulatory preferences under high salience

The institutional framework does not in itself make any predictions about actors' actual *preferences* for regulatory policy design, merely which actors can translate these preferences into policy outcomes and how they can do so. This section thus discusses more specifically the determinants of actors' policy priorities following the GFC. For the purposes of this framework, the main relevant groups of actors are again simplified into the executive (politicians from governing parties and bureaucrats), parliament, the electorate and (large international) banks. While actors may have some fundamental preferences with regard to financial regulation, in such a complex policy area, external factors condition actors' more precise policy priorities. More specifically, actors' policy priorities are strongly influenced by their experience with bank bailouts, the resulting political salience of the TBTF problem, the policy lessons and problem diagnosis and the degree of policies' international spillovers.

The post-crisis agenda of addressing TBTF is shaped heavily by the extent to which their individual experience with bank bailouts upset actors' beliefs in the pre-crisis banking system. The act of bailing out big banks is the publicly most visible manifestation of the TBTF problem and leaves a lasting impression on all actors: voters and taxpayers, the politicians who are compelled to commit this politically unpopular measure, bureaucrats tasked with designing and implementing the bailout programmes, and the banking industry, whose business models are revealed as flawed.

Another aspect of the crisis experience, during and in the immediate aftermath of the GFC, pertains to scandals that can have a similar effect on actors' perception of TBTF. Large banks' scandal-prone behaviour might similarly affect how actors view their ability to flaunt the rules to the detriment of taxpayers, bank customers or the general public (for example, Deutsche Bank in Germany or UBS in Switzerland).

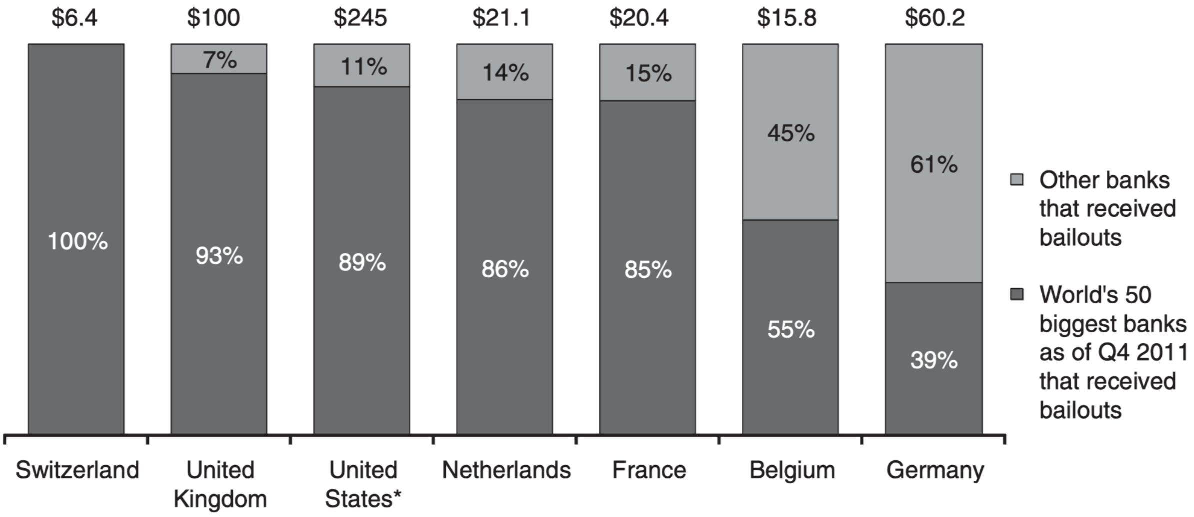


Figure 3.2: Total government capital injections to financial institutions, 2008-2009 (US$ bn) (from Barth et al., 2012, p. 279)

Figure 3.2 demonstrates the difference in the size of GFC bailouts that went to the world's 50 biggest banks by assets. Switzerland spent only slightly more on crisis bailouts than France as a share of the countries' respective gross domestic product (GDP), but the entirety of its bailout capital injections went to UBS, its largest bank. In France, although a large portion of its bailouts were injected into its largest banks, a lot of capital also went to smaller banks such as Credit Mutuel and Groupe Caisse d'Epargne. Importantly, this was done as part of a bank support plan partially carried out by the industry to support ailing members through a national scheme. In order to "avoid stigmatizing any one particular bank, all six [banks] agreed to be recapitalized simultaneously through the Société de prise de participation de l'Etat" (Woll, 2014b, p. 434). Even though this avoidance of stigmatisation was aimed at the financial markets, it also worked to avoid a bailout stigma in the eyes of policymakers. In Germany, the minority of bailout money went to one of its largest banks, namely Commerzbank, and instead went to medium-sized banks. Most notably, Deutsche Bank, by far the country's largest financial institution, did not require government support. Germany is unique in this respect among the cases. For size comparison, capital injections to financial institutions classified as part of the world's 50 biggest banks by assets as a share of 2008 GDP were 1.1% in Switzerland and 0.6% in both France and Germany.

The theory proposes that the nature of the crisis bailout programmes, whether they were aimed mostly at the largest banks and whether they stigmatised specific banks, shape actors' policy priorities as follows.

3.2.1 The executive: Government politicians and bureaucrats

The broad basis for the regulatory preferences for both parts of the executive, government politicians and bureaucrats, is similar. In the area of banking regulation, the executive is most concerned with policies' consequences for economic performance and public finances. Government politicians have an incentive to maximise their chances of re-election, and this is best achieved by ensuring the continued availability of credit to the real economy. At the same time, they are also judged on their ability to control public finances and the use of taxpayer money. Bureaucrats (including in finance ministries, regulatory agencies and central banks) share this goal, albeit due to their professional mandate as opposed to electoral considerations. This leads to two main priorities in their interpretations of the policy imperative following banking crises and different experiences with the TBTF problem. Where large banks are crucial for domestic lending, the executive has less of an incentive to put forward regulation that would constrain banks' ability to fulfil this function. This also means that if large banks are not the predominant provider of credit, TBTF banks can be targeted more easily without fear of restricting credit.[30] At the same time, the executive's consideration needs to be balanced against the prudent management of public finances. Where crisis bailouts were costly to taxpayers, the incentive is greater to address the problem through TBTF regulation and try to prevent the future need for bailouts. More concretely, attention to credit provision alone would in theory lead to infinite willingness to create moral hazard through a "TBTF subsidy", which is counteracted by the policy incentive to protect public finances. The above explains why structural power is the most relevant source of banks' influence.

[30] That is, the incentives of government politicians align with the predictions made by the Varieties of Financial Capitalism (VoFC) literature. However, it adds some nuance to VoFC predictions by focusing on the distinction between the role of large and small banks. All cases studied in the case chapters are bank-based financial systems (see Section 3.3).

There are two distinguishing features between the two components of the executive, which explain why government politicians and bureaucrats do not always share the same regulatory preferences, i.e. may not necessarily demonstrate "political-bureaucratic preference homogeneity". First, government politicians' crisis learnings and preferences are more explicitly informed by their political ideology and whether they form a left- or right-leaning government.[31] However, when in government, the determinants of government politicians' policy priorities outlined above tend to dominate over ideological considerations. Second, in contrast to bureaucrats, government politicians also need to be mindful of the public's perception of the policy problems. For instance, even though the French rescue programme was actually beneficial for the state's finances, government politicians take into account that the bailouts were publicly seen as a large expense for taxpayers.

Preferences regarding domestic and international regulation

The executive also needs to decide whether they prefer regulation to be advanced through domestic legislation or international standard-setting. This preference is driven by the extent to which an issue area is characterised by international spillovers and externalities, i.e. whether the effectiveness of a policy solution depends on its (similar) adoption elsewhere. For areas where these spillovers are large, bureaucrats and government politicians naturally prefer international coordination. Where these spillovers are small, due to the slowness of the international process and its drawbacks in needing to agree a one-size-fits-all solution for wildly different banking sectors, they prefer to enact faster domestic legislation that can be tailored to the domestic banking sector.

The main determinant of the degree of international spillover and bureaucratic preferences for international coordination are home-host dynamics and international exposure. Table 3.1 summarises the predicted preferences of bureaucrats in banking sectors that score high and low on these variables.

The first variable is foreign bank presence in the domestic banking sector. Simply put, if a jurisdiction is a significant host to international banks, then it is in that jurisdiction's interest to mitigate financial stability impacts from foreign firms through harmonisation of strong international regulation. In contrast, if the market share of foreign-owned banks is low, then this incentive is diminished. The second variable is the internationalisation of domestic banks. If

[31] For instance, President Hollande's socialist government's political programme in France was based on a programme that was more critical of banks than the conservative-liberal coalition in Germany.

internationalisation is high, the financial stability of domestic banks is more dependent on foreign markets and there is greater incentive to reduce the dependence of domestic financial stability on international markets. Conversely, if banks are primarily active in the domestic market, there is less incentive to do so and to risk restricting domestic credit provision.

		Foreign bank presence in domestic banking sector	
		Low	High
Internationalisation of domestic banks	Low/medium	Domestic action	International coordination
	High	Reduce exposure to international markets	International coordination and reduce exposure to international markets

Table 3.1: Executive's preferences by internationalisation and foreign bank presence in domestic banking sectors

Within the international standard-setting process, similar structural factors determine the policy preferences of national executives. The main avenue to influence national executives is to convince them that far-reaching international standards would hurt their 'competitiveness'. In the international arena, bureaucrats' (who are not necessarily the same as in domestic settings) interest is in finding policy solutions that are acceptable across members and build communities that support them.

3.2.2 Parliament

MPs are a heterogeneous group that consists of MPs from government and opposition parties. Although the preferences of the former are often aligned with government politicians to advance their governments' agenda, this is not necessarily the case. Since MPs have an interest in maximising their personal chances of their re-election, they may take positions that are not driven by the functional or structural impacts (as is the case of the executive), but instead by their narrow appeal to voters. For instance, when banks are unpopular, left-wing MPs in particular take more radical stances regarding banking regulation, even when their own party is in government. Moreover, for this reason, MPs take a more holistic view of public opinion and may also respond to other factors, such as banks' non-crisis-related scandals.

This similarly applies to opposition MPs, who are more likely to oppose government policy. Their ability to influence government policy differs fundamentally from that of MPs belonging to the governing party: instead of lobbying party colleagues or advocating for their preferred positions in the relevant parliamentary committees, the opposition must advocate for its position more publicly. Their impact on government policy is more pronounced depending on the political salience of the issue area and the timing of elections. In the run-up to elections, governing parties are more likely to be responsive to opposition agenda-setting.

MPs are resource- and information-constrained compared to the executive. As a result, they are more likely to be subject to the instrumental power of banks. This instrumental power is exercised by financial support or by providing expert information on complex topics. Moreover, where banks are locally anchored in the constituencies of MPs, either through personal connections or through the provision of credit to the local economy, they can exercise a type of "hyper-local structural power".

3.2.3 The electorate

Depending on the nature of the bailout programmes and the more negatively they are covered in the press, the more politically salient TBTF is among the electorate. This is more concretely viewed as the degree of attention that the public pays to the issue of banking regulation. If bailouts did not feature as a traumatic episode during a country's crisis experience, issue attention is correspondingly lower. Another factor determining issue attention is the degree to which specific TBTF banks were stigmatised during the GFC and the bailout programmes. Similarly to parliament, the electorate can additionally respond to non-crisis-related news stories such as banks' scandals. Compared to the political actors described so far, the electorate has the least defined preferences regarding the desired shape of the policy outcomes.

Political salience and issue attention are unidimensional variables, explaining that the ability of banks to influence the electorate is limited. Since banks' popularity is a product of the crisis narrative in the media, there is little capacity for banks to influence negative public attention.

3.2.4 Large international banks

Banks are arguably the least homogeneous actor in this framework, and the focus of the theoretical framework is on the largest international banks that are the primary target of TBTF regulation. Banks can be separated into banks that were and were not bailed out by their governments. Banks are aware of the political salience of their status as TBTF entities following bailouts. Their instrumental power is diminished after receiving bailouts; merely opposing regulation flat out is often not a viable option. As a result, bailed-out banks are more likely to cooperate with the regulatory process in order to avoid more punishing regulation.

Banks prefer regulation through international standard-setting as it ensures that they are not put at a competitive disadvantage vis-à-vis foreign competition. Moreover, it is easier to exert influence on negotiations in these technocratic fora, because banks have a crucial resource in the form of their expertise and knowledge about their own businesses, which can be especially useful when other tools of corporate influence are relatively diminished after crises. However, when political salience is high and business power is diminished, banks are less able to push for the regulatory process to be shifted to international fora.

Large international banks generally oppose regulatory overhaul of their business models, but can recognise that accommodation of political and bureaucratic demands can avoid even more radical regulatory change. Smaller banks are, naturally, not the targets of TBTF reforms. However, they prefer not to be included in regulatory measures that challenge their business models.

3.3 Case selection

The empirical cases are selected to represent four different institutional settings in which political conflict takes place. Given the theoretical framework's hypotheses about how institutionally-determined veto points empower different political actors, the goal is to select cases that cover the greatest variety of institutional settings possible. The cases analysed are three domestic settings and one international setting: direct democracy (Switzerland), direct parliamentary rule (Germany), semi-presidentialism (France) and international standard-setting (FSB). Since the theoretical framework is formulated to allow the broadest explanatory power possible, it is applicable not only to domestic contexts but to all arenas in which regulatory policy is designed, including within an international standard-setting body. This should not distract from the general comparability of these settings: to evidence the importance of how institutional rules determine the last veto point, the thesis also benefits from including an institutional setting in which no definitive last veto point is present and how this influences the policymaking process. Here, the FSB is the most important case as the international body tasked with creating standards for TBTF banking regulation. The cases are presented in descending order according to the number of veto points: beginning with Switzerland, where the executive, parliament and electorate are veto points, and concluding with the FSB, where no clear veto point exists.

The representative selection of domestic cases for each institutional setting is sense-checked against the VAPS veto points dataset by Immergut et al. (2021), which codes veto points for 49 countries. For the relevant time period in the early 2010s, their coding under the relevant conditions agrees with the identification of last veto points in this thesis.[32] In Switzerland, the two houses of parliament are veto points depending on party discipline. The electorate, however, can reject a bill passed by parliament and is thus a veto point. This makes it a prime example of a direct democracy. In Germany, the constitution does not foresee referenda at the federal level. The situation in parliament is more complicated: the Bundesrat (upper house) is a veto point if the government coalition does not enjoy a majority among the Länder-governments. This was not the case for the conservative-liberal coalition under Angela Merkel before the federal election of 2013. In the Bundestag (lower house), the need to coordinate across three parties, in particular ahead of the federal election, and parliament's stronger role in designing legislation make it a veto point. In France, the Senate (upper house) is not a veto point since it cannot reject a bill and the National Assembly (lower house) is not a veto point if the government has an absolute parliamentary majority (no 'co-habitation'). Similarly, the electorate through referenda is only a veto point if there is no presidential majority, given that referenda require approval by the President and both houses of parliament. With a strong government majority under President Hollande, parliament and the electorate did not constitute effective veto points and made France an example of semi-presidentialism (without 'co-habitation').

For the domestic settings, the selected cases are the most important financial centres with bank-based financial systems: France and Germany are the two largest economies in Europe and host the two largest banking centres in the euro area, Paris hosting four Global Systemically Important Banks (G-SIBs) and Frankfurt being home to one. This means that both countries have a disproportionate impact on policymaking in the European Union (EU) and beyond. Switzerland, sitting outside the EU, is a smaller economy but is heavily specialised in financial services and banking (Mach & Trampusch, 2011), hosting two financial centres (Zurich and Geneva) that were home to two G-SIBs during the post-crisis period under investigation.[33] With the domestic cases, the research design holds constant the broad institutional setup of the cases' economies and financial systems. None of the three domestic cases is classified as a liberal market economy

[32] Note, again, that Immergut et al. (2021) would not generally code the executive as an effective veto point, but given the executive can decide whether to initiate legislation, the executive is always considered a veto point in this theoretical framework.

[33] UBS's 2023 takeover of Credit Suisse has reduced the number of Swiss G-SIBs to one. It may have conversely exacerbated the TBTF problem in Switzerland, creating one financial institution twice the size of Swiss GDP (see The Economist, 2023).

(Culpepper, 2008; Hall & Soskice, 2001) and their financial systems are broadly classified as bank-based financial systems (Hardie & Howarth, 2013b; Howarth, 2013; Mach & Trampusch, 2011). This allows the design to control for and rule out one of the most prominent explanatory variables generated by the VoFC literature (Hardie & Macartney, 2016).

Selecting cases from bank-based financial systems also ensures that the design controls for explanations that are based on the different impact of policies on banks' businesses. Figure 3.3 shows European, United Kingdom (UK) and United States (US) G-SIBs' share of non-interest income as a (crude) measure of their reliance on the trading and investment business. G-SIBs in France, Switzerland and Germany as well as the UK are all universal banks with diversity in their reliance on retail/lending and investment/trading activity, but none are primarily investment or custody banks such as the US banks on the right end of the chart. With respect to the classification based on the VoFC literature, the study uses the method of most-similar design, with variation on the dependent variable across the cases (Seawright & Gerring, 2008).

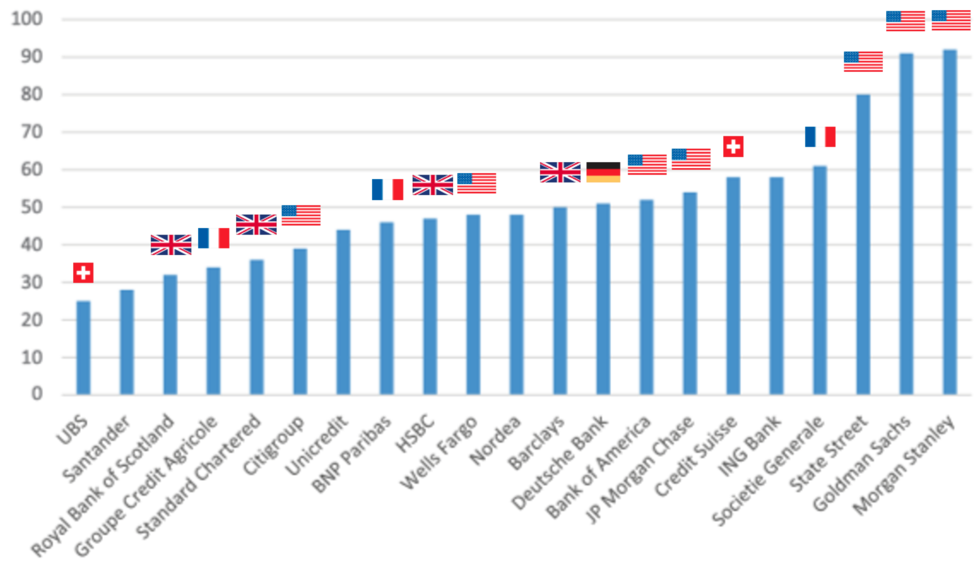


Figure 3.3: 2015 share of income derived from non-interest sources of European, UK and US G-SIBs (from Bell & Hindmoor, 2018, p. 13)

The domestic case selection eliminates explanations based on governing coalition partisanship or party systems (Ganderson, 2020b). Structural reform and resolution laws were passed by parties of different ideologies (see Figure 3.4)[34]. All cases exhibit different party systems.

[34] Expert reports in green (FR/DE: Liikanen report; CH: Siegenthaler report, UK: Vickers report). National structural reform and resolution laws in red (FR: "Law No 2013-672", DE: "Gesetz zur Abschirmung von Risiken und zur Planung der Sanierung und Abwicklung von Kreditinstituten und Finanzgruppen"; CH: "TBTF legislation"; UK: "Banking Reform Act 2013"). National resolution laws in blue (FR: "Law No 2013-672", "Ordinance No 2015-1024" ; DE: "Restrukturierungsgesetz", "Sanierungs- und Abwicklungsgesetz"; UK: "Banking Act 2009", Amendment of "Banking Act 2009"), EU Bank Recovery and Resolution Directive (BRRD) and Single Resolution Mechanism (SRM) Regulation as blue dashed line.

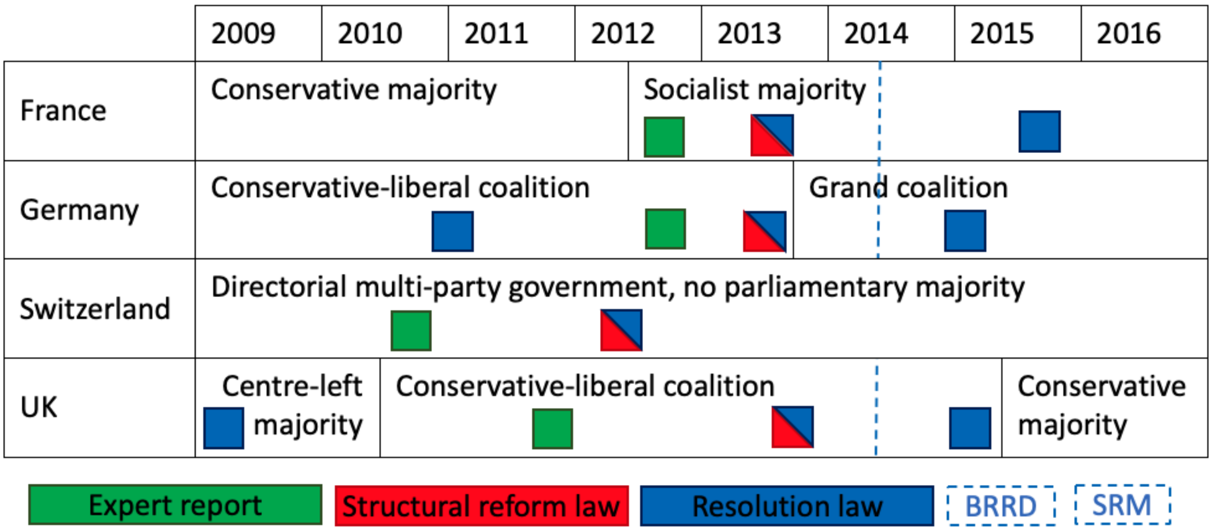


Figure 3.4: Timeline of expert reports, legislation and parliamentary majorities

France and Germany have introduced similar versions of structural reform yet differ in important respects such as banking sector internationalisation and fragmentation (Hardie & Howarth, 2009). Switzerland has the most internationally-orientated and concentrated banking sector, yet implemented more stringent structural reform and resolution rules for its two G-SIBs. This controls for explanations that rely on bank internationalisation or actor plurality as a measure of structural power.

The policy processes in the EU, UK or US are not examined on their own, but the empirical case chapters refer to the respective policy developments where relevant: the EU due to its importance to the domestic debates in France and Germany, in particular the Liikanen bank structural reform proposals; the UK due to the prominence of its banking sector and interventionist structural reform outcome; the US as home to some of the world's biggest banks and a policy pioneer in adopting the Volcker Rule and the Single Point of Entry (SPE) resolution strategy. In particular, the policy process in the FSB is heavily influenced by Anglo-American ideas and developments.

3.3.1 Outlook on empirical cases

The four empirical case chapters demonstrate the theoretical mechanisms at work, one for each setting of direct democracy (Switzerland), direct parliamentary rule (Germany), semi-presidentialism (France) and international standard-setting (FSB).

Direct democracy in Switzerland presents one extreme of the outcomes, where the bailout experience not only made TBTF banks more politically salient but crucially also created a shared crisis lesson between politicians and the bureaucracy. Coupled with a strong role for a prominent expert (stakeholder) commission and Switzerland's referendum instrument, this resulted in a strong reform.

Direct parliamentary rule in Germany sits in between the cases. With parliament as the last veto point, regulatory reform had to be attentive to the preferences of MPs. On the one hand, this meant that an executive—government politicians as well as bureaucrats—that preferred resolution reforms passed a domestic structural reform measure to accommodate (opposition) MPs. On the other hand, due to the strong instrumental power that small (savings) banks exercised on many MPs and the timing of bank scandals, this was focused on only the largest bank. Hence, despite the German crisis being one of medium-sized banks, limited structural reform focused exclusively on the largest bank.

Semi-presidentialism in France demonstrates another extreme of the outcomes. Here, the crisis bailout experience turned banking regulation into a politically salient topic but did not create a shared diagnosis among parts of the executive that TBTF presented a problem to be fundamentally reformed. This lack of preference homogeneity among bureaucrats and the newly elected government, coupled with a weak role for parliament and electoral preferences, led to weak reform.

The FSB illustrates the dynamics in an international standard-setting context, where yet another set of institutional rules prevails. The chapter shows how, in the absence of a decisive veto point, the prevailing source of influence for banks is its provision of expertise. The bureaucrats quickly dismissed structural reform as a solution, and instead banks together with a group of lawyers, regulators and central bank officials created a group that advocated for 'bail-in' debt as a market-friendly policy solution that sought to preserve the business models of global banks. An epistemic community emerged that resulted in "status quo innovation" in the form of global resolution standards.

3.3.2 Alternative explanations

The theory of *institutional veto points and bank business power* makes predictions for the relevant veto points and power sources for each institutional setting. In order to demonstrate that alternative explanations cannot account for the observed regulatory policy outcomes, this section discusses a number of alternative explanations for the domestic institutional settings.

Starting with the role of public issue salience and the unpopularity of banks, the GFC and subsequent bailouts made (large, TBTF) banks unpopular across the empirical cases. This could lead to the expectation that public demands for regulation would lead to strong regulation in all cases to fulfil this demand.

In fact, candidates in the French presidential and German parliamentary elections in 2012 and 2013, respectively, both aimed to capitalise on the public backlash against banks in their electoral campaigns and policy proposals. However, only in the direct democratic setting in Switzerland is the electorate the last veto point through the referendum threat, thereby leading to policy implementation of this public sentiment. Had the electorate or public policy preferences been the deciding explanatory variable in all cases, a similarly strong TBTF reform to that in Switzerland would be expected in France and Germany.

If parliament had been the last veto point in all cases, then the nature of electoral majorities, parliamentary preferences and the instrumental power resources of banks would explain the outcomes across all cases. In Germany's setting of direct parliamentary rule this is the case. However, in France, the Parti socialiste (PS) and its left-wing allies commanded a comfortable majority in the National Assembly. Given their stated preferences towards the financial sector and strong majority (substantiated in Section 6.2.5), banks would have found it difficult to successfully lobby parliament after the bailouts and the expected result would have been a stronger regulatory outcome. In Switzerland, by contrast, majorities are issue dependent given the fractured nature of the country's party landscape. There was a "cross-ideological coalition" across the extreme ends of the political spectrum and majorities to overhaul the country's well-connected banking sector would have been difficult to assemble in the pro-business, bourgeois centre.

Finally, the preferences of the executive as the last veto point cannot explain the observed outcomes across the cases except for France. In Switzerland, the structural power of banks is by far the largest on a number of metrics and the executive alone would have hardly decided to weaken its important financial sector given the international banks' exit options to the degree that it did without the threat of a referendum overturning their policy decision. The preference of the German executive, with strong political-bureaucratic preference homogeneity, was to oppose structural reform in its entirety, thereby being unable to explain the resulting "Lex Deutsche Bank" targeting the country's largest and structurally most powerful bank.

3.4 Methodology: Process tracing

The GFC had a significant impact on economies around Europe and the world. The approach chosen here shares Peter Gourevitch's conviction that "[e]conomic crises, policy debate, and political experimentation are surely somehow connected [...] By examining what countries do, by looking at how their responses vary, we can learn something about the countries themselves and about the factors that lead them to choose particular policies" (1986, p. 19). Financial crises allow researchers "to test the empirical implications of rival theories, which are often rather close in practice" (Culpepper & Reinke, 2014, pp. 432–433).

The methodology used in the thesis is a qualitative comparative methodology, in which the hypotheses arising from the theoretical framework are tested in two ways: cross-cases and within-cases, with a greater emphasis on process tracing in the within-case analysis. The decision for this methodology is driven by the nature of the research question, which is primarily a "causes-of-effects" rather than an "effects-of-causes" question and therefore more suited to be answered with a research approach that allows for a multivariate explanation (Goertz & Mahoney, 2012, ch. 3).

As described in Section 3.3, the case selection controls for some competing explanations. For the cross-case analysis, the inferential logic of comparison and elimination would posit that the presence of independent variables constitutes a necessary, but not sufficient, condition for the hypothesised explanations.

The central method of inference is within-case analysis, specifically using systematic process analysis, allowing researchers to analyse the process that led to specific policy outcomes and the existence of complex causal chains. As pointed out by Hall (2003), the methodology needs to align with the theory's ontological assumptions. To deal with theories which assume a world with more complex causal theories, such as the role of both institutions as well as individuals' preferences, "systematic process analysis examines the processes unfolding in the cases at hand as well as the outcomes in those cases. The causal theories to be tested are interrogated for the predictions they contain about how events will unfold" (2003, pp. 393–394). Systematic process analysis is well-suited to trace decisions and the emergence of ideas, such as epistemic communities.[35]

[35] "The research techniques for demonstrating the impact of epistemic communities on the policymaking process are straightforward but painstaking. With respect to a specific community, they involve identifying community membership, determining the community members' principled and causal beliefs, tracing their activities and demonstrating their influence on decision makers at various points in time, identifying alternative credible outcomes that were foreclosed as a result of their influence, and exploring alternative explanations for the actions of decision makers. The use of counterfactuals may be helpful in this regard" (Haas, 1992, p. 34; see also Cross, 2013, p. 148).

While the collection of data on the independent variables, such as actors' preferences, is the first step of the study, they are not the only data. The process that forms the causal chain arguably constitutes the main kind of data and is studied by examining actors' actions and statements, where "[t]he point is to see if the multiple actions and statements of the actors at each stage of the causal process are consistent with the image of the world implied by each theory" (Hall, 2003, p. 394).

The author conducted 43 in-depth interviews with key actors involved in the process, which are listed in Appendix A. The goal here was to collect "causal-process observations" (CPOs, see Collier et al., 2010). The testing strategy is mindful of the challenges of conceptualising and measuring policy preferences. The main challenge is identifying actors' preferences because "a group's actions often will not reveal its preferences but rather its strategic calculations" (Hacker & Pierson, 2002, p. 283) as well as the dangers of drawing post-hoc correlations between the enacted policies and preferences. For this reason, expectations about policy preferences do not rely merely on preferences articulated publicly. It is equally necessary to derive expectations independently by creating theoretically grounded assumptions about groups' preferences. For example, the financial sectors in the selected domestic cases are all bank-based, but each country's banking sector displays varying dominant business models and degrees of internationalisation or fragmentation, from which actors' regulatory preferences can be derived. Another reason to conduct interviews with participants in the policy process is that, given that these political events lie a number of years in the past, they can provide further tests of preferences since in retrospect participants do not have to disguise their policy preferences for "strategic calculations".

Chapter 4

Direct democracy in Switzerland: The referendum threat under high salience

Switzerland is well-suited for testing the theory of *institutional veto points and bank business power* in a setting of high salience, caused by a prominent bailout of the country's largest bank. Switzerland is expected to be the most democratically responsive case of post-crisis policymaking due to its tightly linked political feedback process through the popular referendum instrument, giving less power to business under conditions of high salience. This loss in power is particularly notable in light of existing theoretical conceptions of the Swiss political economy.

Swiss banking regulation after the crisis presents a crucial test case for theories of the country's model of liberal democratic corporatism. In this view, Switzerland's institutional arrangements allow it, as a small country, to adapt to economic and political change through continuous and voluntary coordination between the political and business elites to strike compromises (Katzenstein, 1984, 1985). In Switzerland, this type of corporatism is furthermore facilitated by two related, country-specific features: first, a pre-parliamentary process of negotiation between all relevant stakeholders in order to head off political conflict—since most laws are subject to an optional popular referendum. Second, the dominance of business-friendly, middle-class ("bourgeois") parties in Swiss politics.

At first glance, the case of the Swiss post-crisis too-big-to-fail (TBTF) reform package, which was implemented into law in 2011, aligns with this theoretical prediction: Switzerland suffered through the Global Financial Crisis (GFC) and was forced to bail out one of its two large global banks, UBS (the other major global bank at the time being Credit Suisse). After the crisis, the Swiss set up an expert group consisting of industry representatives and bureaucrats that hammered out a grand compromise: the regulatory reform package consisted of higher capital requirements, but did not intervene substantially in the organisational freedom of the big banks.

In typical Swiss fashion, the country's business and political elites came together to preserve its finance-heavy model of political economy in the face of crisis.

This chapter argues that Switzerland's formal, consensus-orientated constitutional procedures masked a considerable political conflict after the GFC between business on the one side and the political and bureaucratic elites on the other side. This conflict did not end up being resolved through a corporatist compromise. Far from it, the crisis and UBS bailout increased the political salience of the TBTF nature of global banks in the Swiss economy and radically diminished the hitherto unshakeable political support for the banks. Bureaucrats, who sensed insufficient political support for reforms at the international level, seized this political window of opportunity to propose far-reaching regulations on banks. As will be demonstrated, this was done against the interests of banks. Capital requirements deliberately exceeded international standards (the so-called "Swiss Finish") and explicitly targeted the size of banks. One widely overlooked aspect of the TBTF reforms is that they significantly strengthened the traditionally weak power of the Swiss Financial Market Supervisory Authority (FINMA) and delegated to it the power to mandate organisational measures, if dissatisfied with the protection of the Swiss banking business in insolvency. In fact, this quietly delegated enormous power to FINMA, enabling it to force the two large banks to effectively implement a type of structural reform, separating their Swiss and international business. In sum, the regulatory outcome demonstrated greater responsiveness to demands for financial regulation than in other cases.

Within the theoretical framework, Switzerland is representative of the institutional setting of direct democracy (see Figure 4.1). Direct democracy comes with its own set of constitutional rules, including the ability of the electorate to veto policy passed by the executive and parliament. Even though the electorate sits at the bottom of the order of agenda setting, actors setting the regulatory agenda anticipate the electorate's preferences. The electorate's power source is its issue attention. This chapter argues that the electorate's attention to banking regulation, i.e. the salience of the issue of TBTF banks, was very high following the UBS bailout. This means that political conflict occurred between an electorate that preferred more stringent regulation and TBTF banks, whose source of influence is their public popularity. As will be outlined, the popularity of Swiss banks is ordinarily high, but was severely diminished after the GFC (see Section 4.2.5).

The Swiss case also demonstrates the importance of political-bureaucratic preference homogeneity in pursuing meaningful reform to its banking sector. On the political side, the GFC

Institutional setting	Last veto point	Political actors (by agenda-setting power)	Actors' de facto power source	Bank source of influence	Case	Regulatory outcome: Policy mix
Direct democracy		- Government politicians - Bureaucrats	Political-bureaucratic preference homogeneity	Structural power		*"TBTF reform"*: Strong resolution and structural reform through enforcement (2011)
		- Parliament	Electoral majorities	Instrumental power		
	Electorate →	- Electorate	Issue attention (salience)	← Bank popularity		
Direct parliamentary rule		- Government politicians - Bureaucrats	Political-bureaucratic preference homogeneity	Structural power		*"Lex Deutsche Bank"*: Selective structural reform and weak resolution (2013)
	Parliament →	- Parliament	Electoral majorities	← Instrumental power		
		- Electorate	Issue attention (salience)	Bank popularity		
Semi-presidentialism	Executive →	- Government politicians - Bureaucrats	Political-bureaucratic preference homogeneity	← Structural power		*"Status quo symbolism"*: Weak resolution and structural reform (2013)
		- Parliament	Electoral majorities	Instrumental power		
		- Electorate	Issue attention (salience)	Bank popularity		
International standard-setting	Unclear	- Bureaucrats	International coordination and community-building	Expertise and community-building	FSB	*"Status quo innovation"*: Resolution standards and bail-in (2011/2015)
		- National executives	Political-bureaucratic preference homogeneity	Financial sector 'competitiveness'		

Figure 4.1: Switzerland's position within the theoretical framework

and bailout of UBS created an unlikely cross-party alliance in favour of reforming and at times even splitting up the large banks, giving a strong mandate to the expert commission and the bureaucrats. On the bureaucratic side, regulators, central bankers and finance ministry officials perceived this new political mandate as a "window of opportunity", not just in bureaucrats' strong role in the expert commission, but arguably even more so in their strong application of their new resolution powers to restructure UBS and Credit Suisse. This shared preference between politicians and bureaucrats in Switzerland stems from a shared crisis interpretation and lessons. First, the international exposure and size of the country's banks presented a threat to the Swiss economy. Second, future bailouts need to be avoided, and banks' size and the spillovers from international exposure ought to be reduced. This sharply distinguishes Switzerland from France (see Chapter 6), where bureaucrats did not share politicians' crisis lessons and interpretations, seeing neither the banks' business models nor the bailouts as problematic, and hence reform efforts were stymied.

This account of post-crisis regulatory reform constitutes a challenge to institutional theories of the Swiss political economy, in which business and politics find compromises as a matter of course. Rather, it argues that much of Katzenstein's shrewd analysis of Swiss policymaking is restricted to settings of "quiet politics" (Culpepper, 2011), in which the public does not much care about an issue, and policy is made in informal institutions. Switzerland's infamous pre-parliamentary bargains, struck between business and politics, are an epitomic example of such an informal institution. But increased political salience of a policy issue can disrupt this political equilibrium. This post-crisis episode of regulatory policymaking under high salience demonstrates that business power is reliant on public disinterest in regular times rather than a deterministic institutional arrangement. Crises weaken actors' power resources which underpin this corporatist model.

By using interviews and process-tracing, it will become apparent that while at first glance the Swiss post-crisis TBTF reform looks like a traditional Katzensteinian policymaking process, the formal procedures mask a significant departure from democratic corporatism. Two concurrent developments created a window of opportunity for bureaucrats to push for a strong domestic solution: first, the strong political salience of an issue, i.e. the UBS bailout exacerbated by a subsequent tax dispute between the United States (US) government and UBS. Second, a political entrepreneur, the Swiss People's Party (SVP), who was willing to break with convention and call for breaking up the banks. Regulators preferred a unilateral solution both because of the unique characteristics of the Swiss banking sector as well as their assessment of the slow speed and weak determination of foreign regulators. Finally, banks' power varies substantially with the public's attitudes towards the financial sector and banks felt compelled to go along with the bureaucrat's policy solutions.

This chapter provides a brief introduction to the relevant political economy literature on Switzerland, in particular explanations for the traditionally close coordination between business and politics. The empirics in Section 4.2 then highlight the two most pertinent components of Switzerland's 2011 TBTF reforms: the transfer of power to FINMA to ensure the continuation of the Swiss business in bankruptcy, and its focus on Contingent Convertible Bonds (CoCos) as a way to ensure banks' loss-absorbing capacity. It then outlines the interests and power resources of actors in politics, bureaucrats and business to explain this outcome. In particular, the threat of a popular referendum in Switzerland, together with changes in public opinion, explain the shift in power away from banks.

4.1 The Swiss political economy: Corporatism, quiet politics and dependence

The field of comparative politics has attempted to explain capitalist variation through various lenses: those studying business interests and their structural foundations focus on the institutions that underpin a country's capitalist model. However, these explanations often suffer from a "neglect of the mechanisms by which business converts its interests into policies" (Culpepper, 2011, p. 186). This section briefly discusses the literature that seeks to explain the traditionally strong role of business in Swiss policymaking through the institutional lens of corporatism, instrumental business power through "quiet politics" and the implications for policy from Switzerland's structural dependence on its largest banks. A study of Swiss post-crisis banking regulation can contribute to our theoretical understanding of the Swiss political economy by illuminating how existing institutional arrangements can break down under high salience.

Switzerland is conventionally considered as a special case in the Comparative Political Economy literature (Mach & Trampusch, 2011), since the country does not neatly fit most existing typologies, such as Varieties of Capitalism (VoC). Although definitely closer to a Coordinated Market Economy (CME), Switzerland does not, for instance, exhibit particularly strong institutional complementarities in the areas of labour relations and corporate governance (Hall & Gingerich, 2009, p. 459).

The most seminal discussion of Switzerland's political economy is arguably Katzenstein's (1984, 1985) analysis of economic openness and democratic corporatism in small states. He suggests that small, highly developed states are able to adjust to external economic changes more flexibly by cohesion and cooperation between the political and business elites. Switzerland falls on the liberal end of this model of democratic corporatism, which is characterised by "an ideology of social partnership expressed at the national level; a relatively centralized and concentrated system of interest groups; and voluntary and informal coordination of conflicting objectives through continuous political bargaining between interest groups, state bureaucracies, and political parties" (Katzenstein, 1984, p. 27). One important aspect of corporatism in small states in world markets, and indeed the reason for their continued persistence, is the international context within which they operate. Open economies, such as Switzerland's, are highly vulnerable to pressures of international competition and its domestic institutional arrangements are a way for Switzerland to manage these pressures.

There is an irony at the heart of Switzerland's political economy: a country whose political system is famous for its strong elements of direct democracy is also one in which business exerts substantial instrumental power. But it is exactly the need to shield corporatist agreements from the electoral arena that incentivises business and political elites to coordinate through informal institutions in a form of "quiet politics" (Culpepper, 2011). However, this model is slowly changing. Mach et al. (2021) argue that changes in business elites' nationality and education have fragmented their cohesion. A shift from informal to formal institutions and more high-salience issues that created "noisy politics" have further weakened the instrumental power of business. For instance, the 2013 Swiss Executive Pay Initiative has demonstrated that high salience issues can weaken the incentive of right-wing parties to support business elites. Mach et al. (2021) view the UBS bailout and the TBTF phenomenon as evidence that, while instrumental power may have declined, big business and banks still have plenty of structural power.

Mach and Trampusch (2011) argue that three conditions make Switzerland a hybrid case within VoC: the constrained policy capacity of the central state, a strong tradition of self-regulation by economic associations, and the dominance of right-wing parties and business associations. The case of the TBTF regulation contradicts this characterisation of the Swiss political economy: it exhibits strong capacity of the central state—overcoming the common strategy of "allowing the relevant players to co-draft legislation [to] diffuse the potential threat of referenda" (2011, p. 15). The state overruled a general preference for self-regulation by prescribing strong regulation, even if there are hints that economic liberalism prevailed in the design of emergency planning. Finally, right-wing parties did not ally with the banks, but were driving the regulatory agenda.

Similarly, Kriesi and Trechsel (2008, p. 115) have described the political decision-making in Switzerland as reactive, slow and incremental. Although the TBTF reform episode was certainly reactive, it can hardly be described as slow and incremental. Most of this chapter focuses on the pre-parliamentary phase, which is arguably the most important phase of policymaking in Switzerland. It is, however, traditionally also "the main factor contributing to the long duration of the Swiss decision-making process" (2008, p. 117). Expert groups, including experts with specialised knowledge and representatives of special interests, are a very common part of the pre-parliamentary policy phase (2008, pp. 117–118). Finally, "[c]ompared to the pre-parliamentary phase, the legislative activity in Parliament has traditionally been considered to be less important in Switzerland" (2008, p. 120).

In the field of finance, Switzerland is subject to external pressures in two main areas: international pressure to give up its rules on bank secrecy that facilitate tax evasion by foreign nationals as well as the exposure of its largest banks to the volatility in international markets. Other countries, most notably the US, have an interest in pressuring Swiss banks to reveal client data to US authorities in order to pursue tax fugitives. Swiss banks are structurally dependent on access to the US dollar-based financial system, which provides US law enforcement with power over these banks. As the case of the UBS tax treaty (described in Section 4.2) demonstrates, Switzerland's economy is structurally dependent on its largest banks' survival and—since a US criminal indictment would almost certainly have led to its bankruptcy—in turn on the US (Emmenegger, 2015, 2017). Eggenberger and Emmenegger note that the closing of ranks of

Switzerland's business and political elites under pressure from the UBS tax deal, as predicted by Katzenstein, failed to occur. This is partly because parties are increasingly unwilling to underwrite this political compromise, as "the Swiss People's Party (SVP), currently Switzerland's largest political party, often rejects compromise politics in favour of a principled defence of values such as national self-determination and neutrality" (Eggenberger & Emmenegger, 2015, p. 496; on the role of the SVP, see also Traber, 2015). Similarly, in the context of Swiss right-wing populism, Kinderman (2023, p. 362) emphasises the unique role of the SVP—often (successfully) pursuing policies contrary to the interests of Swiss business (associations) in referenda—in defending the country's finance sector and bank secrecy in pursuit of the national interest.

In summary, the political economy literature thus needs to demonstrate better how changes in public opinion can weaken business power in institutional settings where business traditionally has the ear of the political class. This chapter attempts to do so with implications beyond Switzerland, as its business-government relations traditionally also describe the institutional arrangements of other countries such as the Netherlands, Sweden, Belgium and Austria (Katzenstein, 1985).

4.2 Window of opportunity for a domestic solution

The following sections outline how Switzerland's experience with the UBS bailout and corresponding political salience has led to a departure from its "Katzensteinian" mode of coordination. The country's experience demonstrated to the political class the structural dependence on its international banks and their over-reliance on the international market. To parts of the political right, it demonstrated the need to sever the Swiss economy's exposure to foreign markets. For Swiss bureaucrats, political and public support constituted a window of opportunity to implement a domestic solution.

Switzerland's traumatic crisis experience started in October 2008, when the Swiss government and the Swiss National Bank (SNB) were forced to bail out UBS. Following the bankruptcy of Lehman Brothers in September, UBS asked for state support in October 2008. In response, the Swiss state took a stake in UBS by subscribing to mandatory convertible notes worth 6bn Swiss Francs. Furthermore, the SNB funded a bridge vehicle to take over UBS's illiquid assets worth up to US$60bn, issuing an effective liquidity guarantee of up to US$54bn (Swiss Federal Department of Finance, 2008; Control Committee of the National Council and Council of States, 2010, pp. 3177–3178).

Credit Suisse was also forced to issue new capital but, unlike UBS, decided to forego state support and raise capital from private investors, such as the Qatar Investment Authority (Credit Suisse, 2008).

UBS's troubles did not stop there. In February 2009, the US brought legal proceedings against UBS to demand disclosure of 52,000 UBS client dossiers. In August 2009, FINMA agreed to an administrative assistance request from the US Internal Revenue Service to receive 4450 UBS client dossiers, which the Swiss Federal Administrative Court rejected, arguing that it went beyond the two countries' double taxation agreement (State Secretariat for International Financial Matters, 2016). To rectify this, the Federal Council[36] was forced to turn the agreement into an international treaty, which required the approval of parliament.

4.2.1 Switzerland's TBTF reforms: The unilateral solution

This section introduces the regulatory policy mix in Switzerland's TBTF reform as the dependent variable: First, the Swiss regulatory reforms gave FINMA powers to ensure that Switzerland's systemically important banks have emergency plans to continue their systemically important domestic businesses in the event of bankruptcy. This entailed both a drastic delegation of power to a previously weak regulator and an implementation of territorial structural reform that has gone under the radar in existing academic discussions of the Swiss reforms. Second, Switzerland relied on a specific domestic solution to recapitalise insolvent banks in the form of contractual convertible debt instruments instead of relying on international coordination of bail-in at the Financial Stability Board (FSB) level.

Emergency planning: The domestic approach to systemic relevance by stealth

In September 2011, the Swiss Federal Assembly passed a wide-ranging set of changes to the Swiss Federal Act on Banks and Savings Banks ("Banking Act") that contained changes to banks' requirement for capital, liquidity and risk diversification. These were passed under the umbrella of "TBTF measures".

One pillar of these TBTF measures is the organisational measures. Under this pillar, systemically important banks need to be able to guarantee the continuation of systemically important functions in insolvency. In the spirit of the Swiss principle of economic freedom, "the onus is primarily on a bank to organise itself in such a way that the continuation of systemically important

[36] The Federal Council is a seven-member executive council that constitutes the Swiss federal government.

functions is assured in the event of insolvency. FINMA can impose organisational measures only if a bank is unable to prove that it is appropriately organised and that the maintenance of systemically important functions is guaranteed" (Expertenkommission zur Limitierung von volkswirtschaftlichen Risiken durch Grossunternehmen, 2010, p. 38).

Since FINMA is delegated the responsibility to evaluate the credibility of banks' emergency plans, it is given substantial power to nudge banks to implement a particular solution (Swiss Federal Council, 2014). In the beginning, banks were promoting the idea of a bridge bank into which the Swiss business would have been transferred in the event of bankruptcy but realised that this is too complex. This was confirmed in interviews by both the regulatory side[37] as well as business[38]. In the end, both UBS and Credit Suisse transferred their Swiss business into independent subsidiaries as part of their emergency plans to satisfy FINMA, effectively creating structural separation between the banks' Swiss and international business. FINMA would not have deemed the emergency plans credible if there had been no ex-ante separation[39]. The fact that the SNB defined the Swiss retail and lending business as systemically important functions is notable as a unilateral action by bureaucrats that prefers to reduce the exposure of the domestic banking sector to the international market.

Contingent Convertible Bonds: The unilateral bail-in solution

Switzerland's TBTF reforms also implemented a solution that prescribed that banks issue contractual debt instruments, called CoCos, so that banks have enough eligible debt that can be converted into equity in the event of bankruptcy. This decision was motivated by bureaucrats' preference for a quick domestic solution to TBTF as well as the preference of the banks, who favoured issuing CoCos over higher core capital requirements.

This type of contractual bail-in must be distinguished from statutory bail-in. Statutory bail-in allows the authorities to wipe out a company's equity and convert its debt to equity by power vested in law. This has a number of advantages: it does not require contractual triggers, and hence cannot lead to a run on certain debt instruments. The main disadvantage of statutory bail-in is that it requires other jurisdictions, in which the bank has issued debt, to recognise the home jurisdiction's rights to intervene in the property rights of debt holders. This is the reason why the harmonisation of countries' resolution and bankruptcy proceedings and mutual

[37] Interview, Senior FINMA Officials, 2 March 2021
[38] Interview, Thomas Barothy, Head Swiss Resolution Planning / Organizational Structure Alternatives at UBS, 12 February 2021
[39] Interview, Senior FINMA Officials, 2 March 2021

recognition of countries' statutory bail-in powers were a big item on the FSB's agenda (a policy process discussed in-depth in Chapter 7).

The earliest articulation of the idea for CoCos in the forms of "regulatory hybrid securities" comes from the "Squam Lake Working Group on Financial Regulation", a group of American academics. They proposed that a regulatory hybrid security as "a long-term debt instrument that converts to equity under specific conditions, is a better solution. Banks would issue these bonds before a crisis and, if triggered, the automatic conversion of debt into equity would transform an undercapitalized or insolvent bank into a well capitalized bank at no cost to taxpayers. The costs would be borne by those who should bear them—the banks' investors" (Squam Lake Working Group on Financial Regulation, 2009; see also Squam Lake Working Group on Financial Regulation, 2010). United Kingdom (UK) banks, namely Lloyds, had already started issuing CoCos in 2009. CoCos allow a bank to convert bonds into equity once certain contractually specified triggers are reached, expressed in relation to regulatory capital. However, since (high-triggering) CoCos trigger before a bank goes into resolution for the purposes of precautionary recapitalisation, this can lead to a run on equity and a drop in the share price of vulnerable banks. However, its ability to be used on a going-concern basis is an advantage vis-à-vis statutory bail-in, which can only be used at the point of non-viability.

In Switzerland, there was concern about the legal status of bail-in debt, particularly if issued in other countries. This led to a preference for CoCos that are explicitly, contractually bail-inable[40]. Indeed, Switzerland wanted to frontload the process of imposing bail-in requirements and "didn't wait for the FSB to set a requirement but make decisions [...] I believe that we would not have introduced the CoCos if we had gone along with the FSB timetable. We simply wanted to have something as quickly as possible"[41].

One attractive feature of CoCos is that they do not require international harmonisation for recognition, since the bail-in mechanism is specified in the debt contract. This is attractive for a small country, like Switzerland, that wants to act in advance or in the absence of an international agreement and whose banks issue a great portion of their debt abroad. A banker at Credit Suisse, which promoted the use of CoCos in Switzerland and was the first bank to issue them, confirmed that "Switzerland being such a small country with big banks needed a solution, needed it fast, and CoCos felt like the fastest on-the-shelf solution"[42]. This contribution by Credit Suisse

[40] Interview, Senior SNB Official, 22 January 2021
[41] Interview, Swiss Department of Economic Affairs Official, 15 January 2021, own translation
[42] Interview, Wilson Ervin, CRO and Vice-President at Credit Suisse, 29 March 2021

in the search for policy solutions was motivated by its own interest in avoiding higher capital requirements and was based on its own positive experience with contingent capital instruments. Credit Suisse had avoided a bailout by raising tier 1 capital from Gulf country investors, including mandatory convertible bonds (Credit Suisse, 2008; S. Jones, 2008), and "it probably played a role for Credit Suisse that these CoCos were quite accommodating to them, because they had practically overcome the financial crisis with such an instrument. [. . .] This may have led to Credit Suisse being more constructive and less resistant [to CoCos requirements]."[43].

CoCos also allowed the regulator to set a nominal capital requirement of 19% for systemically relevant banks, a headline-grabbing number, consisting of 10% common equity and up to 9% CoCos (contrasting with Basel III requirements of 10.5% capital with minimum 7% common equity).[44] Participants in the policy process acknowledged that CoCos "were simply a way of making the capital requirements a little more acceptable for the banks."[45]. Many regulatory experts expressed their scepticism about the value of CoCos and emphasised their preference for common equity instead.[46] The SNB, for instance, viewed CoCos as an insufficient substitute for common equity and a concession to the banks, who had proposed the instrument.[47]

4.2.2 Cross-ideological coalition

This section provides a brief sketch of the political support for TBTF regulation. It shows that while regulation enjoyed cross-party support, a cross-ideological coalition emerged for even stronger regulation to "break up" the banks through structural reforms. The nationalist SVP—incited by Switzerland's apparent vulnerability to outside powers in the UBS tax dispute—looked to reduce the vulnerability of Swiss banking to international markets by separating Swiss domestic business from its international investment banking arms. Meanwhile, the left-wing Social Democratic Party (SP) viewed the crisis as an opportunity to significantly increase banks' capital requirements, separate retail from investment banking, and regulate bonus payments.

[43] Interview, Peter Siegenthaler, President of the Swiss TBTF expert commission, 5 February 2021, own translation

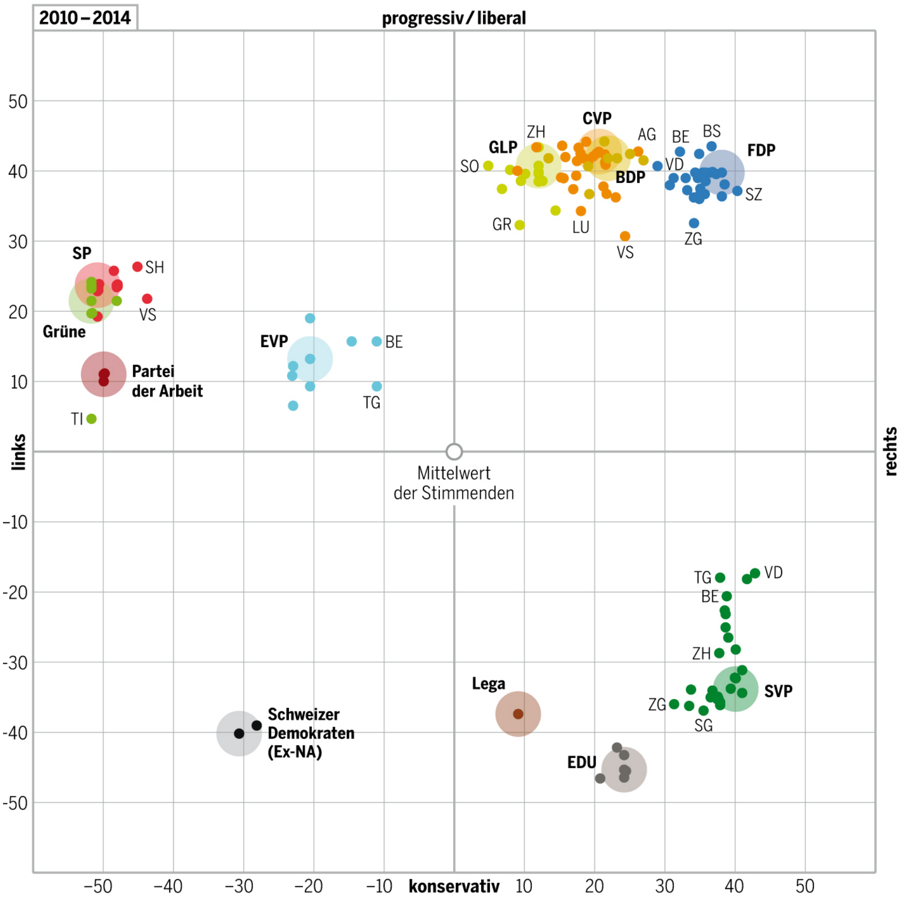
[44] Globally, this remained a Swiss solution, as the Basel Committee on Banking Supervision (BCBS) decided not to allow CoCos to be used as part of the capital buffers for Global Systemically Important Banks (G-SIBs) in November 2011. The subsequent "Brunetti commission" in Switzerland, which revised the TBTF regulation in order to bring it into line with international standards, decided to phase out the use of CoCos and focus on bail-inable loss-absorbing capacity, which at that time was about to be standardised by the FSB (see Chapter 7). This was one of the main points of the Brunetti Commission (Interview, Banker at Swiss G-SIB, 15 March 2021).

[45] Interview, Swiss Department of Economic Affairs Official, 15 January 2021, own translation

[46] Interview, Daniel Zuberbühler, CEO of the EBK and Vice-chairman of the Board of Directors of FINMA, 29 January 2021

[47] Interview, Senior SNB Official, 16 April 2021

Figure 4.2 shows the ideological spectrum of the major Swiss parties. The SP in light red (plus Greens/Grüne) and the SVP in dark green constitute opposite ends of the ideological spectrum both with respect to the role of the state on the left-right dimension (x-axis) and openness on a progressive/liberal-conservative dimension (y-axis). This chart illustrates the significant role of right-wing ("bourgeois"), business-friendly parties in Switzerland as well as the extreme cross-ideological alliance between the SP/Greens and SVP on the matter of structural reform.



Michael Hermann, Iwan Städler, Wie sich die SVP aus dem Bürgerblock verabschiedet hat, Der Bund Datenblog, Permission to reproduce this chart has been granted by Tamedia.

Figure 4.2: Swiss political parties by ideology, based on party positions on referenda 2010-2014 (from Hermann & Städler, 2014)

Early on after the UBS bailout (starting September 2008), the SVP, spearheaded by its heavyweight former Federal Councillor Christoph Blocher, started calling publicly for a break-up of UBS into a domestic and international bank. In October 2009, the SVP submitted a parliamentary motion to establish an expert commission to investigate the possibility of structural reform (Swiss National Council, 2008), which ultimately was the political basis for the expert commission set up by the Federal Council (Expertenkommission zur Limitierung von volkswirtschaftlichen Risiken durch Grossunternehmen, 2010, p. 8). The TBTF problem created a (temporary) unique cross-party political coalition to support limits on TBTF banks.

In September 2009, Blocher together with Christian Levrat, president of the SP, and Nicolas Hayek, president of watch manufacturer Swatch, gave a press conference in which the three emphasised their common conviction that the banks were "too big to die" and, in order to avoid state bailouts, should therefore have their "wings clipped". The three expressed a preference for internationally coordinated solutions, but stated that if global solutions were a long way off, Switzerland must take the lead and, in addition to higher capital requirements, also examine splitting up the big banks (Neue Zürcher Zeitung, 2009). This "unholy alliance" (Senti, 2010) explicitly sought to provide political backing for the SNB and Finance Minister Hans-Rudolf Merz's regulation agenda against the large banks. The two political leaders agreed on the potential need for unilateral domestic action as a necessary second best, but disagreed on its form: while the SVP continued to support a "holding company" solution to separate the Swiss from the international business (territorial), the SP preferred a structural reform solution between retail and investment business (functional). As a result of this disagreement, the political leaders sought to rely on experts to come up with workable solutions. An expert commission was instituted in November 2009 (Swiss Federal Council, 2009), consisting of representatives from the bureaucracy, industry and academia (see more details in Section 4.2.3).

The political salience of the Swiss state's structural dependence was further magnified through the tax dispute with the US. This provided an opening for the SP and SVP to tie their approval of the tax treaty to demands around banking regulation (Neue Zürcher Zeitung, 2010). It provided a visible demonstration that Switzerland is structurally dependent on its banks and the US, as a criminal conviction of UBS in the US could have meant its bankruptcy and severe economic disruption in Switzerland (see Emmenegger, 2015, 2017).

The expert commission published an interim report in April 2010, which came just in time before the parliamentary debate on the US tax treaty. In the lead-up to the parliamentary vote, the SP threatened a veto if it could not get a political promise for higher capital requirements and a ban on bonuses—a tactic perceived by other parties as "blackmail". The SVP initially opposed the treaty outright to defend Swiss bank secrecy and sovereignty. However, at the end of May the SVP made a U-turn and supported the UBS tax deal, which took away the SP's bargaining position and, in the end, both parliamentary chambers agreed to allow FINMA to hand over client files to the US authorities (with the SP opposing it).[48]

[48] Shortly after the UBS tax deal was agreed, the UBS started lobbying publicly against regulations. The SP and Christian Democratic People's Party (CVP) accused it of having waited for the tax deal, agreeing to the interim report.

The final report of the TBTF regulation was published in September 2010. Its most notable recommendations are high capital requirements (higher than Basel III standards, the so-called "Swiss Finish", a recognition that Switzerland needs to go beyond international standards). Part of this can be fulfilled with CoCos (see Section 4.2.1). Capital requirements increase with size and market share. It nominally rejects structural reforms. However, in light of a lack of coordination on international resolution regimes at the time, systemically important banks are required to create emergency plans that allow them to continue systemically important functions in case of bankruptcy. It is the banks' responsibility to demonstrate how they can do this (Expertenkommission zur Limitierung von volkswirtschaftlichen Risiken durch Grossunternehmen, 2010).

Shortly after the publication of the final report, Eveline Widmer-Schlumpf succeeded Merz ('FDP.The Liberals') as Finance Minister[49]. The Federal Council introduced a draft law based on the expert report into the Swiss mandatory consultation procedure in December 2010 (Swiss Federal Department of Finance, 2010), much faster than anticipated. Widmer-Schlumpf emphasised her desire to ensure that the TBTF legislation was going to be debated and passed in the (four-year) parliamentary term that ran until December 2011 so that, in light of increasing pressures against the regulation, "the decision should be made by those parliamentarians who experienced the UBS bailout first-hand" (Neue Zürcher Zeitung, 2011a, own translation).

In the parliamentary debates in both chambers[50], the centrist parties—'FDP.The Liberals' and CVP—supported the law almost unconditionally. Again, it was the fringe parties that were critical of the law, but for different reasons. The SVP rejected it and instead advocated for structural reform explicitly in the law and to separate the Swiss bank from the international business (either through a holding company or through complete separation) in order to eliminate liability of the Swiss bank for foreign subsidiaries. The left parties (SP and Greens) argued that it did not go far enough, but supported it as a minimum step to be built upon. The SP was supportive of structural separation, but instead of rejecting the bill, called for an expert commission to examine potential solutions. The Greens were also supportive but called for an amendment of the law (instead of rejection) to separate retail from investment banking. Both left parties voiced support for restricting banks' proprietary trading activities.[51] None of these

[49] Widmer-Schlumpf had been a member of the SVP but, after she ran against party giant Christoph Blocher for Federal Councillor with the votes of the Christian Democrats, SP and Greens, she was expelled from the SVP and founded the splinter party BDP.

[50] Switzerland has a bicameral system, in which the Council of States is the upper house and the National Council the lower house.

[51] This cross-party initiative carried over into 2013 and 2016, when the SVP together with the SP and Greens

amendments were eventually supported by the centrist parties and the law passed substantially unchanged from the expert commission's proposal.

In summary, Swiss politicians demonstrated a remarkable willingness to go against the interests of the country's business elite. In particular, it is notable that Swiss politics is traditionally dominated by pro-business bourgeois parties, and that on this occasion they did not come to the defence of business.

Despite the opposition by both fringe parties, the fact that the law went through the parliamentary process almost unchanged and in less than four months is particularly notable. As one seasoned participant in Swiss policymaking observes, "in the end the [expert] commission wrote a law, which was not changed in parliament. That is unthinkable in Switzerland—it never happens. This simply shows that the Federal Council has really succeeded in conveying a sense of urgency. There was a certain window of opportunity and it was seized."[52]

4.2.3 Bureaucrats see a window of opportunity

To explain the power of technocratic ideas, this section examines how bureaucrats used the cross-party political support for banking regulation as a window of opportunity. As will be shown, bureaucrats took a similar view to the SVP by prioritising a quick, domestic solution over international agreement. As opposed to the SVP's reflex of a nationalistic preference for sovereignty (as demonstrated by their call for a breakup of UBS and their call to leave UBS to its own devices in the tax treaty debate), this was rather due to a lack of trust in the vigour of global regulation. As predicted in Section 3.2.1, bureaucrats in Switzerland as a banking market with (two) highly internationally exposed banks and very little foreign bank penetration, preferred a domestic solution for functional reasons.

The expert commission was instituted in November 2009 (Swiss Federal Council, 2009) and chaired by Peter Siegenthaler, former Director of the Federal Finance Administration. Further, it consisted of four further representatives from the bureaucracy, including the SNB, FINMA, the State Secretariat for Economic Affairs (Aymo Brunetti) and the Competition Commission. There were two academics, including one economist (Ernst Baltensperger). Finally, seven representatives from the private sector, including from UBS and Credit Suisse.

Expert groups, including representatives of experts and special interests, are a very common part of the pre-parliamentary policy phase (Kriesi & Trechsel, 2008, pp. 117–118). They are part

pushed again for bank separation, arguing the existing reforms hadn't gone far enough.

52 Interview, Swiss Department of Economic Affairs Official, 15 January 2021, own translation

of the Katzensteinian voluntary bargaining between business, political and administrative elites. By agreeing on a consensus among all stakeholders before it enters the parliamentary stages, expert groups are supposed to head off conflict that can result in a popular referendum. At first sight, the TBTF expert commission is no different. However, normally expert commissions fall squarely into the realm of "quiet politics", as they are set up ad-hoc and do not normally receive public attention. In contrast, the recommendations of the TBTF expert commission were widely reported on in the media, with multiple publicly available reports. As one interviewee explained:

> But THIS expert commission is something very special, [...] you knew you had a very difficult problem where you had to change a lot, which very much affects a certain industry. And the sector knows that something has to change, that it is under pressure. And that's why they said we are officially trying to find a compromise. We are not trying to do this, as we normally do, with a non-transparent pre-parliamentary process. [...] Normally, an industry in a situation like that would say 'Not with us, no way. We are against it'. But even before the financial crisis, it was clear to everyone that something had to change enormously. And the banks were afraid that even more extreme measures would be taken in the direction of separation of banking systems. And that's why the banks [...] were thrilled to be part of it.[53]

One important aspect of the expert group is that most of the policy proposals were developed by the bureaucrats in the SNB and FINMA and then put to the experts. More concretely, the concept around the capital requirements, including the CoCo buffers, a progressive capital component that targets bank size as well as organisational measures were put forward by the SNB and FINMA.[54] The work was done by a small number of bureaucrats, who pushed the idea of an expert group to politically legitimate their preferred solution: a civil servant, who prepared the regulatory proposals at the FINMA and subsequently oversaw the drafting of the law at the Federal Department of Finance, described the role of the expert group as a type of supervisory board, which relied on the administration to do the preparatory work.[55]

One reason why Swiss bureaucrats were advocating for a domestic solution was their assessment that other countries, which would have been required for quick and strong action internationally, were less enthusiastic about regulatory reform. An SNB official said it was clear very quickly that Switzerland was going to be "abandoned" internationally. Countries such as Germany were initially supportive, but Germany decided to protect its savings banks.[56] This was explained

[53] Ibid.
[54] Interview, Peter Siegenthaler, President of the Swiss TBTF expert commission, 5 February 2021
[55] Interview, Daniel Roth, Director Legal Services at Federal Department of Finance, 17 February 2021
[56] Interview, Senior SNB Official, 16 April 2021

by an interviewee on the grounds that Germany was not forced to rescue one of their largest, systemically important banks.[57]

4.2.4 Bank agenda-setting and weakened instrumental power

That is not to say that banks had no power in the process. It was important for banks to publicly be on board in order to head off political conflict. Membership of the expert commission was very sought-after and not all interested parties, most notably the Swiss Bankers Association, were members. But for bureaucrats, “it was clear from the beginning that we wanted the banks to be part of it, so that there would not be a big argument in parliament down the line”[58]. One of the purposes of having the banks on board was to avoid the politics in parliament watering down the proposals of the expert commission.[59] Other bureaucrats echoed the view that without the expert group, proposals by the administrative authorities would have been “picked to pieces”[60].

However, the idea of CoCos was an idea that was pushed by the private sector, seen by some as a clever move[61]. Indeed, many leading bureaucrats were unconvinced by the merit of CoCos and viewed it as inferior to common equity, and a political compromise[62] and as merely “nice to have”[63].

The proposals of the expert commission were unanimously agreed, but this does not mean that everyone was happy to go along with the regulation. The banks’ weak political position meant that they were forced to publicly accept the proposals, for fear of harsher measures such as the splitting up of retail and investment banking (given that the SVP and SP were advocating for this). Multiple interviewees from the bureaucracy emphasised the weak political position of the banks as a reason for the bureaucrats to force them to go along, in particular “after the shocks of the financial crisis, and especially after the UBS rescue by the federal government and the SNB, [banks] were not in a position of strength, somewhat meek and overall very cooperative”[64]. This was traced back to the weak support that the banks now enjoyed among their traditional supporters on the political right: “The main reason why the banking lobby no longer had a

[57] Interview, Daniel Zuberbühler, CEO of the EBK and Vice-chairman of the Board of Directors of FINMA, 29 January 2021

[58] Interview, Peter Siegenthaler, President of the Swiss TBTF expert commission, 5 February 2021, own translation

[59] Ibid.

[60] Interview, Daniel Roth, Director Legal Services at Federal Department of Finance, 17 February 2021

[61] Interview, Senior SNB Official, 16 April 2021

[62] Ibid.

[63] Interview, Daniel Zuberbühler, CEO of the EBK and Vice-chairman of the Board of Directors of FINMA, 29 January 2021

[64] Interview, Ernst Baltensperger, Professor and member of the Swiss TBTF expert commission, December 2020, own translation

strong position in our country was the experience of the crisis. If you are rescued by the state, the political support is completely gone. [...] The lobby no longer had a grip. The politicians distanced themselves, even the bourgeois politicians who were otherwise eating out of the hands of the big banks, they distanced themselves".[65]

Credit Suisse was much more cooperative than UBS, not just by issuing CoCos, but also not criticising the draft law too heavily (Neue Zürcher Zeitung, 2011b). For instance, UBS threatened to move the investment bank to the US. This was criticised by politicians, including the 'FDP.The Liberals', the party of former Federal Councillor and Finance Minister Kaspar Villiger, who was president of the UBS board (Friedli & Bühler, 2011).

4.2.5 Bank popularity among the electorate

As stated by the theoretical framework, in a system in which the electorate can veto or override policy proposed and passed by the executive and parliament, banks' potential source of influence depends on how popular they are among the public. The electorate does not actually need to veto the policy in order to exercise this power. Rather, knowledge by actors that rank before the electorate in the order of agenda-setting power about the electorate's preferences, issue attention and relative bank influence (through the sectors' popularity, or lack thereof) can be sufficient for other actors to pass such policy.

So far, interviews have established that bureaucrats actively perceived weakened political support for banks. Indeed, among the traditional pro-business bourgeois parties, support for regulation of the banks had increased markedly. It has not yet been demonstrated that this is also reflected in the broader public opinion toward banks. Even though it is difficult to establish the political salience of banking regulation, surveys of the Swiss public's opinion towards banks show a notable decrease in the positivity of attitudes towards banks.

The top part of Figure 4.3[66] shows that the share of people with positive and very positive attitudes towards banks dropped by 12 percentage points between 2008 (after the UBS bail out) and 2009. The share of negative and very negative attitudes increased by 8 percentage points. Arguably, an even better gauge of the public political sentiment towards banks is perceived

[65] Interview, Daniel Zuberbühler, CEO of the EBK and Vice-chairman of the Board of Directors of FINMA, 29 January 2021, own translation

[66] Top question: "How would you describe your attitude towards Swiss banks in general?" Bottom question: "How do you think most Swiss people feel about the banks?". Dark green: very positive; light green: positive; yellow: neither; orange: negative; red: very negative; grey: don't know. Since this survey is commissioned by the bankers association which arguably has an interest in portraying positive attitudes towards banks, the relative trends in citizens' attitudes towards banks are more meaningful than the absolute level.

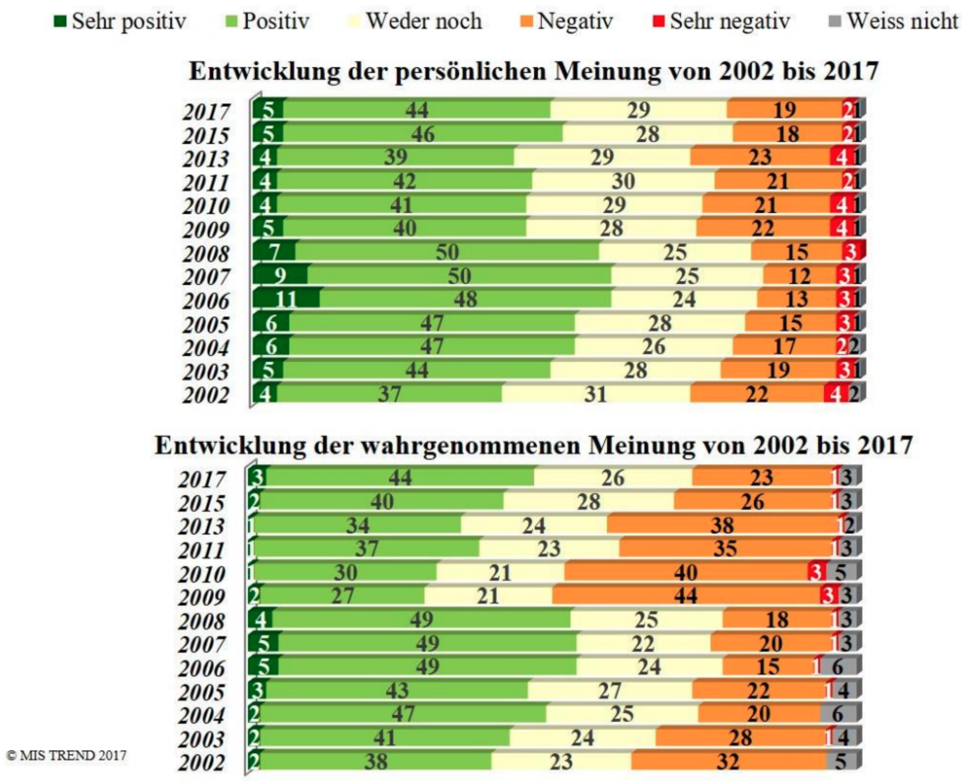


Figure 4.3: Development of personal (top) and perceived (bottom) attitudes towards Swiss banks generally (from Swiss Bankers Association & M.I.S. Trend, 2017)

opinions about people's attitudes towards banks, as this reflects how people judge the political climate at the time. The bottom part of Figure 4.3 shows an even greater drop in perceived positive and very positive attitudes by 24 percentage points and an increase in negative and very negative attitudes by 28 percentage points. Bank support had hit rock-bottom.

Focusing on public opinion towards banks can help to explain the post-crisis regulatory fervour, even from traditionally pro-business political parties. Whether a change in public opinion results in policy change is a matter of debate in the political science literature (Achen & Bartels, 2016; Soroka & Wlezien, 2010), since politicians can find it more attractive to respond to the interests of organised business groups. Any theory that posits a link between public opinion (or salience) and policy change needs to demonstrate the mechanism through which public opinion weakens business power. If this can be shown, it would provide leverage to demonstrate that corporatist institutional arrangements are underpinned by a minimum of public support. If this public support is lost, this will disrupt the corporatist equilibrium and can lead to policies that do not enjoy the support of business.

In Switzerland, the referendum is a constitutional tool that can be used to put almost any law passed by parliament to a popular vote. Traditionally, referenda have a status quo bias and make radical policy changes difficult, making the decision-making process slow and incremental (Kriesi & Trechsel, 2008, p. 115). On rare occasions, such as after the financial crisis and the UBS bailout, this dynamic can flip. Although the attitudes towards banks in Figure 4.3 can hardly be taken to give an indication of voting intentions in a hypothetical referendum on banking regulation, it is clear that a pre-crisis majority of Swiss had a positive attitude towards banks. From 2009, this swung into a clear minority.

If the traditional corporatist bargain is underpinned by a minimum of public support, then the withdrawal of this support provides an opening for entrepreneurial bureaucrats and politicians to challenge it. However, it needs to be demonstrated that the relevant policymakers perceived the chance of strong regulation being challenged or overturned as small. Some interviewees explicitly tied the instrumental power of banks to this political moment: "The distribution of power at the political level has been such for a long time that if the two big banks did not want to move, then little could be done. And we were aware of the fact that this crisis now represents an opportunity to achieve a breakthrough for [stronger capital regulations]. So we were aware that if we don't succeed now, it will be difficult to find another moment to actually strengthen financial stability"[67]. Similarly, at the SNB there was a sense of urgency to make use of the public awareness of the TBTF problem and that the window was closing rapidly[68].

In interviews, policymakers made explicit links to the unspoken possibility of a referendum: "The banks had the realistic assessment that if a referendum had been held on this issue in 2010, they would have lost hugely. That's why they were at the table in the first place. That's why they were willing to participate. [...] The threat of a referendum plays a very central role. I mean that was the simple instrument that was never spoken out loud."[69]

4.3 Conclusion

Direct democracy is an extreme case in the theory of *institutional veto points and bank business power*. Here, due to the position of the electorate as the ultimate veto point, a unique power dynamic is predicted to arise. Since the electorate sits last in the order of agenda-setting power, the executive and parliament have to anticipate the electorate's policy preferences. In light of this, due to the institutional rules in direct democracy, the policy outcome is determined by

67 Interview, Peter Siegenthaler, President of the Swiss TBTF expert commission, 5 February 2021, own translation
68 Interview, Senior SNB Official, 16 April 2021
69 Interview, Swiss Department of Economic Affairs Official, 15 January 2021, own translation

the political conflict between the electorate's issue attention, or the issue salience of banking regulation, and the popularity of banks.

Switzerland provides a unique test of these theoretical predictions. Its constitution provides for the option of a popular referendum on the laws proposed by the executive and passed by parliament. This means that all actors know that their policies need to broadly fulfil the electorate's policy preferences, subject to a sufficient degree of issue attention. The country's experience with its bailout of UBS and the inherent crisis lessons are a main determinant of the policy preferences of actors. The popularity of banks, traditionally very high in Switzerland, took a huge hit after the GFC. Similarly, among politicians and bureaucrats, the large international exposure of Switzerland's two G-SIBs and the risk to the Swiss economy that the crisis had exposed led to a unique'cross-ideological coalition' in favour of structural separation in its large banks and a perceived 'window of opportunity' among bureaucrats. Due to the banks' unfavourable image, the Swiss TBTF expert commission and parliament could implement strong reform, including structural reform through post-enactment enforcement, in the knowledge that the veto point supported this policy outcome.

The early and decisive nature of Switzerland's post-crisis reforms, in particular the pioneering role in developing far-reaching resolution reforms for its large banks, provides more than an insightful case of successful reform.Switzerland's success in designing a reform significantly impacted the policy process at the FSB. As the General Secretary of the FSB, coordinating international deliberations on standards for Systemically Important Financial Institutions (SIFIs) in 2010, states, "by that time, in Switzerland, they were already in the process of developing their own Too-Big-To-Fail programme, many features of which [. . .] influenced the FSB work. And of course, that was developed in very close consultation with the banks." Indeed, the fact that banks were closely involved in the Swiss regulatory design process was crucial for a sense of the feasibility of resolution reforms: "The Swiss [National Bank] governor at the time, Philip Hildebrand was a [. . .] very active member of the FSB steering committee, and given that their Too-Big-To-Fail work involving the Finance Ministry, the banks, the Justice Department, they were well down the road by the time, and therefore he was a strong proponent of it being feasible for us to put this [resolution reforms] up as a major objective."[70]

[70] Interview, Svein Andresen, FSB General Secretary, 7 April 2022

Chapter 5

Direct parliamentary rule in Germany: "Lex Deutsche Bank" and the instrumental power of smaller banks

The German banking crisis experience during the Global Financial Crisis (GFC) was predominantly a crisis of medium-sized public banks. The bailouts and bank collapses mainly concerned medium-sized state-owned banks (BayernLB, WestLB, LBBW, IKB) and a medium-sized, niche commercial bank (Hypo Real Estate), with the exception of the bailout and part-nationalisation of Commerzbank. Overall, however, the German GFC experience cannot be described as triggered by large, universal banks. First, Deutsche Bank, by far the country's largest bank with substantial investment banking business, did not require state support. Second, in 2013, when Germany initiated its main domestic regulatory reform, Commerzbank had paid back its bailout funds earlier than expected (at a profit for the German state), and earlier than the *Landesbanken*.

In light of this, it is puzzling that the German regulatory policy response, in the form of the 2013 structural reform law, exclusively targets the largest universal bank. The implementing law has at times been dubbed "Lex Deutsche Bank", in reference to its effectively exclusive applicability to the country's largest bank—despite the bank's having escaped the crisis relatively unscathed. Explaining this disconnect between policy problem, in the form of crisis bailouts, and policy solution is the focus of this chapter.

To do so, it draws on the theory of *institutional veto points and bank business power* to explain the power dynamic in the German policy process. The country's institutional setting endows parliament with outsized influence given its role as the most relevant veto point. Parliament's veto role manifested in two main ways: first, parliament channelled public opinion into government policy outcomes through opposition agenda setting. Second, smaller banks[71] managed to exercise instrumental business power over parliament as the veto point.

The role of the German case within the theoretical framework is highlighted in Figure 5.1. Germany's institutional system of direct parliamentary rule sets its policy process distinctly apart from those observed in direct parliamentary rule and direct democracy observed in France and Switzerland, respectively. In France, the strong power of the executive means that the regulatory agenda of the government is dependent on the degree of preference homogeneity between the politicians and the bureaucracy and the extent to which they are subject to the structural power of banks. This gives little role to parliament or the electorate. In contrast, in Switzerland, the constitutional tool of the referendum gives the electorate the effective veto, meaning banks' popularity is the main determinant of business power and determinant of the shape of regulatory reform. Sitting between these extremes, in Germany's direct parliamentary rule, parliament plays a crucial role in channelling public opinion about banks into the regulatory process. Germany's multi-party system and the need for coalition-building means that policymakers need to constantly be more attentive to the policy preferences of MPs from multiple parties and, to some extent, even from opposition parties.

Institutional setting	Last veto point	Political actors (by agenda-setting power)	Actors' de facto power source	Bank source of influence	Case	Regulatory outcome: Policy mix
Direct democracy	Electorate	- Government politicians - Bureaucrats - Parliament - Electorate	Political-bureaucratic preference homogeneity Electoral majorities Issue attention (salience)	Structural power Instrumental power Bank popularity		*"TBTF reform":* Strong resolution and structural reform through enforcement (2011)
Direct parliamentary rule	Parliament	- Government politicians - Bureaucrats - Parliament - Electorate	Political-bureaucratic preference homogeneity Electoral majorities Issue attention (salience)	Structural power Instrumental power Bank popularity		*"Lex Deutsche Bank":* Selective structural reform and weak resolution (2013)
Semi-presidentialism	Executive	- Government politicians - Bureaucrats - Parliament - Electorate	Political-bureaucratic preference homogeneity Electoral majorities Issue attention (salience)	Structural power Instrumental power Bank popularity		*"Status quo symbolism":* Weak resolution and structural reform (2013)
International standard-setting	Unclear	- Bureaucrats - National executives	International coordination and community-building Political-bureaucratic preference homogeneity	Expertise and community-building Financial sector 'competitiveness'	FSB	*"Status quo innovation":* Resolution standards and bail-in (2011/2015)

Figure 5.1: Germany's position within the theoretical framework

To explain Germany's regulatory process after the GFC, this chapter focuses on the way the executive had to take into account parliament's preferences to explain the outcome: a law that, despite the structure of German banking, was clearly targeted at the largest bank. Members of Parliament (MPs) and the government, while sensitive to public dissatisfaction with banks, were responsive to the instrumental power that smaller banks exercised both through the unique

[71] This chapter refers to smaller banks as a shorthand to refer to the whole range of small- and medium-sized banks, which are not large banks such as the systemically-important banks.

position of German banking associations and the direct relevance of savings banks to MPs' constituencies.

Given its role as the veto point, parliament's interests best explain the resulting policy mix. The executive, both government politicians and the bureaucracy, was sceptical of the merits of structural reform legislation. At the same time, public opinion about banks was highly negative following the GFC. In line with the theoretical framework, neither executive nor electorate can explain the ultimate reform outcome. If the executive were the deciding veto point, no structural reform would have been passed: as will be evidenced, government politicians and the bureaucracy were privately (and sometimes publicly) against this regulatory reform. Instead, they would have preferred to concentrate on resolution reforms, pioneered by the 2011 *Restrukturierungsgesetz* (Deutscher Bundestag, 2010) and advanced through another section of the 2013 structural reform law. With more regulatory zeal, counterfactually, the executive would have been able to pass legislation not limited to the largest bank, given it did not face structurally powerful banks of either size. Neither of these outcomes came to pass. Similarly, if the electorate were the deciding veto point, given the highly negative public sentiment against banks and that bank popularity would then constitute the main determinant of bank influence over the regulatory process, reform to banks' business models would be expected to be significantly larger in scope.

Instead, in the face of negative public opinion towards banks, but significant instrumental power of smaller banks, parliament was only willing to support regulatory reform that went further in addressing public concerns about banks, but protected smaller banks. As will be shown, the scandals that surrounded Deutsche Bank at the time made the bank a particularly convenient regulatory target for policymakers. This account of the German regulatory reforms challenges existing explanations that Germany was defending the business model of its largest universal banks (Hardie & Macartney, 2016).

This chapter starts by briefly reviewing the literature conceptualising the German state as promoter of large banks and the empirical puzzle of the dependent variable, the "Lex Deutsche Bank", in Section 5.1. The chapter then proceeds to provide evidence, mainly using interview data, on the policy preferences and powers of the main actors within the theoretical framework: first, the agenda-setting power of parliament as the relevant veto point (Section 5.2). Second, the executive, which was not convinced of the merits of structural reform but anticipated the preferences of parliament (Section 5.3). Third, the power of (smaller) German banks, which stemmed from their collective lobbying through powerful banking associations and the diminished standing of large banks (Section 5.4). It is argued that Germany ended up with a 'Lex Deutsche Bank', as the bank's scandals in the lead-up to the structural reform law reduced its public support and made it a convenient regulatory target.

5.1 The German political economy: The state as promoter of large banks?

The German banking sector has long been at the centre of scholarly debates about the country's political economy, because of its distinctive institutional structure (see Section 5.1.1) as well as its emblematic role within its Coordinated Market Economy (CME). Classic works in comparative capitalism emphasise that Germany represents a CME in which firms rely on non-market institutions to secure financing, manage labour relations and foster long-term strategies (Hall & Soskice, 2001). In this context, banks, particularly public savings banks (*Sparkassen*) and cooperative banks, have been central in providing patient capital to small and medium-sized enterprises (SMEs), thereby supporting the export-oriented manufacturing model that underpins the German political economy. Zysman's (1983) earlier analysis of finance and the German political economy already underscored the contrast between bank-based and market-based financial systems, situating Germany as the archetype of a state in which banks act as intermediaries between industrial capital and the state. This tradition meant that even after decades of liberalisation pressures, banks retained a strong position in the country's political economy (Deeg, 1999; Lütz, 2000).

Changes in the 1990s and 2000s, driven partly by European integration and globalisation, produced a hybrid system in which large banks engaged in market-based activities while savings banks and cooperative banks remained embedded in local corporatist networks (Deeg, 2005; Lütz, 2005). When the GFC hit, the institutional vulnerabilities created by this hybrid nature became clear, particularly in the Landesbanken sector. Theories of institutional change have conceptualised Germany as being characterised by incremental change, for instance with respect to corporate governance and finance. In coordinated financial systems, change tends to occur less through formal legal change and more through joint belief shifts among actors following changing material conditions (Culpepper, 2005). The German system of finance has 'bifurcated' between small banks and large banks in their approach to providing credit to firms (Deeg, 2005).

In the run-up to the GFC, German banks had become deeply involved in trading derivatives and other risky market-based activities, leaving them more exposed in the crisis than even the more liberalised French system (Hardie & Howarth, 2009). Hardie and Howarth (2013b) framed this as a "peculiar kind of devastation" tied to the growth of market-based banking within large German universal banks, even as savings banks and cooperatives retained their traditional business models. The Landesbanken's search for profitable business models after the removal of public guarantees further contributed to their instability (Hellwig, 2018). Comparative studies highlight that, unlike France, Germany failed to mobilise its banking sector into collective burden sharing during the crisis. The inability to organise such arrangements forced the government to rely on a public support scheme (Woll, 2014a, 2014b). Yet, the response to these pre-crisis and crisis-era failures was strikingly cautious, and deeper restructuring of the system through regulation was avoided.

The main explanations of Germany's post-crisis regulatory response can be divided into those based on business power-centred and Varieties of Financial Capitalism (VoFC)-based approaches. The former focus on instrumental business power and the influence of different interest group coalitions. For instance, German banks secured favourable treatment of lending to SMEs under Basel III, not through "quiet politics" but through highly visible lobbying that publicly framed SME lending as politically indispensable (Keller, 2018). Industry coalitions managed to convince policymakers to protect traditional bank lending (Keller, 2021). Some scholars (Massoc, 2020) argue that the state's willingness to protect too-big-to-fail (TBTF) banks reflected the institutional capacities of local coalitions of public sector banks and state governments to oppose the government's structural incentive to promote TBTF banks. This led to weak structural reform and protection of the position of public banks in domestic retail markets. Howarth and James (2020) find that German policymakers pursued a strategy of conflict contraction: by keeping reform debates within established institutional venues, they limited the scope of contestation and ensured that the financial industry retained a decisive voice (see also Howarth & James, 2022). The outcome was legislation that created the appearance of reform, but left the core of universal banking intact. From this perspective, Germany's cautious approach is understood as a compromise between different coalitions engaged in a battle to protect certain aspects of the traditional role of German banks.

The debate about Germany's structural reform legislation has also been explained from an VoFC perspective[72], arguing that policymakers were protecting the institutional role of universal banks within the country's financial system. Hardie and Macartney (2016) depart from the traditional VoFC dichotomy between market- and bank-based financial systems and argue that the German government actively defended its largest universal banks and their model of market-based banking against more far-reaching European Union (EU) proposals, resisting restrictions that would have curtailed their ability to hold large volumes of trading assets. A comparative analysis of structural reform policies argues that electoral competition and pressure from outsider politicians from the Sozialdemokratische Partei Deutschlands (SPD) forced limited action (Ganderson, 2018; Ganderson, 2020a).

In the German case, as will be outlined in the remaining chapter, VoFC explanations face difficulties explaining the precise shape of the country's regulatory reform outcome. They start from the basic observation that the government opposed more far-reaching structural reform proposals, most notably by the Liikanen Commission, which at first glance points to a protection of market-based banking in the largest universal banks. However, the details of the German structural reform regulation show that it targeted Deutsche Bank (see Section 5.1.2), which, according to Hardie and Macartney (2016, p. 516) themselves, is the prime example of this business model. Moreover, these institutionalist explanations are generally weaker in specifying the mechanism through which the interests of TBTF banks would automatically align with the interests of the government in periods of high political salience after the GFC.

In this sense, the argument in this chapter is closer to business power explanations, as predicted by the theoretical framework for institutional settings of direct parliamentary rule. However, the empirical observations differ from those of Howarth and James, who claim that the "united German bank lobby maintained privileged access to the centre-right government" (2022, p. 191).[73] In fact, as evidenced by interviews in Section 5.4, the German bank lobby was heavily divided between large and smaller banks. In this sense, the theoretical conception and empirical account of Germany's reform process is closest to Massoc (2020), who recognises the existence of

[72] The literature contains very few explanations of German banking regulation as a result of banks' structural power. Structural business power explanations differ from VoFC ones in the proposed mechanism, but not necessarily their observable implications of policymakers protecting their largest banks. Whereas structural power has traditionally been hypothesised to stem from their central role of credit provision to the economy, market-based banks obtain their structural power from their role as global liquidity providers and hence the state's geo-economic position (Massoc, 2022).

[73] Similarly, the claim that "the German banking industry—despite its profound divisions in the three-pillar system and competing interests—was surprisingly united on the issue of structural reform, and thus was able to wield cooperative financial power to resist stringent new restrictions on trading activities." (Howarth & James, 2022, p. 171)

competing interests, or "factions", and their preferences and resources in TBTF regulation. This is complemented by a closer analysis of the role of local banks and their instrumental power over MPs.

5.1.1 The German banking system and crisis bailouts

Germany's traditional post-war three-tier banking system of (1) commercial banks, (2) savings banks and (3) cooperative banks results in the fact that, in international comparison, the country features an unusually high number of smaller banks. For example, in 2019 the top 3 (5) banks only made up 26% (35%) of bank assets. This contrasts with 44% (62%) in France and 50% (57%) in Switzerland (see Table 2.2). The largest banks all fall into the first pillar, private commercial banks. The vast number of small and medium-sized banks can be explained by the two remaining pillars (see Table 5.1): savings banks (*Sparkassen*) are owned by cities and local authorities and, by nature of their highly local footprint, are mostly small in size. Landesbanken and promotional banks (*Förderbanken*) are largely owned by German states (*Länder*) and are mainly smaller compared to the largest private commercial banks. Crucially, Landesbanken also act as "central banks" for savings banks, supporting them with services such as liquidity management. Therefore, the second pillar is considered crucial for local economic development. The third pillar, cooperative banks, encompasses the largest number of banks, and most of them operate predominantly regionally.[74]

Examining the list of German banks that received government capital injections in Table 5.2, it first consists of Commerzbank and Hypo Real Estate. While the former is a genuine universal bank, the latter was a niche lender that concentrated on commercial real estate. The rest are four Landesbanken and one promotional bank, all owned by *Länder*. Notably absent are banks such as Deutsche Bank, the largest by a margin (and only G-SIB), but also HypoVereinsbank, DZ Bank and KfW. This distinguishes the German crisis experience from those in France or Switzerland.[75] Apart from a crude measure of size, most of the banks affected were state-owned and are generally not considered universal banks.

[74] For ease, only those banks classified as Global Systemically Important Banks (G-SIBs) by the Financial Stability Board (FSB) in 2013 are grouped as large banks. Only Deutsche Bank has been classified as a G-SIB since 2012. Commerzbank was removed after the release of the first G-SIBs list in 2011 "as a result of a decline in [its] global systemic importance" (Financial Stability Board, 2012). This, however, does not mean that Germany's structural reform can simply be considered to be a measure addressed at TBTF banks, of which Deutsche Bank is the only one. As both Germany's actual bailouts as well as structural reform measures in other countries demonstrate, medium-sized banks can also be 'too big to fail' and for this reason are generally included in structural reforms.

[75] In France, virtually all banks took state bailouts (many of which are G-SIBs), and in Switzerland, UBS (G-SIB)

	Number	Assets (€ bn)	Avg. assets / bank (€ bn)
First pillar: commercial banks	**272**	**2,530,694**	**9,304**
Big banks	5	1,520,699	304,140
Regional or other commercial banks	164	809,667	4,937
Branches of foreign banks	103	200,328	1,945
Second pillar: savings banks	**448**	**2,682,317**	**5,987**
Primary savings banks	438	1,619,614	3,698
Landesbanks	10	1,062,703	106,270
Third Pillar: cooperative banks	**1,206**	**953,579**	**791**
Primary cooperative institutions	1,204	290,725	241
Regional cooperative central banks	2	662,854	331,427
Specialised banks	**62**	**1,926,638**	**31,075**
Mortgage Banks	20	826,572	41,329
Building and loan associations	25	188,984	7,559
Banks with special functions	17	911,082	53,593
Total	**1,988**	**8,093,228**	**4,071**

Data source: Bundesbank (2008)

Data source: Deutsche Bundesbank, Monatsbericht - Dezember 2008: https://www.bundesbank.de/de/publikationen/berichte/monatsberichte/monatsbericht-dezember-2008-692742

Table 5.1: Statistics on Germany's three-pillar banking system, 2008 (from Bleuel, 2009)

Bank	Funds received (US$ bn)	Total assets (US$ bn) prior to first receiving funds	Date of first bailout funds received	Type of bank
Commerzbank	23.54	838	3 Nov 2008	Commercial Bank
Bayerische Landesbank	14.44	606	18 Dec 2008	Landesbank (state-owned)
Hypo Real Estate	7.37	586	28 Mar 2009	Commercial Bank
WestLB	6.47	399	23 Jan 2008	Landesbank (state-owned)
Landesbank Baden-Württemberg	6.47	787	15 Dec 2009	Landesbank (state-owned)
IKB Deutsche Industriebank	1.94	79	13 Dec 2008	Promotional Bank (state-owned)
Deutsche Bank	N/A	2899	N/A	Commercial Bank
TOTAL	60.2			

James R. Barth, Apanard Prabha, Phillip Swagel, Just how big is the too-big-to-fail problem? Journal of Banking Regulation, Volume 13, Pages 265–299, 2012, Springer Nature: https://link.springer.com/journal/41261

Table 5.2: Bailouts of German banks during the GFC (from Barth et al., 2012)

To put this into a comparative perspective, Figure 5.2 shows the costs of bank bailouts in the

was rescued by the government.

context of the GFC in Germany and France, highlighting that the costs to the German state at almost €40bn far exceed those in France. Since the numbers refer to the net revenue/costs, this underlines the argument of the French bureaucratic elite that the bailouts of its banks were not actually 'costly' to the French state, an argument that patently does not apply in Germany.

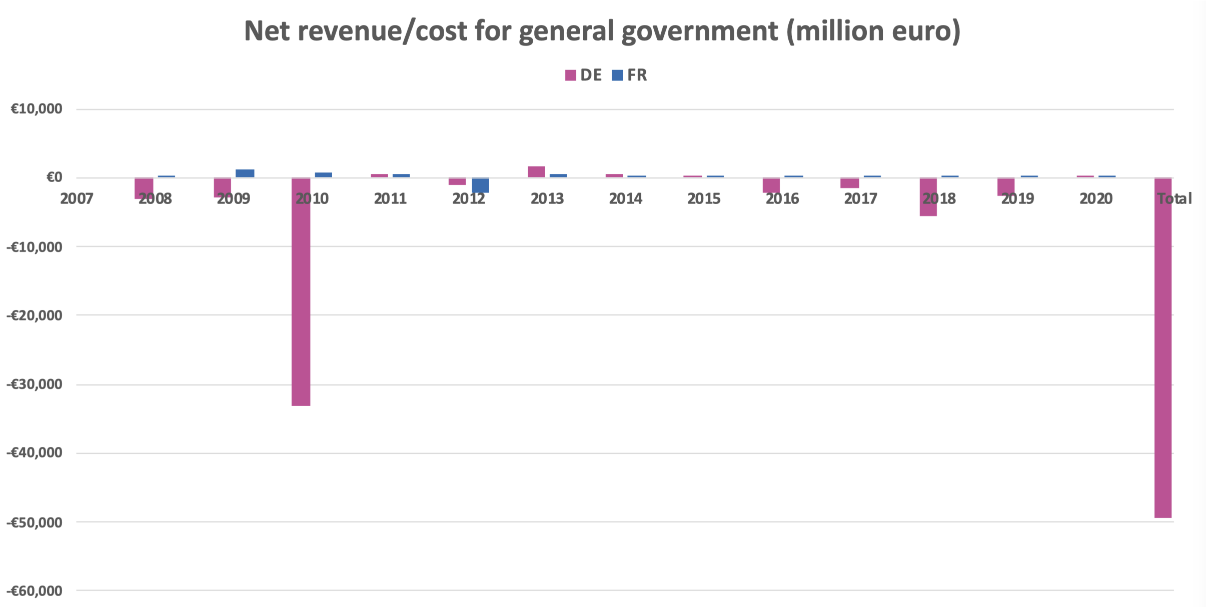


Figure 5.2: Net costs of government interventions in France and Germany to support financial institutions 2007-2020 and total in € mn (from European Commission, 2021)

5.1.2 Germany's TBTF reforms: A "Lex Deutsche Bank"

To explain the puzzle of the dependent variable in light of existing empirical explanations in the literature, this section describes the main features of the 2013 regulatory law and, in particular, its size threshold targeted only at the country's largest bank. The law also contains a second section on banks' resolution plans, which was the preferred solution by the government and bureaucracy.

The "German Bank Separation Act"[76] ring-fences certain activities within credit institutions from the rest of their deposit and lending business. These activities are namely proprietary trading, but also certain business with hedge funds, alternative investment funds, and high-frequency trading. The ban on proprietary trading is the most important and prominent aspect of the

[76] A notable feature of the law is its title "Law on the Shielding of Risks and on Planning for the Recovery and Resolution of Credit Institutions and Financial Groups", its original German name *Gesetz zur Abschirmung von Risiken und zur Planung der Sanierung und Abwicklung von Kreditinstituten und Finanzgruppen*, or *Abschirmungsgesetz* for short. First, the law's title signifies its focus on both structural reform as well as recovery and resolution planning. Second, its official name avoids the word "separation" and instead focuses on the "shielding of risks". However, this did not prevent the law from being referred to as the *Trennbankengesetz*, or bank separation act, by the media and interviewees. Curiously, the Federal Financial Supervisory Authority (BaFin) in its English-language materials refers to the law as the "German Bank Separation Act".

reform. Given the difficulty of defining proprietary trading, the law explicitly allows business including market making as well as other trading business for hedging or managing interest rate, foreign exchange or liquidity risks. Although not resolving the central supervisory difficulty of distinguishing between proprietary trading and market making, the reform singles out the most narrow definition of "risky activities".

This puts the German structural reform closer to the United States (US) Volcker rule, which bans proprietary trading, than to the United Kingdom (UK) ring-fencing reforms, which instead separate the deposit and lending business. However, in contrast to the Volcker rule and similar to the French reforms, the ban only applies to the deposit-taking credit institution itself. Banks can transfer the banned activities into economically, organisationally and legally independent financial trading institutions, which can be separately capitalised subsidiaries. The exclusive focus on proprietary trading distinguishes it from the Liikanen proposals, which include the more sizeable market making activities. At BaFin's discretion, market making activities can be banned if they are deemed to jeopardise a bank's solvency. So far, this option has never been exercised by BaFin.

The regulation's most central feature for the purposes of the argument in this chapter is the threshold of applicability. Concretely, the ban on proprietary trading is only applicable to credit institutions that carry balance sheet items in the categories of financial assets held for trading and available for sale or trading portfolio and liquidity reserve (i.e. proprietary trading assets) exceeding €100bn (absolute threshold). The same applies if the balance sheet total of the institutions or the group reaches at least €90bn on the balance sheet date of the last three financial years and the aforementioned balance sheet items exceed 20 per cent of the balance sheet total (relative threshold). This means that the regulation is only intended for banks with significant proprietary trading activities, either in absolute or relative terms.

This threshold needs to be put into the context of banks' balance sheets at the time. The amount of assets falling into this category is difficult to independently verify from banks' public financial accounts, but total securities (i.e. financial assets that are not cash or loans) in 2013 of many banks in absolute and relative terms barely exceed the thresholds *in total* (S&P Global, n.d.), let alone proprietary trading assets. This prospective applicability to only Deutsche Bank, Commerzbank and potentially LBBW was pointed out by the financial press. Given that Deutsche Bank was the predominant player in proprietary trading, the law was often accompanied by the nickname “Lex Deutsche Bank”.[77]

In addition to proprietary trading, the regulation also requires banks to separate out their business with hedge funds. Similarly, Deutsche Bank is by far the bank with the largest share of hedge fund business.[78]

This perception about the law’s limited applicability was also shared by bank lobbyists at the time. However, as opposed to, for instance, technical considerations regarding TBTF, bank representatives perceived ‘political considerations’ as driving this decision, stating that the law “in the end, I don’t think applied to any institution, and if anything only to one, and that was Deutsche Bank. Well, it was really a Lex Deutsche Bank. Which, in my opinion, was simply due to political considerations at the time.”[79]

This perception of political considerations when targeting the regulation at Deutsche Bank is more concretely expressed by a lobbyist at a German banking association:

> [Finance Minister] Schäuble decided relatively late in the day to clear up the issue so as not to be put on the spot by the SPD and the Greens during the election campaign. And that’s why a bill was drafted that was actually a Lex Deutsche Bank, because the thresholds were set in such a way that only Deutsche Bank was affected. There was a lot of discussion beforehand. And I believe that this political decision to target Deutsche Bank, or at least to announce it so early that the others could then adapt their business in order to be below the thresholds.[80]

The remaining chapter explores these ‘political considerations’ to explain why a crisis of smaller banks resulted in a regulatory law with exclusive applicability to the country’s largest bank.

[77] “All German banks where proprietary trading accounts for more than 20 per cent of the balance sheet total or exceeds the absolute amount of 100 billion euros are affected by the new regulation. This applies to Deutsche Bank, Commerzbank and Landesbank Baden-Württemberg [LBBW], among others. However, Deutsche Bank will probably be hit the hardest by the plans, so that the draft law could also be christened the ‘Lex Deutsche Bank’. The reason: the thresholds above which the risky business areas must be outsourced are so high that they are reached at most by Deutsche Bank.” (Neuerer, 2013, own translation).

“[. . .] the thresholds from which the law is to apply would be so high that - if at all - only Deutsche Bank and not Commerzbank would fall under the regulation. [. . .] If it comes to a ‘Lex Deutsche Bank’, the German government would follow the variant of the Liikanen proposals discussed in France, the so-called Liikanen-Light.” (Hintze, 2013, own translation)

[78] “the planned law on bank separation amounts to a Lex Deutsche Bank after all, which would be by far the most affected in this country. In a survey of the largest hedge funds, the bank is among the most frequently named banks worldwide with which the funds do business. [. . .] Deutsche Bank does not release figures on the size of its hedge fund business, but analysts at various brokerage houses speak of a ‘significant’ share of the institution’s investment banking. Deutsche Bank took market share during the crisis when other institutions exited, said one analyst. A separation of the business could therefore cost the bank dearly.” (finanzen.net, 2013)

[79] Interview, Lobbyist at a German Bank, 16 March 2021, own translation.

[80] Interview, Lobbyist at a German Banking Association, 24 February 2021

5.2 The veto point: Parliament and opposition agenda setting

The theoretical framework predicts parliament to be the relevant veto point within Germany's setting of direct parliamentary rule. To demonstrate the role of parliament, this section outlines the role of the parliamentary factions within the policy process and their ability to influence government policy through agenda setting, including opposition parties. This crucially distinguishes the German institutional setting from that of France, with its (traditional) practice of strong presidential majorities, or Switzerland, with its system of broad governing coalitions, which provide little to no space for the parliamentary opposition to meaningfully influence government policy. Opposition agenda setting occurred in the lead-up to the 2013 federal elections, which are the parliamentary elections to the German Bundestag[81].

The opposition's agenda setting started precisely one year before the federal elections scheduled for September 2013. The SPD was the main opposition party to the conservative-liberal governing coalition of the Christlich Demokratische Union Deutschlands (CDU)/Christlich-Soziale Union in Bayern (CSU) of Chancellor Angela Merkel and their coalition partner, the Freie Demokratische Partei (FDP). The SPD candidate for Chancellor was Peer Steinbrück, former Finance Minister in a Grand Coalition under Chancellor Merkel. In September 2012, Steinbrück published a 30-page policy paper outlining his policy positions on the topic of financial regulation for the election campaign. The mere fact that a candidate for Chancellor prominently published such a detailed and wide-ranging set of policy proposals on financial regulation underlines the political salience of this policy area at the time. The paper, entitled "Regaining confidence: A new attempt to tame the financial markets" (*Vertrauen zurückgewinnen: Ein neuer Anlauf zur Bändigung der Finanzmärkte*, (Steinbrück, 2012)), discusses policy proposals covering a financial transaction tax, bank resolution, shadow banking, European banking supervision, the implementation of Basel III and macroprudential regulation. The paper attacks the alleged inaction of the incumbent government on financial regulatory matters.[82]

Its most prominent proposal (both in terms of space in the paper as well as subsequent media reception) is set out under the banner "Reducing the potential for blackmail: separating commercial banks from investment banks". This proposal consists of two 'steps': first, a restriction of proprietary trading. Returning to the taxonomy in Section 2.1.1, this step is most similar to a

[81] The focus here is on the Bundestag as the considerably more powerful lower house of the German parliament, compared to the Bundesrat representing the state governments.

[82] "The black-yellow federal government has been acting in slow motion for three years. [...] Since then, the current federal government has not stood out as an initiator and driver of far-reaching regulation and containment of speculative capital." (own translation from Steinbrück, 2012, p. 4)

version of the US Volcker Rule, in which proprietary trading is not permitted within the banking entity. Second, commercial and investment banking are to be separated. This is closer in spirit to the UK Vickers ring-fencing regime with an important exception: it does not focus on shielding retail banking, but rather on separating investment banking specifically from both retail and commercial banking. While not a difference in practice to ring-fencing, in a bank-based financial system such as Germany the proposal more explicitly maintains the importance of deposits to finance corporate lending.[83] The two-step proposal is motivated by the difficulty of deciding whether transactions constitute proprietary trading, hedging or are on a client's order.

An important priority that is stressed at the outset of the proposal is that "collaboration [*Verbundzusammenarbeit*] of the savings banks and the cooperative banks must also continue to be possible" (own translation from Steinbrück, 2012, p. 12). The *Verbundzusammenarbeit* is an arrangement in which organisationally independent savings banks cooperate to pursue common commercial goals. One crucial aspect of savings banks' networks is their 'vertical division of labour' or vertical integration, in which Landesbanken serve clients too large for any individual savings bank, but also provide syndicated loans to *Mittelstand* firms or in property finance. The opposition's goal was thus to leave the business models of the savings banks untouched, with the protection of Landesbanken business models as a corollary.

The opposition and its proposals for structural reform were inspired by policy precedents in the US and UK, but it was equally conscious of the unique institutional structure of the German banking sector[84]: "The German sector is different and the interconnections are different. But at Deutsche Bank, for example, we can, of course, see how strong this investment banking has become. And with the savings bank sector, we actually also have another pillar for investors and small investors that doesn't even exist in the UK and so on. So it was already clear that we had to move towards the major international banks".[85] From the SPD perspective, the party's scepticism towards investment banking activity was thus mainly targeted at the major international banks rather than Landesbanken and savings banks.

Interviewees confirmed that the main motivation for the government's subsequent introduction

83 "However, the necessary shielding [*Abschirmung*] of the deposit and lending business must not go so far that large banks can no longer fully fulfil their service function for the real economy." (own translation from Steinbrück, 2012, p. 12). Note that the term "Abschirmung", instead of separation, is also adopted in the title of the government's subsequent regulatory law.

84 "The Volcker Rule was an important thing, but I also have to say that the Vickers Commission has always been a good proposal and a good model for us - and for me too - in our work. And, of course, we have the particularity of Germany with the savings bank sector and the entire universal banking sector, which is [how it is] structured. So that was another special challenge." (Interview, SPD MP and member of the Bundestag Finance Committee, 5 March 2021)

85 Interview, SPD MP and member of the Bundestag Finance Committee, 5 March 2021

of a structural reform bill came from the opposition's agenda setting, which put pressure on the government by proposing bank separation. This was described as a form of "actionism" on the government's part.[86] After SPD candidate for Chancellor Peer Steinbrück proposed bank separation, the *Abschirmungsgesetz* allowed Finance Minister Schäuble to argue that this issue had already been addressed by the incumbent government. Any demands for 'even more' separation would have lost their political appeal. The government was conscious of the negative public perceptions of banks and the demands for redress. In this political climate, once the idea of structural reform was out in the open, the government had to address it.[87] The resulting regulation was thus a compromise between the political need for a separation law and the government's own regulatory preferences (see Section 5.3).

In a similar vein, the opposition viewed the government's law as a strategy to "minimise points of attack" before the election, thereby preventing an appearance of inaction on the matter. In particular, the speed at which the law went from the first reading in the Bundestag to the resolution between March and May 2013 was viewed as evidence of this.[88]

Having focused on the SPD before the election, it should be noted that opposition parties more broadly advocated for TBTF regulation and structural reform in particular. This is most strongly reflected in the Green party together with the SPD filing a parliamentary request entitled "A new attempt to tame the financial markets: reducing the potential for blackmail – separating commercial and investment banking", stating that the government's proposed law "falls far short of what is necessary" and calling on the government to proceed with a law that, among other things, extends the separation to market making activities (Fraktion BÜNDNIS 90/DIE GRÜNEN & Fraktion der SPD, 2013).

Bank representatives shared this view of the parliamentary opposition as the agenda setter—not just the SPD, but also the Green party[89], stating that: "In the political discourse over the years of dealing with the financial market crisis [...] the opposition succeeded in using two terms [bank separation and financial transaction tax] that are so powerful that a government that actually doesn't want [to implement] either and considers both to be complete nonsense in terms of content has no other option but to adopt both just before the election"[90].

86 Interview, Research Staff for CDU MP, 26 February 2021

87 Ibid.

88 Interview, SPD MP and member of the Bundestag Finance Committee, 5 March 2021

89 A lobbyist considered the Greens as the main drivers behind the "intellectual achievement of agenda setting or topic setting" to introduce bank separation as a "political promise of salvation" (*Heilversprechen*) in a competition over "problem solving competence" (*Lösungskompetenz*) after the GFC. (Interview, Lobbyist at a German Banking Association, 24 February 2021)

90 Interview, Lobbyist at a German Banking Association, 24 February 2021, own translation.

However, the role of parliament did not end with putting structural TBTF regulation on the political agenda and forcing the executive to initiate such a law. It also crucially shaped the resulting priorities of the regulation, in particular its focus on the very largest bank, which will be explored further when returning to parliament and the role of instrumental power in Section 5.4.

5.3 An unconvinced executive: Government and bureaucracy

Having established the role and power of parliament in Germany in driving the agenda with regard to the political "need" for structural regulation, this section shows in more detail that the reform effort was, in fact, not promoted by the executive. Instead, it was met with considerable scepticism from both government politicians and the bureaucracy. In contrast to France (see Chapter 6), the executive does not constitute the effective veto point. Despite political-bureaucratic preference homogeneity within the executive in opposition to structural reform, the country ended up with a structural reform law targeted at its largest bank: the executive factored in the preferences of parliament. This section relies on public documents and interview evidence with finance ministry, central bank and supervisory officials to outline the nature of the executive's scepticism.

The main actors within the executive, apart from the cabinet, are the Federal Ministry of Finance (BMF), the Bundesbank and BaFin, with the BaFin by far the least influential[91]. Most actors in the executive were—privately and/or publicly—opposed to structural reform of any kind for two main reasons. First, they preferred a multilateral regulatory framework, and in particular resolution reforms, to address the country's TBTF problem. This refers to both the G20/FSB and the EU. Second, they did not view structural reform as appropriate for Germany's system of universal banking.

5.3.1 Preference for a multilateral resolution process

Members of the German executive were privately opposed to a structural solution to TBTF and preferred another policy solution instead: bank resolution. Bank resolution had a number of advantages in the minds of bureaucrats—it was multilateral and hence did not constitute a unilateral policy effort that would undermine the competitiveness of the German banking system. Moreover, while resolution is a policy aimed at reducing the moral hazard associated with TBTF, it does not require a shared diagnosis about the business model failures of German banks during the GFC.

91 Interview, Senior BMF Official #2, 5 January 2021

In terms of the overall effectiveness of resolution, the BMF was clear that "in our analysis, the implementation of effective bail-in buffers was more important than a ring-fencing rule."[92] This meant that the regulatory law proposed by the BMF had a political component, the 'ring-fencing rule', and a bureaucratic component, the law's articles paving the way for bank resolvability. This distinction arose because within the BMF, officials did not believe that the German crisis experience was caused by a failure in their trading activities.[93]

In the views of the Bundesbank, the other relevant policy institution in Germany, trading on behalf of clients (an activity that a full separation, such as UK ring-fencing, would have separated) needed to be "protected at all costs". Moreover, the topic of market making was seen as uncontroversial. Instead, the Bundesbank was more active in international fora and preferred a "multilateral" approach, such as resolution reforms in the FSB.[94]

A very public version of this argument was discussed by prominent policymakers, most notably Bundesbank officials. At a 2014 conference titled "Too Big to Fail III: Structural Reform Proposals - Should We Break Up the Banks?", later released as a collection of articles, the merits of structural reforms in the European and German context were debated publicly. A member of the Deutsche Bundesbank Executive Board responsible for Banking and Financial Supervision, Andreas Dombret, co-organiser of the series of conferences on the topic of TBTF, set out his scepticism regarding the effectiveness of structural reform. Dombret argued that "breaking up the banks" did not make them safer, as evidenced by the difficulties of pure commercial banks such as Hypo Real Estate during the GFC. It would shift the channels of contagion from within banks to between banks or into the shadow banking sector. Finally, he cast doubt on the ability of regulators to draw the line between investment and commercial banking activities in practice. Dombret concluded that Germany performed well with its universal bank system. The Bundesbank Executive Board Member and his co-organiser, the lawyer Patrick Kenadjian, summarise the conclusion by conference participants as follows: "At the end of the day, although we had started off wanting to discuss the pros and cons of structural reform, most of the speakers ended up advocating or conceding that without a credible bank resolution system, structural proposals alone would not suffice to solve 'too big to fail'" (Dombret & Kenadjian, 2015, p. 3).

[92] Interview, Senior BMF Official #1, 13 January 2021, own translation.

[93] "If you look at this whole discussion about separating banks from a German perspective, then it's not really clear that it could really solve the problem, at least for the German banking market, because a separated banking system wouldn't have changed the biggest difficulties in Germany." (Interview, Senior BMF Official #1, 13 January 2021, own translation)

[94] Interview, Senior Bundesbank Official, 8 March 2021

5.3.2 Accommodation of parliament

The section so far has argued that the executive was unconvinced by more wide-ranging structural reform proposals and instead preferred a multilateral resolution agenda. The question remains as to why the executive felt the need to accommodate parliamentary policy preferences. Bureaucrats noted multiple reasons for accommodating the political priorities of parliament: outside political pressure on the BMF and the political priorities of the Finance Minister.

The bureaucrats in the BMF did not view (proprietary) trading within universal banks as a problem per se. But one interviewee made the distinction between factual and perceived problems. As an institution with a politically elected leadership, ministries need to justify their actions in parliamentary committees and hence also present policy solutions to 'perceived' problems: "Of course, you are also aware of [political pressure] in the Ministry because you always have to answer questions in the committees in parliament, you are aware of the public discussion, you get questions from MPs. Then you are already aware of what is perceived and discussed as a problem. [...] On the one hand, of course, the *factual* problems, but also *perceived* problems that are discussed intensively."[95]

Despite technical disagreement with the need for structural reform in the German banking system, bureaucrats were keenly aware of the political climate. At the Bundesbank, a senior official perceived banks' political and public standing to be at rock bottom, and diagnosed this as a reason for the emergence of structural reform proposals. More concretely, this lack of public standing diminished banks' ability to defend themselves against regulatory initiatives, and, hyperbolically, "you could have abolished the banks back then".[96]

Members of the government, cabinet and senior BMF officials, also take into account the parliamentary optics of major legislative proposals. One way in which parliamentary dynamics cause members of the government to accommodate them is through the prospect of an electoral campaign on an issue, and in particular the campaign promises by the opposition, described in Section 5.2. By addressing policy issues and solutions saliently highlighted by the opposition (even when it is unconvinced on policy substance, such as regarding structural reform), the executive can 'create facts' and thereby reduce the political salience of the issue in the upcoming election. As pointed out by a BMF official, this was part of the motivation for the drafting of the German regulatory act.[97]

95 Interview, Senior BMF Official #1, 13 January 2021, own translation and added emphasis.
96 Interview, Senior Bundesbank Official, 8 March 2021, own translation.
97 "There are various motivations, one being that you say 'I want to make a statement now before my term in

During the parliamentary debate, the legislation was amended more heavily in the German parliament than, for instance, in France (see Section 6.2.5). This was uncommon for major financial market regulations at the time.[98] As an MP heavily involved in the process stated, this applied to both proposals made by parliamentary groups in government but also to groups in opposition.[99]

5.4 The instrumental power of smaller banks and scandals

Turning to the main source of influence that interest groups exert over parliament, this section expands on the nature of instrumental power that banks were able to exercise to achieve a structural reform law that only targeted the largest bank. For this, it illustrates the diminished standing of large banks after the GFC, which reduced their instrumental power, and why smaller banks continued to enjoy influence over MPs in lobbying for their interests. Finally, an analysis of the political salience of bank scandals is used to corroborate why Deutsche Bank, in particular, became a convenient regulatory target.

The effective veto point in Germany's institutional system is parliament, so it is important to conceptualise the type of business power exerted on this particular institutional player. For this, it is necessary to distinguish between large (mostly Deutsche Bank as the country's only G-SIB and, to a lesser degree, Commerzbank) and smaller (i.e. the remaining, mostly domestically-orientated banks) and their respective structural and instrumental business power. An overview of this classification is provided in Table 5.3.

Given Germany's highly bank-based financial system, structural power derives from banks' role in credit provision rather than, say, employment creation or as a major source for government tax revenue. However, a large proportion of credit to both companies and households is provided by smaller banks, such as savings and cooperative banks, rather than large banks. This distinguishes Germany from the other domestic cases, France and Switzerland, where large banks dominate in credit provision.

Moreover, the exit options of Deutsche Bank, the country's most internationally-active bank, were diminished following the GFC. After rapid expansion to become a globally-leading investment

office expires'. I think that's a political aspect. The other aspect is that one says 'we are first creating facts here'." (Interview, Senior BMF Official #3, 18 February 2021, own translation)

[98] "I have never actually seen draft legislation on really major financial market regulation projects being waved through, not by the opposition in any case, but neither by the coalition parties." (Interview, CSU MP, 16 February 2021, own translation)

[99] Interview, CSU MP, 16 February 2021

		Bank size	
		Smaller	Large
Bank power	Instrumental	Yes, "hyper-local structural power" through role in lending to local economies / MPs' constituencies. Well-organised through powerful banking associations.	No, credibility of investment banking business models discredited. Deutsche Bank scandal-prone. Commerzbank had to be bailed out.
	Structural	No, no exit option.	No, not crucial enough for lending. Deutsche Bank's overseas business collapsing (less credible exit option).

Table 5.3: Classification of large and smaller banks' post-crisis instrumental and structural power in Germany

bank, the GFC dashed Deutsche Bank's hopes of becoming a world-leading (investment) bank that did not have to rely on its home market. Figure 5.3 shows that while both its corporate & investment banking stalled, as did private client and asset management abroad, the private client and asset management business in Germany ("DE PCAM") became the largest and the only growing segment after the GFC.

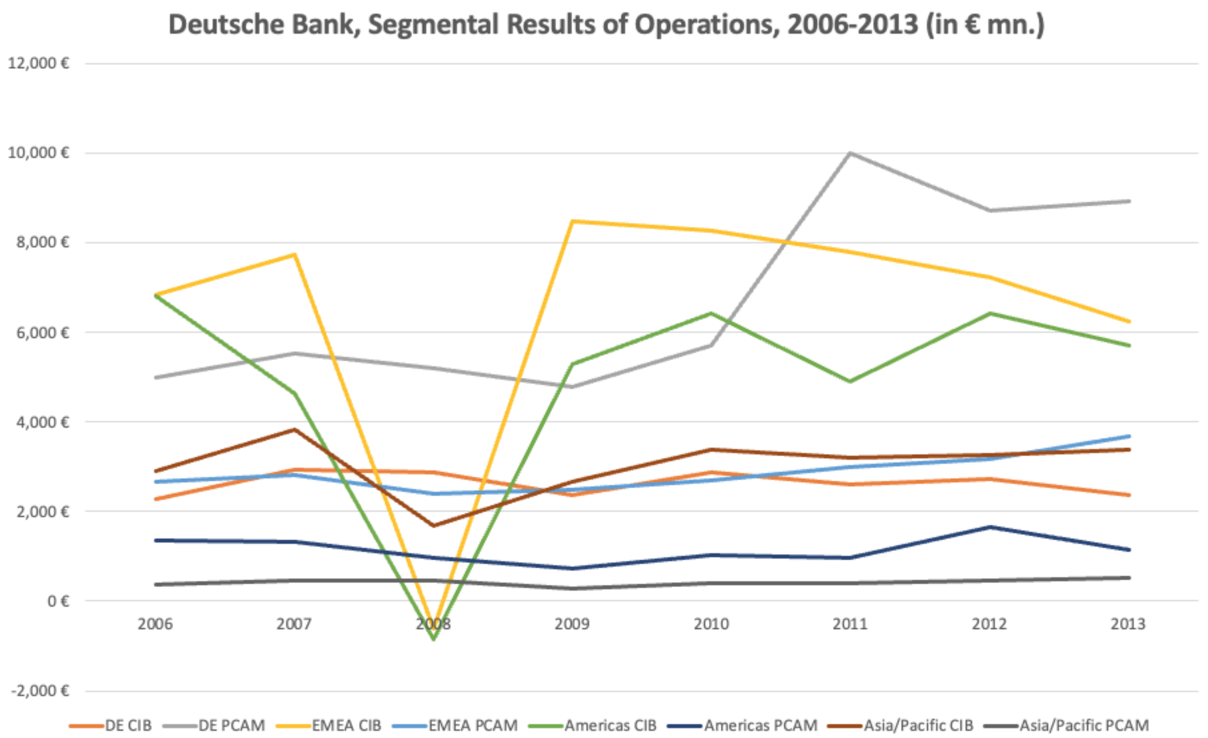


Figure 5.3: Deutsche Bank, Segmental Results of Operations, 2006-2013 (in € mn). CIB: Corporate & Investment Banking; PCAM: Private Clients and Asset Management. Source: Deutsche Bank Annual Reports

Similarly, smaller banks had very little overall structural power, given that savings and cooperative banks, in particular, have virtually no international business to speak of that would provide them with an exit option.

In the following, it is argued that large banks lost their standing and left a vacuum for smaller banks to fill, exercising instrumental business power over MPs on account of their "hyper-local structural power" and powerful associations. Instead, it is shown that Deutsche Bank's scandals further created a convenient regulatory target.

5.4.1 The diminished standing of large banks

Large banks were hindered in exercising significant structural power due to their relatively minor contribution to credit provision and diminished role as taxpayers, driven by their business model challenges. In addition, they saw a decline in their once considerable instrumental power and their political influence was reduced following the GFC: Commerzbank was saved by the state and part-nationalised, giving it little ability to influence the regulatory process. Deutsche Bank's performance deprived it of the ability to present itself as a national champion, and its decisions during the bailout negotiations not to accept government money and its detrimental effect on the German government's rescue plan meant it had fallen out of favour with government and opposition politicians (Woll, 2014b, pp. 445–446). The political debate revolved around investment banking, in particular, and Deutsche Bank found it very difficult to publicly justify its investment banking activity[100]

Large banks' previously significant instrumental power over the BMF and the Finance Minister had similarly waned. After the GFC, bureaucrats and government politicians were increasingly more sensitive to the role savings banks and cooperative banks play in providing financing for the German *Mittelstand*.[101]

This was supported by the position of Finance Minister Schäuble, who headed the BMF and was less concerned about the impact on the business model of large commercial banks. A senior official within the BMF linked this lack of concern explicitly to the definition of the size threshold:

[100] "It was actually very, very difficult to even mention the word investment banking back then. [...] Starting with the 2008 crisis, and that was of course primarily investment banks that were obviously in trouble at the time, we had a mood that was characterised by this mentality of 'it's all gambling, it's a casino, they're bad people', and so on. And this debate was very, very, very intense." (Interview, Bank-affiliated Research Executive, 22 December 2020, own translation)

[101] Senior officials within BMF, whose bureaucrats drafted the legal text, expressed reservations about disrupting the business models of smaller banks: "So the classic example is these savings banks and cooperative banks, which simply have an important economic role in the supply of credit for smaller companies in the status quo and therefore, if this were to be damaged, you have to consider whether [regulation] is really a good idea." (Interview, Senior BMF Official #1, 13 January 2021, own translation)

> The law provides for something that the banks then complained about quite strongly afterwards, namely that it made a certain business model of two large German banks more difficult or no longer possible. Well, it doesn't necessarily mean [...] that you act upon [the complaints]. So I would honestly say that, at least under [Finance] Minister Schäuble, large banks were perhaps given less of a hearing. And I wouldn't underestimate the other banks that still exist, as I think you can see from this threshold value. And the discussion was, of course, which development banks would fall below this threshold. At that time, the big banks also included certain development banks [*Förderbanken*], state development banks [*Landesförderbanken*]. They naturally play a decisive political role.[102]

This perception of Schäuble's inclination to prioritise the interests of smaller banks is also voiced by an MP who worked with the Ministry of Finance, stating that "of course, the heads of the banks also sought contact with [Schäuble]. [...] I also believe that his sympathy belonged more to the cooperative banks and savings banks than in some cases to the big banks."[103]

The political preference to protect the Landesbanken and development banks in particular was felt by large banks, who saw the political discourse as protective of the Landesbanken despite Germany's experience during the crisis: "If you think about the institutions that got into difficulties here in Germany, such as IKB or many Landesbanken, they stylised themselves as the victims, so to speak. This was of course a relatively easy position to take in the debate at the time, pointing the finger at the evil investment banks and deflecting attention away from their own failures in risk management and liquidity management, et cetera."[104]. This disconnect in the political debate, between the problems revealed by the GFC and the targeted institutions, was publicly criticised by Deutsche Bank by pointing out, in a paper by the bank's in-house think tank DB Research, that the crisis was not caused by the banks targeted by the law, and equally not because of their universal banking model (Schildbach, 2012).

5.4.2 "Hyper-local structural power" and banking associations

In contrast, smaller banks retained considerable instrumental power: first, when exercising instrumental power, smaller banks individually are often limited by their lack of resources. Germany's traditionally influential banking associations, however, allow smaller banks to overcome this limitation by pooling resources. Second, as mentioned above, in contrast to other countries, most bank lending in Germany is carried out by smaller banks. Even though this does not

[102] Interview, Senior BMF Official #3, 18 February 2021, own translation.
[103] Interview, CSU MP, 16 February 2021, own translation.
[104] Interview, Bank-affiliated Research Executive, 22 December 2020, own translation.

equip them with sufficient structural power at the national level given their regional or domestic focus and hence lack of exit options, it provides smaller banks with immense instrumental power. The role of smaller banks is extremely relevant to individual local economies, given their role in providing credit to companies and households. In a sense, they thus possess a type of "hyper-local structural power", which would not, however, translate into structural power at the aggregate national level, such as when attempting to influence the federal government. Instead, the role of parliament as the institutional veto point endows smaller banks with the ability to exercise instrumental power over MPs, who are often directly elected in first-past-the-post elections (*Direktmandate*) within constituencies. Moreover, since local politicians often sit on the boards of savings banks, they maintain excellent connections to the main political parties. More concretely, MPs are more receptive to the lobbying of savings banks (or their banking associations) as well as Landesbanken themselves. Savings banks, while not within the scope of any structural reform proposal given their lack of proprietary trading or business with hedge funds, have an incentive to lobby on behalf of the Landesbanken to retain this access.

Apart from the resource pooling through banking associations that lend smaller banks more lobbying power, German parliamentary procedure provides associations with an institutional role in the legislative process. Interviewees highlighted the importance of hearings and consultations with the associations (*Verbändeanhörung*), which is a step that takes place before the draft law is submitted to become the government's official legal proposal.[105] In the case of the 2013 draft structural reform bill, comments from banking associations served as the basis for discussion for government MPs.[106]

Although large banks are also represented by an association, namely the Association of German Banks ("*Bankenverband*") which represents the German commercial banks of all sizes, they had difficulty lobbying through the *Bankenverband* due to the diversity of business models. In particular, very few banks other than Deutsche Bank did proprietary trading on this scale (see Section 5.1.2), causing one interviewee to point out that "Deutsche Bank had the speciality of doing certain business worldwide that nobody else did. You can't get an association position together. Because no one can comment on it, that's quite simple"[107]. Deutsche Bank's inability to assemble a coordinated position with other banks, let alone the banking industry as a whole, hurt its ability to lobby against the structural reform elements with parliament.[108]

[105] Interview, Senior BMF Official #1, 13 January 2021; Interview, Research Staff for CDU MP, 26 February 2021
[106] Interview, Research Staff for CDU MP, 26 February 2021
[107] Interview, Bank-affiliated Research Executive, 10 February 2021, own translation.
[108] "In this dialogue with regulators and legislators, you usually have the expectation on the other side of the table

This dynamic is confirmed by MPs in interviews and in one case by a research staffer (who prepares subject matters for MPs) for a leading CDU MP. In their assessment, savings and cooperative banks often escape regulatory focus in contrast to large banks because MPs, and in particular CDU politicians, are often under political pressure from the "party base" to protect smaller banks, as savings bank directors are often closely connected to MPs and district administrators (*Landräte*).[109] Large banks may have personal connections to top politicians, but local politicians and MPs, representing their constituencies, are better connected to smaller banks.

In the parliamentary debate in the Bundestag, (government coalition) MPs were transparent about their intention to design a regulatory law that did not interfere with the business of smaller banks. This is, for instance, highlighted in a speech by Ralph Brinkhaus, the rapporteur for the bank separation act of the CDU/CSU:

> The SPD's election programme [...] states: 'We want ... a clear separation of investment and commercial banks.' Unfortunately, I have to tell you that investment banking even takes place in savings banks. You need to explain what it means to completely separate the two! Explain to a *Mittelstand* company that applies for a corporate loan from its bank that it will then unfortunately not be able to issue a corporate bond with the same bank, that it will then unfortunately not be able to enter into hedging transactions with the same bank, that it will then not be able to organise its next corporate merger with the same bank! That is the truth. That is precisely why we have introduced thresholds and made a sensible demarcation.[110]

5.4.3 Deutsche Bank's scandals create a regulatory target

To explain why Germany ended up with a "Lex Deutsche Bank", it needs to be evidenced why Deutsche Bank in particular became a target for structural regulation. On the one hand, it has been Germany's largest and pre-eminent bank for a long time. On the other hand, as outlined in Section 5.1.1, it did not require a state bailout. The obvious contrast is with Commerzbank, Germany's second-largest and also a privately-owned universal bank. Commerzbank was saved with taxpayer money during the GFC but was not explicitly targeted by the bank separation act's size threshold. Instead of the bailouts, a notable and politically salient scandal episode further weakened Deutsche Bank's instrumental power and made it a convenient regulatory target.

that you will come with coordinated positions from the sector or the industry and not just with 17 special ideas from 17 different institutions. That's why it makes a lot of sense to coordinate there. Wherever possible." (Interview, Bank-affiliated Research Executive, 10 February 2021, own translation)

109 Interview, Research Staff for CDU MP, 26 February 2021

110 Bundestag debate on 17 May 2013 (Deutscher Bundestag, 2013)

This focus on scandals provides further evidence that instrumental power was the main resource at play in Germany, where direct parliamentary rule places parliament at the key veto point. It weakens explanations based on structural business power or the institutional protection of the role of large universal banks. Scandals would not in themselves diminish the structural standing of the bank embroiled in them: its role in credit provision, employment, exit option or other determinants of structural power would not inherently be damaged by reputational scandals.[111] Similarly, its role within the country's institutional CME, for instance, would not be weakened if the public's and policymakers' perceptions of a particular bank changed due to a scandal. Instead, scandals should only matter for regulatory policy in situations where instrumental business power and the ability of a bank to lobby policymakers is the main determinant of banks' regulatory treatment. As a result, in a counterfactual in which these scandals had not taken place and no structural reform regulation had been implemented, it would be difficult to distinguish between the role of instrumental and structural business power hypotheses. Although not a causal explanation, the coincidence of scandals and the 'Lex Deutsche Bank' provides analytical leverage to demonstrate the role of instrumental business power in Germany's regulatory response.

An analysis of the political salience of bank scandals, both among the wider public and policymakers, is best based on the media coverage of these scandals. Media coverage is the main channel through which scandals are communicated to the public, a source of information for politicians themselves, and serves as a proxy of scandals' public salience for policymakers to gauge their relevance.

The following analysis draws on data collected as part of the BANKLASH project.[112] The aim is to identify the salient coverage of different types of banks in Germany with a count of articles that have been classified into "frames" using a model for supervised classification based on a multilingual transformer model (for methodological details, see Nicholls & Culpepper, 2022). The dataset consists of Germany's largest and most important newspapers, including tabloids, broadsheets and business dailies. The three frame categories considered here are 'scandal', 'financial crisis/bailouts' and 'regulation'; a simplified summary definition is given in Table 5.4.

Figure 5.4 shows the monthly number of articles that fall into each frame, 'financial crisis/bailouts', 'scandal', and 'regulation'. This enables two types of inference: about the *compara-*

[111] An exception is if scandals led to losses, fines or other financial consequences that would weaken the bank's ability to fulfil these structural roles. This was not the case in Deutsche Bank's tax fraud scandal related to CO_2 emission certificate trading and a legal case initiated by the family of the late entrepreneur Kirch that took place in December 2012.

[112] This thesis was produced as a part of the ERC-funded BANKLASH project, and the analysis has benefited from the work of Tom Nicholls and Mika-Erik Möser.

Classification	Definition
Scandal	Named banks involved in, or allegedly involved in, *misconduct* that involved settlement/charge/fine/claim etc., or a sense that banks are *ripping off* customers.
Financial crisis/ bailouts	The events of the financial crisis of 2008 and the bailouts that resulted from them (including the lingering effects years afterwards).
Regulation	The making of rules for banks or the regulatory or political oversight of banks.

Table 5.4: Banking article classification (from Nicholls & Culpepper, 2022, p. 4)

tive coverage between banks and about the *temporal* evolution of this coverage. The selection of banks is motivated by a consideration of the largest and most prominent banks in the context of the GFC bailouts, discussed in Section 5.1.1. 'Landesbank' is included as a term to capture all Landesbanken; while this captures multiple banks, as state-owned banks, these should be seen as a collective category. The time frame allows for a sufficiently long time horizon to compare the coverage (1) immediately after the GFC, (2) during the regulatory episode discussed in this chapter and (3) afterwards.

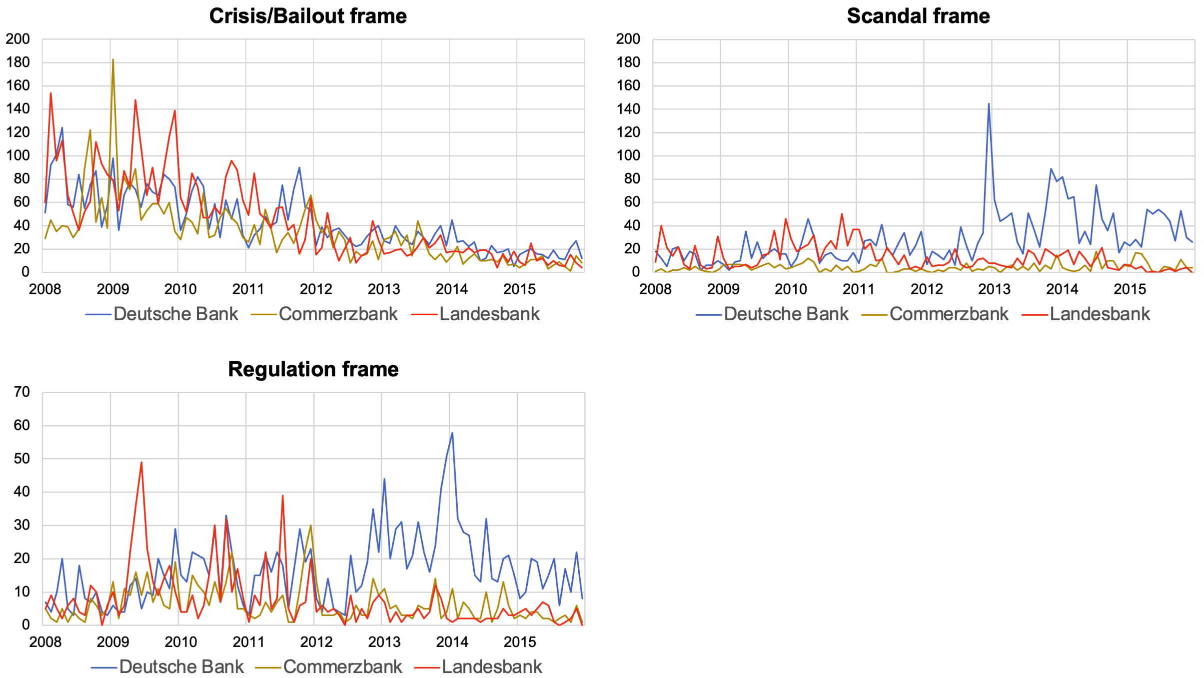


Figure 5.4: Count of press articles mentioning crisis/bailouts, bank scandals and bank regulation for Deutsche Bank (blue), Commerzbank (yellow) and Landesbank (red), 2008-2015

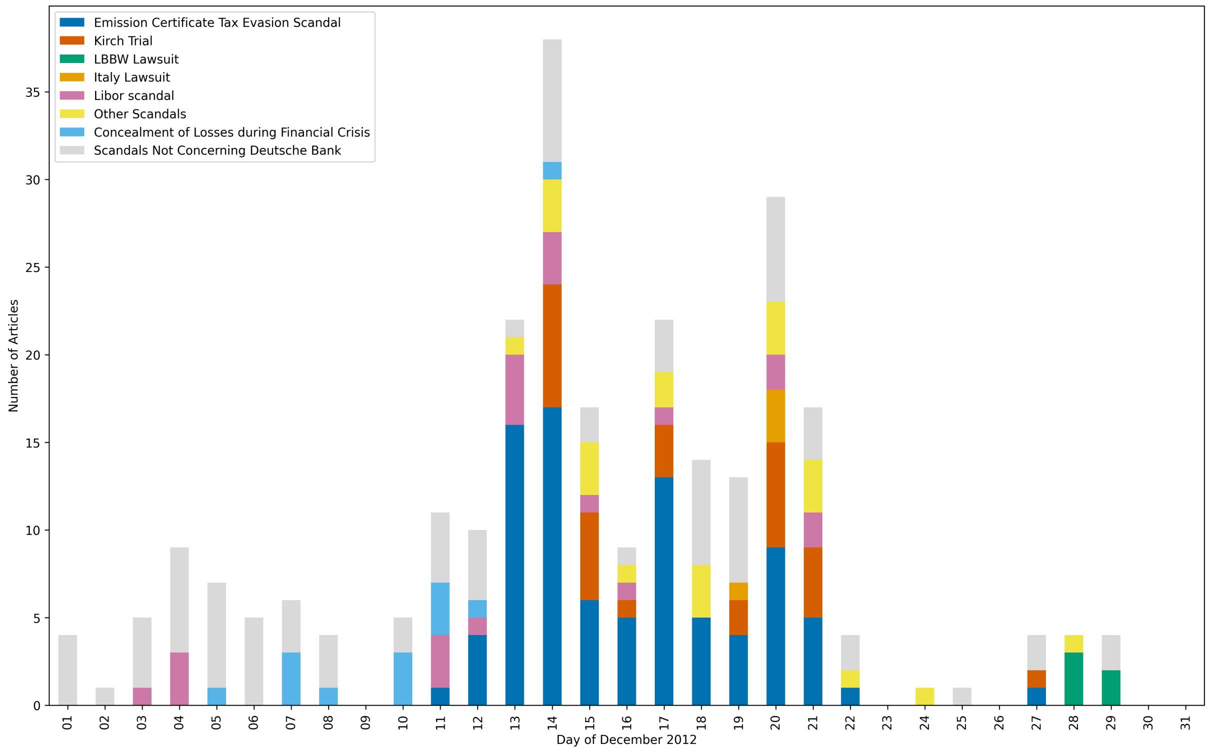
The first observation is that up until the beginning of 2012 the 'financial crisis/bailout' frame dominated news coverage for all banks. Most notably, and in line with expectations, Deutsche Bank received the lowest coverage of all banks analysed. Coverage of Commerzbank peaked dramatically in early 2009 during/after the bank's bailout by the German government in January 2009 (Larsen et al., 2009). The consistently highest coverage concerns Landesbanken, which exceed the coverage received by Deutsche Bank and Commerzbank (except during the bailout episode). From 2012, the salience of the GFC recedes noticeably in the relative news coverage.

Turning to the 'scandal' frame, Commerzbank received far and away the lowest coverage. In contrast, from 2008 until early 2011 the Landesbanken received the highest scandal-related coverage. This is unsurprising, given that while Commerzbank's bailout was related primarily to its financial position (partially related to its takeover of Dresdner Bank in 2008), the Landesbanken troubles stemmed from a multitude of risky business practices. Deutsche Bank starts overtaking Landesbanken from 2011 and most significantly from late 2012. Two major scandals drive a notable peak in Deutsche Bank coverage, namely a tax fraud scandal related to CO2 emission certificate trading and a legal case initiated by the family of the late entrepreneur Leo Kirch. The main events and number of articles covering the respective scandals in December 2012 are highlighted in Figure 5.5. December 2012 saw a large-scale raid of Deutsche Bank's Frankfurt headquarters regarding the CO2 emission certificate trading scandal and a legal ruling in the Kirch case. Deutsche Bank dominated the bank scandal coverage henceforth.

Finally, the 'regulation' frame reflects relatively low or only sporadic salience in the aftermath of the GFC until 2012 (note the scale of the chart). There are no clear patterns, except for some spikes in regulatory coverage of the Landesbanken. However, from 2012 a dramatic shift emerges in which Deutsche Bank receives consistently more regulation coverage than Commerzbank and the Landesbanken.

In summary, a high level of 'financial crisis/bailout' coverage is dominated by the Landesbanken and the Commerzbank bailout, with little coverage of Deutsche Bank, and fading after 2012. Similarly, scandal coverage at first is primarily about the Landesbanken, but Deutsche Bank takes off spectacularly from December 2012 onwards. This coincides with an increase in regulation coverage focused on Deutsche Bank from 2012. 2012 thus represents a turning point in coverage of the largest German banks, pivoting from crisis-related coverage focused on Commerzbank and the Landesbanken to scandal-focused coverage driven by Deutsche Bank.

This data highlights the importance of political salience of different aspects of banks through media coverage—financial stability and scandals—and their change over time. An examination of the bailouts and the pre-2012 period would correctly lead to the expectation of a regulatory focus on the Landesbanken and Commerzbank due to their financial troubles and corresponding media



(a) German scandals in articles in December 2012 - by Deutsche Bank mention and scandal

Date	Category	Event
2012-12-12	Emission Certificate Tax Evasion Scandal	Raid at Deutsche Bank in Frankfurt, 5 Arrested
2012-12-13	Emission Certificate Tax Evasion Scandal	4 Bankers Remain in Custody
2012-12-13	Emission Certificate Tax Evasion Scandal	Deutsche Bank CEO Fitschen Gives Interview
2012-12-14	Kirch Trial	Loss in Kirch Trial
2012-12-15	Earnings Warning	Deutsche Bank Has to Give Earnings Warning
2012-12-16	Emission Certificate Tax Evasion Scandal	Fitschen Calls PM Bouffier
2012-12-17	Emission Certificate Tax Evasion Scandal	Investigations Show That HMRC Warned DB Early
2012-12-18	Emission Certificate Tax Evasion Scandal	Fitschen Regrets Call
2012-12-19	Emission Certificate Tax Evasion Scandal	First Banker Released from Custody
2012-12-19	Kirch Trial	Court Overturns Shareholder Meeting Decisions
2012-12-19	Italy Lawsuit	Ruling in Italy Lawsuit
2012-12-20	Kirch Trial	Second Raid at Deutsche Bank
2012-12-28	LBBW Lawsuit	Launch of LBBW Lawsuit

(b) Timeline of main events related to Deutsche Bank scandals in December 2012

Figure 5.5: Deutsche Bank scandals in December 2012: Article count by scandal (Figure 5.5a) and timeline of main events (Figure 5.5b)

coverage. However, the timing of structural reform precedents/proposals in the UK/EU and the 2013 federal elections in Germany meant that domestic TBTF legislation was only put on the agenda in late 2012, at a time when public perception had already moved on to the scandals of banks, in particular Deutsche Bank.[113]

For bank popularity among the electorate, the shift in issue attention to bank scandals disadvantaged Deutsche Bank. In a setting of direct parliamentary rule, parliament is the relevant veto power, however. The shift in attention to (Deutsche Bank's) scandals away from financial

[113] Something also noted by Howarth and James (2022, p. 190)

stability concerns is highly relevant to MPs as well. First, in representative democracies, MPs are sensitive to the preferences and concerns of their constituents. Even in a regulatory law nominally concerned with risks to financial stability, the incentives of MPs to shape a bill that corresponds to their electorate's perceptions of the most salient issues are higher than for bureaucrats or government politicians in the executive. Second, MPs' own views are informed by the shifting coverage about banks in the media. Moreover, the nature of a particular Deutsche Bank scandal is likely to have further alienated politicians in particular: after a large-scale raid at Deutsche Bank headquarters, the Frankfurt Public Prosecutor General's Office accused 25 bank employees of tax evasion, money laundering and attempted obstruction of justice in connection with trading in CO2 certificates. In response, Deutsche Bank's co-CEO Jürgen Fitschen made a call to the state of Hesse's Minister President Volker Bouffier of the CDU, the governing party both in Hesse and the federal government, to complain about the raid. This led to a backlash not only from CDU but also opposition SPD, Green and *Linke* politicians, accusing Deutsche Bank of considering itself "above the law" (Der Spiegel, 2012). This scandal arguably weakened Deutsche Bank's instrumental power among politicians from all parties considerably.[114]

5.5 Conclusion

Germany, with its need for (shifting) governing coalitions and no institutional mechanisms for the public to veto policy, is a paradigmatic example of direct parliamentary rule. As this chapter has shown, this institutional setting creates a power dynamic within parliament to become the principal determinant of the country's regulatory response to the TBTF problem. The government passed a law that prominently contained a structural reform component, of which both government politicians and bureaucrats were profoundly sceptical. The executive thus exhibited strong political-bureaucratic preference homogeneity, but it was not the veto point and was forced to introduce a law that would be supported by the wider parliament.

Instead, the dynamics within parliament, such as the opposition parties' strong demand for a structural reform of Germany's universal banks ahead of the federal election, set the agenda for the introduction of the 2013 structural reform bill. The exact policy design of the regulation, including its size threshold and focus on proprietary trading, was similarly influenced by the preferences of MPs. In line with the theoretical framework, banks' main source of influence

[114] "the institute does not only have friends in the government - at least since the complaint by co-CEO Jürgen Fitschen to Hesse's premier Volker Bouffier about the major raid at the institute at the end of 2012." (Neuerer, 2013)

over parliament is their instrumental power over MPs. The chapter distinguished between the instrumental power of large and smaller banks: large banks' (investment banking) business models lost credibility after the GFC, with Commerzbank having to accept a state bailout and Deutsche Bank's international business dramatically reduced in size. In addition, a slew of scandals affecting Deutsche Bank at the wrong time further reduced the bank's standing among MPs and made it a convenient regulatory target for post-crisis regulation in the form of a structural reform bill—a "Lex Deutsche Bank". Contrast this with the instrumental power of smaller banks that were arguably more affected by the GFC. Smaller banks in Germany, and savings banks in particular, possess "hyper-local structural power" which manifests as a type of instrumental power that can be exercised over local MPs through smaller banks' key role in lending within the local economies in MPs' constituencies. Through this and the powerful aggregation of their interests via banking associations, smaller banks were able to exempt the Landesbanken (acting as savings banks' central banks) from being included within the threshold at which structural reform requirements applied.

The case of Germany demonstrates that a different location of the veto point within the institutional setting can shift the regulatory dynamic under high salience: the political-bureaucratic elite in Germany shared the same aversion to structural reform and preference for resolution reforms as their French counterparts. However, they had to give in to parliament's demands to introduce a structural reform bill to target a scandal-stricken bank that had lost favour with the actors at the veto point.

Chapter 6

Semi-presidentialism in France: A divided executive in the face of structural business power

This chapter shows that the shape of French post-crisis too-big-to-fail (TBTF) regulatory reform was driven by the tension between the newly elected government's prominent political reform commitments and the preferences of France's influential bureaucracy. As a setting of semi-presidentialism (without 'co-habitation') in which governments generally enjoy comfortable majorities in parliament, political conflict occurred between the executive and banks through their structural position in the economy. The executive did not display sufficient "political-bureaucratic preference homogeneity" and was not able to agree on substantive banking reforms. The French regulatory law of 2013 largely avoids structural changes to banks to ensure continued financing of the economy. This demonstrates that a political commitment to bank reform alone is insufficient and effective post-crisis reform requires a shared interpretation of crisis lessons with the executive.

To situate this discussion in the overall literature on France's political economy, Section 6.1 reviews what the change in banks' business models and the crisis bailout experience reveal about the country's modern political economy. Particular attention is paid to explanations of post-crisis regulation, to which the subsequent empirical section makes a contribution.

The empirical Section 6.2 starts by describing France's TBTF reforms and analyses France's crisis bailout programme and public opinion in order to explain President Hollande's political reform commitment. Interview evidence is then deployed to trace how the bureaucracy sought to impose its own preferences, based on its crisis interpretations and priorities to ensure the financing of the economy. The bureaucracy leveraged its expertise to design a policy that implemented its own priorities while at the same time accommodating the President's political reform commitment.

6.1 The French 'post-dirigiste' political economy and the financial crisis

In order to situate this chapter on the French post-crisis reforms, this section reviews the expectations the political economy literature generates for the mode of French economic policymaking. This review provides the backdrop for the discussion of the independent role of state actors in the design of regulatory reforms in the remainder of this chapter. Existing literature on France's post-crisis banking regulation overwhelmingly consists of Varieties of Financial Capitalism (VoFC) and business power explanations.

6.1.1 The new French state before and during the GFC

France's post-war financial system was long characterised by *dirigiste* state intervention, understood as state intervention in a great number of industries and overall centralised planning and coordination. Here, the Trésor and parapublic banks centrally allocated credit, giving the state its "most powerful weapon" in shaping investment (Hall, 1986, p. 153; see also Culpepper, 2008; Zysman, 1983). This system collapsed with the 1984 Banking Law, which deregulated markets, enabled universal banking, and ended state-controlled credit (Bertero, 1994), with explanations ranging from financial globalisation (Loriaux, 1992) to domestic economic pressures (Hall, 1986). French banks subsequently developed "market-based" business models (Howarth, 2013), supported by privatisations and the rise of shareholding networks (Culpepper, 2008). While some attribute these changes to deregulation, others stress shifts in firm strategies and "joint belief shifts" in corporate behaviour rather than formal institutional reform (Culpepper, 2005; O'Sullivan, 2007). Scholarly debate persists over whether France should now be seen as a state-enhanced economy, with the state exercising indirect influence (Schmidt, 2003; Schmidt, 2002; Clift, 2006), or as a more market-dependent system in which firms rely on equity markets rather than state-led coordination (Culpepper, 2008).

The French government's interventions during the Global Financial Crisis (GFC) are ideally suited to obtain a better understanding of the nature of state intervention in the new French political economy. The rescue plan executed through the Société de financement de l'économie française (SFEF) and the Société de prise de participation de l'etat (SPPE) is widely agreed to constitute an extremely cooperative solution between the state and banks. This is because the SFEF, which provides liquidity to banks by raising capital, is jointly owned by the government and the six big banks, with the government guaranteeing the bonds issued by the SFEF (Grossman & Woll, 2014, p. 591). This lack of conflict in the French bailout programme has been explained in the literature through business power, either as the collective negotiation between the state and banks (Grossman & Woll, 2014; Woll, 2014a, 2014b) or an 'informal consortium' between policymakers and bank managers (Jabko & Massoc, 2012).

In contrast to this rationalist account of institutional change to the "post-dirigiste" mode of policymaking through gift exchange, Clift (2012) argues that the changes in French capitalism—privatisations, internationalisation including foreign equity ownership, and increased reliance on debt financing—have transformed France into a post-dirigiste style of state activism by changing how economic elites understand the state-economy relationship (see also Woll, 2008). Here, the French tradition of *dirigisme* has evolved into a type of state-economy relationship in which economic elites continue to see a market-making role for the French state, as evidenced in the coordinated design of the bailout package, the continued promotion of national (banking) champions, and institutional innovation in the search for new modes of interventionism. In contrast, Levy (2017) characterises the French response to the economic downturn during the GFC as essentially neoliberal and proposes a historical institutionalist explanation. The reforms of the 1980s deprived the French state not only of its industrial policy instruments but at the same time instituted an expansion of social spending, which limited the government's fiscal capacity to launch a more ambitious stimulus package during the GFC.

6.1.2 The political economy of French post-crisis regulation

Post-crisis banking regulation presents a promising opportunity to gain a theoretical understanding of the mode of French state intervention in the financial sector. Post-crisis regulation arguably represents a more deliberate case of policymaking, compared to the frenzied government action in the face of potential economic calamity during the GFC. The change from President Sarkozy's centre-right government, which at the beginning of its term supported a withdrawal of the state (Jabko & Massoc, 2012), to President Hollande's centre-left government, which supported stronger state intervention, can yield insights into various constraints on government action.

With regard to bank structural reform, Hardie and Macartney (2016) argue that France was looking to protect the business models of its largest banks, centred around 'market-based banking' (see Hardie & Howarth, 2013a), from the European Union (EU) proposals to separate trading activities from universal banks. This clashes with the institutional literature's traditional conceptions of France as a bank-based financial system that makes policy in favour of traditional bank (lending) activities. The defence of national champions is a hallmark of (post-)dirigiste policymaking. The authors rightly conclude that "neither the proprietary trading ban nor the specific national ringfences posed a significant challenge to the market-based activities of the largest French [...] universal banks" (Hardie & Macartney, 2016, p. 519). Even though this insight into the motivations of policymakers—protecting national champions' trading activities instead of domestic lending—provides a starting point for the analysis of French post-crisis regulation, they reveal little about *how* and *why* the contest between Hollande's political agenda, public pressures, bureaucratic influence and business power played out to produce this outcome.

In contrast, Massoc (2020) examines the institutional capacities of different factions in the policymaking process to explain domestic regulatory reform. While states by default have a structurally-determined incentive to promote the competitiveness of their banks, after the GFC some factions opposed this incentive. Due to the closely intertwined nexus of political and financial elites in France (see also Jabko & Massoc, 2012), the institutional capacities of these opposing factions were thinner, for instance, than in the United Kingdom (UK). Absent venue shifting to an independent expert commission, as in the UK (see Macartney et al., 2020), "French priorities have, thus, been to enhance the expansion of its TBTF banks, both globally and at home" (Massoc, 2020, p. 136).

Broadening the argument, Howarth and James (2020) add the role of banks and their business power to influence the political agenda through issue framing, conflict expansion and venue shifting. In the face of the high political salience of banks after the GFC, as reflected in President Hollande's 2012 election campaign, France's four largest banks, together with big business, managed to maintain a united front against structural reform proposals. In another contribution based on the 'financial unity' thesis (see Pagliari & Young, 2014), Howarth and James (2022) further argue that French banks leveraged their 'cooperative financial power' in conjunction with a broad business alliance, which combined with the lack of venue shifting led to symbolic reform. By emphasising the importance of institutional venues and the influence of banks, the authors provide a useful account of the regulatory process but, similar to Massoc, are unable to explain *why*, for instance, the Socialist party and bureaucrats did not expand the political conflict nor instituted a venue shift.

Moving away from financial power perspectives, Keller (2021) instead argues that the post-crisis response in France exhibits evidence of social learning at the level of financial regulators.

More concretely, after banks tightened lending standards following the GFC, French business and regulators learned that a bank-based financial system led to over-dependence on bank credit. This learning led to a focus on strengthening alternatives to financial intermediation in domestic regulatory reforms. Keller's focus on social learning and the ideational underpinnings (in the tradition of Hall, 1993) of regulatory reforms is a welcome contribution to the predominantly institutionalist and business power literature. Yet, the empirical evidence focuses on reforms to strengthen capital markets by empowering investors and easing market access for small and medium-sized enterprises (SMEs) (2021, ch. 7), providing little insight into the regulation of banks as the (continued) central players in financial intermediation. Indeed, by focusing on TBTF bank reforms, the empirics in Section 6.2 contest Keller's notion that French banks were the "biggest losers of the French reforms". Instead, policymakers sought to keep financial intermediation within banks with the goal of financing the economy.

6.2 A bureaucratic solution to political reform commitments

This section argues that France's post-crisis TBTF regulation is shaped by a bureaucratic compromise between political reform commitments in response to the GFC and the preferences of the French bureaucratic elites. President Hollande's campaign promises created a political commitment to be implemented by the country's famously influential bureaucratic elite, which opposed structural reform because of its different interpretation of the lessons from the GFC bailouts and a strong preference for retaining banks' ability to lend to the real economy. Instead, bureaucrats focused on creating a resolution regime to address the TBTF problem. This culminated in a legislative outcome that symbolically addressed the political reform commitment in name only and instead more effectively implemented bureaucrats' desired resolution powers and worked as an effective measure to fend off the EU-level structural reform proposals rejected by bureaucrats.

Figure 6.1 illustrates the role of the French case in the theoretical framework. In France's political system of semi-presidentialism (without 'co-habitation'), governments ordinarily command a comfortable majority in parliament. The votes of Members of Parliament (MPs) for the government's agenda are thus virtually assured. In the hierarchy of actors' agenda-setting power, the executive does not have to consider a potential veto from parliament or the electorate in its policymaking. Accordingly, the executive's power source is the preference homogeneity between the government politicians and the bureaucracy. When dealing with the executive, banks' main source of influence is the sector's structural power. As outlined in the following sections, bank lending can constitute a powerful source of influence over bureaucrats.

Institutional setting	Last veto point	Political actors (by agenda-setting power)	Actors' de facto power source	Bank source of influence	Case	Regulatory outcome: Policy mix
Direct democracy	Electorate	- Government politicians - Bureaucrats - Parliament - Electorate	Political-bureaucratic preference homogeneity Electoral majorities Issue attention (salience)	Structural power Instrumental power Bank popularity		"TBTF reform": Strong resolution and structural reform through enforcement (2011)
Direct parliamentary rule	Parliament	- Government politicians - Bureaucrats - Parliament - Electorate	Political-bureaucratic preference homogeneity Electoral majorities Issue attention (salience)	Structural power Instrumental power Bank popularity		"Lex Deutsche Bank": Selective structural reform and weak resolution (2013)
Semi-presidentialism	Executive	- Government politicians - Bureaucrats - Parliament - Electorate	Political-bureaucratic preference homogeneity Electoral majorities Issue attention (salience)	Structural power Instrumental power Bank popularity		"Status quo symbolism": Weak resolution and structural reform (2013)
International standard-setting	Unclear	- Bureaucrats - National executives	International coordination and community-building Political-bureaucratic preference homogeneity	Expertise and community-building Financial sector 'competitiveness'	FSB	"Status quo innovation": Resolution standards and bail-in (2011/2015)

Figure 6.1: France's position within the theoretical framework

For effective policy reform, a democratic mandate for reform is insufficient. Rather, it requires the bureaucracy to share the political interpretation of crisis lessons. First, this is particularly the case where, institutionally, the bureaucracy has significant standing for and thus power through its expertise. Second, greater conflict arises when bureaucracies have a mandate to promote the financing of the economy. In cases where the bureaucracy potentially has different reform preferences to politicians, the technically complex nature of banking regulatory issues endows politicians with decreased resources to challenge the bureaucracy's expertise. In these situations, bureaucrats are able to impose their preferred solutions as long as they are able to sufficiently accommodate the political reform commitments.

In order to evidence this, Section 6.2.1 starts by briefly describing the regulatory policy mix of the French TBTF reforms of 2013, i.e. the dependent variable. Section 6.2.2 outlines the French crisis experience and bailout programme, illustrating both the public and political dissatisfaction as well as the different interpretations and lessons that bureaucrats drew. The chapter then goes over the political reform commitment that the Hollande presidential campaign made in Section 6.2.3. The crucial role of bureaucratic preferences is highlighted in Section 6.2.4, including the lessons that bureaucrats drew from the crisis, their concerns about the domestic as well as EU-level structural reform proposals, and their preference for resolution reforms. Section 6.2.5 demonstrates how the bureaucratic arguments were carried back into parliamentary debates and the eventual reform adoption.

6.2.1 France's TBTF reforms: A bureaucratic compromise regulation

In July 2013, the French Parliament passed the *Loi de séparation et de régulation des activités bancaires*, or "Law on the separation and regulation of banking activities". Despite its name emphasising the separation of banking activities, i.e. the structural reform component, the law is in fact a law containing a wide range of regulatory measures. It is composed of a total of twelve "titles", the most important of which, for the purpose of this chapter, are as follows[115]:

The regulation created a separation in which banks were forced to separate "speculative" activities into subsidiaries (title 1), a resolution regime that transformed the Autorité de contrôle prudentiel (ACP) into the "Autorité de contrôle prudentiel *et de résolution*" (ACPR) and granted it extensive resolution powers (title 2), measures for macroprudential supervision (title 3), strengthening the power of financial supervisors (title 4) and further titles strengthening consumer protection.

To understand the most important aspect that determines the stringency of the structural separation component for French banks' business models, it is important to note that the Trésor included a definition of speculative activities in the regulation. It settled on a definition that any business on request of a client does not constitute speculation, and as a result, the law focuses on proprietary trading as the main activity that constitutes "speculation" (as well as a ban on high-frequency trading, speculation on agricultural raw materials and ownership of hedge funds). This makes it similar in focus to the Volcker Rule in the United States (US), with the crucial difference that French banks were merely required to put their "speculative" proprietary trading operations into subsidiaries with stand-alone capitalisation, as opposed to a Volcker-style outright ban. This definition means that (in contrast to the US or the EU Liikanen proposals) market making—buying and selling securities to create liquidity in the market for these securities—was still permitted for French banks.

6.2.2 Crisis bailouts and French public opinion after the crisis

The GFC arrived in France in August of 2007 with BNP Paribas' announcement about suspending redemptions on three of its funds, considered by some even to constitute the real start of the financial crisis. However, the state was only forced to step in a year later. French crisis bailouts

[115] Note that these do not all correspond to the title numbering in the final adopted law, as the parliament changed the order and added mainly consumer protection-related titles, which are not of main interest here. However, interviewees discussing the titles with reference to their ordering in the draft law, where "title 1" refers to the separation and "title 2" to resolution reforms.

fall into two categories: individual bailouts of smaller institutions and a collective scheme that includes all the large TBTF banks. The first bank to be bailed out was Natixis, an investment bank jointly owned by Banque Populaire and Casse D'Epargne. It had the highest losses of any French bank and led to the merger of the two owners to form BPCE, brokered by the French government (including liquidity and capital injections) and installed an advisor to President Sarkozy as its CEO (see Jabko & Massoc, 2012, p. 578). The second bank was Dexia, a Franco-Belgian public finance bank that received a coordinated bailout by the Belgian, French and Luxembourg governments. However, it is noteworthy that French policymakers rarely considered Dexia to constitute a case that revealed problems about French banks.[116]

The main rescue plan executed through the SFEF and the SPPE is widely agreed to constitute an extremely cooperative solution between the state and banks. It was announced and put into law in October 2008 and is unique in its collective focus on all six large French (i.e. TBTF) banks, which avoided the stigmatisation of individual banks. Rather than providing direct government money, the SFEF raised capital on the financial markets and provided liquidity to all participating banks. The SPPE recapitalised all banks simultaneously by buying equity. As a result, this was viewed by French policymakers mostly as a temporary liquidity umbrella for banks in light of tight market conditions during the crisis, rather than a full-blown government bailout—in contrast to schemes in other countries.[117] Similarly, the collective nature of the SPPE to support "the economy" and its avoidance of taking controlling stakes in banks by buying so-called supersubordinate securities meant that "the SPPE was promoted as an instrument to help stabilize the financing of the economy, not a bailout measure per se" (Woll, 2014a, p. 124).

The French bailout scheme early on turned out to be one of the most "profitable" bailout schemes in Europe; the bailout plan's benefit to the French government budget was positive throughout and updated numbers up to 2020 show positive net revenues of €1.9bn, or 0.1% of French 2020 gross domestic product (GDP) (contrast with the costs of Germany's bailout plan of €49.4bn or 1.5% of 2020 German GDP in Figure 6.2, European Commission, 2021, p. 19).

The above has illustrated the general contours and most pertinent features of the bailout programmes that might have influenced the interpretations of the French crisis experience. This is supplemented with evidence on public opinion on the most important aspects of the crisis and response using surveys conducted by the polling company ifop Group. The first survey provides evidence on respondents' preference regarding the specific form of the government's solutions to

116 Interview, Senior Trésor Official, 22 November 2021
117 Interview, Frédéric Visnovsky, Deputy General Secretary at ACPR, 3 December 2021

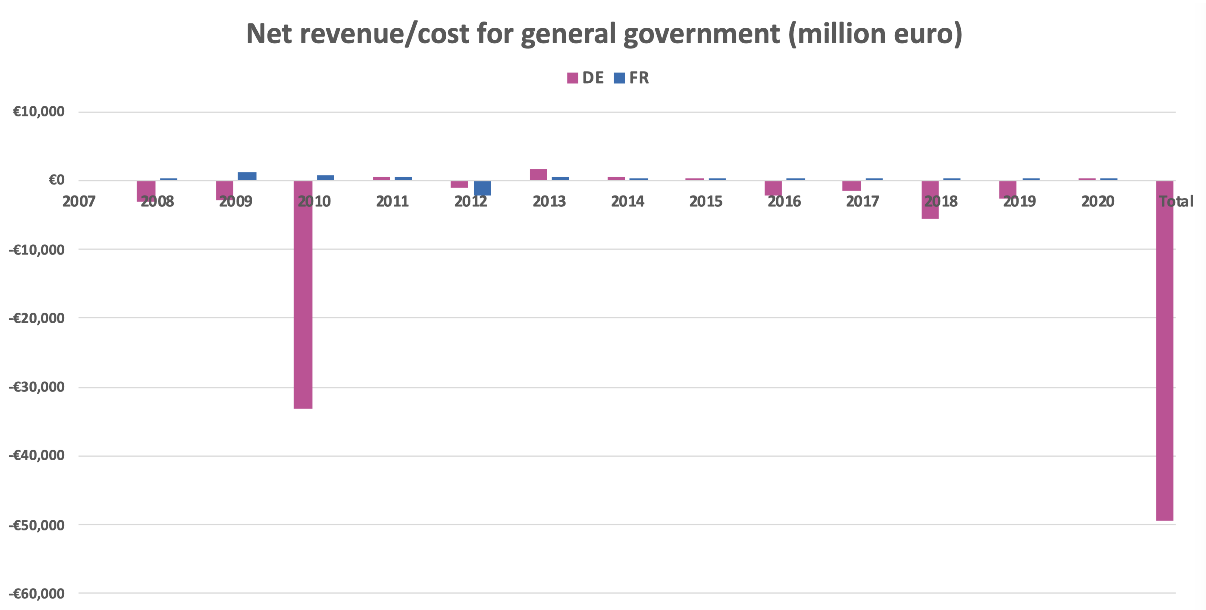


Figure 6.2: Net costs of government interventions in France and Germany to support financial institutions 2007-2020 and total in € mn (from European Commission, 2021)

banking crises in Table 6.1[118].

Question: In your opinion, in order to solve the banking crisis affecting France, is it necessary for the state to...?	
- Take a majority stake, i.e. nationalisation of French banks by the state	32%
- Acquiring the capital of French banks without the state becoming the majority shareholder	31%
- Refrain from intervening	23%
- Lend money to the banks which they will later repay as was the case in 2008	14%

Table 6.1: October 2011 survey responses about the government's desired crisis response

The survey results demonstrate that a "bailout" in the form of capital, i.e. the state becoming a shareholder, is the preferred option. This is the case for both the state becoming a majority shareholder—"nationalisation"—or a minority shareholder, preferred by two-thirds of respondents. This is strictly preferred to liquidity provision in the form of government loans, which are less popular than even an absence of any government intervention. There are unsurprising differences in responses according to respondents' political leanings, with centre-left Parti socialiste (PS) (and in particular far-left Front de Gauche) supporters expressing even stronger support for nationalisation, and centre-right Union pour un mouvement populaire (UMP) supporters showing a comparatively stronger preference for intervention or liquidity support. Overall, though, government loans are notably unpopular. This insight into public opinion is notable for two

[118] In survey "Le regard des Français face à la crise" (translated from IFOP, 2011c, p. 36)

reasons: it is contrary to the actual government measures taken by the French government during the GFC that have been outlined above (the survey response option mentions this, which may have prompted a backlash against this option). Further, it stands at odds with the stated preferences of bureaucrats who in interview data cited the liquidity umbrella without the need for (direct) capitalisation as evidence that French banks survived the crisis well (see Section 6.2.4).

As the theory of *institutional veto points and bank business power* proposes that public dissatisfaction with the bailouts and their broader perception of the causes of the crisis influence the subsequent political desire to regulate finance, it is necessary to examine public opinion on the causes of the crisis. In an October 2011 survey, French respondents were asked to identify the main actors bearing the greatest responsibility for the crisis (Table 6.2[119]).

Question: In your opinion, who among the following actors bears the greatest responsibility for triggering the financial and economic crisis in France? First? Second?	First choice	Total mentions
- The financial markets	37%	55%
- The government	26%	44%
- The banks	15%	45%
- The European Union	10%	26%
- The French as a whole	6%	11%
- Emerging countries (China, India, etc.)	5%	15%
- The companies	1%	4%

Table 6.2: October 2011 survey responses about responsibility for triggering the crisis

The headline numbers are noteworthy in that “the financial markets” and the government are held responsible for the crisis more than the banks. This leads to the observation that French public opinion has a clear idea of diffuse “financial markets” as the culprits, rather than necessarily banks as specific financial institutions. Similarly, the French government—and if adding the EU, political authorities more broadly—share a similar level of blame as the banks. Split by party affiliation, most surprisingly centre-left PS and centre-right UMP supporters blamed banks almost equally (IFOP, 2011c, p. 31).[120]

French public opinion on banks after the crisis and in the lead-up to the 2012 elections can also be examined in a comparative manner. This is not only to inform the comparative case study design, but also since absolute survey numbers are hard to interpret without reference to

[119] In survey “Le regard des Français face à la crise” (translated from IFOP, 2011c, p. 30)

[120] The differences arise with regard to the responsibility of the government, which PS supporters assigned more heavily to the government than UMP supporters, which may simply be explained by the fact that incumbent President Sarkozy at the time hailed from the UMP. Instead, UMP supporters blamed financial markets more than PS supporters (in line with far-left Front de Gauche supporters), compensating for the lower responsibility assigned to the government.

other countries. One insight comes from the French public's view of the importance of hosting a leading financial centre from January 2010, in which 49% of French respondents considered it "very important" (10% "not important") that Paris be one, compared to only 38% British respondents saying the same about London (16% "not important") (IFOP, 2010, p. 5).[121] This challenges the widespread view that policymakers in countries with more important financial centres need to be more protective of them, as public opinion may change policymakers' calculus.

Further, in surveys about people's opinions about banks in France, the US and Switzerland (Table 6.3[122]), one of the most relevant differences between the countries is that a smaller proportion of French (and Swiss) respondents blame their own country's banks for triggering the financial crisis. At the same time, French respondents are significantly less sanguine about bankers having changed their behaviour after the crisis and adopted less risky behaviour. Moreover, French respondents are as convinced that the crisis has cost taxpayers and the state money as their counterparts in the US and Switzerland.

Question: For each of the following opinions that can be heard about banks in general, would you say that you tend to agree or disagree?	France (February 2011)	USA (February 2011)	Switzerland (July 2011)
- The banking crisis has cost taxpayers and the state money	87%	90%	84%
- French/US/Swiss banks played an important role in triggering the economic and financial crisis	70%	84%	67%
- French/US/Swiss banks can now be trusted to be sound	51%	48%	59%
- Banks are pushing people into over-indebtedness by lending too easily to individuals	60%	66%	55%
- Banks should be placed under state control	56%	57%	49%
- Bankers have learned the lessons of the crisis and have adopted less risky behaviour	28%	47%	39%

Table 6.3: February and July 2012 survey responses to statements about banks

Before moving on to François Hollande's political commitment to bank reform, it is worth summarising the somewhat contradictory public opinions that the then-presidential candidate sought to reconcile in his political proposals. First, France's bailout scheme of its largest banks was a programme that avoided large-scale bankruptcy or even a loss to taxpayers, in what policymakers came to view as a successful form of state intervention. At the same time, public opinion prefers nationalisation or partially state ownership in banks over the 'liquidity umbrella'

[121] Question (translated): "In your opinion, for our country's economy and in the context of global competition, is it very important, fairly important or not important that Paris/London is a leading financial centre?"

[122] In surveys "Le banquier idéal des Français et des Américains" and "L'image des banques en Suisse" (translated from IFOP, 2011b, p. 9; IFOP, 2011a, p. 12)

that was provided. The public seems convinced that the crisis has cost taxpayers and the state money. This points to a different interpretation between policymakers and the public's perception of the success of the bailout programme. Second, few people directly blamed the banks for triggering the financial crisis (as opposed to 'financial markets' or the government/EU). Third, and despite this, French public opinion had a negative image of its banks and about their having learnt the lessons of the crisis and having reduced risky behaviour. Fourth and finally, a large fraction of the French still supported Paris as a competitive and leading financial centre. It can be concluded that the incentive for political proposals was to (1) draw the lessons from a publicly unpopular bailout scheme that let banks get away too easily (with loans), (2) rein in 'financial markets' as the real culprits of the crisis, (3) reduce risk-taking in banks, all the while (4) protecting the competitiveness of the French financial industry.

6.2.3 The political reform commitment to bank separation

The political discourse around post-crisis reform heated up in the lead-up to the 2012 French presidential elections, in which François Hollande, candidate of the centre-left PS, challenged incumbent Nicolas Sarkozy of the centre-right UMP. Hollande's campaign promises in the area of financial regulation are important to examine, as they constituted the political reform commitment for Hollande's subsequent presidential term. They are also remarkable, as financial regulatory policy is not normally a prominent issue in political debates but arguably constituted the main plank of Hollande's economic policy promises.

It is worth quoting at length a passage from Hollande's first major speech that kicked off his presidential campaign, delivered at Le Bourget on 22 January 2012:

> In this battle that is beginning, *I will tell you who my adversary ['adversaire'] is, my real adversary. He has no name, no face, no party, he will never present his candidacy, so he will not be elected, and yet he governs.* This adversary is the world of finance. Before our eyes, in twenty years, finance has taken control of the economy, society and even our lives. It is now possible in a fraction of a second to move dizzying amounts of money, to threaten states.
>
> [...] Against it, against this finance, the promises of regulation, the incantations of 'never again' have remained a dead letter. G20 [summits] have followed one another without tangible results. In Europe, 16 last-chance summits have been convened to postpone the final resolution of the problem until the next one. The banks, saved by the states, are now eating the hand that fed them. [. . .] Thus, finance has freed itself from all rules, all morals, all control. [123]

[123] Translated from Hollande (2012a, author's emphasis)

This served to position Hollande and his platform firmly on the political left. “Mon adversaire, c’est le monde de la finance” became a major slogan throughout the campaign. Crucially, it was followed by a specific policy proposal in the speech: “If finance is the adversary, then we must confront it with our means and first of all at home, without weakness but without unrealism, thinking that it will be a long fight, a hard test but that we must show our weapons. Controlling finance will begin here by passing *a law on banks that will force them to separate their credit activities from their speculative operations*” (translated from Hollande, 2012a, author’s emphasis). This pledge was made repeatedly throughout the campaign (de Tricornot et al., 2014, p. 32) and the structural reform proposal was one of the most prominent of Hollande’s “60 proposals for France” (Hollande, 2012b, p. 10).[124] An important feature of Hollande’s rhetoric is that even though his policy proposal focuses on banks and their “speculative activities”, his ‘adversary’ is the world of finance as opposed to the banks, in line with the public’s conception of the crisis culprits.

The campaign proposal was put forward shortly after the final recommendations of the UK’s Vickers Commission in September 2011 and the formation of the Liikanen Commission at the EU level in November 2011. It included very little policy detail beyond the wording cited above and, crucially, focused on the vague concept of “speculative operations”. Moreover, a policy proposal that is completely missing from the campaign rhetoric was resolution, work on which was already underway at the Financial Stability Board (FSB). Instead, Hollande criticised the G20’s intangible results. This deliberate focus on the political reform commitment will be contrasted with the bureaucratic deliberations discussed in Section 6.2.4.

Hollande went on to win both the first round and second round in May 2012 against Sarkozy with 51.6% of the vote (Ministère de l’Intérieur, 2012a) to become President of the Republic, while in the following parliamentary elections in June 2012 the PS and its allies won a majority of 57.7% of seats in the National Assembly (lower house) (Ministère de l’Intérieur, 2012b). It already held a majority in the Senate (upper house). This means that with its comfortable majority and fresh mandate, the new PS government could rely on its policies being confirmed by parliament, which makes the executive the effective veto point.

Despite the prominence of structural reform, interview evidence reveals that the technical specifics of the proposal had not been established at the time of the presidential campaign.[125] After

[124] Other proposals included a financial transaction tax, a ban on operations in tax havens and of “toxic” financial products, a tax on bank profits and measures on executive pay (Hollande, 2012b, p. 10).

[125] “You know it’s just politically, it was the main theme of the campaign night was something they knew they had to work on. The technical specificity they did not know anything about. When you want to have a law,

the election, Hollande appointed his campaign manager Pierre Moscovici as Minister for Finance and Economy, to lead the powerful Finance Ministry (known as "Bercy") which includes the influential *Direction générale du Trésor* ("Trésor"). Moscovici and the Trésor would be responsible for developing a legislative proposal for the president's promises on financial regulation.

The structural reform proposal gained such prominence that a survey on the image of the banking sector in July 2012 found that 84% of respondents supported separation between retail banking activities and market activities, while only 16% considered these activities to be complementary (see Table 6.4[126]). This fits with public opinion evidence on people's focus on 'financial markets' as the main culprits for the crisis.

Question: Which of the following two opinions do you most agree with. . . ?	Responses
- "Within banks, retail banking activities (loans and savings for companies and individuals) and market activities (financial market operations) must be separated to better guarantee savers' deposits and avoid new financial and banking crises"	84%
- "Retail banking activities (loans and savings for companies and individuals) and market activities (operations on financial markets) should not be separated, as these two activities are complementary and necessary for the proper functioning of a bank"	16%

Table 6.4: July 2012 survey responses about structural reform proposals

This policy was more popular among PS supporters (85% support for separation) than UMP supporters (76%), but this high level of general support meant that it still enjoyed widespread appeal across the political spectrum. In a notable parallel to Switzerland (see Chapter 4), it was actually most popular among the two extreme wings of the political spectrum, both among the far-left Front de Gauche (93%) and far-right Front National supporters (89%).

As this section has set out, newly elected President Hollande made a political commitment to bank reform, consisting of a policy proposal that reflected public opinion and the public's interpretation of financial crisis events but was otherwise left technically unspecified. As will be shown in the next section, the exact regulatory design process was left to France's famously influential bureaucracy, which had different interpretations of crisis lessons and regulatory priorities.

you have to have political will. So you're the president, depending on your relationship with the minister, because that also plays a key role. But at that time, Moscovici was in a good relationship with Hollande and Pierre Moscovici was an economist. He had also his main ideas. So it was something he wanted to work on. So you just then say, well, 'this is my political will. I want to work on that issue.' And then you turn to the administration and you ask them to make it happen. The administration has been working on this issue since 2008." (Interview, Political Advisor to the French Minister of the Economy and Finance, 14 October 2021)

[126] In survey "L'image du secteur bancaire" (translated from IFOP, 2012, p. 18)

6.2.4 Bank structural power: 'Financing the economy' and resolution

France's financial system, its unique bailout scheme, and newly elected President Hollande's vague promises for bank structural reform set the stage for France's bureaucracy to interpret the political mandate in light of its own policy priorities. As this section shows, the first is the Trésor's preoccupation with "financing the economy" and the second (related) priority is bureaucrats' true preference for implementing a resolution regime to curb TBTF.

An executive's concern with "financing the economy", or more simply put banks' credit provision, is a form of structural power that banks exercise over the executive. This is because banks do not need to actively convince policymakers about their regulatory preferences. Instead, their mere role in France's bank-based financial system and in contributing to economic growth is enough for policymakers to prioritise regulatory policy that does not constrain banks' ability to lend or provide financial services.

Within the French bureaucracy, the Trésor is a powerful department in the Ministry of Economy and Finance. During the dirigiste era, the Trésor was firmly considered to be "the heart of the French bureaucratic elite" (Culpepper, 2008, p. 32) that steered the French economy, among other things, through the allocation of credit, staffed by "a meritocratically selected elite to operate the bureaucracy that ran the dirigiste economy" and the French education system "imposed a series of competitive exams that very successfully selected a Cartesian technocratic elite, whose high seminaries were the ENA [École Nationale d'Administration] and Polytechnique and whose Vatican was the French treasury" (2008, p. 34). This begs the question, provocatively but pointedly asked by de Tricornot et al. (2014, p. 138): "Why is the Trésor, once the armed wing of state dirigisme, now serving as a shield for French bankers?"[127]

Despite the diminishing role of the French state, including the Trésor, in steering the economy, the department has not lost its elite status, reputation for expertise and outsized influence in economic policymaking. It is responsible for financial regulation, but its specific mission and institutional setup reveal a great deal about the approach it takes to this task—the Trésor's specific mission with regard to financial regulation is "the *regulation of the financing of the economy* and of institutions involved in insurance, banking and investment in the financial markets" (translated from Direction générale du Trésor, 2014, author's emphasis). Note that "financing of the economy"

[127] The three authors, in their book about the policymaking process behind the law, themselves provide an explanation that can be described as fusing aspects of the lobbying of politicians and capture of the Trésor, both through cultural capture (akin to Kwak, 2013) and revolving doors (Jabko & Massoc, 2012). As a journalistic account, it falls short in analytically disentangling these factors.

is even listed before the regulation of financial institutions. This mission hierarchy is similarly reflected in the Trésor's organisation, in which the divisions tasked with banking regulation fall under the *Service du financement de l'économie*, or Department of Economic Financing. The relevant division is *Banques et financement d'intérêt général*, or Banking and Financing of General Interest Activities (Direction générale du Trésor, 2013). This gives the Trésor officials a mandate to prioritise the provision of credit through the financial system, arguably over other financial regulation goals such as financial stability (or consumer protection).

This focus on the availability of credit featured prominently in bureaucrats' assessment of the merits and their design of the structural reform bill is revealed by interview evidence with relevant senior Trésor officials and other actors from the bureaucracy. Due to the Trésor's dual mandate to ensure both the continued financing of the real economy as well as financial stability, the political directive by the new government to create a law for bank separation triggered a debate within the department about the merits of the policy and whether it would improve financial stability.[128] Analyses of different versions of structural reform, including the UK version of ring-fencing, left bureaucrats unconvinced by the benefits for financial stability.

This scepticism stemmed from three (related) considerations: first, the conviction that the French system of universal banks and its diversification of risks, a feature that structural reform would weaken, is a benefit to financial stability. As a deputy secretary general at the Autorité de contrôle prudentiel et de résolution (ACPR), the banking regulatory authority, put it, "it's more generally the French position. That's why we are not against large banks and big banks. The issue is not that the banks are too big to fail, is the bank well organised on the different activities? And having different activities is something which is good because it gives diversification. So we have no problem with this".[129] Second, the financial crisis in France and the nature of the bailout programme[130] were not considered to have revealed shortcomings in banks' business models that warranted wholesale change to the universal banking model. Instead, the business models were seen to make the French banking system more resilient.[131] These arguments made by bureaucrats about the crisis and the merits of universal bank diversification are strikingly

[128] Interview, Senior Trésor Official, 22 November 2021, similar to the "culture wars" surrounding ring-fencing at the Bank of England (Interview, Senior Bank of England Official #1, 9 April 2021)

[129] Interview, Frédéric Visnovsky, Deputy General Secretary at ACPR, 3 December 2021

[130] "If you ask people they have said 'the French authorities gave 300 million [euros] to banks', which is completely wrong. But the perception was this one. [...] So the perception was not the right one in 2008, as you mentioned, it was a liquidity umbrella given to banks because they were not able to go to the market. It was not a specific problem of banking, with the exception of something like Caisse d'Epargne and Banque Populaire before they merged." (Interview, Frédéric Visnovsky, Deputy General Secretary at ACPR, 3 December 2021)

[131] Interview, Senior Trésor Official, 22 November 2021

similar to those made by bankers in opposition to structural reform.[132] Third, as per its mandate, bureaucrats aimed to ensure the continued financing of French corporates. In times of funding constraints, the Trésor emphasised the importance of having large domestic banks that would prioritise domestic over foreign clients. Similarly, the state support scheme during the crisis was aimed less at avoiding bank bankruptcy and instead at ensuring continued bank lending.[133] This consideration was further reinforced in 2012/2013 by concerns about financial stability during the European sovereign debt crisis.[134] The Trésor's concern with French banks prioritising domestic lending is a more precise mechanism with which bureaucrats were attentive to the structural power of French banks.

Cognisant of the political reform commitment, however, the Trésor accepted the argument that bank bailouts on the grounds of "speculative" activity were difficult to justify, an argument accepted by both the Trésor and industry.[135] Indeed, the vague term "speculative activity" was also the original language used by presidential candidate Hollande. It was thus up to the Trésor to define speculative activity. The definition that was agreed upon indicated that performing business at a client's request does not qualify as speculation. Consequently, the regulation crafted by bureaucrats concentrated on proprietary trading as the singular activity defined as "speculation". Additionally, it prohibited high-frequency trading, speculation on agricultural raw materials and owning hedge funds. Under this definition, French banks were still allowed to engage in market making. Trésor officials were adamant that it is impossible for banks to serve some clients without the ability to do market making, and hence bureaucrats were opposed to imposing a restriction on this activity[136]. Trésor officials understood a narrower focus on proprietary trading to satisfy Hollande's political reform commitment: "So part of the concern on the Trésor side was that if the severing of the ties is too tight, we would be pushing the retail bank into a difficult position because they would need some wholesale funding to be able to sustain their activities. So it was clearly the way it [separation] couldn't be in a position between market activities and retail banking activities. This separation has to be something that was really focused or targeting the

[132] Interview, Banker at BNP Paribas, 15 October 2021
[133] Interview, Senior Trésor Official, 22 November 2021
[134] "And because it did not fly, that meant that when discussing what to do, it was even more critical to make sure that we did not destabilise banks that much, I mean, especially given the context at that point, we are close to the apex of the stress in the euro area crisis and so on. So and it's also important for you to keep that kind of background in mind, that means typically you would find the Trésor, the Banque de France, the ACPR at the time probably being on the cautious side, though, because I mean, independent from what you would have done in an ideal 'everything's fine' situation the context was a bit distressed as well." (Interview, Senior Trésor Official, 8 November 2021)
[135] Interview, Senior Trésor Official, 22 November 2021; Interview, Banker at BNP Paribas, 15 October 2021
[136] Interview, Senior Trésor Official, 22 November 2021

political concern that was expressed, and the political concern that was expressed was 'we don't want banks to be taking big risks on the basis of them believing that they would be too big to fail'."[137]

To further understand the seriousness of French bureaucrats' opposition to separating market making, we can examine their attitudes and actions towards the EU-level Liikanen proposals, which had been published in October 2012 (five months after President Hollande's election victory) and their proposed separation of market making. Bureaucrats from across French policymaking institutions viewed the Liikanen proposals as a threat to the French system of universal banking, as described above. Hence, bureaucrats considered the purpose of the domestic regulatory law to not only fulfil the political reform commitment (and to implement their own preferred policy solutions), but also to fend off undesirable regulation from the EU. A deputy secretary general at the ACPR is forthright in stating that the French bureaucrats were against the proposals of the Liikanen report and "because the Liikanen report was provided the year before, so there was the objective to have our law before any EU proposal to influence, in fact, this proposal at the European level."[138] Although the aspiration was less to completely kill any policy proposals at the EU level (the EU Commission's draft directive for structural reform was eventually withdrawn), the goal was to use the domestic law to influence EU Commission proposals by drawing on the "expertise" built up through France's domestic regulation and argue against the separation of market making.[139]

This is not to say that the bureaucracy ignored financial stability concerns and the challenge posed by TBTF, however. They merely did not consider structural reform to be the adequate tool. Instead, the Trésor was focused on creating a resolution regime, including resolution powers for the banking supervisor, the ACP, as a solution for TBTF. Senior Trésor officials were clear about the priorities that the political reform commitment created that differed from their own, viewing the focus on bank separation as mainly a political debate while the resolution component was much more impactful.[140] One interviewee stressed that "from a political perspective, there was a strong emphasis that was put on the separation. But the title 2, the resolution framework, was internally seen as a lot more critical and more significant from a policy perspective. So it's important to understand that this piece of law was really the political reading of it and the policy

[137] Interview, Senior Trésor Official, 8 November 2021
[138] Interview, Frédéric Visnovsky, Deputy General Secretary at ACPR, 3 December 2021, an argument also made by Hardie and Macartney (2016, p. 511)
[139] Interview, Frédéric Visnovsky, Deputy General Secretary at ACPR, 3 December 2021
[140] Interview, Senior Trésor Official, 22 November 2021

reading are a bit different".[141]

This meant that the law drafted within the Trésor had to satisfy both the political reform commitment and the bureaucratic preferences for a resolution regime. This was achieved by creating a comprehensive bill that killed multiple birds with one stone: including both a separation of "speculative" activities into subsidiaries (title 1) and a resolution regime (title 2) in the law. Due to the difficulty of passing multiple financial regulation laws in one parliamentary term, given the limited political attention[142], the officials were aware that their plans for a resolution regime needed to be included within the same law:

> So by, say, late 2011, early 2012, we knew that one of the first things that the next government would have to do would be to prepare and process a new law that was needed to basically to get on board all the things that had happened in the meantime [internationally]. So even before there was a change in government, we knew that this was coming. [. . .] Basically, the technical work to prepare the policies was already ongoing. And then in the course of the presidential campaign, there was this big speech, 'big enemy' and so on. And so it was basically identified early on by the Trésor that there would be a big ask by ministers to have this law. Should there be a law on financial regulation? It was the time to bring on board everything else. And that's basically how it operated, it was first putting into motion and translating into action the idea of separating some activities on one side. But then there was all this technical agenda that needed to go through parliament as well.[143]

The emblematic manifestation of the law's purpose to address the political reform commitment while at the same time achieving multiple more technical policy goals is the official name of the law, *Loi de séparation et de régulation des activités bancaires*, or "Law on the separation and regulation of banking activities". Despite the diversity of regulatory reforms contained within, this name led most of the media to report almost exclusively on the separation component (title 1) of the law, publicly satisfying the political reform commitment made. Due to the technical nature of the bill, in particular the resolution component, and the official name of the law, it has been described by a political advisor as a "communication tool"[144] for the government given the public frustration with banks.

As a supplement to the law, the civil service produced an impact study that explains bureaucrats' thinking on the reforms, in particular by providing 'diagnoses' from the crisis and

141 Interview, Senior Trésor Official, 8 November 2021

142 "So you know that you won't have the time in the five year mandate to pass a lot of financial laws. So when you have one—and especially at first—you have the majority, you put everything in that bill, doesn't matter if there is nothing alike with the first paragraph, you just do what you wanted to do for a few years." (Interview, Political Advisor to the French Minister of the Economy and Finance, 14 October 2021)

143 Interview, Senior Trésor Official, 8 November 2021

144 Interview, Political Advisor to the French Minister of the Economy and Finance, 14 October 2021

lessons for the regulatory design. Regarding title 1, structural separation, the study states outright the diagnosis that "[t]he crisis does not call into question the universal banking model, but it does call for an overall strengthening of banking regulation and supervision". It claims, with reference to a study conducted by the *cour de comptes* (2010), the Court of Audits, that "it does not appear from the experience of the crisis that so-called 'universal banks' have shown any particular vulnerabilities". On the contrary, as the *cour de comptes*, pointed out, the French experience of the crisis shows that even though banks with diversified activities sometimes suffered significant losses, they were able to take advantage of the diversification of their revenues to absorb these losses without recourse to public aid (translated from Ministère de l'Économie et des Finances, 2012). As a result, it states that the reform aims to preserve the advantages of universal banking, which constitutes an asset for financing the economy.

To further make its point, the impact study also describes the Liikanen proposals to separate market making as ineffective and the activity as essential for the proper functioning of markets. With regard to the impact of structural reforms on banks' activities, the impact study does not provide an assessment on the size of the activities to be separated for reasons of confidentiality about the business models of the small number of banks concerned. However, MPs and the public would learn about the negligible impact during the parliamentary hearings (see Section 6.2.5).

The impact study[145] links the limited ambition regarding structural reform to bank resolution (title 2), bureaucrats' preferred solution, by stressing that the newly-created resolution powers "provide that the future resolution authority may, on a case-by-case basis, impose structural measures, including activity limitation measures or additional separation measures if these are necessary to ensure the bank's 'resolvability'. This case-by-case approach is preferable to the ex-ante approach used, for example, in the Vickers Report, as risks and impediments to resolution are inherently mobile and changing" (translated from Ministère de l'Économie et des Finances, 2012).

Even though the Banque de France (and the ACPR, which sits under the Banque de France) does not have a formal legal role in policymaking beyond the provision of technical advice, its informal power is substantial. The first is through aforementioned technical advice on the impact of regulatory proposals on banks' activities; the second is through public pronouncements by senior central bankers (most notably the Governor of the Banque de France) in public hearings,

[145] Again, with reference to the report by the Cour des comptes (2010, pp. 137–138) which itself described structural reform and the dismantling of universal banks as counterproductive and advocated for a bankruptcy/resolution regime.

speeches and the media; and the third is through the central bank's lobbying of politicians, such as MPs. While the Banque de France's technical advice is confidential, the central bank's position is easily ascertained through the statements by its Governor, Christian Noyer. Noyer took a remarkably firm and public position on his preference for limited separation, which rested on three main arguments: the solidity of the universal banking model, the usefulness of market making for financing the economy, and maintaining the role of French banks in the placement of government debt. These arguments are clearly expressed in Noyer's appearance before the National Assembly's Finance Committee, in which Noyer set out that "the best criterion for separating activities is their usefulness to the economy. Banks should continue to be free to carry out the activities necessary for their financing: risk hedging, bank liquidity management and market making." In particular, Noyer made a sovereignty-focused argument that "[t]here are good reasons for leaving market making in the bank, for example not to break up the financing of the economy, which should be the goal, and not to hand over the French state, whose banks hold the debt market, *hand and foot* to the four big Wall Street firms." (translated from Commission des finances, de l'économie générale et du contrôle budgétaire, 2013b), a claim Noyer had already made earlier in the media before the publication of the bill (L'Est Républicain, 2012). This focus on the difficulty of placing government debt without the ability of French banks to provide a liquid secondary market was, however, not seen as a real argument by Trésor officials[146] and has been challenged by de Tricornot et al. (2014). The central bank's opposition to the separation of market making is also reflected in Noyer's public opposition to the EU Commission's legislative proposals presented by Commissioner Barnier (based on the Liikanen report), which Noyer described as "irresponsible and contrary to the interests of the European economy" in an interview (Le Figaro, 2014). The Governor further made these points in a speech entitled "Preserving business finance", in which Noyer emphasised the negative impact on corporate and government bond markets, the strength of (French) universal banks during the GFC and instead emphasised progress on capital and resolution reforms (Noyer, 2014).

Although banks' opposition to far-reaching structural reform has been documented by de Tricornot et al. (2014), banks were much more accommodating to tougher expectations for resolution plans. When the law's focus on proprietary trading emerged, "the French banks agreed pretty quickly to structural reform in terms of separating out proprietary trading. Which, to be honest, didn't cost us that much because we didn't do very much of it".[147] There is evidence

[146] Interview, Senior Trésor Official, 22 November 2021
[147] Interview, Banker at BNP Paribas, 15 October 2021

that banks were mindful of the public sentiment towards the sector after the GFC and the fact that outright opposition to President Hollande's political reform commitment would have been counterproductive for their interests to retain their business models, with a banker at BNP Paribas stating "I think the civil service knew that that was the direction the president was travelling, the banks accepted that we're going to have to do something because that's the way we're going. So, [we said] 'Okay, let's try and do something as reasonable as possible'".[148]

The small impact that a separation of proprietary trading had on large banks' activities became a prominent sticking point during parliamentary debates and one of the main reasons why the banking industry in the end accepted the reform; and it was perceived by commentators to have been largely ineffective. However, while bureaucrats were willing to accept that the activities concerned were of negligible size, they emphasised that it had a preventative function to ensure banks would not build up proprietary trading activities to pre-crisis levels.[149] However, whereas banks such as BNP Paribas closed their proprietary trading operations later, they claim this was due to low returns on capital rather than the regulation.[150]

Despite the influential role of the Trésor and Banque de France in making economic policy, bureaucrats needed political decision makers to be on board with their interpretation of the political reform commitment. The main decision makers were the Minister of the Economy and Finance, Pierre Moscovici, and the bill's *rapporteuse* in the National Assembly, Karine Berger. The Trésor was able to convince both of the importance of limited separation to ensure continued market making and financing[151] and both went on to convince MPs in the National Assembly (and Senate) of this version of the bill.

6.2.5 The limits of parliamentary scrutiny

This final section returns to the political arena, in which the bureaucratic version of the bill meets the political preferences of MPs. In institutional settings of semi-presidentialism (without 'co-habitation'), it is hypothesised that parliament does not have a veto power over the policy decisions made by the executive. The following substantiates this hypothesis.

The focus here is mainly on the National Assembly, as the lower house was more relevant for the political debate than the Senate. The political role of the government had transformed from

148 Ibid.
149 Interview, Senior Trésor Official, 8 November 2021; Interview, Frédéric Visnovsky, Deputy General Secretary at ACPR, 3 December 2021
150 Interview, Banker at BNP Paribas, 15 October 2021
151 Interview, Senior Trésor Official, 22 November 2021

advocating for regulatory reform during the election to selling the bureaucratic compromise to parliament. Arguments developed by the bureaucracy were directly carried into parliament and reinforced through lobbying by policymaking actors, such as the Banque de France and select PS MPs.

The draft law was presented to the National Assembly on 19 December 2012, seven months after the inauguration of the new government. In order to estimate the political strength of the government that it could throw behind legislative proposals, and to face down industry opposition, the best (if imperfect) proxy is to look at the president's approval ratings among the public. At that time, President Hollande's approval rating had declined to 37% satisfaction and 62% dissatisfaction, essentially flipping from the time of his inauguration. By the time the bill passed in July 2013, his approval ratings were further down to 27% satisfaction and 72% dissatisfaction, essentially giving the president and his government an exceptionally weak mandate early in his term (see Figure 6.3).

Figure 6.3: President Hollande's approval ratings from May 2012 to November 2016 (from IFOP, 2016, p. 9)

The introduction of the draft bill triggered a number of commissions in the National Assembly and Senate to commence their work and produce reports and conduct hearings—namely, the Economic Affairs, Finance, Law and European Affairs Committees. In France, detailed discussions of proposed legislation are delegated to specialist committees, where a designated MP drafts an 'opinion' or report and leads the committee's work. As is shown below, the specific arguments developed by the bureaucracy were directly carried into the political deliberations in parliament—and eventually adopted on these grounds.

The most relevant of these is the Finance Committee in the National Assembly, in which Karine Berger led the work as *rapporteuse*. Berger is an economist, who (with Pierre Moscovici) worked on Hollande's campaign and its "adversary of finance" theme (L'Obs, 2014). As *rapporteuse*, her task was to convince PS parliamentary colleagues to vote for the bill. Her report for the Finance Committee provides a framing of the rationale behind the regulation, identifying as main lessons from the crisis systemic risk within the banking sector and moral hazard stemming from state guarantees. The first is addressed by the structural separation in title 1, to contain the activities most likely to lead to systemic contagion (without explaining why proprietary trading is more prone to lead to systemic contagion). The second is addressed by the establishment of the resolution regime, with the goal of allowing the ACPR to resolve institutions without recourse to taxpayer-funded bailouts. This creates an *a priori* and *a posteriori* approach to the TBTF problem (Commission des finances, de l'économie générale et du contrôle budgétaire, 2013c).

A number of public hearings were held in the National Assembly's Finance Committee, which revealed the small impact that structural reform would have on the activities of large French banks. Even though the civil service impact study was unable to provide such numbers, asked about the impact on its activities, Frédéric Oudéa, then Chairman and CEO of Société Générale, stated in front of MPs that "we estimate that, while in 2006-2007, 15% of our activities were market activities, of which 15% to 20% could be classified as disconnected from customers [i.e. proprietary trading] and therefore transferred to a subsidiary, this proportion is now less than 10%, averaging around 3.5% to 5%. Less than 10% of the 15% of total market activities could therefore be spun off" (translated from Commission des finances, de l'économie générale et du contrôle budgétaire, 2013a). More generally, the bank representatives questioned showed little opposition to the proposed policies.

In the National Assembly's Economic Affairs Committee, the opinion provided by PS MP Philippe Kemel emphasises the important role of banks in light of France's high rate of bank intermediation and explicitly states the regulation's purpose to defend and enshrine the country's universal banking model, even drawing a contrast to Anglo-Saxon banks: "It is a question of preserving our French universal banking model and putting it truly at the service of economic players. More original than the Anglo-Saxon models, this French model allows for both investment and deposit activities" (translated from Commission des affaires économiques, 2013).

Similarly, the Finance Committee in the Senate produced a report that, under the heading "The need for structural reform, adapted to the French universal banking model, to orient French banks towards financing the economy", argues that in light of the (successful) French model of universal banks, structural reform must not limit the financing of the economy, but in fact "accompany its evolution towards increasing disintermediation and internationalisation" (Commission des finances, 2013).

While most PS MPs on the Commission echoed this view, opposition MPs questioned the impact of structural reform on banks' business and the rationale of pre-empting the forthcoming EU Commission proposals, which would also separate other trading activities such as market making. On the importance of market making, the opinion by the Economic Affairs Committee in the National Assembly takes a clear position: "We can only welcome the fact that market making has not been spun off into a subsidiary, contrary to what the Liikanen report, for example, recommended, which wanted to separate market making from deposit-taking activities: there is no reason to do so, as long as market making, which is not spun off into a subsidiary, can be used to carry out activities related to the real economy" (translated from Commission des affaires économiques, 2013).

MPs were lobbied not only by businesses, including the Mouvement des entreprises de France (MEDEF), but also by the Banque de France, showing that instrumental business power is the most relevant source of banks' influence over parliament.[152] The Banque de France is a surprisingly important player in the political debate, in that it engaged in explicit "lobbying"[153] among MPs to advance its own preferences in the policy design. This can include proposing specific amendments for MPs to raise in parliament and asking MPs to vote a certain way. More concretely, the Banque de France did not support a "hard separation" and sought to avoid a "hard cut" between financial market and retail banking activities, maintaining the universal banking system, and hence argued among MPs to support the bill's design. The Banque de France was aware of the public dissatisfaction with bank bailouts and considered the bill both to constitute an answer to the crisis and also "balanced" and "consensual" in terms of striking a balance between political demands.[154]

[152] Interview, Political Advisor to the French Minister of the Economy and Finance, 14 October 2021
[153] Interview, Veronique Bensaid-Cohen, Parliamentary Advisor to the Governor at Banque de France & ACPR, 15 November 2021
[154] Ibid.

As has become apparent from the sketch of the main parliamentary points with regard to titles 1 and 2, opposition MPs (from both the right and the far-left parties) and even some PS MPs were unable to effectively oppose the bureaucracy's policy design. This is despite their scepticism about the effectiveness of the bill given the small impact on large banks' activities (as revealed dramatically by Frédéric Oudéa in a public hearing) as well as its limited ambition compared to the EU Barnier/Liikanen proposals. The main reason for this is the technical and complex nature of the subject matter, in particular the practical role of market making and hedging activities. As reflected in interview evidence, this made the bill "so technical that most of the members of the parliament did not understand the law"[155]. This makes it difficult for MPs to challenge the expertise provided by bureaucratic actors such as the Banque de France and Trésor, which enjoy considerable clout due to their economic expertise. The political advisor to the Governor of the Banque de France agreed that MPs do not understand the technical nature of banking regulation and one role of the Banque de France is to explain it to MPs.[156] As a result, Karine Berger and Pierre Moscovici—themselves convinced by the bureaucratic analysis of the limitations of structural reform, the benefits of universal banks for financing the economy and the importance of resolution powers—were able to push the policy through parliament with its own majority as well as support (and some abstentions) from opposition MPs in both chambers. While politicians tabled a great number of amendments—some more substantial, such as seeking to include market making in the activities to be separated into subsidiaries—few of them were eventually adopted and most served the purpose for MPs to signal their engagement with the bill, including amendments proposed to individual MPs by MEDEF.[157]

6.3 Conclusion

This chapter has investigated the case of semi-presidentialism (without 'co-habitation'), in which the executive is the relevant veto point, and the resulting power dynamics in regulatory policymaking. Since the president's government commands a comfortable majority in parliament, there is little role for parliament to influence the policy agenda set by the executive. This makes the executive both the agenda setter and final veto point in France, meaning its de facto power source in the form of political-bureaucratic preference homogeneity and banks' structural power

[155] Interview, Political Advisor to the French Minister of the Economy and Finance, 14 October 2021

[156] Interview, Veronique Bensaid-Cohen, Parliamentary Advisor to the Governor at Banque de France & ACPR, 15 November 2021

[157] Interview, Political Advisor to the French Minister of the Economy and Finance, 14 October 2021

are most relevant to explain the regulatory policy outcome.

The French case confirms the theoretical predictions summarised in Figure 6.1: President Hollande's political platform during the 2012 election set the policy agenda for banking regulatory reform, calling for structural reform of banks. In his subsequent administration, the preference homogeneity between his political platform and France's famously powerful bureaucratic elite, in the form of the Trésor but also the Banque de France, was weak. Actors' preferences are based on their experience during the bailouts of the GFC. President Hollande and the PS were motivated by public anger at the financial markets and the bailouts. Financial bureaucrats, in contrast, saw the bailouts as a success—stabilising the financial sector and maintaining lending, without losses to taxpayers. These different crisis interpretations lead to a political-bureaucratic clash in policy preferences over the need to intervene in the business model of French universal banks.

The executive was thus divided and weak in the face of banks' structural power: in France's bank-based financial system, in which domestic lending is heavily dominated by large French banks, the banking sector did not have to rely heavily on lobbying. As symbolised by the Trésor's explicit mandate for 'financing the economy', the French state is unable to regulate its universal banks in a way that jeopardises credit provision.

The regulatory policy outcome is a regulatory law that satisfies the government's public political priorities, but in substance implements the policy preferences of the bureaucracy: resolution reforms that aim to address TBTF without challenging banks' structural position in the economy.

Chapter 7

International standard-setting in the FSB: Epistemic communities in the development of bail-in

This chapter examines the too-big-to-fail (TBTF) policy process at the international level, namely setting standards for resolution regimes through the Financial Stability Board (FSB). The existing International Political Economy (IPE) literature on the FSB mainly treats international policymaking and its ability to develop substantial policy reform as a function of initial institutional design and alignment with states' interests.

This chapter's contribution comes from its process tracing of the policy process around bank resolution standards and, in particular, the solution of "bail-in" (further defined in Section 7.2.1). It shows first, mainly based on a review of publicly available documents, that this solution to TBTF was largely developed by the private sector and promulgated through the Institute of International Finance (IIF), refined by a number of lawyers, and translated into policy by regulators. Second, bail-in was created in implicit—and sometimes explicit—opposition to the politically popular structural reform agenda.

The chapter then argues, mostly based on expert interview data, that this group of proponents, in fact, constitutes an epistemic community, which is here called the "Restore Market Incentives" Community. This community's shared normative and principled belief is that market incentives need to be strengthened by avoiding the socialisation of risk. Their causal belief is that this is best achieved by allowing authorities to convert eligible debt holders into equity in resolution. At multiple points, this community advocates for a specific policy design that allows banks to retain their global business and organisational models. In doing so, it positions itself against "Reform Market Incentives" proponents, who view banks' existing business and organisational models as inherently problematic. In this diagnosis, banks' exposure to (relatively) unmitigated market incentives led to poor incentives for banks to take on too much risk; hence, market incentives need to be reformed. Advocates of this view, often political players, pushed for structural solutions to TBTF. In contrast to the "Restore Market Incentives" Community, these actors did not develop into a transnational epistemic community, which explains the lack of international coordination in favour of a structural solution.

The role of international standard-setting bodies within the theoretical framework is recapped in Figure 7.1. Policymaking in these bodies constitutes another arena in which the political struggle over regulatory policymaking takes place. Similar to the way that different constitutional settings and party systems lead to different political actors being empowered, the weak institutionalisation of international standard-setting bodies leads to yet another dynamic: international standard-setting represents the case in which there is no institutionally-determined last veto point. The main actors are bureaucrats and national executives, which are the official members of the body, in this case the FSB.

Institutional setting	**Last veto point**	**Political actors (by agenda-setting power)**	**Actors' de facto power source**	**Bank source of influence**	**Case**	**Regulatory outcome: Policy mix**
Direct democracy	Electorate →	- Government politicians - Bureaucrats - Parliament - Electorate	Political-bureaucratic preference homogeneity Electoral majorities Issue attention (salience)	Structural power Instrumental power ← Bank popularity		*"TBTF reform":* Strong resolution and structural reform through enforcement (2011)
Direct parliamentary rule	Parliament→	- Government politicians - Bureaucrats - Parliament - Electorate	Political-bureaucratic preference homogeneity Electoral majorities Issue attention (salience)	Structural power ← Instrumental power Bank popularity		*"Lex Deutsche Bank":* Selective structural reform and weak resolution (2013)
Semi-presidentialism	Executive →	- Government politicians - Bureaucrats - Parliament - Electorate	Political-bureaucratic preference homogeneity Electoral majorities Issue attention (salience)	← Structural power Instrumental power Bank popularity		*"Status quo symbolism":* Weak resolution and structural reform (2013)
International standard-setting	Unclear	- Bureaucrats - National executives	International coordination and community-building Political-bureaucratic preference homogeneity	Expertise and community-building Financial sector 'competitiveness'	FSB	*"Status quo innovation":* Resolution standards and bail-in (2011/2015)

Figure 7.1: The FSB's position within the theoretical framework

There is no pre-defined last veto point since the standards these bodies recommend are a form of "soft law" which are not legally binding for member states. Decision-making proceeds by consensus and produces non-binding standards, so neither de jure nor de facto rules confer final veto authority. Plenaries or steering committees consisting of national authorities endorse standards but, given the absence of legal enforceability and the merely reputational costs of endorsement without implementation, the decision to endorse cannot be considered to constitute a veto power. The technical drafting of standards is delegated to working groups and committees staffed by national bureaucrats. Since mandates from member states are typically broad, officials enjoy considerable autonomy in shaping the proposed standards. Agenda control is therefore diffuse, and no ordered hierarchy of agenda-setting power can be established (see also Rixen & Viola, 2020).

Bureaucrats from national finance ministries or central banks negotiate the standards, the regulatory policy outcome, but it is ambiguous whether their preferences are mainly influenced by their governments' national interests or the solution to a global policy problem (as in the case of TBTF after the Global Financial Crisis (GFC)). This gives a role to a common crisis diagnosis based on the common international experience. Given that international standard-setting functions via (soft) consensus, bureaucrats need to build broad coalitions among their international counterparts. As a result, bureaucrats' de facto power source is their ability to coordinate internationally and build communities in favour of specific policy standards. Banks' main source of influence in these technocratic fora is their ability to provide expertise about their own (global) business models and the impact of regulatory policy on their international operations. The role of expertise is heightened compared to the domestic context, since no single supervisor has sufficient expertise on the entire global operations of the world's global Systemically Important Financial Institutions (SIFIs). Banks, too, can engage in community building to form coalitions in favour of their preferred policy outcome. Epistemic communities are, in fact, a manifestation of this particular form of business power that is exercised in international, technocratic fora. National executives can influence the policy process most strongly if they exhibit "political-bureaucratic preference homogeneity", i.e. if the bureaucrats in international negotiations share their government's policy preferences and work to pursue these within international negotiations. Banks can influence national executives by convincing them that regulatory policy would hurt their "competitiveness" vis-a-vis the financial sectors in other countries.

The chapter starts by discussing the literature on the FSB, mainly within IPE, in Section 7.1 and identifies a significant dearth of academic treatment of the FSB. Section 7.2 provides empirical material from interviews and document analysis to describe the policy process surrounding resolution regimes. Finally, the role of epistemic communities in international standard-setting is discussed in Section 7.3.

7.1 The International Political Economy of standard-setting in the FSB

The FSB as a standard-setting body plays a central role in the international coordination of regulatory and supervisory policies among the world's largest economies. Despite this role, it has received scant attention from political economists. Following the GFC, the FSB was rebranded in April 2009 from its predecessor, the Financial Stability Forum, into its current form with an expanded membership to include all member countries of the Group of 20 (G20) intergovernmental forum as well as additional members. Most of the early scholarly literature was conceived shortly after the FSB's re-establishment and was mainly concerned with the FSB as a form of institutional innovation, a potential "fourth pillar" of global economic governance (Tim Geithner, see Griffith-Jones et al., 2010).[158] This innovation is generally explained by the fact that standard-setting bodies allow powerful countries to achieve the twin goals of stability and competitiveness by coordinating regulatory policy and pre-empting a race to the bottom (Helleiner, 2010). However, while this state-centric approach may explain the initial decision to establish the FSB shortly after the GFC, scholars also need to account for the continued delegation of power to the FSB in new policy areas. In particular, they need to explain the notable variation across policy areas where international standards have been set by the FSB and other areas that have not undergone such supranationalisation. Indeed, even though the state-centric explanation based on the "regulator's dilemma" (Kapstein, 1989; see also Kapstein, 1992; Singer, 2007) is helpful to partly explain international coordination using domestic political interests, it is insufficiently sensitive to domestic interests that go beyond the trade-offs of regulators between stability and competitiveness. For instance, scholars do not consider politicians' incentives to address policy issues more visibly at home or that FSB's deliberations and decision-making outside the public limelight depoliticise regulation.

The most theoretically sophisticated conceptualisation of the FSB standard-setting process is put forward by Rixen and Viola (2020) in their application of the "competence versus control" framework by Abbott et al. (2020). The framework suggests a "governor's dilemma", where a principal governing through an intermediary needs to pick between control over the intermediary's activities or a highly competent intermediary in its pursuit of a policy goal. This is because

[158] The little literature that has focused on the process of standard-setting within the FSB has mainly focused on the role of developing countries, traditionally excluded from global regulatory policymaking (Knaack & Gruin, 2021), and the FSB's ability to conduct peer reviews and enforcement rather than the setting of new standards.

intermediaries possess competencies in the form of expertise, credibility or legitimacy, which may challenge the governor. Governors therefore need to choose among different modes of indirect governance. The FSB is ruled through orchestration, where the G20 governors do not exercise hierarchical authority over the FSB, but rather enlist the FSB as the "aggregation of national regulatory agencies' authority" (Rixen & Viola, 2020, p. 206). They argue that "the extent to which the G20 exercises control should depend on the degree of consensus within the collective governor, mediated by the sense of crisis urgency" (2020, p. 214). With regard to SIFI capital regulation, a sense of urgency allowed the FSB to overcome distributive conflicts among G20 countries with little interference from political leaders. This account underscores the rationale for not classifying national executives as veto players in the FSB. However, it starts from the premise that governments prefer regulation to be conducted at the international level, but it is weak in specifying the interests of the intermediary, a gap which this chapter seeks to fill.

There is little existing work on the standard-setting process for resolution in the FSB. Most of the literature focuses merely on the development of Loss-Absorbing Capacity (LAC), as opposed to the original genesis of the high-level concepts of resolution and bail-in, and does not conceptualise the role of banks and other non-state actors. Quaglia and Spendzharova (2019) investigate the lack of "regulatory coherence", or consistency, in the development of standards for LAC for banks between the FSB-, European Union (EU)- and national levels. Emphasising the importance of regulators in pursuing regulatory coherence, they rightly identify the different roles and powers that regulators are delegated at the different levels.

Woyames Dreher (2020, p. 557) explains the "deep standard enabled by an unexpected compromise" on LAC by the FSB's nature as a "general asset institution", in contrast to the Basel Committee on Banking Supervision (BCBS) and its standard-setting in the area of bank capital, characterised by a broad institutional scope and a loosely defined mandate.

The best, if brief, account of the intellectual development of resolution, bail-in, as well as Single Point of Entry (SPE) and Multiple Point of Entry (MPE) is offered by Quaglia (2017); however, it concentrates mainly on leadership by the United Kingdom (UK) and United States (US) authorities (Bank of England, Federal Deposit Insurance Corporation (FDIC)). Here, their preferences are explained by the strong externalities of resolution reforms in these countries, while EU countries such as France and Germany focused on intra-EU cross-border externalities and had little domestic resolution capacity. The role of banks is mostly glossed over.[159]

[159] Except for pointing out that the "financial industry did not oppose international standards and G-SIBs and the IIF openly supported these rules that would facilitate their cross-border activities" (Quaglia, 2017, p. 606).

Carstensen goes further in remarking that "a near consensus has been established between international organisations and the big industry players as represented by the IIF, that regulators should be granted the necessary instruments" for resolution (2013, p. 77) and that "it is in the interest of the IIF to support such [resolution] efforts as an alternative to more structural reforms" (2013, p. 79). Going beyond merely stating the preferences of the banking industry, this remaining chapter will investigate and demonstrate these developments in more detail using interview evidence. It shows how exactly the banking industry managed to achieve its desired outcome at the international level, namely through facilitating the forming of an epistemic community together with regulators, academics and lawyers. This contributes to the literature by conceptualising transnational epistemic communities as a tool of business power in the absence of national political actors, in contrast to the existing literature explaining international outcomes simply as the result of national regulators' preferences.

7.2 TBTF reforms in the FSB: Bail-in and the preservation of global banking

The international response to the TBTF problem was coordinated through the FSB, alongside the BCBS. The international policy response to TBTF can be conceived as consisting of three components: (1) the SIFI framework and the going-concern buffer for Global Systemically Important Banks (G-SIBs), (2a) the "Key Attributes of Effective Resolution Regimes for Financial Institutions" (Financial Stability Board, 2011), (2b) differentiated resolution strategies for banking structures and (3) additional LAC.

The lack of a final veto point to impose its policy preferences has implications for business' agenda-setting power. Due to the technocratic nature of the FSB, it is more accessible to technocratic arguments provided by the financial industry. This is most evident in business pushing for its own solutions to TBTF in this forum. The main actor through which the financial industry sought to influence the regulatory agenda is the IIF, which created its own Working Group on Cross-border Resolution. The IIF represents global financial corporations and has increasingly taken on an important private governance role (Blom, 2021).[160]

The following provides an overview of the most important developments in international

[160] While the IIF does represent a large number of diverse banks (and insurers), the focus is here on policy positions developed by its IIF Cross-Border Resolution Working Group with members from Western global banks.

standard-setting for TBTF, drawing mainly on key FSB documents, and industry positions in IIF publications. A somewhat technical understanding of these reforms and their impact on banks is required to understand how and why banks managed to set the agenda through the creation of an epistemic "Restore Market Incentives" community, as outlined in Section 7.3.

7.2.1 Bail-in: Preserving business models

The concept of bail-in is arguably the biggest policy innovation to improve the resolvability of banks and thereby make them less TBTF, since banks' bankruptcy can be managed in an orderly manner. In short, bail-in is the idea that regulatory authorities should have the legal authority to convert debt into equity in order to recapitalise a bank to continue its (systemically important) operations. Banks are required to issue enough eligible debt that is suitable for conversion into equity. This way, the banks' creditors, instead of taxpayers, are recapitalising the bank, which should also give them the incentive to monitor banks more closely and remove the bank's moral hazard. Even though the idea of a debt-to-equity conversion is not new in itself and common practice in other industries, the concept applied to banks under the moniker "bail-in", as opposed to "bail-out", neatly signifies its focus on avoiding taxpayer bailouts and can be traced back to early 2010. A search of Nexis newspaper articles for the keyword "bail-in" reveals that the term was virtually unused (in this context) before January 2010.

The industry's efforts to propose solutions to TBTF were first publicly put forward in January 2010 in an opinion piece published in *The Economist* magazine by Wilson Ervin and Paul Calello (2010), both senior executives at Credit Suisse, entitled "From bail-out to bail-in". This time period constituted the height of international uncertainty surrounding regulatory responses (Jenkins & Masters, 2010) and a time when the FSB was still considering different options for bank resolution to recommend to the G20 (Financial Stability Board, 2010a).

At the same time, the Bank of England was working on a similar concept to bail-in and the *Economist* article led to discussions between Credit Suisse representatives and the Bank of England, since the bail-in proposal and the policy work within the Bank of England were going in the same direction.[161]

Quickly, the financial industry seized on resolution reforms and bail-in and started promoting it through the IIF. In May 2010, the IIF published a report entitled "A Global Approach to Resolving Financial Firms: An Industry Perspective", in which it was looking to set the agenda

[161] Interview, Wilson Ervin, CRO and Vice-President at Credit Suisse, 29 March 2021

early on. The report carefully mirrors the language of the generic policy goals prevalent in post-crisis discourse around the TBTF problem, such as the (re-)establishment of market discipline, reduction of moral hazard and avoidance of taxpayer-funded bailouts. It "is eager to collaborate fully with the official sector in getting to grips with the difficult technical challenges involved in putting in place an effective international resolution framework" (2010, p. 10). In order to do this, the IIF suggested focusing on recovery and resolution planning and creating resolution regimes that have the power to "[o]rder a financial restructuring with such instruments as forced debt-equity swaps or 'bail-in' of unsecured debt-holders of the firm" (2010, p. 11). In addition, it specifies a number of sources of internal loss absorption, such as contingent capital and gone concern capital.[162]

Aside from suggesting that authorities have the power to bail in debt, the IIF goes on to emphasise as one of the report's most prominent points that resolution is possible without the need for changes to organisational structures, which should instead be determined by the firm's business model: "While a firm's approach to its organization and structure should be determined by its business model, improvements may be identified as a result of recovery and resolution planning. This should be the basis for a dialogue with supervisors but recovery and resolution planning should not be a pretext for imposing group structural requirements or for ring-fencing national markets" (2010, p. 11).[163] In short, the IIF did not disguise the fact that it opposed organisational intervention as part of regulatory reforms and viewed resolution and bail-in as a way to achieve regulators' policy goals without changing bank structures and business models.

By July of 2010, the idea had gained major traction among policymakers: as the Financial Times reported at the time, "[o]ne fascinating idea now provoking a chorus of behind-the-scenes debate among regulators and central banks is the concept of a so-called 'bail-in'". Bail-in almost immediately rose to the top of policy solutions to TBTF and "European regulators and central banks take the idea very seriously, and predict that it could be adopted by the Basel Committee in some form over the next year" (Tett, 2010). Indeed, by October 2010 the head of Germany's Federal Financial Supervisory Authority (BaFin) endorsed bail-ins as the best option to avoid

[162] Loss absorption capacity refers to the ability of banks to suffer losses without falling beneath regulatory minima. Here there is a distinction between going and gone concern capital. Going concern capital will absorb a bank's losses in order to continue its activities and remain solvent. Gone concern capital absorbs losses only in the event of insolvency before other creditors do (more pertinently, ideally to avoid that other creditors do at all).

[163] It further states that "[f]irms remain very concerned that if regulatory demands for changes to organizational structure become a normal aspect of recovery and resolution planning, that will lead to a proliferation of requirements for change that could result in a significant mismatch between a firm's organizational structure and its overall business model. This is a real risk that could cause significant harm over the long run" (2010, p. 23).

further bailouts (Masters, 2010).

In October 2010, the FSB published the SIFI Recommendations which, among other things, recommended a requirement for (G-)SIFIs to have higher LAC beyond the minimum Basel III standards. To this end, it asked the BCBS to conduct a study on additional loss absorbency, on the basis of which it would issue recommendations on its additional amount. It recommended that a "working group will be established to examine the legal and operational aspects of both contractual and statutory bail-in mechanisms providing for debt to equity conversions and/or write-downs in resolution" (2010b, p. 6). Bail-in had officially found its way onto the FSB reform agenda.

In May 2011, the IIF followed this up with a report entitled "Addressing Priority Issues in Cross-Border Resolution", in which the industry group again advocated for bail-in and an international resolution framework, once more stressing that "material disbenefits would follow from any attempt to require firms to adopt particular structures or organizational approaches" (Institute of International Finance, 2011, p. 12). The IIF's emphasis needs to be seen against the backdrop of national-level initiatives, most notably the UK's Independent Commission on Banking interim report published in April of 2011, which suggested that it was strongly considering the ring-fencing of retail assets (Independent Commission on Banking, 2011b). This may have encouraged the IIF to make more specific reference to structural reforms: "As to the desirability of requiring firms to completely separate their retail and wholesale banking activities [...] we do not agree that all forms of retail activity are necessarily to be deemed critical functions within the strict meaning of that term as we have defined it here. Moreover, [...] while it is the responsibility of firms to explain and demonstrate how critical functions can be maintained in the event of the failure of the firm, this does not mean that such functions are required to be separated ex ante and subjected to modularization" (Institute of International Finance, 2011, p. 17). Reporting and industry comments in the financial press established this link between the IIF's "less radical" proposals on bail-in and the industry's opposition to ring-fencing (Masters & Jenkins, 2011).

The FSB *Key Attributes* (2011), published in October 2011, set out the core elements for domestic resolution regimes, such as a designated resolution authority with broad legal resolution powers. These include the power to carry out bail-in within resolution. Under "Key Attribute 3.5", this includes the power to write down equity, convert unsecured and insured creditor claims into equity. However, the *Key Attributes* document is merely concerned with resolution authorities' legal powers, but not with requiring banks to issue enough debt that can be converted.

In summary, over the course of two years, bail-in went from a policy proposal put forward by bankers at Credit Suisse, promoted heavily by the IIF as a solution that does not intervene in banks' organisational and business models, into one of the main policy tools that the FSB recommended every country should have in order to make banks resolvable. This occurred at a time when structural measures were considered and passed in a number of influential countries, the US and UK, but did not become part of the FSB toolkit.

7.2.2 Group Structures: Preserving global banking

Having concluded that the main tool to make banks resolvable is for debt to be able to be converted into equity, banks need to issue enough eligible debt that is then available to recapitalise the bank. For global banks with business in multiple jurisdictions, the location of this debt is of crucial importance. This is the next issue to which global regulators turned.

Former Bank of England Governor Mervyn King's astute observation that banks are global in life but national in death has become a trope to justify the need for resolution reforms. But it also provides a useful way to think about the various solutions to this problem. Apart from the uncontroversial step to make a bank's death less likely and less impactful, there is an implicit choice underlying most solutions proposed after the crisis: either, make banks national both in life and in death, a solution that global banks desperately tried to avoid. Alternatively, a policy can aim to achieve a way for banks to be global in life and structure them such that national authorities do not need to shoulder the burden of death.

With regard to resolution strategies for different group structures of banks—that is, how different business units and jurisdictional activities are organised legally—two approaches emerged: in SPE, resolution powers such as bail-in are applied at the holding company level, ideally without affecting operating subsidiaries. This has implications for home-host relationships, as host authorities may need to trust and assist home authorities and refrain from ring-fencing capital (i.e. restricting the free movement of capital within a group). In MPE, multiple authorities coordinate their actions and apply resolution powers to different parts of the group.

In May 2012, the US FDIC announced (Gruenberg, 2012) its preferred resolution strategy to be SPE. Since then, SPE "has taken the world by storm as the most promising solution to the TBTF problem [. . .] The speed with which it has been endorsed—or at least acknowledged—as a promising solution to the TBTF problem by a wide range of key US regulators, financial industry groups, think tanks, rating agencies, and other stakeholders has been nothing short of phenomenal

[...] The speed with which [SPE] has been accepted outside the United States has been no less astonishing" (Guynn, 2014, p. 282). Indeed, it was quickly agreed on as the preferred resolution strategy by the Bank of England (jointly with the FDIC) (Federal Deposit Insurance Corporation & Bank of England, 2012; Gruenberg & Tucker, 2012) as well as in Germany and Switzerland (FINMA, 2013): "In short, in less than two years after the strategy was first announced by the FDIC, it has gained such wide acceptance and momentum, at least among government officials and other thought leaders throughout the United States and around the world, that it is fair to say that the [SPE] strategy is the leading strategy for solving the TBTF problem for G-SIBs with centralized structures" (Guynn, 2014, p. 286).

In June 2012, the IIF published its report "Making Resolution Robust—Completing the Legal and Institutional Frameworks for Effective Cross-Border Resolution of Financial Institutions" (2012). Looking back at the *Key Attributes*, whose conclusions the IIF describes as "broadly congruent with those of the Institute's prior reports on resolution", the report suggests measures, among others, for "resolving a firm while respecting its group structure" (2012, p. II). It was forthright in its goal: "It is not possible to create a single resolution strategy for all SIFIs because those SIFIs differ significantly between themselves as to business model, structure, and group architecture. However, if we start from the position that the resolution strategy for any particular group should recognize and uphold the legal architecture of that group, this difficulty largely disappears" (2012, p. 13). In order to achieve this, the IIF wanted resolution strategies to accommodate both integrated and decentralised groups. It provided an explanation of different "paradigmatic" group structures of global banks and argued that the SPE approach is not appropriate for decentralised groups which may require an MPE strategy (2012, p. 36).

In July 2013, the FSB published a document called "Recovery and Resolution Planning for Systemically Important Financial Institutions: Guidance on Developing Effective Resolution Strategies" (2013a), drawing on the same two approaches as the IIF had previously put forward. Crucially, it introduces two "stylised approaches" for resolution strategies: SPE and MPE resolution. The stated reason for the FSB to suggest optionality among both resolution approaches is that it allows authorities "to take account of the existing structure and business model of the individual firm and the firm's particular characteristics" (2013a, p. 13). Highly integrated global banks can be subject to an SPE strategy while decentralised banks can be subject to an MPE strategy. Although the report mentions the possible need for banks to be restructured in order to be amenable to one or the other resolution strategy, it clearly constitutes a nod to banks' freedom of organisation, as expressed in the IIF's June 2012 report. Explicit guidance on these stylised approaches further signifies the authorities' acceptance of many large banks' existing structural models and, more importantly, an acceptance of banks' ability to organise themselves as global banks without having to raise local capital in multiple jurisdictions.

7.2.3 Loss-Absorbing Capacity

The creation of additional LAC was put on the international agenda in the FSB Report to the G20 "Progress and Next Steps Towards Ending 'Too-Big-To-Fail' (TBTF)" (2013b), published in September 2013. In addition to reviewing progress in the TBTF policies to date, it announced for the first time work on proposals for G-SIFI LAC in resolution. It also proposed an FSB assessment of structural measures and their cross-border consistency and financial stability implications (Financial Stability Board, 2014).

Consequently, the FSB in November 2015 published the "Principles on Loss-absorbing and Recapitalisation Capacity of G-SIBs in Resolution" and the "Total Loss-absorbing Capacity (TLAC) Term Sheet" (2015), which specified that minimum TLAC must be at least 16% of the resolution group's Risk Weighted Assets (from January 2019) and at least 18% as of January 2022, in addition to regulatory capital (Basel III) buffers. This is illustrated in Figure 7.2[164].

TLAC refers to the minimum amount of equity and debt instruments that G-SIBs are required to hold so that they can absorb losses and be recapitalised in resolution without resorting to taxpayer support. The TLAC standard ensures that shareholders and creditors, rather than the state, bear losses in the event of bankruptcy, thereby enabling an orderly resolution consistent with the *Key Attributes*. In doing so, TLAC operationalised the principle of creditor bail-in on a global scale. It required large banks to maintain a layer of long-term debt that could be written down or converted into equity in resolution, thereby transferring the burden of failure from the public to private stakeholders. The standard also established cross-jurisdictional consistency by defining where within a banking group the loss-absorbing instruments had to be issued—typically at the resolution entity level—thus linking the design of TLAC closely to the institutional choices between SPE and MPE resolution strategies.

Prior to its introduction in 2015, loss-absorbing capacity in resolution was not explicitly defined or standardised across jurisdictions. Existing capital requirements under Basel III were

[164] CET1 = Common Equity Tier 1, AT1 = Additional Tier 1 capital, T2 = Tier 2 capital, TLAC = Total Loss-Absorbing Capacity, G-SIB = Global Systemically Important Bank, maturity = lifespan of a financial instrument, * Conservation buffer and G-SIB surcharge additional to Tier 1 and Tier 2 capital requirements (CET1 + AT1 + T2) and TLAC, ** Emerging market G-SIB: 16.0% by 1.1.2025, 18.0% by 1.1.2028

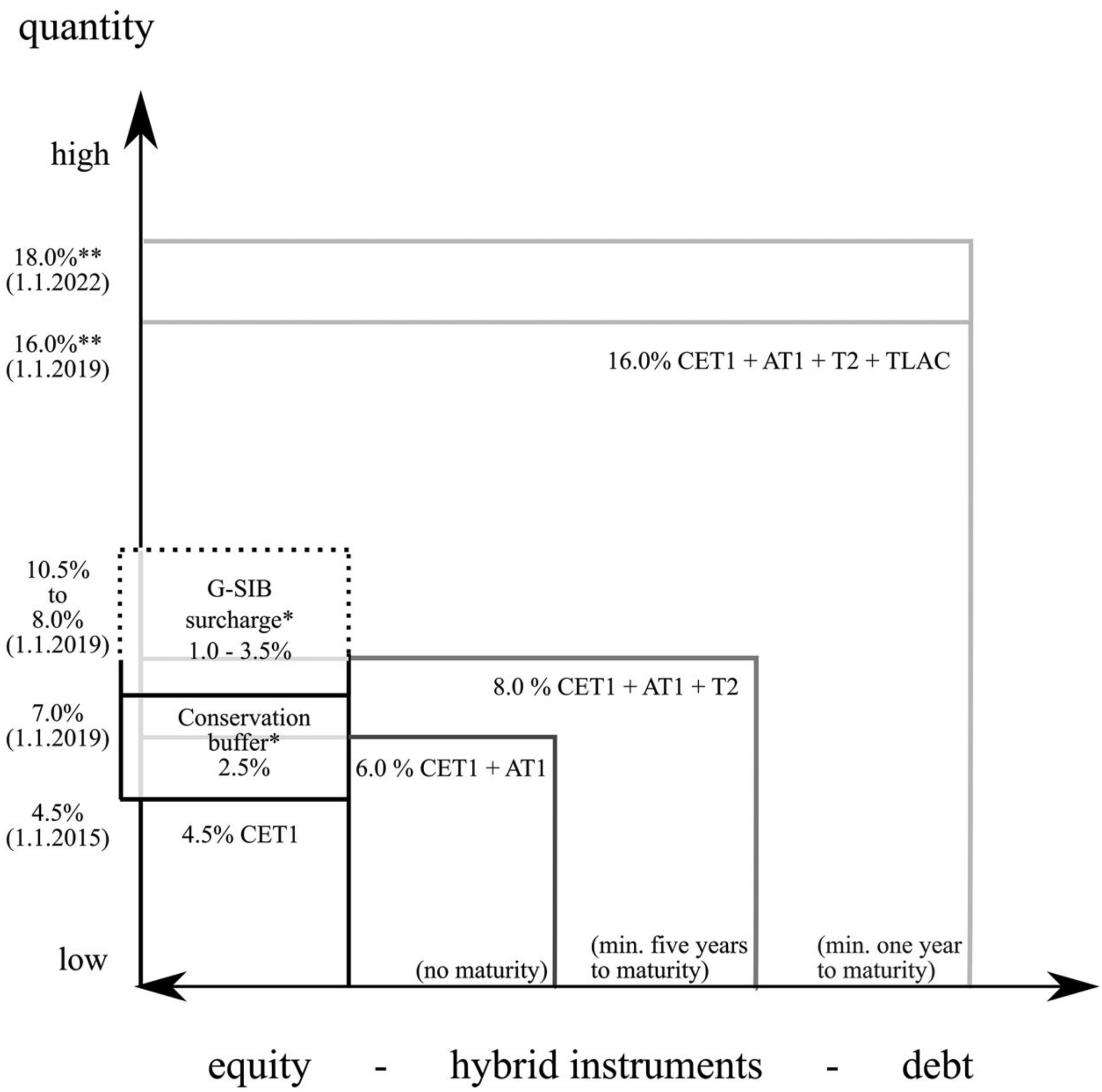


Figure 7.2: Capital requirements and total loss-absorbing capacity as of November 2015 (from Woyames Dreher, 2020, p. 572)

designed to ensure solvency during ongoing operations, but not necessarily to provide sufficient resources for recapitalisation once a bank had entered resolution. The TLAC framework thus extended the logic of prudential regulation into the resolution phase, by specifying both the minimum amount and the types of instruments that must be available to absorb losses and restore capital after failure.

Following this descriptive account of public sources, it still needs to be demonstrated that business was, in fact, instrumental in shaping the ideas and agenda at the international level. This is done using interview data and the concept of epistemic communities in Section 7.3.

7.3 Epistemic communities and business power

As the theory of *institutional veto points and bank business power* suggests, the weakly institutionalised nature of the FSB and role of bureaucratic experts in the policy process provide banks with the chance to influence the regulatory design process through the provision of expertise. The best way to explain business influence through expertise is to conceptualise it as the creation of an epistemic community.

The proponents of bail-in—a mixture of central bankers, regulators, academics, lawyers and bankers—constitute an epistemic community, defined as "networks of knowledge-based experts [that articulate] the cause-and-effect relationships of complex problems, helping states identify their interests, framing the issues for collective debate, proposing specific policies, and identifying salient points for negotiation" (Haas, 1992, p. 2). It is argued that the focus on bail-in can be explained by an epistemic community—termed the "Restore Market Incentives" community—that believed the TBTF problem is one of market incentives not working *enough*, due to the prospect of taxpayer bailouts and banks' creditors not having to shoulder any losses. As a result, they advocated for a solution that would restore market discipline by shifting potential losses onto creditors.

The epistemic community in favour of bail-in—and against structural reforms—consists of a diverse set of actors. There are regulators and central bankers, such as Paul Tucker, at the time Deputy Governor at the Bank of England and chair of the FSB Resolution Steering Group, and FSB chair and Bank of England Governor Mark Carney. Here, it is notable that these persons come from the UK central bank, which implemented one of the most prominent versions of structural reform. Even institutions such as the Bank of England are not monolithic and there were "full-blown culture wars" within the Bank around the merits of ring-fencing.[165] It shows that the UK demonstrated weak "political-bureaucratic preference homogeneity", unable to push for structural reforms at the FSB. In the US, notable members are James Wigand, Director of the FDIC Office of Complex Financial Institutions and a Senior Advisor to the Chairman of FDIC. In Europe, the most notable member is Mario Draghi, FSB chair and governor of the Bank of Italy until 2011.

This group of regulators that advocated strong international reforms for resolution has also been referred to by interviewees as a "hearts and minds group", highlighting that *convincing*

[165] Interview, Senior Bank of England Official #1, 9 April 2021

(i.e. winning hearts and minds of) peers in the regulatory community was key to this process[166]:

> At some stage in the spring of 2010, Paul [Tucker] made a request to the FSB steering committee to lead what was called the cross-border crisis management group as it was with another chair to enable him to bring together a small 'hearts and minds' group of much more senior people who would shift the focus from talking about cooperating in difficult circumstances to actually look at resolution regime reforms, new resolution powers and new resolution tools. Because we understood that only if we did that, would we get to something that was real. And the steering committee agreed to this and that hearts and minds group developed very rapidly in the two or three months basically what were the first draft of the Key Attributes of effective resolution.[167]

From private industry, a number of bankers were the intellectual force behind bail-in. They include senior executives at Credit Suisse, including Wilson Ervin and Urs Rohner. These actors organised themselves mainly through the IIF, as the IIF is not merely an industry interest group, but also serves a convening function to discuss ideas among bankers, lawyers, the public sector and academics[168]. The reason for the prominence of Swiss banks in this community is that they had been involved earlier than their international counterparts in a domestic reform process, in which banks were forced to accept far-reaching resolution reforms (see Chapter 4). As the FSB's General Secretary pointed out, "the FSB's SIFI framework that set out 'resolution is going to happen to you' along with the whole rest of the SIFI thing in 2010 ... By that time, in Switzerland, they were already in the process of developing their own Too-Big-To-Fail programme, many features of which [...] influenced the FSB work. And, of course, that was developed in very close consultation with the banks. [...] And, of course, many of the things that you have seen the IIF produce, I am pretty sure came out of UBS and Credit Suisse into the IIF"[169].

Part of this epistemic community are also lawyers and academics. In financial regulation and particularly resolution, which touches heavily on bankruptcy law, the scholars with the most expert knowledge are lawyers. Lawyers are closely connected to industry and the clients they advise, but also publish scholarly articles and act as thought leaders, often receiving senior appointments at regulatory authorities. Randall Guynn, Partner at law firm Davis Polk in New York and Simon Gleeson, Partner at Clifford Chance in London, both members of the IIF Cross-border Resolution Working Group, published on resolution-related topics early on (Bates

[166] This conflict between the two camps is akin to the "epistemic contestation" described by James and Quaglia (2022) in the regulation of investment funds (FSB vs IOSCO), but takes in a wider array of actors rather than merely contestation between different regulatory agencies.
[167] Interview, Svein Andresen, FSB General Secretary, 7 April 2022
[168] Interview, Wilson Ervin, CRO and Vice-President at Credit Suisse, 29 March 2021
[169] Interview, Svein Andresen, FSB General Secretary, 7 April 2022

& Gleeson, 2011; Gleeson, 2012; Guynn, 2012) and in opposition to structural reforms (Gleeson, 2015; Guynn & Kenadjian, 2015) and are generally legal authorities on the subject (Gleeson & Guynn, 2016). The most important role of lawyers is at the policy refining phase in order to elucidate cause-and-effect relationships and specify to policymakers and banks the consequences of rule making.[170] Indeed, lawyers helped formulate the more detailed concepts around Group resolution and SPE. Not all external experts are lawyers or close to the industry, such as the economist Thomas Huertas who was a Director at the UK Financial Services Authority until 2011 and early on published on the benefits of bail-in (Huertas, 2013, 2021).

One interviewee described this group pushing for bail-in as a diverse group founded upon analytical agreement about policy options rather than interests:

> The biggest policy developments post crisis is undoubtedly [...] the whole bail-in concept. And that really came from a relatively small group of people. [...] Realistically, all that happened was that this idea sort of went around a relatively small circle and as I said, you look at that group—I describe myself as part of it—but we weren't a group of academics or a group of bankers or a group of retired regulators. We just happened to have all of those people sort of talking to each other and the more we talked about it and the more we talked around it and the more we talked outside it, people tended to look at the idea 'And you know what? That might just work'. And so by the time it got to the stage of being an FSB policy paper and all the rest of it, you could draw a line from the people who had the original idea to the final paper [...] the point comes where more than about 100 sensible people have all looked at the idea and they've all said 'yeah'.[171]

The "Restore Market Incentives" community fulfils Haas' four conditions of epistemic communities (1992, p. 3): (1) a shared set of normative and principled beliefs, (2) shared causal beliefs, (3) shared notions of validity and (4) a common policy enterprise.

Members of the community have a (1) shared set of normative and principled beliefs, most notably the belief that in a capitalist system, market discipline should govern the behaviour of all market participants and firms' economic freedom to choose business models and corporate structures. Bankers in this community leaned quite heavily on this idea. One interviewee draws a contrast between the policy community and government circles, the latter of which wanted to punish banks. In his words, "the bigger fight is how much of this are we going to solve by fixing capitalism itself versus how much are we going to do by suppressing capitalism".[172] While the

[170] Interview, Simon Gleeson, Partner at Clifford Chance law firm, 6 November 2020
[171] Interview, Simon Gleeson, Partner at Clifford Chance law firm, 6 November 2020; see also Ervin and Young (2015)
[172] Interview, Wilson Ervin, CRO and Vice-President at Credit Suisse, 29 March 2021

policy community was seen as intending to fix capitalism through aligning incentives, the crisis caused politicians to want to punish banks. One regulator confirmed the bankers' view of the community: "Some of them [banks] realise that as capitalists, [...] they should live by the sword and die by the sword"[173]. However, it was not just the banks, but also the regulators who shared the normative belief that banks should focus on internalising risk: it is "clear that when you get to the point of deliberately focusing policy on getting firms to internalise the risk that they bring to the system, then they should internalise the cost of their failure ex ante as well."[174]

Further, members of the "Restore Market Incentives" community have a (2) shared causal belief that the problem of TBTF is one of moral hazard on the part of investors and that their liability for losses will remove that moral hazard. They have (3) shared notions of validity that are within established methods of academic legal studies and finance theory. For instance, policymakers who would champion bail-in—members of the "Restore Market Incentives" Community—were convinced by arguments about the high transition costs implicit in alternative policy proposals, such as raising substantially more Common Equity Tier 1 capital (for this, see Admati & Hellwig, 2014) and the possibility of an associated recession if banks were unable to finance the economic recovery. This points to the notions of validity that these actors shared about arguments relating to banks' role in the economy[175]. They have a (4) common policy enterprise, which is the promotion of financial stability in order to retain the broad outlines of the modern banking landscape.

Epistemic communities arise under conditions of uncertainty, and the intractability of TBTF and the international dimension of the resolution challenge created the need for international policy coordination and delegation to this group. While procedurally the G20 asked the FSB to address policy problems a certain way, the agenda in these technical matters is set by the FSB, as the FSB members feed their agenda into the G20 to be endorsed by political leaders[176]. This again demonstrates that there is no one clearly-defined agenda setter or veto point.

The epistemic community in favour of bail-in, as per Haas, elucidates a specific cause-and-effect relationship between liability, the pricing of debt and risk-taking. They shed light on linkages between issues and policy, such as for instance the downsides of contingent convertible instruments. They define the state's self-interest in maintaining existing banking structures through *more* market discipline and help formulate policies such as the precise formulation of the FSB standards.

[173] Interview, Senior Bank of England Official #1, 9 April 2021
[174] Interview, Senior Bank of England Official #1, 9 April 2021
[175] Interview, Wilson Ervin, CRO and Vice-President at Credit Suisse, 29 March 2021
[176] Interview, Senior FSB Official, 12 December 2020

It is notable that most of the members of the "Restore Market Incentives" community are predominantly bankers, regulators and external experts from the UK and the US. With regard to TLAC, one British regulator described this as "the UK and US [regulators] got in a smoke-filled room, thought what the answer was and then spent a year selling the answer to everyone else"[177].

This community positioned bail-in against competing proposals by proponents of bank structural reform, which could be described as a "Reform Market Incentives" group. These proponents did not manage to form an epistemic community. Indeed, the epistemic community framework conceptualises solidarity based on opposition to other policy agendas: "The solidarity of epistemic community members derives not only from their shared interests [. . .], but also from their shared aversions, which are based on their reluctance to deal with policy agendas outside their common policy enterprise or invoke policies based on explanations that they do not accept" (Haas, 1992, p. 20).

Interviews reveal the industry's policy activism to be motivated by attempting to counter policy proposals in favour of structural reform. A senior official from the FSB Secretariat noted that bail-in, TLAC and the SPE resolution strategy were developed "with a lot of intellectual input from the private sector, as a way to demonstrate that you don't need to break up these global banks." Ideas around structural reforms and ring fencing "were floating around and TLAC and bail-in combined with a single point of entry was in a way a solution and I think it's fair to say that a lot of this came from the industry against the structural solutions".[178]

A senior Bank of England official echoed the view that some parts of industry recognised the need to contribute to policy solutions to TBTF and that "the intelligent [banks] were quick on the uptake on this was that unless they could get out of the doghouse, in not being a contingent risk to taxpayers, they were going to suffer a relentless stream of regulation." Indeed, he is convinced enough of the technical merits of the resolution regimes as a superior alternative to structural reforms: "If in the UK we had figured out how to do resolution prior to 2011, 2010, [it is a] moot point whether we would have done ring-fencing. And I wonder and I think it is absolutely a reasonable hypothesis to test as regards other systems. That in Europe certainly, because they got to resolution later, by that stage, the steam ran out of Liikanen"[179], i.e. the EU's (eventually abandoned) proposals for structural reform. Furthermore, arguments positioned against structural reforms solutions not only worked to convince policymakers. Even within the

[177] Interview, Senior Bank of England Official #1, 9 April 2021
[178] Interview, Senior FSB Official, 12 December 2020
[179] Interview, Senior Bank of England Official #1, 9 April 2021

industry, the prospect of structural reforms allowed advocates for bail-in to convince critics to support this solution as preferable to structural reforms.[180]

Preferences of national executives and domestic implementation

In the FSB policy process around resolution standards, one interviewee distinguished between countries as "hawks" and "doves" when it came to their preference for credible resolution regimes. Among the "hawks" were the US, UK and Switzerland.[181] France was a "dove" that was seen to be more comfortable with bailing out its banks, had banks with a higher degree of group consolidation and was thus not a strong supporter of resolution reforms and, in particular, the concept of TLAC.[182] This was also seen to apply, to a lesser degree, to Germany.[183]

While national executives, in particular finance ministries, are not agenda setters, they can put their weight behind solutions.[184] To answer the question why the US, UK and Switzerland were particular hawks, Figure 7.3 shows the share of foreign banks in each country, both as a share of all banks and as a share of bank assets.

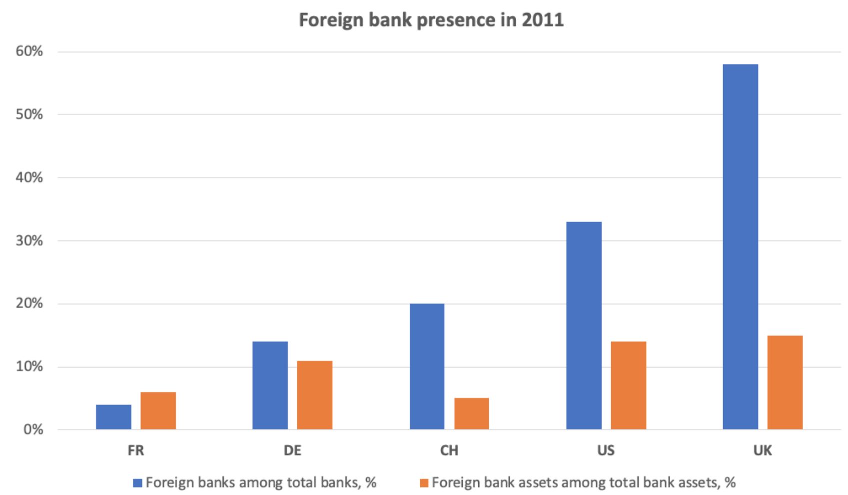


Figure 7.3: Foreign bank share in 2011 (from Claessens & van Horen, 2014)

It shows that, at the time of debates surrounding the FSB resolution standards in 2011, the UK and US had a much higher share of foreign banks within their respective sectors (commensurate

[180] Interview, Wilson Ervin, CRO and Vice-President at Credit Suisse, 29 March 2021

[181] Interview, Senior Bank of England Official #1, 9 April 2021

[182] Interview, Senior Bank of England Official #1, 9 April 2021; Interview, Senior Bank of England Official #2, 18 February 2022; Interview, Senior Bundesbank Official, 8 March 2021

[183] Interview, Svein Andresen, FSB General Secretary, 7 April 2022

[184] "The mandate comes down from [the 2009 G20 Pittsburgh summit] 'you will end too big to fail, FSB'. And then technocrats work on the how to do it. And, inevitably, any finance ministry worth its salt is entirely on top of things and uses their technocrats as an arm for their policy objectives." (Interview, Senior Bank of England Official #1, 9 April 2021)

with London and New York's status as the pre-eminent global financial centres). This means that the impact of a bankruptcy of a foreign bank would have a disproportionate impact on the financial stability of their financial sectors. Moreover, it shows that foreign banks in these countries, which naturally have better exit options and hence structural power, mean that these governments were more attentive to an international TBTF framework that did not hurt the international nature of their financial centres.

The FSB's *Key Attributes* provided the global benchmark for post-crisis bank resolution reform. These standards were subsequently transposed through different institutional and legal pathways across France, Germany and Switzerland, reflecting the respective regulatory architectures and their degree of alignment with the European and international frameworks (for an overview, see also Figure 3.4).

In France, the FSB standards were implemented through the EU's Bank Recovery and Resolution Directive (BRRD), primarily by means of *ordonnance* 2015-1024, which built upon the earlier *Loi de séparation et de régulation des activités bancaires* of 2013 (see Section 6.2.1). The Autorité de contrôle prudentiel et de résolution (ACPR) was designated as the national resolution authority responsible for the preparation and execution of resolution plans. The French regime applies the standard toolkit of resolution measures introduced under the BRRD, including bail-in and bridge bank powers. For significant or cross-border institutions, decision-making lies with the Single Resolution Board under the Single Resolution Mechanism (SRM), with the ACPR acting as the implementing authority at the national level.

In Germany, the *Key Attributes* were transposed through the same EU-level process. The BRRD was incorporated into domestic law via the *Sanierungs- und Abwicklungsgesetz*, which entered into force in 2015 and established a comprehensive resolution framework encompassing bail-in, bridge bank, and asset separation tools, alongside requirements for recovery and resolution planning. The national resolution was eventually integrated into BaFin in 2018. Within the SRM, the Single Resolution Board assumed responsibility for significant and cross-border banks, while BaFin retained operational powers for less significant institutions.

Switzerland, by contrast, implemented the FSB standards directly into domestic law outside the EU framework. Following its post-crisis TBTF legislative package, amendments to the Banking Act and subsequent Swiss Financial Market Supervisory Authority (FINMA) ordinances established a resolution regime consistent with the *Key Attributes*. FINMA was designated as the sole resolution authority and mandated to approve recovery and resolution plans ("emergency plans") for systemically important banks. Switzerland also adopted the TLAC standard early on through combined going- and gone-concern capital requirements (*Swiss TLAC*) for its G-SIBs.

7.4 Conclusion

This chapter has demonstrated the dynamics of business power and agenda setting within international standard-setting. As explained in the theoretical framework, in international standard-setting there is no pre-determined veto point. National executives delegate the development of international standards to bureaucrats in international fora: they can shape the outcome through the bureaucrats they send to the fora (and their working groups) or refuse to endorse or implement the standards proposed by bureaucrats. However, it is all but impossible for any single jurisdiction but the most powerful to veto international standards directly—given that they normally prefer *a* standard to *no* standard to avoid a race to the bottom in regulation. Bureaucrats, in turn, have the upper hand in their agenda-setting power, since they are tasked with proposing policy solutions to, in this case chapter, the G20. They can hence not propose any regulatory standards that are unacceptable to national executives but have wide-ranging autonomy in designing them. When it comes to the task of coordinating solutions acceptable to a wide range of jurisdictions, banks' main source of influence is their expertise. This is (1) because bureaucrats are much more receptive to this type of influence and (2) because bank lobby groups or associations can aggregate views from across their international membership to propose policies that will be suitable and acceptable.

This chapter has demonstrated this dynamic in the policy process for bank resolution. For national executives, the experience with bailouts during the GFC differed substantially, and they could not agree on a diagnosis or policy prescription. Without national executives prescribing a clear policy direction based on their financial sectors' competitiveness, international bureaucrats were able to propose a policy response to the TBTF problem that would be endorsed by the G20. Banks leveraged influence over the policymaking process by building an expertise-based epistemic community to "Restore Market Incentives" rooted in a common problem diagnosis. This community incorporated many of the bureaucrats themselves, in particular from influential countries such as the UK and US: the international policy outcome thus took the shape of relying on bail-in to make banks more resolvable, a policy "innovation" that protected the status quo of global banks' business and organisational models.

Chapter 8

Conclusion

This thesis has tackled the core research question: *Why did institutional settings with more concentrated banking sectors adopt stronger regulatory reforms to address too-big-to-fail?* In particular, it examined two pieces of post-crisis regulatory change—bank structural reforms and bank resolution planning aimed at curbing the problem of too-big-to-fail (TBTF) banks. It demonstrated that some institutional arrangements enhance democratic responsiveness to public demand for policy reform. The answers still leave open a wider set of questions, such as about the effectiveness of regulatory reforms more than a decade ago. Recalling Zhou Enlai's warning from the opening of this thesis about attempting definitive answers to such questions following relatively recent events, this chapter draws conclusions from this thesis. The relationship between structural reform and resolution planning as policy tools has also continued to evolve since the immediate post-crisis policy reforms and provides an outlook on the future shape of TBTF regulation.

Instead of repeating the empirics from the four case chapters, the following sections tease out the most relevant findings that collectively inform the broader lessons for policy and the political economy literature. Looking ahead, Section 8.4 closes the thesis by discussing the limitations and avenues for further research.

8.1 Policy lessons from the empirical case studies

In addition to the wider research question, this thesis also sought to provide useful policy insights in answer to the question *What factors enable democracies to successfully reform regulatory policy in the face of resistance from powerful business interests?* The following synthesises policy lessons that were generated from across the empirical case studies and groups them into a number of broader lessons.

The most direct lesson from the case studies is that an important factor is an institutional setup that makes the actors in the policy process, and specifically those sitting at the veto point, democratically accountable. That is, it is difficult for these actors to shirk the responsibility of implementing the electorate's policy preferences. The case in point is Switzerland, where the electorate itself is the relevant last veto point due to its ability to put any law to a referendum, and thus potentially veto it. This is not to say that all countries need to implement Switzerland's constitutional system of direct democracy and associated political culture, nor that they can. More importantly, the Swiss government, bureaucracy and parliament and even some voices in the banking industry were all incentivised to re-examine their own views on the country's pre-crisis policy of industry accommodation. This is evidenced by the cross-ideological coalition in parliament, which overcame ideological divisions to find new democratically accountable policies. In France and Germany, the same outcome would not have been realistic. However, the French bureaucracy blocked the more far-reaching policy ideas of the new President. More than unelected bureaucracies in general, the Trésor was particularly unresponsive and viewed its mandate as ensuring the financing of the economy, and hence defended a pre-crisis view of French banks' structural power, rather than responding to the policy preferences of the electorate. Changing the policymaking process to make the executive as a whole more democratically responsive could enable countries to successfully reform regulatory policy, even with the structural power of a concentrated banking sector. In Germany, parliament is the constitutional representation of the electorate, but did not respond in an accountable way. This is because many Members of Parliament (MPs) not only viewed voters, but also the local savings banks as their constituents. Together with the special role that parliamentary procedures give to interest groups in the form of associations, these structures undermine the democratic accountability of parliament. Reducing the involvement of politicians in local banking would reduce this conflict of interest.

A second lesson is to ensure that actors within government need to align their policy priorities (i.e. create "political-bureaucratic preference homogeneity"). The lack of such alignment in France, discussed above, explains why the executive's actions lacked democratic accountability. This is not only an explanation of failure in this case, but also a success factor in Switzerland. The government politicians (across the political spectrum) as well as the bureaucracy both perceived the political salience of banking regulation after the crisis as a "window of opportunity" and worked together to push for regulatory policy that went beyond international standards. In Germany, it is ambiguous whether government politicians and bureaucrats had aligned policy priorities. While the conservative-liberal government was sceptical of structural reforms, once the government had decided to go with a structural reform law, the Federal Ministry of Finance (BMF) and Bundesbank continued their opposition and designed a law that was as ineffective as possible. The practice in European democracies of executives composed of elected political leaders and permanent, unelected bureaucrats is designed to maintain knowledge and expertise in implementation across election cycles. However, bureaucracies supporting the government's policy mandate can be crucial for countries to be able to reform regulatory policy even when opposed by business interests.

A third policy lesson for successful policy reform is to not necessarily specify all regulatory details in law. Instead, regulation should indicate the policy direction and policy tools, but leave their exact specification to policy experts, such as those in supervisory authorities. In France, the structural reform law specified a limited number of activities to be ring-fenced, which made the law virtually inapplicable in its initial formulation. The German law gives some discretion to Federal Financial Supervisory Authority (BaFin), but the thresholds established within the law are too narrow to address the wider TBTF problem. The opposite example of this is Switzerland, where the government did not proactively seek to design the detailed regulatory policy by itself. First, it delegated the design of the TBTF regulation to an expert commission, which enabled it to take a broader view of policy solutions. Second, in the case of resolvability measures, the regulation delegates to Swiss Financial Market Supervisory Authority (FINMA) the task of ensuring the ex-ante resolvability of the country's large banks. In this way, the government did not tie the supervisor's hands in implementing a far-reaching TBTF policy.[185]

The fourth policy lesson relates to timing of policy reforms. Technocratic policy areas such as banking regulation are rarely politically salient. As this thesis has shown, public attention and demands for policy reform can—when coupled with democratic responsiveness of policy institutions—be the necessary conditions for policymakers to overcome the traditional power of business interest in times of low salience. However, public attention is fickle and has a short half-life. Switzerland acted swiftly, putting together an expert group to revisit the country's TBTF problem and passed regulatory reform by 2011. France and Germany demonstrate the perils of prolonged inaction by waiting another two years. The analysis of media coverage in Germany (Section 5.4.3) shows that coverage of the crisis, bailouts and associated regulation had decreased dramatically by that point.

[185] This is not without a caveat, since pre-crisis supervision has shown that supervisory authorities can also be subject to regulatory capture or myopia. However, too narrow regulation can close the door to ineffective policy reform from the outset.

In both cases, waiting for international or supranational standards diminished the scope for far-reaching domestic reform. France and Germany waited—perhaps deliberately—for doomed European Union (EU)-level structural reform based on the Liikanen report and for clarification of resolution standards by the Financial Stability Board (FSB). Policymakers hence face a trade-off between the legitimate need for international coordination on regulatory standards and the need for effective domestic reform. As the chapter on the standard-setting process for resolution regimes has shown, international standards (by design) often constitute the lowest common denominator and countries pursuing effective policy reform, such as Switzerland, choose to go beyond international standards and treat them as floors rather than ceilings.

A final policy lesson relates to the need for bureaucrats to improve international coordination when designing international regulatory standards. The case study on international standard-setting at the FSB has shown that a key success factor for the banking industry to impose their preferred, status quo-retaining policy solutions was the successful creation of an epistemic community across a transnational group of bankers, economists, lawyers and, crucially, regulators. This split any potential coalition in favour of introducing policy measures to reform market incentives by addressing the TBTF phenomenon head on. Only when international regulators develop their own expertise (as a counterweight to expertise wielded as a form of business power) and network across countries and professions can international regulation reflect the bottom-up demands for effective banking reform.

8.2 Too-big-to-fail regulation and the changing policy toolkit

The relationship between structural and resolution reforms continues to shift. Since the TBTF regulations discussed in this thesis, the global toolkit to address the TBTF problem has moved towards a focus on making resolution planning more robust and achieving some of the goals originally envisioned by proponents of structural reform. Effective resolution has become the primary tool to pre-empt future bailouts and maintain financial stability. Global policy evaluations by bodies like the FSB affirm this trajectory, finding that higher loss-absorbing capacity and credible resolution frameworks have made large banks more resilient and market discipline stronger, although gaps remain (Financial Stability Board, 2021). Developments in the United Kingdom (UK) exemplify this shifting balance: the 2022 "Independent Review into Ring-fencing and Proprietary Trading" (led by Lord Skeoch) concluded that the benefits of the ring-fencing approach will likely "diminish with time" as the resolution regime "overtakes it in providing a more comprehensive solution for tackling too-big-to-fail" (RFPT Review Panel, 2022, p. 8). It recommended that regulators should be empowered to remove banks from the ring-fencing framework once they are demonstrably resolvable. The Skeoch review's conclusions are the clearest expression of the rival nature of structural reform and resolution and the argument, voiced in an interview with a Bank of England official, that "if in the UK we had figured out how to do resolution prior to 2011, 2010, moot point whether we would have done ring-fencing"[186]. In response, HM Treasury announced plans to refine the ring-fencing rules, including raising the ring-fencing threshold (HM Treasury, 2024). Similar plans were announced by UK Chancellor Rachel Reeves (Armstrong et al., 2025), but face opposition by the Bank of England (Fleming, 2025). These steps acknowledge that robust resolution plans may reduce the need for rigid structural separation. Notably, the architects of the original ring-fencing regime have cautioned against wholesale dismantling of structural safeguards (Noonan, 2022), underscoring the ongoing debate in the UK over the right balance between structural reform and resolution.

Switzerland, which had implemented its own structural ring fence around systemically important banks' domestic operations, was forced to confront the limits of its regime during Credit Suisse's 2023 failure and subsequent merger with UBS. In the aftermath, Swiss authorities have focused on strengthening resolution and crisis preparedness rather than adding new structural rules. The government and FINMA in 2025 proposed tougher "too big to fail" provisions, including higher capital requirements for systemically important banks with international operations, new early intervention powers for regulators and an expanded resolution toolkit (FINMA, 2025).[187] Given the comparative robustness of Switzerland's post-crisis TBTF reforms, the implications for arguably less well-prepared jurisdictions such as Germany and France merit concern about their ability to handle similar problems at one of their Global Systemically Important Banks (G-SIBs).

The EU only officially abandoned its draft legislation on bank structural reform in 2017, explicitly reasoning that "the main financial stability rationale of the proposal has in the meantime been addressed by other regulatory measures in the banking sector, and most notably the entry into force of the Banking Union's supervisory and resolution arms" (H. Jones, 2017). Since then, French and German authorities have concentrated on implementing EU resolution planning (e.g. MREL/TLAC requirements and cross-border resolution coordination).

[186] Interview, Senior Bank of England Official #1, 9 April 2021

[187] Interestingly, FINMA noted it "was ready to restructure Credit Suisse in March 2023" (FINMA, 2025; see also Financial Stability Board, 2023).

In the United States (US), the post-crisis structural response was limited to the Volcker Rule's narrow proprietary trading ban. High-profile legislators such as Bernie Sanders and Elizabeth Warren have continued to call for a return to the Glass-Steagall Act's strict separation of commercial and investment banking (Cirilli, 2015; The Economist, 2016). Following the regional bank turmoil of 2023, regulators proposed extending long-term debt requirements to banks with assets above US$100bn to ensure they too have a layer of debt that can be bailed-in during failure (Carstens, 2024), thereby extending the bail-in logic even to mid-sized banks.

8.3 Implications for the political economy literature

Beyond the policy lessons derived from the empirical work, the theory of *institutional veto points and bank business power* developed in this thesis also yields implications for the study of regulatory policymaking in the political economy literature.

First, the political economy explanations of the determinants of (regulatory) policy, reviewed in Chapter 2, provide very granular accounts of specific mechanisms to explain policy outcomes. Most of them applied partially to explain the outcomes of individual cases in this thesis. However, the diversity of institutional settings in which policymaking takes place means that political economy scholars need to treat explanatory mechanisms as conditional on institutional configuration. The location and alignment of veto points (see Immergut, 1992) determine when structural or instrumental business power, political salience, partisanship or ideas are likely to be decisive. Different veto points can enhance the explanatory power of specific mechanisms, and scholars should specify, ex ante, which specific veto points are most relevant and what resources actors can deploy at each point. This insight does not privilege institutional explanations for public policy above interest group (Stigler, 1971; Hacker & Pierson, 2010), structural power (Lindblom, 1977; Hacker & Pierson, 2002; Iversen & Soskice, 2019) or ideas-based (Blyth, 1997; Hall, 1989) ones, but rather highlights that any explanatory mechanism operates within the confines of pre-existing institutional structures which are determined outside the study of day-to-day policymaking.

Second, the study of regulatory policymaking has mostly been divided between Comparative Political Economy and International Political Economy (IPE), with little transfer of insights across both disciplines. This is because Comparative Political Economy scholars have conceptualised policymaking within domestic contexts as fundamentally different from international policymaking, and vice versa. Although fundamental differences do exist, this thesis suggests softening this divide by conceptualising regulatory policymaking as a political conflict that takes place within different institutional arenas. Constitutions, political party systems, direct-democratic tools and the rules of international standard-setting bodies confer distinct forms of agenda-setting power (Howarth & James, 2020), informational advantages (Bernhagen & Bräuninger, 2005; James, 2018) and veto powers (Tsebelis, 2002). In this conception, the arenas in which the struggle between policymakers and banks takes place are distinguished by their institutional rules around veto points rather than their inherent domestic or international nature. Rather, outcomes hinge on who is pivotal within each arena and on how positions travel between them. Moreover, since bureaucratic and political actors can decide whether to prioritise policy through domestic legislation or international standards, the two are intrinsically linked.

Third, in highly technical policy fields, much of the political economy literature has neglected public demands for policy change in situations where issue salience is high. Salience can reshape political calculations at various veto points by altering politicians' electoral calculus (Chwieroth & Walter, 2020), empower opposition parties or create cross-ideological coalitions. That is, political salience is relevant beyond the direct mechanism of referenda in institutional settings of direct democracy. Parliamentary or executive calculations also hinge on voter demands in their incentives to undertake symbolic or preventive regulatory action, responding to real and perceived policy demands following crises or scandals. These pressures may open time-bound windows for reform, yet salience is volatile and can be reframed by competing interpretations of crises. Political economy analyses should treat salience as endogenous and be attentive to the institutional conditions under which public pressure becomes a political constraint.

Fourth, political economists need to analytically distinguish bureaucratic actors more clearly from political policymakers. Bureaucrats are often conceptualised as merely implementing the wishes of political decision makers, both in domestic and international settings. However, in technically complex domains, bureaucrats possess their own power resources through their expertise, agenda-setting power in policy design and in their discretion in policy implementation (Carpenter, 2010; Ziegler & Woolley, 2016). The case chapters highlighted these powers with bureaucrats implementing strict ex-post structural separation as part of their resolution powers or their autonomy in shaping international standards as part of epistemic communities. Additionally, bureaucrats have their own policy preferences, and as a result the importance of "political-bureaucratic preference homogeneity" has been emphasised to explain the power resources of executives in pushing for policy reform. Political economy research should model the role of bureaucrats separately, as they are empowered differently across institutional settings.

Fifth, many of the power-based approaches in Comparative Political Economy need to take the role of ideas and policy learning (Hall, 1993) more seriously. This thesis has argued that actors' policy preferences cannot be derived a priori without examining their crisis diagnoses and expertise as a power resource. Competing diagnoses of policy problems structure the menu of plausible solutions and redistribute authority towards actors with recognised epistemic competence. Expert consensus can gatekeep the choice of policy instruments, particularly when political priorities are contested (Blyth, 2002). Empirical work in political economy needs to trace the origins of policy ideas and specify where expertise functions as an independent source of power or a strategically mobilised resource.

Finally, the study of policymaking needs to consider how policy alternatives (Kingdon, 1995) structure preferences and coalitions. The credibility and visibility of different options shape what actors consider feasible and provide focal points around which political coalitions are formed. Examples include the relationship between structural reform and resolution/bail-in, where substitutability, sequencing and symbolic visibility matter (see the previous Section on the changing policy toolkit). When different policy options exist to address an identified policy problem, political actors and interest groups can strategically utilise the existence of policy alternatives to advocate for or against specific options. When studying why specific policy outcomes win out, scholars should pay attention to the menu of policy options that were available.

8.4 Limitations and avenues for further research

The comparative and process-tracing approach in this thesis, combined with novel interview evidence, has yielded a new and nuanced understanding of post-crisis banking reforms. This section discusses limitations and opportunities for further research.

One limitation is the focused scope of cases. The three domestic cases were the result of careful case selection to provide variety across different institutional settings, but at the same time they represent a subset of advanced democracies with specific characteristics: they are economies with large, bank-based financial systems and high state capacity that were affected heavily by the Global Financial Crisis (GFC). The theory of *institutional veto points and bank business power*, which was tested on these cases, may therefore not fully capture the dynamics in economies with very different political economies or crisis experiences. For instance, the US, with its market-based financial system and polarised two-party politics, or the UK, with its majoritarian system and outsized global finance sector, were not studied. While this was deliberate to demonstrate that Varieties of Financial Capitalism (VoFC) explanations cannot account for the observed outcomes, applying the framework to different cases could reveal necessary refinements.

Another limitation is that, by design, the research prioritised depth over breadth. It used process-tracing to study a limited number of cases rather than testing the theory in a large-n design. This raises the question of generalisability: for instance, it is unclear whether the theoretical framework would apply in Asian financial centres or in countries with more weakly defined institutional rules. For domestic settings, the thesis proposes a framework relevant to democratic settings, but caution is warranted in extrapolating to non-democratic contexts.

The scope conditions of the theory thus leave open avenues for further research. One avenue would be to extend the comparative analysis to additional cases. Studying countries like the UK, US, or other European and Asian economies would help assess the universality of the thesis claims. For instance, the UK undertook a strong structural reform (the Vickers ring-fence) despite being a major global banking hub; applying the theoretical framework might examine whether the UK's parliamentary system and independent commission structure mirrored the dynamics found in the cases in this thesis or whether other factors played a larger role. The US, on the other hand, implemented the Volcker Rule and an elaborate resolution regime (Orderly Liquidation Authority). The country's fragmented institutional structure and massive banking lobby might have shaped outcomes differently.[188] Comparative insights from such cases could refine the theory, perhaps highlighting, for example, the role of partisanship under different electoral systems.

Similarly, the analysis focused on the post-2008 period and on reforms related to TBTF structural and resolution policies. This leaves out potentially relevant developments both before and after the studied time frame. The justification for this is that the theoretical framework is most applicable to periods of high political salience after crises; however, testing it on further reform episodes might provide different insights. For instance, studying post-reform implementation might suggest that political commitment to stringent reform is only temporary, as discussed in Section 8.2.

Future research could investigate what happens after reform and whether the stringency of policy measures put in place endures or erodes. The collapse of Credit Suisse in 2023, despite

[188] Parallel research work in the BANKLASH project on the UK and US has argued that unilateral reforms of global banks in these countries are the outcome of "democracy under constraint", where the degree of reform countries can impose is constrained by its potential negative effect on the global firms that are intertwined with the national economies (Begg, 2023).

Switzerland's earlier vanguard reforms, raises questions about implementation and regulatory vigilance over time. It is unclear whether the politics of TBTF reform shifted once the immediate crisis faded and allowed banks to regain influence, thereby contributing to weaker enforcement. A longitudinal analysis of regulatory stringency from initial policy reform through implementation could reveal how the political determinants identified in this thesis behave in the policy enforcement phase.

In terms of data and methodology, a potential limitation lies in the reliance on elite interviews and qualitative judgments to infer preferences. Financial regulation often involves closed-door deliberations and there is a risk of ex-post rationalisation or bias in such accounts. The thesis mitigated this by cross-referencing multiple sources (including multiple interviews, survey evidence or media analysis), but ambiguity in interpreting actors' true motivations remains. Future work might complement this approach with quantitative data by, for example, analysing patterns of bank lobbying expenditures or a wider set of public opinion polls.

Beyond TBTF banking, the theoretical propositions in this thesis could be applied to other areas of financial regulation and other crisis contexts. The institutional framework might explain policy variations in responses to the Eurozone sovereign debt crisis or preferences towards banking union. Likewise, as climate change poses emerging financial stability risks, future research could study the necessary institutional settings to implement "green finance" regulatory reforms. By testing the framework in new domains, scholars can assess its robustness and potentially expand its variables.

In closing, this thesis has demonstrated that the politics of post-crisis banking reform requires an integrated view of institutional settings and their interaction with policy ideas, business power and public demands for policy change. The conclusions are optimistic about the politics of policy reform: even in the face of powerful global banks, democratic institutions and policy choices still matter and are not powerless. Banking regulation in the public interest is not predetermined by economic structures. Understanding exactly how democratically-accountable reforms can be produced is crucial for designing better crisis responses in the future.

Bibliography

Abbott, K. W., Genschel, P., Snidal, D., & Zangl, B. (2020). Competence versus control: The governor's dilemma. *Regulation & Governance*, *14*(4), 619–636. https://doi.org/10.1111/rego.12234

Achen, C. H., & Bartels, L. M. (2016). *Democracy for realists: Why elections do not produce responsive government*. Princeton University Press. https://doi.org/10.2307/j.ctvc7770q

Admati, A. R., & Hellwig, M. (2014). *The bankers' new clothes: What's wrong with banking and what to do about it*. Princeton University Press.

Allen, F., & Gale, D. (2000). *Comparing financial systems*. MIT Press.

Andrews, D. M. (1994). Capital Mobility and State Autonomy: Toward a Structural Theory of International Monetary Relations. *International Studies Quarterly*, *38*(2), 193–218. https://doi.org/10.2307/2600975

Ansell, B. (2012a). Assets in Crisis: Housing, Preferences and Policy in the Credit Crisis. *Swiss Political Science Review*, *18*(4), 531–537. https://doi.org/10.1111/spsr.12013

Ansell, B. (2012b). Partisan Politics, Housing Cycles, and the Credit Crisis. In N. Bermeo & J. Pontusson (Eds.), *Coping with Crisis: Government Reactions to the Great Recession* (pp. 327–360). Russell Sage Foundation.

Armour, J., Awrey, D., Davies, P., Enriques, L., Gordon, J. N., Mayer, C., & Payne, J. (2016). *Principles of Financial Regulation*. Oxford University Press. https://doi.org/10.1093/acprof:oso/9780198786474.001.0001

Armstrong, A., Arnold, M., & Parker, G. (2025). Rachel Reeves to reform UK bank ringfence rules in financial services overhaul [newspaper]. *Financial Times*. Retrieved August 20, 2025, from https://www.ft.com/content/d65a27dc-f037-4469-8736-1063ffaf8d1f

Baker, A. (2010). Restraining regulatory capture? Anglo-America, crisis politics and trajectories of change in global financial governance. *International Affairs*, *86*(3), 647–663. https://doi.org/10.1111/j.1468-2346.2010.00903.x

Baker, A. (2013). The New Political Economy of the Macroprudential Ideational Shift. *New Political Economy*, *18*(1), 112–139. https://doi.org/10.1080/13563467.2012.662952

Ballaert, B. V. (2015). The Politics behind the Consultation of Expert Groups: An Instrument to Reduce Uncertainty or to Offset Salience? *Politics and Governance*, *3*(1), 139–150. https://doi.org/10.17645/pag.v3i1.84

Barth, J. R., Prabha, A., & Swagel, P. (2012). Just how big is the too-big-to-fail problem? *Journal of Banking Regulation*, *13*(4), 265–299. https://doi.org/10.1057/jbr.2012.13

Bates, C., & Gleeson, S. (2011). Legal Aspects of Bank Bail-ins Perspective. *Law and Financial Markets Review*, *5*(4), 264–275. https://doi.org/10.5235/175214411796505651

Beccalli, E., Anolli, M., & Borello, G. (2015). Are European banks too big? Evidence on economies of scale. *Journal of Banking & Finance*, *58*, 232–246. https://doi.org/10.1016/j.jbankfin.2015.04.014

Begg, H. (2023). *Global Banks in National Markets: A Theory of Post-Crisis Reform as Democracies Under Constraint* [Doctoral dissertation, University of Oxford].

Bell, S. (2012). The Power of Ideas: The Ideational Shaping of the Structural Power of Business. *International Studies Quarterly*, *56*(4), 661–673. https://doi.org/10.1111/j.1468-2478.2012.00743.x

Bell, S., & Hindmoor, A. (2014). The Ideational Shaping of State Power and Capacity: Winning Battles but Losing the War over Bank Reform in the US and UK. *Government and Opposition*, *49*(3), 342–368. https://doi.org/10.1017/gov.2014.2

Bell, S., & Hindmoor, A. (2015a). *Masters of the universe, slaves of the market*. Harvard University Press.

Bell, S., & Hindmoor, A. (2015b). Taming the City? Ideas, Structural Power and the Evolution of British Banking Policy Amidst the Great Financial Meltdown. *New Political Economy*, *20*(3), 454–474. https://doi.org/10.1080/13563467.2014.951426

Bell, S., & Hindmoor, A. (2017). Structural Power and the Politics of Bank Capital Regulation in the United Kingdom. *Political Studies*, *65*(1), 103–121. https://doi.org/10.1177/0032321716629479

Bell, S., & Hindmoor, A. (2018). Are the major global banks now safer? Structural continuities and change in banking and finance since the 2008 crisis. *Review of International Political Economy*, *25*(1), 1–27. https://doi.org/10.1080/09692290.2017.1414070

Bennett, C. J., & Howlett, M. (1992). The lessons of learning: Reconciling theories of policy learning and policy change. *Policy Sciences*, *25*(3), 275–294. https://doi.org/10.1007/BF00138786

Bernhagen, P., & Bräuninger, T. (2005). Structural Power and Public Policy: A Signaling Model of Business Lobbying in Democratic Capitalism. *Political Studies*, *53*(1), 43–64. https://doi.org/10.1111/j.1467-9248.2005.00516.x

Bertero, E. (1994). The Banking System, Financial Markets, and Capital Structure: Some New Evidence From France. *Oxford Review of Economic Policy*, *10*(4), 68–78. https://doi.org/10.1093/oxrep/10.4.68

Binder, J.-H. (2014). *Resolution planning and structural bank reform within the banking union* (SAFE Working Paper Series No. 81). Leibniz Institute for Financial Research SAFE. Retrieved April 17, 2020, from https://econpapers.repec.org/paper/zbwsafewp/81.htm

Bleuel, H.-H. (2009). *The German banking system and the global financial crisis: Causes, developments and policy responses* (No. 8). Hochschule Düsseldorf - University of Applied Sciences. Retrieved June 13, 2023, from https://www.econstor.eu/bitstream/10419/30798/1/593928032.pdf

Block, F. (1987). *Revising State Theory: Essays in Politics and Postindustrialism*. Temple University Press.

Blom, J. (2021). The Institute of International Finance: From Poacher to Gamekeeper? *Business and Politics*, *23*(1), 153–178. https://doi.org/10.1017/bap.2020.6

Blyth, M. (1997). "Any More Bright Ideas?" The Ideational Turn of Comparative Political Economy. *Comparative Politics*, *29*(2), 229–250. https://doi.org/10.2307/422082

Blyth, M. (2002). *Great transformations: Economic ideas and institutional change in the twentieth century*. Cambridge University Press.

Blyth, M. (2013). Paradigms and Paradox: The Politics of Economic Ideas in Two Moments of Crisis. *Governance*, *26*(2), 197–215. https://doi.org/10.1111/gove.12010

Boswell, C. (2008). The political functions of expert knowledge: Knowledge and legitimation in European Union immigration policy. *Journal of European Public Policy*, *15*(4), 471–488. https://doi.org/10.1080/13501760801996634

Boswell, C. (2009). *The Political Uses of Expert Knowledge: Immigration Policy and Social Research*. Cambridge University Press.

Braun, M., & Raddatz, C. (2010). Banking on Politics: When Former High-ranking Politicians Become Bank Directors. *The World Bank Economic Review*, *24*(2), 234–279. https://doi.org/10.1093/wber/lhq007

Broz, J. L. (2012). Partisan Financial Cycles. In D. A. Lake & M. Kahler (Eds.), *Politics in the New Hard Times: The Great Recession in Comparative Perspective* (pp. 75–101). Cornell University Press.

Brunsden, J. (2017). European Commission withdraws bank separation proposal [newspaper]. *Financial Times*. Retrieved December 24, 2018, from https://www.ft.com/content/ddbedcd9-2dea-3b68-b8e2-2e1bc1eda13f

Calello, P., & Ervin, W. (2010). From bail-out to bail-in [magazine]. *The Economist*. Retrieved November 9, 2020, from https://www.economist.com/finance-and-economics/2010/01/28/from-bail-out-to-bail-in

Campbell, J. L., & Pedersen, O. K. (2014). *The National Origins of Policy Ideas: Knowledge Regimes in the United States, France, Germany, and Denmark*. Princeton University Press.

Canals, J. (1997). *Universal Banking: International Comparisons and Theoretical Perspectives*. Oxford University Press. https://doi.org/10.1093/acprof:oso/9780198775065.001.0001

Carpenter, D. (2010). Institutional Strangulation: Bureaucratic Politics and Financial Reform in the Obama Administration. *Perspectives on Politics*, *8*(3), 825–846. https://doi.org/10.1017/S1537592710002070

Carstens, A. (2024). *A test of resolve: Credible resolution following the 2023 banking turmoil*. Retrieved August 20, 2025, from https://www.bis.org/speeches/sp241029.htm

Carstensen, M. B. (2013). Global in Life, Still National in Death? Special Bank Resolution Regimes After the Crisis. In M. Moschella & E. Tsingou (Eds.), *Great expectations, slow transformations: Incremental change in in post-crisis regulation*. ECPR Press.

Chalmers, A. W. (2015). Financial industry mobilisation and securities markets regulation in Europe. *European Journal of Political Research*, *54*(3), 482–501. https://doi.org/10.1111/1475-6765.12099

Chwieroth, J. M., & Walter, A. (2019). *The wealth effect: How the great expectations of the middle class have changed the politics of banking crises*. Cambridge University Press. https://doi.org/10.1017/9781316649992

Chwieroth, J. M., & Walter, A. (2020). Great Expectations, Financialization, and Bank Bailouts in Democracies. *Comparative Political Studies*, *53*(8), 1259–1297. https://doi.org/10.1177/0010414019897418

Cioffi, J. W., & Höpner, M. (2006). The Political Paradox of Finance Capitalism: Interests, Preferences, and Center-Left Party Politics in Corporate Governance Reform. *Politics & Society*, *34*(4), 463–502. https://doi.org/10.1177/0032329206293642

Cirilli, K. (2015). Warren calls for return of Glass-Steagall [newspaper]. *The Hill*. Retrieved March 9, 2020, from https://thehill.com/policy/finance/247929-warren-calls-for-return-of-glass-steagall

Claessens, S., & van Horen, N. (2014). *The Impact of the Global Financial Crisis on Banking Globalization*. IMF.

Clift, B. (2006). The French Model of Capitalism: Exceptionalism under threat? https://www.academia.edu/443928/The_French_Model_of_capitalism_Exceptionalism_under_Threat

Clift, B. (2012). Comparative Capitalisms, Ideational Political Economy and French Post-Dirigiste Responses to the Global Financial Crisis. *New Political Economy*, *17*(5), 565–590. https://doi.org/10.1080/13563467.2012.636147

Coffee, J. C. (2012). The political economy of dodd-frank: Why financial reform tends to be frustrated and systemic risk perpetuated. *Cornell Law Review*, *97*(5), 1019–1082.

Collier, D., Brady, H. E., & Seawright, J. (2010). Sources of Leverage in Causal Inference: Toward an Alternative View of Methodology. In D. Collier & H. E. Brady (Eds.), *Rethinking Social Inquiry: Diverse Tools, Shared Standards*. Rowman & Littlefield Publishers.

Commission des affaires économiques. (2013). *Avis de M. Philippe Kemel sur le projet de loi de séparation et de régulation des activités bancaires (n°566)*. Retrieved July 5, 2022, from https://www.assemblee-nationale.fr/14/rapports/r0661.asp

Commission des finances. (2013). *Projet de loi de séparation et de régulation des activités bancaires*. Retrieved July 8, 2022, from http://www.senat.fr/rap/l12-422-1/l12-422-19.html#toc75

Commission des finances, de l'économie générale et du contrôle budgétaire. (2013a). *Compte rendu de réunion de la commission des finances, de l'économie générale et du plan*. Retrieved July 10, 2022, from https://www.assemblee-nationale.fr/14/cr-cfiab/12-13/c1213060.asp

Commission des finances, de l'économie générale et du contrôle budgétaire. (2013b). *Compte rendu de réunion de la commission des finances, de l'économie générale et du contrôle budgétaire*. Retrieved July 8, 2022, from https://www.assemblee-nationale.fr/14/cr-cfiab/12-13/c1213061.asp#P2_91

Commission des finances, de l'économie générale et du contrôle budgétaire. (2013c). *Rapport de Mme Karine Berger sur le projet de loi de séparation et de régulation des activités bancaires (n°566)*. Retrieved July 7, 2022, from https://www.assemblee-nationale.fr/14/rapports/r0707.asp

Control Committee of the National Council and Council of States. (2010). *Die Behörden unter dem Druck der Finanzkrise und der Herausgabe von UBS-Kundendaten an die USA: Bericht der Geschäftsprüfungskommissionen des Nationalrates und des Ständerates*. Control Committee of the National Council and Council of States. https://www.fedlex.admin.ch/eli/fga/2011/477/de

Copelovitch, M. S., & Singer, D. A. (2020). *Banks on the brink: Global capital, securities markets, and the political roots of financial crises*. Cambridge University Press. https://doi.org/10.1017/9781108779630

Cour des comptes. (2010). *Les concours publics aux établissements de crédit: Bilan et enseignements à tirer*. Cour des comptes. https://www.ccomptes.fr/sites/default/files/EzPublish/Rapport-concours-publics-etablissements-de-credit-mai2010.pdf

Credit Suisse. (2008). *Credit Suisse builds on strong capital position*. Retrieved June 5, 2021, from https://web.archive.org/web/20081119132347/http://www.credit-suisse.com/news/en/media_release.jsp?ns=40924

Cross, M. K. D. (2013). Rethinking epistemic communities twenty years later. *Review of International Studies*, *39*(1), 137–160. https://doi.org/10.1017/S0260210512000034

Culpepper, P. D. (2005). Institutional Change in Contemporary Capitalism: Coordinated Financial Systems since 1990. *World Politics*, *57*(2), 173–199. https://doi.org/10.1353/wp.2005.0016

Culpepper, P. D. (2008). Capitalism, Coordination, and Economic Change: The French Political Economy since 1985. In P. D. Culpepper, P. A. Hall, & B. Palier (Eds.), *Changing France* (pp. 29–49). Palgrave Macmillan. https://doi.org/10.1057/9780230584532_2

Culpepper, P. D. (2011). *Quiet Politics and Business Power*. Cambridge University Press. https://doi.org/10.1017/CBO9780511760716

Culpepper, P. D. (2015). Structural power and political science in the post-crisis era. *Business and Politics*, *17*(3), 391–409. https://doi.org/10.1515/bap-2015-0031

Culpepper, P. D. (2016). Capitalism, Institutions, and Power in the Study of Business. In O. Fioretos, T. G. Falleti, & A. Sheingate (Eds.), *The Oxford Handbook of Historical Institutionalism*. Oxford University Press. https://doi.org/10.1093/oxfordhb/9780199662814.013.27

Culpepper, P. D., & Reinke, R. (2014). Structural Power and Bank Bailouts in the United Kingdom and the United States. *Politics & Society*, *42*(4), 427–454. https://doi.org/10.1177/0032329214547342

Culpepper, P. D., & Tesche, T. (2021). Death in Veneto? European banking union and the structural power of large banks. *Journal of Economic Policy Reform*, *24*(2), 134–150. https://doi.org/10.1080/17487870.2020.1722125

de Tricornot, A., Thépot, M., Dedieu, F., & Giraud, G. (2014). *Mon amie, c'est la finance!* Bayard.

De Vogelaere, R. (2016). *Implementing Volcker, Vickers and Liikanen: Comparative Analysis of Bank Structure Reforms* [Master's thesis, Universiteit Gent]. https://lib.ugent.be/en/catalog/rug01:002272106

Deeg, R. (1999). *Finance Capitalism Unveiled: Banks and the German Political Economy*. University of Michigan Press.

Deeg, R. (2005). Change from Within: German and Italian Finance in the 1990s. In W. Streeck & K. Thelen (Eds.), *Beyond Continuity: Institutional Change in Advanced Political Economies*. Oxford University Press.

Deeg, R. (2010). Institutional Change in Financial Systems. In G. Morgan, J. L. Campbell, C. Crouch, O. K. Pedersen, & R. Whitley (Eds.), *The Oxford Handbook of Comparative Institutional Analysis*. Oxford University Press. https://doi.org/10.1093/oxfordhb/9780199233762.003.0012

Der Spiegel. (2012). Anruf bei Bouffier: CDU knöpft sich Deutsche Bank vor [newspaper]. *Der Spiegel*. Retrieved January 28, 2024, from https://www.spiegel.de/wirtschaft/unternehmen/anruf-bei-bouffier-cdu-knoepft-sich-deutsche-bank-vor-a-873263.html

Deutscher Bundestag. (2010). *Gesetz zur Restrukturierung und geordneten Abwicklung von Kreditinstituten, zur Errichtung eines Restrukturierungsfonds für Kreditinstitute und zur Verlängerung der Verjährungsfrist der aktienrechtlichen Organhaftung (Restrukturierungsgesetz)*. Retrieved December 23, 2020, from http://dipbt.bundestag.de/extrakt/ba/WP17/291/29177.html

Deutscher Bundestag. (2013). *Gesetz zur Abschirmung von Risiken und zur Planung der Sanierung und Abwicklung von Kreditinstituten und Finanzgruppen*. Retrieved October 17, 2019, from http://dipbt.bundestag.de/extrakt/ba/WP17/508/50871.html

DiMaggio, P. J., & Powell, W. W. (1983). The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields. *American Sociological Review*, *48*(2), 147–160. https://doi.org/10.2307/2095101

Direction générale du Trésor. (2013). *La gouvernance et l'organigramme de la DG Trésor*. Retrieved June 21, 2022, from https://web.archive.org/web/20130917101558/http://alize3.finances.gouv.fr/organigrammes/dgtresor/orgdgtresor.htm

Direction générale du Trésor. (2014). *Missions et valeurs de la DG Trésor*. Retrieved June 21, 2022, from https://web.archive.org/web/20140902002528/http://www.tresor.economie.gouv.fr/6792_missions-et-valeurs-de-la-dg-tresor

Dittli, M. (2024). Paul Tucker: Credit Suisse Should Cause Sleepless Nights [newspaper]. *The Market*. Retrieved July 2, 2024, from https://themarket.ch/english/paul-tucker-credit-suisse-should-cause-sleepless-nights-ld.11452

Dombret, A., & Kenadjian, P. S. (2015). *Too Big to Fail III: Structural Reform Proposals*. De Gruyter, Inc.

Drezner, D. W. (2007). *All politics is global: Explaining international regulatory regimes*. Princeton University Press.

Eggenberger, K., & Emmenegger, P. (2015). Economic Vulnerability and Political Responses to International Pressure: Liechtenstein, Switzerland and the Struggle for Banking Secrecy. *Swiss Political Science Review*, *21*(4), 491–507. https://doi.org/10.1111/spsr.12181

Elkins, Z., & Simmons, B. (2005). On Waves, Clusters, and Diffusion: A Conceptual Framework. *The ANNALS of the American Academy of Political and Social Science*, *598*(1), 33–51. https://doi.org/10.1177/0002716204272516

Emmenegger, P. (2015). The long arm of justice: U.S. structural power and international banking. *Business and Politics*, *17*(3), 473–493. https://doi.org/10.1515/bap-2014-0046

Emmenegger, P. (2017). Swiss banking secrecy and the problem of international cooperation in tax matters: A nut too hard to crack? *Regulation & Governance*, *11*(1), 24–40. https://doi.org/10.1111/rego.12106

Ervin, W., & Young, T. (2015). How bail-in was born. *International Financial Law Review*.

European Commission. (2014). *Impact assessment accompanying the document proposal for a Regulation of the European Parliament and of the Council on structural measures improving* *the resilience of EU credit institutions.* Brussels. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52014SC0030

European Commission. (2021). *Supplementary tables for reporting government interventions to support financial institutions - Government finance statistics and EDP statistics - Eurostat.* European Commission. Retrieved April 19, 2022, from https://ec.europa.eu/eurostat/web/government-finance-statistics/excessive-deficit-procedure/government-interventions-support-financial-institutions

Eurostat. (N.d.-a). *Employment by A*10 industry breakdowns.* https://doi.org/10.2908/NAMA_10_A10_E

Eurostat. (N.d.-b). *Gross value added and income by A*10 industry breakdowns.* https://doi.org/10.2908/NAMA_10_A10

Evans, P. B., Rueschemeyer, D., & Skocpol, T. (Eds.). (1985). *Bringing the state back in.* Cambridge University Press.

Expertenkommission zur Limitierung von volkswirtschaftlichen Risiken durch Grossunternehmen. (2010). *Final report of the Commission of Experts for limiting the economic risks posed by large companies.* https://www.ius.uzh.ch/dam/jcr:5d317dbd-5ad2-4ba1-bfd5-a909d228d427/Reading_11.pdf

Farrell, H., & Newman, A. L. (2015). Structuring power: Business and authority beyond the nation state. *Business and Politics*, *17*(3), 527–552. https://doi.org/10.1515/bap-2015-0007

Federal Deposit Insurance Corporation & Bank of England. (2012). *Joint Paper on Resolving Globally Active, Systemically Important Financial Institutions.* Retrieved May 8, 2021, from http://www.bankofengland.co.uk/paper/2012/resolving-globally-active-systemically-important-financial

Financial Stability Board. (2010a). *FSB Plenary meets in Basel, Switzerland.* Retrieved May 1, 2021, from https://www.fsb.org/2010/01/financial-stability-board-meets-on-the-financial-reform-agenda/

Financial Stability Board. (2010b). *Reducing the moral hazard posed by systemically important financial institutions: FSB Recommendations and Time Lines.* Financial Stability Board. Basel. https://www.fsb.org/wp-content/uploads/r_101111a.pdf

Financial Stability Board. (2011). *Key Attributes of Effective Resolution Regimes for Financial Institutions.* Financial Stability Board. Basel. Retrieved December 18, 2020, from https://www.fsb.org/2011/11/r_111104cc/

Financial Stability Board. (2012). *Update of group of global systemically important banks (G-SIBs).* Financial Stability Board. Retrieved June 15, 2023, from https://www.fsb.org/wp-content/uploads/r_121031ac.pdf

Financial Stability Board. (2013a). *Recovery and Resolution Planning for Systemically Important Financial Institutions: Guidance on Developing Effective Resolution Strategies.* Financial Stability Board. Basel. Retrieved April 30, 2021, from https://www.fsb.org/wp-content/uploads/r_130716b.pdf

Financial Stability Board. (2013b). *Progress and next steps towards ending "Too-Big-To-Fail" (TBTF): Report of the Financial Stability Board to the G-20.* Financial Stability Board. Basel. https://www.fsb.org/uploads/r_130902.pdf

Financial Stability Board. (2014). *Structural banking reforms – Cross-border consistencies and global financial stability implications.* http://www.fsb.org/2014/10/r_141027/

Financial Stability Board. (2015). *Principles on Loss-absorbing and Recapitalisation Capacity of G-SIBs in Resolution; Total Loss-absorbing Capacity (TLAC) Term Sheet.* Financial Stability Board. Basel. https://www.fsb.org/wp-content/uploads/TLAC-Principles-and-Term-Sheet-for-publication-final.pdf

Financial Stability Board. (2018). *Global Systemically Important Financial Institutions (G-SIFIs).* Retrieved May 7, 2020, from https://www.fsb.org/work-of-the-fsb/market-and-institutional-resilience/global-systemically-important-financial-institutions-g-sifis/

Financial Stability Board. (2021). *Evaluation of the effects of too-big-to-fail reforms: Final Report.* Retrieved April 1, 2021, from https://www.fsb.org/2021/03/evaluation-of-the-effects-of-too-big-to-fail-reforms-final-report/

Financial Stability Board. (2023). *2023 Bank Failures: Preliminary lessons learnt for resolution.* Financial Stability Board. Retrieved August 20, 2025, from https://www.fsb.org/2023/10/2023-bank-failures-preliminary-lessons-learnt-for-resolution/

finanzen.net. (2013). Trennbanken-Pläne treffen Deutsche Bank härter als erwartet [newspaper]. *finanzen.net*. Retrieved June 16, 2023, from https://www.finanzen.net/nachricht/aktien/finanzmarkt-regulierung-trennbanken-plaene-treffen-deutsche-bank-haerter-als-erwartet-2259578

FINMA. (2013). *Resolution of global systemically important banks: FINMA position paper on Resolution of G-SIBs*. FINMA. Retrieved May 8, 2021, from https://www.finma.ch/en/news/2013/08/mm-pos-sanierung-abwicklung-20130807/

FINMA. (2025). *FINMA welcomes the Federal Council's proposed measures on banking stability.* Retrieved August 20, 2025, from https://www.finma.ch/en/news/2025/06/20250606-mm-finma-tbtf/

Fleming, S. (2025). Bank of England governor distances himself from Rachel Reeves' attack on regulators [newspaper]. *Financial Times*. Retrieved August 20, 2025, from https://www.ft.com/content/2cf97eb4-612b-4c81-b1c0-e9e03b8abbac

Foy, S., & Ruehl, M. (2025). Activist Cevian says capital plans make Swiss HQ 'not viable' for UBS [newspaper]. *Financial Times*. Retrieved September 20, 2025, from https://www.ft.com/content/7347d885-3cd7-47d6-9086-1ffbfd4d3c07

Fraktion BÜNDNIS 90/DIE GRÜNEN & Fraktion der SPD. (2013). *Antrag: Ein neuer Anlauf zur Bändigung der Finanzmärkte: Erpressungspotenzial verringern - Geschäfts- und Investmentbanking trennen*. Retrieved December 25, 2019, from http://dipbt.bundestag.de/extrakt/ba/WP17/516/51697.html

Friedli, D., & Bühler, S. (2011). Bürgerliche zeigen sich enttäuscht von UBS-Präsident Villiger [newspaper]. *Neue Zürcher Zeitung*. Retrieved May 21, 2021, from https://www.nzz.ch/buergerliche_zeigen_sich_enttaeuscht_von_ubs-praesident_villiger-1.10361353

Gambacorta, L., & Rixtel, A. V. (2013). *Structural bank regulation initiatives: Approaches and implications* (No. 412). Bank for International Settlements. Retrieved April 17, 2020, from https://ideas.repec.org/p/bis/biswps/412.html

Ganderson, J. (2018). Breaking up the Banks – A Comparative Analysis of Banking Structural Reform in Three European Countries. *The Politics and Political Economy of Bank Reform: Ten Years after the Financial Crisis*. Retrieved May 13, 2019, from https://ecpr.eu/Events/PaperDetails.aspx?PaperID=38045&EventID=112

Ganderson, J. (2020a). *Politics by Association: Party Competition and Post-Crisis Bank Structural Reform in the UK, the Netherlands and Germany* [Doctoral dissertation, European University Institute].

Ganderson, J. (2020b). To change banks or bankers? Systemic political (in)action and post-crisis banking reform in the UK and the Netherlands. *Business and Politics*, *22*(1), 196–223. https://doi.org/10.1017/bap.2019.34

Gandrud, C. (2013). The diffusion of financial supervisory governance ideas. *Review of International Political Economy*, *20*(4), 881–916. https://doi.org/10.1080/09692290.2012.727362

Giegold, S. (2020). *The crazy labyrinth of European bank aid rules.* Retrieved July 13, 2020, from https://sven-giegold.de/en/crazy-labyrinth-eu-bank-aid/

Gilardi, F., & Radaelli, C. M. (2012). Governance and Learning. In D. Levi-Faur (Ed.), *The Oxford Handbook of Governance*. Oxford University Press. https://doi.org/10.1093/oxfordhb/9780199560530.013.0011

Gleeson, S. (2012). Bank resolution and bail-ins in the context of bank groups. *Law and Financial Markets Review*, *6*(1), 61–67. https://doi.org/10.5235/175214412799195193

Gleeson, S. (2015). Structural Separation and Bank Resolution. In A. Dombret & P. S. Kenadjian (Eds.), *Too Big to Fail III: Structural Reform Proposals*. De Gruyter, Inc. https://doi.org/10.1515/9783110421231.145

Gleeson, S., & Guynn, R. D. (2016). *Bank Resolution and Crisis Management: Law and Practice*. Oxford University Press. https://doi.org/10.1093/law/9780199698011.001.0001

Goertz, G., & Mahoney, J. (2012). *A tale of two cultures: Qualitative and quantitative research in the social sciences*. Princeton University Press.

Goff, S. (2011). The price of protection [newspaper]. *Financial Times*. Retrieved February 25, 2020, from https://www.ft.com/content/02106668-d96d-11e0-b52f-00144feabdc0

Goldstein, J., & Keohane, R. O. (1993). Ideas and Foreign Policy: An Analytical Framework. In J. Goldstein & R. O. Keohane (Eds.), *Ideas and foreign policy: Beliefs, institutions, and political change*. Cornell University Press.

Gordon, J. N., & Ringe, W.-G. (2020). Bank Resolution in Europe the Unfinished Agenda of Structural Reform. In D. Busch & G. Ferrarini (Eds.), *European Banking Union*. Oxford University Press. https://doi.org/10.1093/law/9780198827511.003.0016

Gourevitch, P. A. (1986). *Politics in hard times: comparative responses to international economic crises*. Cornell University Press.

Gourevitch, P. A., & Shinn, J. (2007). *Political Power and Corporate Control: The New Global Politics of Corporate Governance*. Princeton University Press.

Grant, C., & Osanloo, A. (2014). UNDERSTANDING, SELECTING, AND INTEGRATING A THEORETICAL FRAMEWORK IN DISSERTATION RESEARCH: CREATING THE BLUEPRINT FOR YOUR "HOUSE". *Administrative Issues Journal*, *4*(2), 12–26. https://dc.swosu.edu/aij/vol4/iss2/4

Griffith-Jones, S., Helleiner, E., & Woods, N. (2010). *The Financial Stability Board: An Effective Fourth Pillar of Global Economic Governance?* Retrieved April 5, 2021, from https://www.cigionline.org/publications/financial-stability-board-effective-fourth-pillar-global-economic-governance

Grossman, E., & Woll, C. (2014). Saving the Banks: The Political Economy of Bailouts. *Comparative Political Studies*, *47*(4), 574–600. https://doi.org/10.1177/0010414013488540

Gruenberg, M. J. (2012). *Remarks by Martin J. Gruenberg, Acting Chairman, FDIC to the Federal Reserve Bank of Chicago Bank Structure Conference*. Chicago. Retrieved May 8, 2021, from https://archive.fdic.gov/view/fdic/1789

Gruenberg, M. J., & Tucker, P. (2012). When global banks fail, resolve them globally [newspaper]. *Financial Times*. Retrieved May 8, 2021, from https://www.ft.com/content/fd66d172-3fd4-11e2-b0ce-00144feabdc0

Guynn, R. D. (2012). Are Bailouts Inevitable? *Yale Journal on Regulation*, *29*(1), 121–154.

Guynn, R. D. (2014). Framing the TBTF Problem: The Path to a Solution. In M. N. Baily & J. B. Taylor (Eds.), *Across the Great Divide: New Perspectives on the Financial Crisis*. Hoover Institution Press.

Guynn, R. D., & Kenadjian, P. S. (2015). Structural Solutions: Blinded by Volcker, Vickers, Liikanen, Glass Steagall and Narrow Banking. In A. Dombret & P. S. Kenadjian (Eds.), *Too Big to Fail III: Structural Reform Proposals*. De Gruyter, Inc.

Haas, P. M. (1992). Epistemic Communities and International Policy Coordination. *International Organization*, *46*(1), 1–35. https://doi.org/10.1017/S0020818300001442

Hacker, J. S., & Pierson, P. (2002). Business Power and Social Policy: Employers and the Formation of the American Welfare State. *Politics & Society*, *30*(2), 277–325. https://doi.org/10.1177/0032329202030002004

Hacker, J. S., & Pierson, P. (2010). Winner-Take-All Politics: Public Policy, Political Organization, and the Precipitous Rise of Top Incomes in the United States. *Politics & Society*, *38*(2), 152–204. https://doi.org/10.1177/0032329210365042

Hall, P. A. (1986). *Governing the economy: The politics of state intervention in Britain and France*. Polity Press.

Hall, P. A. (1989). Introduction. In P. A. Hall (Ed.), *The Political power of economic ideas: Keynesianism across nations*. Princeton University Press.

Hall, P. A. (1993). Policy Paradigms, Social Learning, and the State: The Case of Economic Policymaking in Britain. *Comparative Politics*, *25*(3), 275–296. https://doi.org/10.2307/422246

Hall, P. A. (2003). Aligning Ontology and Methodology in Comparative Research. In J. Mahoney & D. Rueschemeyer (Eds.), *Comparative Historical Analysis in the Social Sciences* (pp. 373–404). Cambridge University Press.

Hall, P. A., & Gingerich, D. W. (2009). Varieties of Capitalism and Institutional Complementarities in the Political Economy. *British Journal of Political Science*, *39*(3), 449–482. https://doi.org/10.1017/S0007123409000672

Hall, P. A., & Soskice, D. (2001). *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage*. Oxford University Press.

Hall, P. A., & Taylor, R. C. R. (1996). Political Science and the Three New Institutionalisms. *Political Studies*, *44*(5), 936–957. https://doi.org/10.1111/j.1467-9248.1996.tb00343.x

Hardie, I., & Howarth, D. (2009). Die Krise but not La Crise? The Financial Crisis and the Transformation of German and French Banking Systems. *JCMS: Journal of Common Market Studies*, *47*(5), 1017–1039. https://doi.org/10.1111/j.1468-5965.2009.02033.x

Hardie, I., & Howarth, D. (Eds.). (2013a). *Market-Based Banking and the International Financial Crisis*. Oxford University Press. https://doi.org/10.1093/acprof:oso/9780199662289.001.0001

Hardie, I., & Howarth, D. (2013b). A Peculiar Kind of Devastation: German Market-Based Banking. In I. Hardie & D. Howarth (Eds.), *Market-Based Banking and the International Financial Crisis*. Oxford University Press. https://doi.org/10.1093/acprof:oso/9780199662289.001.0001

Hardie, I., Howarth, D., Maxfield, S., & Verdun, A. (2013). Banks And The False Dichotomy In The Comparative Political Economy Of Finance. *World Politics*, *65*(4), 691–728. https://doi.org/10.1017/S0043887113000221

Hardie, I., & Macartney, H. (2016). EU ring-fencing and the defence of too-big-to-fail banks. *West European Politics*, *39*(3), 503–525. https://doi.org/10.1080/01402382.2016.1143240

Heclo, H. (1974). *Modern social politics in Britain and Sweden: From relief to income maintenance*. Yale University Press.

Helleiner, E. (2010). What Role for the New Financial Stability Board? The Politics of International Standards after the Crisis. *Global Policy*, *1*(3), 282–290. https://doi.org/10.1111/j.1758-5899.2010.00040.x

Helleiner, E. (2014). *Status Quo Crisis: Global Financial Governance After the 2008 Financial Meltdown*. Oxford University Press.

Hellwig, M. (2018). Germany and the Financial Crises 2007 – 2017. https://www.bundesbank.de/resource/blob/759000/33b54432a8d5d2e03ee67f039c28069a/mL/2018-06-15-stockholm-06-paper-hellwig-data.pdf

Henriksen, L. F. (2013). Economic models as devices of policy change: Policy paradigms, paradigm shift, and performativity. *Regulation & Governance*, *7*(4), 481–495. https://doi.org/10.1111/rego.12031

Hermann, M., & Städler, I. (2014). *Wie sich die SVP aus dem Bürgerblock verabschiedet hat*. Der Bund Datenblog. Retrieved May 17, 2021, from https://blog.derbund.ch/datenblog/index.php/1791/wie-sich-die-svp-aus-dem-buergerblock-verabschiedet-hat

High-level Expert Group on Reforming the Structure of the EU Banking Sector. (2012). *High-level Expert Group on Reforming the Structure of the EU Banking Sector: Final Report*.

https://finance.ec.europa.eu/document/download/e30ae267-9b3a-4be5-a3fb-4e268e7b6d67_en?filename=liikanen-report-02102012_en.pdf

Hintze, M. (2013). Deutsche Bank: Die Mär von der Trennung [newspaper]. *manager magazin*. Retrieved June 15, 2023, from https://www.manager-magazin.de/unternehmen/banken/a-880621.html

HM Treasury. (2024). *A smarter ring-fencing regime: Consultation on near-term reforms - Response*. HM Treasury. https://assets.publishing.service.gov.uk/media/6731f6cb2cccb48648badb02/Consultation_Response_-_Smarter_Ring-Fencing_Reforms.pdf

Hollande, F. (2012a). *Discours de François Hollande au meeting du Bourget*. francoishollande.fr. Retrieved June 14, 2022, from https://web.archive.org/web/20120401044526/http://francoishollande.fr/actualites/discours-de-francois-hollande-au-meeting-du-bourget/

Hollande, F. (2012b). *60 engagements pour la France*. Retrieved June 14, 2022, from http://www.ps29.org/IMG/pdf/Projet_FH2012.pdf

Hopkin, J., & Alexander Shaw, K. (2016). Organized Combat or Structural Advantage? The Politics of Inequality and the Winner-Take-All Economy in the United Kingdom. *Politics & Society*, *44*(3), 345–371. https://doi.org/10.1177/0032329216655316

Howarth, D. (2013). State Intervention and Market-Based Banking in France. In I. Hardie & D. Howarth (Eds.), *Market-Based Banking and the International Financial Crisis*. Oxford University Press. https://doi.org/10.1093/acprof:oso/9780199662289.001.0001

Howarth, D., & James, S. (2020). The politics of bank structural reform: Business power and agenda setting in the United Kingdom, France, and Germany. *Business and Politics*, *22*(1), 25–51. https://doi.org/10.1017/bap.2019.5

Howarth, D., & James, S. (2022). *Bank politics: Structural reform in comparative perspective*. Oxford University Press.

Howarth, D., & Quaglia, L. (2013). Banking on Stability: The Political Economy of New Capital Requirements in the European Union. *Journal of European Integration*, *35*(3), 333–346. https://doi.org/10.1080/07036337.2013.774780

Howarth, D., & Quaglia, L. (2016a). Internationalised banking, alternative banks and the Single Supervisory Mechanism. *West European Politics*, *39*(3), 438–461. https://doi.org/10.1080/01402382.2016.1143241

Howarth, D., & Quaglia, L. (2016b). The Comparative Political Economy of Basel III in Europe. *Policy and Society*, *35*(3), 205–214. https://doi.org/10.1016/j.polsoc.2016.09.003

Huertas, T. F. (2013). The Case for Bail-ins. In A. Dombret & P. S. Kenadjian (Eds.), *The Bank Recovery and Resolution Directive: Europe's Solution for Too Big to Fail?* (pp. 167–188). De Gruyter, Inc.

Huertas, T. F. (2014). *Safe to fail: How resolution will revolutionise banking*. Palgrave Macmillan.

Huertas, T. F. (2015). *Six Structures in Search of Stability* (SSRN Scholarly Paper No. ID 2662251). Social Science Research Network. Retrieved January 9, 2020, from https://papers.ssrn.com/abstract=2662251

Huertas, T. F. (2021). The road to better resolution: From bail-out to bail-in. In M. Beblavý, D. Cobham, & L. Ódor (Eds.), *The Euro Area and the Financial Crisis* (pp. 243–267). Cambridge University Press. https://doi.org/10.1017/CBO9781139044554.017

IFOP. (2010). *Le regard croisé des Français et des Britanniques sur le secteur bancaire*. IFOP. Retrieved June 14, 2022, from https://www.ifop.com/wp-content/uploads/2018/03/1035-1-study_file.pdf

IFOP. (2011a). *Le banquier idéal des Français et des Américains*. IFOP. Retrieved June 14, 2022, from https://www.ifop.com/wp-content/uploads/2018/03/1461-1-study_file.pdf

IFOP. (2011b). *L'image des banques en Suisse*. IFOP. Retrieved June 14, 2022, from https://www.ifop.com/wp-content/uploads/2018/03/1583-1-study_file.pdf

IFOP. (2011c). *Le regard des Français face à la crise*. IFOP. Retrieved June 14, 2022, from https://www.ifop.com/wp-content/uploads/2018/03/1654-1-study_file.pdf

IFOP. (2012). *L'image du secteur bancaire*. IFOP. Retrieved October 18, 2021, from https://www.ifop.com/wp-content/uploads/2018/03/1947-1-study_file.pdf

IFOP. (2016). *Les indices de popularité - Novembre 2016*. IFOP. https://www.ifop.com/wp-content/uploads/2018/03/3549-1-study_file.pdf

Immergut, E. M. (1990). Institutions, Veto Points, and Policy Results: A Comparative Analysis of Health Care. *Journal of Public Policy*, *10*(4), 391–416. https://doi.org/10.1017/S0143814X00006061

Immergut, E. M. (1992). The rules of the game: The logic of health policy-making in France, Switzerland, and Sweden. In S. Steinmo, K. A. Thelen, & F. Longstreth (Eds.), *Structuring politics: Historical institutionalism in comparative analysis*. Cambridge University Press.

Immergut, E. M., Abou-Chadi, T., Burlacu, D., Defant, P., Orlowski, M., Roescu, A. M., & Wegemann, M. (2021). *VAPS veto points dataset*. Retrieved August 22, 2025, from https://hdl.handle.net/1814/73926

Independent Commission on Banking. (2011a). *Final report: Recommendations*. Independent Commission on Banking. London. Retrieved December 23, 2019, from https://webarchive.nationalarchives.gov.uk/ukgwa/20120827152159mp_/http://bankingcommission.s3.amazonaws.com/wp-content/uploads/2010/07/ICB-Final-Report.pdf

Independent Commission on Banking. (2011b). *Interim report: Consultation on reform options*. Independent Commission on Banking. London. https://webarchive.nationalarchives.gov.uk/ukgwa/20120827150024mp_/http://bankingcommission.s3.amazonaws.com/wp-content/uploads/2011/04/Interim-Report-110411.pdf

Institute of International Finance. (2010). *A Global Approach to Resolving Financial Firms: An Industry Perspective*. Institute of International Finance. Retrieved April 22, 2021, from https://www.fecif.org/news/FECIF547.pdf

Institute of International Finance. (2011). *Addressing Priority Issues in Cross-Border Resolution*. Institute of International Finance. Retrieved April 22, 2021, from https://www.eifr.eu/files/file7991440.pdf

Institute of International Finance. (2012). *Making Resolution Robust—Completing the Legal and Institutional Frameworks for Effective Cross-Border Resolution of Financial Institutions*. Institute of International Finance. https://www.iif.com/portals/0/Files/private/Making_Resolution_Robust_20120607.pdf

Ioannou, S., Wójcik, D., & Dymski, G. (2019). Too-Big-To-Fail: Why Megabanks Have Not Become Smaller Since the Global Financial Crisis? *Review of Political Economy*, *31*(3), 356–381. https://doi.org/10.1080/09538259.2019.1674001

Iversen, T., & Soskice, D. (2019). *Democracy and prosperity: Reinventing capitalism through a turbulent century*. Princeton University Press. https://doi.org/10.2307/j.ctv4g1r3n

Jabko, N., & Massoc, E. C. (2012). French capitalism under stress: How Nicolas Sarkozy rescued the banks. *Review of International Political Economy*, *19*(4), 562–585. https://doi.org/10.1080/09692290.2011.638896

Jackson, G., & Deeg, R. (2006). *How Many Varieties of Capitalism? Comparing the Comparative Institutional Analyses of Capitalist Diversity* (No. 06/2). Max Planck Institute for the Study of Societies. Retrieved December 4, 2019, from https://ideas.repec.org/p/zbw/mpifgd/062.html

James, S. (2018). The structural-informational power of business: Credibility, signalling and the UK banking reform process. *Journal of European Public Policy*, *25*(11), 1629–1647. https://doi.org/10.1080/13501763.2017.1349166

James, S., Pagliari, S., & Young, K. L. (2021). The Internationalization of European Financial Networks: A Quantitative Text Analysis of EU Consultation Responses. *Review of International Political Economy*, (4), 898–925. https://doi.org/10.1080/09692290.2020.1779781

James, S., & Quaglia, L. (2018). Brexit, the City and the Contingent Power of Finance. *New Political Economy*, *24*(2), 258–271. https://doi.org/10.1080/13563467.2018.1484717

James, S., & Quaglia, L. (2022). Epistemic contestation and interagency conflict: The challenge of regulating investment funds. *Regulation & Governance*, *17*(2), 346–362. https://doi.org/10.1111/rego.12457

Jenkins, P. (2013). Paul Tucker signals all banks will need to go beyond ringfencing [newspaper]. *Financial Times*. Retrieved January 8, 2020, from https://www.ft.com/content/baaf147e-303e-11e3-9eec-00144feab7de

Jenkins, P., & Masters, B. (2010). Banks concede reform is inevitable [newspaper]. *Financial Times*. Retrieved April 27, 2021, from https://www.ft.com/content/c8ecd5e6-10f6-11df-9a9e-00144feab49a

Johnson, J. (2016). *Priests of prosperity: How central bankers transformed the postcommunist world*. Cornell University Press. https://doi.org/10.7591/cornell/9781501700224.001.0001

Johnson, S., & Kwak, J. (2011). *13 Bankers: The Wall Street Takeover and the Next Financial Meltdown*. Vintage.

Jones, E., & Zeitz, A. O. (2019). Regulatory Convergence in the Financial Periphery: How Interdependence Shapes Regulators' Decisions. *International Studies Quarterly*, *63*(4), 908–922. https://doi.org/10.1093/isq/sqz068

Jones, H. (2017). EU scraps its answer to U.S. Volcker Rule for banks [newspaper]. *Reuters*. Retrieved August 20, 2025, from https://www.reuters.com/article/business/eu-scraps-its-answer-to-us-volcker-rule-for-banks-idUSKBN1CT282/

Jones, S. (2008). The Swiss Tarp and the €5.8 trillion delever [newspaper]. *Financial Times*. Retrieved June 5, 2021, from https://www.ft.com/content/f9cb50ad-5b1f-30f0-b63e-7a0c1c43b9c7

Kalaitzake, M. (2017). Death by a Thousand Cuts? Financial Political Power and the Case of the European Financial Transaction Tax. *New Political Economy*, *22*(6), 709–726. https://doi.org/10.1080/13563467.2017.1311850

Kapstein, E. B. (1989). Resolving the regulator's dilemma: International coordination of banking regulations. *International Organization*, *43*(2), 323–347. https://doi.org/10.1017/S0020818300032938

Kapstein, E. B. (1992). Between Power and Purpose: Central Bankers and the Politics of Regulatory Convergence. *International Organization*, *46*(1), 265–287. https://doi.org/10.1017/s0020818300001508

Kastner, L. (2014). 'Much ado about nothing?' Transnational civil society, consumer protection and financial regulatory reform. *Review of International Political Economy*, *21*(6), 1313–1345. https://doi.org/10.1080/09692290.2013.870084

Kastner, L. (2018). Business lobbying under salience – financial industry mobilization against the European financial transaction tax. *Journal of European Public Policy*, *25*(11), 1648–1666. https://doi.org/10.1080/13501763.2017.1330357

Katzenstein, P. J. (1984). *Corporatism and Change: Austria, Switzerland, and the Politics of Industry*. Cornell University Press.

Katzenstein, P. J. (1985). *Small States in World Markets: Industrial Policy in Europe*. Cornell University Press.

Keller, E. (2018). Noisy business politics: Lobbying strategies and business influence after the financial crisis. *Journal of European Public Policy*, *25*(3), 287–306. https://doi.org/10.1080/13501763.2016.1249013

Keller, E. (2021). *Financial crises and the limits of bank reform*. Oxford University Press.

Kinderman, D. (2023). Business Associations and Right-wing Populism. In M. Feldmann & G. Morgan (Eds.), *Business and Populism: The Odd Couple?* Oxford University Press. https://doi.org/10.1093/oso/9780192894335.003.0013

King, M. (2005). Epistemic Communities and the Diffusion of Ideas: Central Bank Reform in the United Kingdom. *West European Politics*, *28*(1), 94–123. https://doi.org/10.1080/0140238042000297107

Kingdon, J. W. (1995). *Agendas, alternatives, and public policies*. Longman.

Knaack, P., & Gruin, J. (2021). From shadow banking to digital financial inclusion: China's rise and the politics of epistemic contestation within the financial stability board. *Review of International Political Economy*, (6), 1582–1606. https://doi.org/10.1080/09692290.2020.1772849

Krahnen, J. P., Noth, F., & Schüwer, U. (2017). Structural Reforms in Banking: The Role of Trading. *Journal of Financial Regulation*, *3*(1), 66–88. https://doi.org/10.1093/jfr/fjw018

Kriesi, H., & Trechsel, A. H. (2008). *The Politics of Switzerland: Continuity and Change in a Consensus Democracy*. Cambridge University Press. https://doi.org/10.1017/CBO9780511790676

Kwak, J. (2013). Cultural Capture and the Financial Crisis. In D. Carpenter & D. A. Moss (Eds.), *Preventing Regulatory Capture: Special Interest Influence and How to Limit it*. Cambridge University Press. https://doi.org/10.1017/CBO9781139565875

Laeven, L., Ratnovski, L., & Tong, H. (2014). *Bank Size and Systemic Risk*. IMF. https://www.imf.org/external/pubs/ft/sdn/2014/sdn1404.pdf

Larsen, P. T., Wilson, J., Atkins, R., & Benoit, B. (2009). Germany takes Commerzbank stake [newspaper]. *Financial Times*. Retrieved January 27, 2024, from https://www.ft.com/content/1a25c35a-dda4-11dd-930e-000077b07658

Le Figaro. (2014). Réforme bancaire: Noyer juge le projet de Barnier «irresponsable» [newspaper]. *Le Figaro*. Retrieved July 8, 2022, from https://www.lefigaro.fr/conjoncture/2014/01/29/20002-20140129ARTFIG00596-reforme-bancaire-noyer-juge-le-projet-de-barnier-irresponsable.php

Lehmann, M. (2016). Volcker rule, ring-fencing or separation of bank activities - Comparison of structural reform acts around the world. *Journal of Banking Regulation*, *17*(3), 176–187. https://doi.org/10.1057/jbr.2015.3

L'Est Républicain. (2012). Christian Noyer: « Pour l'avenir, il faut se concentrer sur les économies de dépenses » [newspaper]. *L'Est Républicain*. Retrieved July 8, 2022, from https://www.estrepublicain.fr/actualite/2012/11/09/christian-noyer

Levy, J. D. (2017). The return of the state? France's response to the financial and economic crisis. *Comparative European Politics*, *15*(4), 604–627. https://doi.org/10.1057/cep.2015.36

Lijphart, A. (2012). *Patterns of Democracy*. Yale University Press.

Lindblom, C. E. (1977). *Politics and markets: The world's political-economic systems*. BasicBooks.

L'Obs. (2014). *Hollande, le libéral masqué*. L'Obs. Retrieved July 7, 2022, from https://www.nouvelobs.com/economie/20140109.OBS1869/exclusif-hollande-le-liberal-masque.html

Long Finance. (2017). *The Global Financial Centres Index 22*. Retrieved May 14, 2020, from https://www.longfinance.net/programmes/financial-centre-futures/global-financial-centres-index/gfci-publications/the-global-financial-centres-index-22/

Loriaux, M. (1992). *France after Hegemony*. Cornell University Press.

Luechinger, S., & Moser, C. (2014). The value of the revolving door: Political appointees and the stock market. *Journal of Public Economics*, *119*, 93–107. https://doi.org/10.1016/j.jpubeco.2014.08.001

Lütz, S. (2000). From managed to market capitalism? German finance in transition. *German Politics*, *9*(2), 149–170. https://doi.org/10.1080/09644000008404596

Lütz, S. (2005). The finance sector in transition: A motor for economic reform? *German Politics*, *14*(2), 140–156. https://doi.org/10.1080/09644000500154029

Macartney, H., Howarth, D., & James, S. (2020). Bank Power and Public Policy since the Financial Crisis. *Business and Politics*, *22*(1), 1–24. https://doi.org/10.1017/bap.2019.35

Mach, A., David, T., Ginalski, S., & Bühlmann, F. (2021). From Quiet to Noisy Politics: Transformations of Swiss Business Elites' Power. *Politics & Society*, *49*(1), 17–41. https://doi.org/10.1177/0032329220985693

Mach, A., & Trampusch, C. (2011). The Swiss political economy in comparative perspective. In C. Trampusch & A. Mach (Eds.), *Switzerland in Europe: Continuity and Change in the Swiss Political Economy*. Routledge.

March, J. G., & Olsen, J. P. (1984). The New Institutionalism: Organizational Factors in Political Life. *American Political Science Review*, *78*(3), 734–749. https://doi.org/10.2307/1961840

March, J. G., & Olsen, J. P. (1998). The Institutional Dynamics of International Political Orders. *International Organization*, *52*(4), 943–969. https://doi.org/10.1162/002081898550699

Marsh, D. (1983). Interest group activity and structural power: Lindblom's politics and markets. *West European Politics*, *6*(2), 3–13. https://doi.org/10.1080/01402388308424411

Massoc, E. C. (2020). Banks, power, and political institutions: The divergent priorities of European states towards "too-big-to-fail" banks: The cases of competition in retail banking and the banking structural reform. *Business and Politics*, *22*(1), 135–160. https://doi.org/10.1017/bap.2019.18

Massoc, E. C. (2022). Banks' Structural Power and States' Choices on What Structurally Matters: The Geo-Economic Foundations of State Priority toward Banking in France, Germany, and Spain. *Politics & Society*, *50*(4), 599–629. https://doi.org/10.1177/00323292221125565

Masters, B. (2010). Bank 'bail-ins' are best option, says regulator [newspaper]. *Financial Times*. Retrieved May 1, 2021, from https://www.ft.com/content/6826fc70-cfe4-11df-bb9e-00144feab49a

Masters, B., & Jenkins, P. (2011). Banks endorse option of creditor 'bail-in' [newspaper]. *Financial Times*. Retrieved April 22, 2021, from https://www.ft.com/content/3a02c2d0-7a92-11e0-8762-00144feabdc0

May, P. J. (1992). Policy Learning and Failure. *Journal of Public Policy*, *12*(4), 331–354. https://doi.org/10.1017/s0143814x00005602

McGregor, R. (2011). Zhou Enlai's caution lost in translation [newspaper]. *Financial Times*. Retrieved February 2, 2025, from https://www.proquest.com/docview/871401827/citation/9DF904B82AC344AAPQ/1

Metz, J. (2013). Expert groups in the European Union: A sui generis phenomenon? *Policy and Society*, *32*(3), 267–278. https://doi.org/10.1016/j.polsoc.2013.07.007

Ministère de l'Économie et des Finances. (2012). *Projet de loi de séparation et de régulation des activités bancaires: Étude d'impact*. https://web.archive.org/web/20151219191955/http://www.legifrance.gouv.fr/content/download/3673/65808/version/1/file/ei_regulation_bancaire_cm_19.12.2012.pdf

Ministère de l'Intérieur. (2012a). *Résultats de l'élection présidentielle 2012*. Retrieved June 14, 2022, from http://www.interieur.gouv.fr/Elections/Les-resultats/Presidentielles/elecresult__PR2012

Ministère de l'Intérieur. (2012b). *Résultats des élections législatives 2012*. Retrieved June 14, 2022, from http://www.interieur.gouv.fr/Elections/Les-resultats/Legislatives/elecresult__LG2012

Moschella, M., & Tsingou, E. (Eds.). (2013). *Great expectations, slow transformations: Incremental change in in post-crisis regulation*. ECPR Press.

Mosley, L. (2000). Room to Move: International Financial Markets and National Welfare States. *International Organization*, *54*(4), 737–773. https://doi.org/10.1162/002081800551352

Müller, W. C., Bergman, T., & Strøm, K. (2003). Parliamentary Democracy: Promise and Problems. In K. Strøm, W. C. Müller, & T. Bergman (Eds.), *Delegation and Accountability in Parliamentary Democracies*. Oxford University Press. https://doi.org/10.1093/019829784X.001.0001

Naczyk, M. (2013). Agents of privatization? Business groups and the rise of pension funds in Continental Europe. *Socio-Economic Review*, *11*(3), 441–469. https://doi.org/10.1093/ser/mws012

Neshkova, M. I. (2014). Salience and Complexity in Supranational Policymaking: The Case of Subnational Interests. *Governance*, *27*(1), 9–36. https://doi.org/10.1111/gove.12011

Neue Zürcher Zeitung. (2009). Bunte Allianz für kleinere Grossbanken [newspaper]. *Neue Zürcher Zeitung*. Retrieved May 11, 2021, from https://www.nzz.ch/bunte_allianz_fuer_kleinere_grossbanken-1.3544987

Neue Zürcher Zeitung. (2010). Riskanter Poker von SP und SVP [newspaper]. *Neue Zürcher Zeitung*. Retrieved May 16, 2021, from https://www.nzz.ch/riskanter_poker_von_sp_und_svp-1.5158560

Neue Zürcher Zeitung. (2011a). Rastlose Finanzministerin [newspaper]. *Neue Zürcher Zeitung*. Retrieved May 21, 2021, from https://www.nzz.ch/rastlose_finanzministerin-1.9443124

Neue Zürcher Zeitung. (2011b). Die Bankenregulierung aus zweierlei Sicht [newspaper]. *Neue Zürcher Zeitung*. Retrieved May 21, 2021, from https://www.nzz.ch/die_bankenregulierung_aus_zweierlei_sicht-1.9464972

Neuerer, D. (2013). Trennbanken-Vorschlag: Steinbrück ist Schäubles „Lex Deutsche Bank“ zu lasch [newspaper]. *Handelsblatt*. Retrieved January 8, 2020, from http://archive.is/x2PyG

Nicholls, T., & Culpepper, P. D. (2022). *Better political text classification using large language models* (Conference paper). Oxford. Retrieved January 27, 2024, from https://livrepository.liverpool.ac.uk/3165225

Noonan, L. (2022). UK financial regulation architects warn against scrapping ‘ringfencing’ [newspaper]. *Financial Times*. Retrieved March 21, 2022, from https://www.ft.com/content/2d5d2124-082a-4b67-a966-ba8b81046263

Noyer, C. (2014). *Préservons le financement des entreprises*. Retrieved July 8, 2022, from https://web.archive.org/web/20151019040234/https://www.banque-france.fr/uploads/tx_bdfgrandesdates/tribune-de-Christian-Noyer-12-02-2014.pdf

Nyman, O. (1947). *Svensk parlamentarism, 1932-1936. Från minoritetsparlamentarism til majoritetskoalition*. Almqvist & Wiksells.

Olson, M. (1971). *The Logic of Collective Action: Public Goods and the Theory of Groups*. Harvard University Press.

Oppolzer, K. (2019). *Ring-Fencing in Europe: The EU’s Bank Structural Reform and a Legal Comparative Look at National Legislation in Europe’s Three Financial Capitals*. Nomos Verlagsgesellschaft mbH & Co. KG. https://doi.org/10.5771/9783748903451

O’Sullivan, M. (2007). Acting out institutional change: Understanding the recent transformation of the French financial system. *Socio-Economic Review*, *5*(3), 389–436. https://doi.org/10.1093/ser/mwm005

Pagliari, S., & Young, K. L. (2014). Leveraged interests: Financial industry power and the role of private sector coalitions. *Review of International Political Economy*, *21*(3), 575–610. https://doi.org/10.1080/09692290.2013.819811

Quaglia, L. (2017). The political economy of post-crisis international standards for resolving financial institutions. *New Political Economy*, *22*(5), 595–609. https://doi.org/10.1080/13563467.2017.1270927

Quaglia, L., & Spendzharova, A. (2017a). The Conundrum of Solving ‘Too Big to Fail’ in the European Union: Supranationalization at Different Speeds. *JCMS: Journal of Common Market Studies*, *55*(5), 1110–1126. https://doi.org/10.1111/jcms.12531

Quaglia, L., & Spendzharova, A. (2017b). Post-crisis reforms in banking: Regulators at the interface between domestic and international governance. *Regulation & Governance*, *11*(4), 422–437. https://doi.org/10.1111/rego.12157

Quaglia, L., & Spendzharova, A. (2019). Regulators and the quest for coherence in finance: The case of loss absorbing capacity for banks. *Public Administration*, *97*(3), 499–512. https://doi.org/10.1111/padm.12549

Radaelli, C. M. (1995). The role of knowledge in the policy process. *Journal of European Public Policy*, *2*(2), 159–183. https://doi.org/10.1080/13501769508406981

Radaelli, C. M. (2009). Measuring policy learning: Regulatory impact assessment in Europe. *Journal of European Public Policy*, *16*(8), 1145–1164. https://doi.org/10.1080/13501760903332647

Ramanna, K. (2015). *Political Standards: Corporate Interest, Ideology, and Leadership in the Shaping of Accounting Rules for the Market Economy*. University of Chicago Press. https://doi.org/10.7208/chicago/9780226210889.001.0001

RFPT Review Panel. (2022). *Ring-fencing and Proprietary Trading Independent Review: Final Report*. Retrieved March 16, 2022, from https://rfpt.independent-review.uk/uploads/CCS0821108226-006_RFPT_Web%20Accessible.pdf

Rimkutė, D., & Haverland, M. (2015). How does the European Commission use scientific expertise? Results from a survey of scientific members of the Commission's expert committees. *Comparative European Politics*, *13*(4), 430–449. https://doi.org/10.1057/cep.2013.32

Rixen, T., & Viola, L. A. (2020). Indirect Governance in Global Financial Regulation. In K. W. Abbott, P. Genschel, D. Snidal, & B. Zangl (Eds.), *The Governor's Dilemma: Indirect Governance Beyond Principals and Agents* (pp. 203–222). Oxford University Press. https://doi.org/10.1093/oso/9780198855057.003.0010

Roe, M. J. (2003). *Political Determinants of Corporate Governance: Political Context, Corporate Impact*. Oxford University Press. https://doi.org/10.1093/acprof:oso/9780199205301.001.0001

Romano, R. (2012). Regulating in the Dark. In C. Coglianese (Ed.), *Regulatory Breakdown*. University of Pennsylvania Press. https://doi.org/10.9783/9780812207491.86

Ryan, P. J., & Ziegler, J. N. (2015). Patchwork Pacesetter: The United States. In R. Mayntz (Ed.), *Negotiated Reform: The Multilevel Governance of Financial Regulation*. Campus Verlag.

Schattschneider, E. E. (1960). *The semisovereign people: A realist's view of democracy in America*. Holt, Rinehart and Winston.

Schildbach, J. (2012). *Universal banks: Optimal for clients and financial stability*. DB Research. Frankfurt. https://www.dbresearch.com/PROD/RPS_EN-PROD/PROD0000000000455298/Universal_banks%3A_Optimal_for_clients_and_financial.pdf

Schmidt, V. A. (2002). *The Futures of European Capitalism*. Oxford University Press. https://doi.org/10.1093/0199253684.001.0001

Schmidt, V. A. (2003). French capitalism transformed, yet still a third variety of capitalism. *Economy and Society*, *32*(4), 526–554. https://doi.org/10.1080/0308514032000141693

Schoenmaker, D. (2017). What happened to global banking after the crisis? *Journal of Financial Regulation and Compliance*, *25*(3), 241–252. https://doi.org/10.1108/JFRC-01-2017-0010

Schoenmaker, D. (2018). Resolution of international banks: Can smaller countries cope? *International Finance*, *21*(1), 39–54. https://doi.org/10.1111/infi.12123

Schoenmaker, D., & Peek, T. (2014). *The State of the Banking Sector in Europe* (OECD Economics Department Working Papers No. 1102). OECD Economics Department. https://doi.org/10.1787/5k3ttg7n4r32-en

Schrefler, L. (2010). The Usage of Scientific Knowledge by Independent Regulatory Agencies. *Governance*, *23*(2), 309–330. https://doi.org/10.1111/j.1468-0491.2010.01481.x

Seabrooke, L., & Tsingou, E. (2009). *Revolving Doors and Linked Ecologies in the World Economy: Policy Locations and the Practice of International Financial Reform* (No. 260/09). Centre for the Study of Globalisation and Regionalisation, University of Warwick. https://warwick.ac.uk/fac/soc/pais/research/researchcentres/csgr/papers/workingpapers/2009/26009.pdf

Seabrooke, L., & Tsingou, E. (2020). Revolving doors in international financial governance. *Global Networks*, *21*(2), 294–319. https://doi.org/10.1111/glob.12286

Seawright, J., & Gerring, J. (2008). Case Selection Techniques in Case Study Research: A Menu of Qualitative and Quantitative Options. *Political Research Quarterly*, *61*(2), 294–308. https://doi.org/10.4135/9781473915480.n31

Senti, M. (2010). Heilige politische Dreifaltigkeit [newspaper]. *Neue Zürcher Zeitung*. Retrieved May 17, 2021, from https://www.nzz.ch/heilige_politische_dreifaltigkeit-1.5759481

Simmons, B. (2001). The International Politics of Harmonization: The Case of Capital Market Regulation. *International Organization*, *55*(3), 589–620. https://doi.org/10.1162/00208180152507560

Singer, D. A. (2007). *Regulating Capital: Setting Standards for the International Financial System*. Cornell University Press.

Skocpol, T. (1985). Bringing the State Back In: Strategies of Analysis in Current Research. In P. B. Evans, D. Rueschemeyer, & T. Skocpol (Eds.), *Bringing the state back in*. Cambridge University Press.

Skocpol, T. (1992). *Protecting soldiers and mothers: The political origins of social policy in the United States*. Belknap Press of Harvard University Press.

Soroka, S. N., & Wlezien, C. (2010). *Degrees of democracy: Politics, public opinion, and policy*. Cambridge University Press.

S&P Global. (N.d.). *S&P Global Market Intelligence*. Retrieved May 25, 2020, from https://platform.mi.spglobal.com/web/client?auth=inherit#dashboard

Spendzharova, A. (2014). Banking union under construction: The impact of foreign ownership and domestic bank internationalization on European Union member-states' regulatory preferences in banking supervision. *Review of International Political Economy*, *21*(4), 949–979. https://doi.org/10.1080/09692290.2013.828648

Spendzharova, A., Versluis, E., Radulova, E., & Flöthe, L. (2016). Too much, too fast? The sources of banks' opposition to European banking structural reforms. *Journal of Banking Regulation*, *17*, 133–145. https://doi.org/10.1057/jbr.2015.16

Squam Lake Working Group on Financial Regulation. (2009). *An Expedited Resolution Mechanism for Distressed Financial Firms: Regulatory Hybrid Securities*. Council on Foreign Relations. New York. Retrieved May 18, 2021, from https://cdn.cfr.org/sites/default/files/pdf/2009/04/Squam_Lake_Working_Paper3.pdf

Squam Lake Working Group on Financial Regulation. (2010). *The Squam Lake Report*. Princeton University Press. https://doi.org/10.1515/9781400835805

State Secretariat for International Financial Matters. (2016). *US tax dispute timeline*. State Secretariat for International Financial Matters. Retrieved May 31, 2021, from https://www.sif.admin.ch/dam/sif/en/dokumente/Internationale-Steuerpolitik/US-Steuerstreit/US%20Steuerstreit-Chronologie.pdf.download.pdf/20160127_US%20Steuerstreit_Chronologie_e.pdf

Steinbrück, P. (2012). *Vertrauen zurückgewinnen: Ein neuer Anlauf zur Bändigung der Finanzmärkte*. SPD Bundestagsfraktion. Berlin. Retrieved December 3, 2019, from https://www.spdfraktion.de/system/files/documents/konzept_aufsicht_und_regulierung_finanzmaerkte.pdf

Stigler, G. J. (1971). The Theory of Economic Regulation. *The Bell Journal of Economics and Management Science*, *2*(1), 3–21. https://doi.org/10.2307/3003160

Swenson, P. (1997). Arranged Alliance: Business Interests in the New Deal. *Politics & Society*, *25*(1), 66–116. https://doi.org/10.1177/0032329297025001004

Swiss Bankers Association & M.I.S. Trend. (2017). *Aktuelle Bankenfragen 2017: Meinungen und Einstellungen der Schweizer Bürgerinnen und Bürger*. https://www.swissbanking.ch/_Resources/Persistent/d/0/1/1/d01185afb2688a24ce9192ad111ae06a169f68fe/SBVg_Aktuelle_Bankenfragen_2017_DE.pdf

Swiss Council of States. (2023). *23.3449 | Keine Schweizer Too-big-to-fail-Banken mehr | Geschäft | Das Schweizer Parlament*. Retrieved September 20, 2025, from https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20233449

Swiss Federal Council. (2009). *Bundesrat setzt Expertenkommission zum Thema "too-big-to-fail" ein*. Retrieved June 6, 2021, from https://www.admin.ch/gov/de/start/dokumentation/medienmitteilungen.msg-id-29925.html

Swiss Federal Council. (2014). *SR 952.02 Verordnung vom 30. April 2014 über die Banken und Sparkassen (Bankenverordnung, BankV)*. Retrieved April 17, 2020, from https://www.admin.ch/opc/de/classified-compilation/20131795/index.html

Swiss Federal Council. (2024). *Federal Council report on banking stability*. https://www.efd.admin.ch/en/report-tbtf

Swiss Federal Department of Finance. (2008). *Federal Council takes decision on measures to strengthen Switzerland's financial system*. Retrieved June 6, 2021, from https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-22019.html

Swiss Federal Department of Finance. (2010). *Änderung des Bankengesetzes (too big to fail, TBTF): Erläuternder Bericht zur Vernehmlassungsvorlage*. Swiss Federal Department of Finance. Retrieved October 22, 2020, from https://www.admin.ch/ch/d/gg/pc/ind2010.html

Swiss National Council. (2008). *08.3649 | Verhinderung von untragbaren Risiken für die Schweizer Volkswirtschaft*. Retrieved June 6, 2021, from https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20083649

Swiss National Council. (2024). *23.3478 | Ein Trennbankensystem für systemrelevante Banken*. Retrieved September 20, 2025, from https://www.parlament.ch/de/ratsbetrieb/amtliches-bulletin/amtliches-bulletin-die-verhandlungen?SubjectId=64067

Tett, G. (2010). 'Bail-in' will save the taxpayer from the bail-out [newspaper]. *Financial Times*. Retrieved May 1, 2021, from https://www.ft.com/content/5c681bec-9017-11df-91b6-00144feab49a

The Economist. (2016). Bernie Sanders's obsession with Glass-Steagall is misplaced [magazine]. *The Economist*. Retrieved April 18, 2020, from https://www.economist.com/democracy-in-america/2016/02/18/bernie-sanderss-obsession-with-glass-steagall-is-misplaced

The Economist. (2023). Can UBS make the most of finance's deal of the century? [magazine]. *The Economist*. Retrieved August 22, 2023, from https://www.economist.com/finance-and-economics/2023/07/26/can-ubs-make-the-most-of-finances-deal-of-the-century

Thelen, K. (1999). Historical Institutionalism in Comparative Politics. *Annual Review of Political Science*, *2*(1), 369–404. https://doi.org/10.1146/annurev.polisci.2.1.369

Thompson, H. (2017). How the City of London lost at Brexit: A historical perspective. *Economy and Society*, *46*(2), 211–228. https://doi.org/10.1080/03085147.2017.1359916

Tilly, R. (1998). Universal Banking in Historical Perspective. *Journal of Institutional and Theoretical Economics (JITE) / Zeitschrift für die gesamte Staatswissenschaft*, *154*(1), 7–32. Retrieved February 25, 2020, from https://www.jstor.org/stable/40752037

Tooze, J. A. (2018). *Crashed: How a decade of financial crises changed the world*. Allen Lane.

Traber, D. (2015). Disenchanted Swiss Parliament? Electoral Strategies and Coalition Formation. *Swiss Political Science Review*, *21*(4), 702–723. https://doi.org/10.1111/spsr.12185

Tsebelis, G. (2002). *Veto Players: How Political Institutions Work*. Princeton University Press.

Tucker, P. M. W. (2018). *Unelected power: The quest for legitimacy in central banking and the regulatory state*. Princeton University Press. https://doi.org/10.2307/j.ctvc7789h

Vogel, D. (1983). The Power of Business in America: A Re-Appraisal. *British Journal of Political Science*, *13*(1), 19–43. https://doi.org/10.1017/s0007123400003124

Vogel, D. (1987). Political Science and the Study of Corporate Power: A Dissent from the New Conventional Wisdom. *British Journal of Political Science*, *17*(4), 385–408. https://doi.org/10.1017/s0007123400004841

Way, C. R. (2005). Political Insecurity and the Diffusion of Financial Market Regulation. *The ANNALS of the American Academy of Political and Social Science*, *598*(1), 125–144. https://doi.org/10.1177/0002716204272652

Weir, M., & Skocpol, T. (1985). State Structures and the Possibilities for "Keynesian" Responses to the Great Depression in Sweden, Britain, and the United States. In P. B. Evans, D. Rueschemeyer, & T. Skocpol (Eds.), *Bringing the State Back In* (pp. 107–164). Cambridge University Press. https://doi.org/10.1017/CBO9780511628283.006

Weiss, C. H. (1979). The Many Meanings of Research Utilization. *Public Administration Review*, *39*(5), 426–431. https://doi.org/10.2307/3109916

Wetzer, T. (2019). In two minds: The governance of ring-fenced banks. *Journal of Corporate Law Studies*, *19*(1), 197–249. https://doi.org/10.1080/14735970.2018.1497422

Weyland, K. (2005). Theories of Policy Diffusion Lessons from Latin American Pension Reform. *World Politics*, *57*(2), 262–295. https://doi.org/10.1353/wp.2005.0019

Wilmarth, A. E. J. (2009). The Dark Side of Universal Banking: Financial Conglomerates and the Origins of the Subprime Financial Crisis. *Connecticut Law Review*, *41*(4), 963–1050.

Woll, C. (2008). *Firm interests: How governments shape business lobbying on global trade*. Cornell University Press. https://doi.org/10.7591/9781501711497

Woll, C. (2014a). *The Power of Inaction: Bank Bailouts in Comparison*. Cornell University Press.

Woll, C. (2014b). Bank Rescue Schemes in Continental Europe: The Power of Collective Inaction. *Government and Opposition*, *49*(3), 426–451. https://doi.org/10.1017/gov.2014.5

Woll, C. (2016). Politics in the Interest of Capital: A Not-So-Organized Combat. *Politics & Society*, *44*(3), 373–391. https://doi.org/10.1177/0032329216655318

Woyames Dreher, V. (2020). Divergent effects of international regulatory institutions. Regulating global banks and shadow banking after the global financial crisis of 2007–2009. *Review of International Political Economy*, *27*(3), 556–582. https://doi.org/10.1080/09692290.2019.1675743

Young, L., & Pagliari, S. (2017). Capital united? Business unity in regulatory politics and the special place of finance. *Regulation & Governance*, *11*(1), 3–23. https://doi.org/10.1111/rego.12098

Ziegler, J. N., & Woolley, J. T. (2016). After Dodd-Frank: Ideas and the Post-Enactment Politics of Financial Reform in the United States. *Politics & Society*, *44*(2), 249–280. https://doi.org/10.1177/0032329216638061

Zysman, J. (1983). *Governments, markets, and growth: Financial systems and the politics of industrial change*. Cornell University Press.

Appendix A

List of Interviews[189]

- Svein Andresen, FSB General Secretary, 7 April 2022
- Ernst Baltensperger, Professor and member of the Swiss TBTF expert commission, December 2020
- Thomas Barothy, Head Swiss Resolution Planning / Organizational Structure Alternatives at UBS, 12 February 2021
- Banker at Swiss G-SIB, 15 March 2021
- Lobbyist at a German Banking Association, 24 February 2021
- Veronique Bensaid-Cohen, Parliamentary Advisor to the Governor at Banque de France & ACPR, 15 November 2021
- Lobbyist at a German Bank, 16 March 2021
- Senior Trésor Official, 8 November 2021
- Swiss Department of Economic Affairs Official, 15 January 2021
- Senior SNB Official, 22 January 2021
- Bank-affiliated Research Executive, 10 February 2021
- Senior Bundesbank Official, 8 March 2021
- Wilson Ervin, CRO and Vice-President at Credit Suisse, 29 March 2021
- Simon Gleeson, Partner at Clifford Chance law firm, 6 November 2020
- Senior Bank of England Official #1, 9 April 2021
- Senior SNB Official, 16 April 2021
- Senior BMF Official #1, 13 January 2021
- Senior FSB Official, 12 December 2020
- Research Staff for CDU MP, 26 February 2021

[189] Positions indicated are the (most relevant) positions at the time of the respective reform episodes studied in the case chapters.

- CSU MP, 16 February 2021
- Member of the Liikanen Commission, 23 December 2020
- Political Advisor to the French Minister of the Economy and Finance, 14 October 2021
- Daniel Roth, Director Legal Services at Federal Department of Finance, 17 February 2021
- Senior FINMA Officials, 2 March 2021
- Senior BMF Official #2, 5 January 2021
- Peter Siegenthaler, President of the Swiss TBTF expert commission, 5 February 2021
- SPD MP and member of the Bundestag Finance Committee, 5 March 2021
- Bank-affiliated Research Executive, 22 December 2020
- Advisor at Finance Watch, 9 November 2021
- Senior Bank of England Official #2, 18 February 2022 & 21 February 2022
- Banker at BNP Paribas, 15 October 2021
- Senior Trésor Official, 22 November 2021
- Frédéric Visnovsky, Deputy General Secretary at ACPR, 3 December 2021
- Senior BMF Official #3, 18 February 2021
- Daniel Zuberbühler, CEO of the EBK and Vice-chairman of the Board of Directors of FINMA, 29 January 2021
- Five further anonymous background interviews