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To Change Banks or Bankers? Systemic Political (In)action and Post-Crisis Banking Reform in the UK and the Netherlands

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Abstract. Faced with the same challenge of resolving the 'too big to fail' problem while maintaining competitive leading banks after the financial crisis, Britain and the Netherlands adopted divergent regulatory approaches. While the UK aimed to 'change banks' using its strong ring-fencing structural reform, the Netherlands sought instead to 'change bankers', eschewing breaking up banks in favor of cultural measures such as an oath and code of conduct. These outcomes are puzzling because in many respects the countries share similarities: in the scale of the crisis and their systemic banks; in their financial systems and the orientations of their economies; and even in the use of expert panels which helped shape their reform processes. In this paper, I argue that the character of political party competition in the British 'majoritarian' and Dutch 'consensus' democratic models was the decisive factor that catalyzed a challenge to the banks' preferred regulatory regime in the UK while failing to substantively to do so in the Netherlands. While the issue of banking reform remained salient, British parties adopted a pattern of 'systemic political action', developing distinctive and competitive reform agendas and ultimately establishing a credible commitment to structural regulation. Meanwhile, the Dutch reform agenda was established early by the banks' own industry association and was not substantively challenged by any major political party thereafter, despite disquiet among the public. This was a case of 'systemic political inaction'. By developing this framework, the paper seeks to continue the recent theoretical refinement in the political economy of banking and finance of the factors determining the respective weight of voters and interest groups in the policymaking process.

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In the two years following the September 2008 collapse of the US investment bank Lehman Brothers, governments in advanced industrial economies committed over two trillion euros to bailing out banks and other financial firms.[1] The largest of these companies were labelled 'too big to fail': their scale, complexity and mutual interconnectedness rendered them essential to the functioning of the wider economy. After this firefighting exercise, policymakers turned to fixing the regulatory foundations of their financial systems, the inadequacy of which has been widely cited as a primary cause of the crisis.[2] In this paper, I examine the politics of what has been labelled "most far-reaching" measure proposed to bolster systemic security: structural banking regulations.[3] By splitting commercial and investment banking operations, structural reforms threatened the integrated universal banking model utilized by most of the world's largest banks up to and through the crisis. However, despite substantial opposition from the banking industry, structural reforms were given serious consideration in at least six countries which bailed out leading national banks during the crisis.

Among these countries, the opposite approaches to systemic reform taken in the UK and Netherlands stand out, and form the focus of this paper. Both countries were similarly badly affected by the crisis, bailing out some but not all of their largest banks; both hosted similar financial systems, comprising a small number of sprawling internationalized banks working alongside well-developed capital markets; and policy cycles in both countries were significantly informed by expert commissions assembled to examine the question of structural reform. Given these striking parallels, why did the UK proceed with its strong ring-fencing measure designed to 'change banks', while the Netherlands decided to eschew structural reforms entirely in favor of softer, cultural measures aimed at 'changing bankers'? In this paper, I place political parties and party competition at the center of the story. Combining insights from several established theoretical strands in the comparative politics, political economy and agenda setting literatures, I argue that levels of party competition over regulatory reform crystallized the outcomes during an important 'window of opportunity' for departure from interest group issue ownership in the two cases, the period from 2009 through the countries' general elections in mid-2010. This is when the crisis was it its most salient point, but this salience alone was no guarantor of change. What I call 'systemic political action' on the part of competing parties was required to lock-in credible commitments to reform. I present a historical congruence analysis of action and inaction in the two cases, drawing on original interview data with key stakeholders and other primary and secondary sources that seek to demonstrate the decisive role that party competition dynamics play in the policy process.

This perspective involves charting a theoretical course between two major schools of thought in political economy, what Hacker and Pierson label the

1 Stolz and Wedow (2013, 86-87).
2 For example, see Buiter (2009); Caprio (2009); Levine (2012); Admati and Hellwig (2014).
3 Lehmann (2016, 176).

'Schattschneiderian' and 'Downsian' perspectives.[4] These emphasize the respective influence of interest groups and voters in policymaking processes. I argue here that while the former has been the predominant force in the field of financial regulation, the extent to which policymakers departed for the latter varied in different countries in the wake of the crisis. I sketch out a theoretical framework that accounts for party systems' respective influences at an important point, or 'window', in the policymaking process. Political parties, being the key mediating institutions between these two primal political forces; and party systems, being the structures within which these parties operate, are integral to this analysis. This observation hardly sounds revelatory, but I also suggest here that the discretionary influence of political parties over financial regulation has not been widely recognized by the preeminent contemporary historical institutional and business power-based accounts of the political economy of banking and finance.

Specifically, my goal in this paper is to distinguish between how party systems shape party competition over policy issues under conditions of 'high salience', which tend to weaken business groups' grip on policy agendas.[5] The subprime crisis was emblematic of the phenomenon of extraordinary levels of salience and widespread dissatisfaction with legacy policy, but not all political parties responded to this public stimulus in kind. While the issue of financial regulatory reform was salient in both the UK and the Netherlands, the party political competition that animated the British process was curiously absent in the Dutch case. I attribute this difference to the power-sharing and electoral characteristics of the countries' respective 'majoritarian' and 'consensus' party systems. In doing so, I hope to offer a novel perspective to a literature on the political economy of banking and finance that has already undergone extensive theoretical development in the wake of the crisis.[6]

The paper proceeds in three sections. First, I briefly situate structural regulations in their historical and contemporary contexts, describing their significance amidst the Basel III capital regime and 'systemic' status being newly ascribed to the largest banks after the crisis. This provides the rationale to narrow the cases studied here down further to the UK and Netherlands. Second, I examine the theoretical expectations and limitations of two leading schools of thought in the politics of banking and finance: 'financial systems' and 'business power'. While the former provides a bad empirical fit for the two cases, work in the latter tradition has failed to appreciate the non-partisan ways in which party systems may condition exert an influence over policy agendas. I thus outline my own theoretical approach of 'systemic political action'. I start from a premise that political parties are key units of analysis in political economy, since they mediate between mass publics and interest groups in policymaking processes. The dominance of one or the other of these forces in political considerations is contingent on several factors: first, the salience of political issues and following on from this, the extent to which political

4 Hacker and Pierson (2014)
5 Culpepper (2010)
6 Baumgartner and Leech (1998); Erikson, MacKuen, and Stimson (2002); Culpepper (2010); Hacker and Pierson (2014)

parties are prepared to compete for public favor. The concept of 'policy windows', which has been formative in the public policy literature, allows the analyst to locate important counterfactual moments at which conditions for reform may or may not be locked-in. This is where the important distinction between the 'majoritarian' and 'consensus' dynamics of different political systems exert themselves and lead to path defining divergence. In the third section, I apply this description to the cases in turn with respect to the actions of the two sets of political parties at formative points in the policy process. I then briefly conclude.

Structural Regulations in Context

Structural banking regulations seek to "sever the link, or insulate, 'traditional' retail banking activities from riskier activities pursued by banks on capital and money markets."[7] Structural measures thus threaten the 'universal banking' model that combines both forms seamlessly and had secured practical global ubiquity prior to the crisis and after the repeal of the United States' Glass-Steagall Act in 1999. Glass-Steagall was a regulatory vestige of the devastating impacts of the Great Depression, a crisis which was popularly attributed to commercial banks' involvement with unstable trading in securities. To this day, Glass-Steagall's demand for total separation between federally-insured commercial banks and securities-holding investment banks remains a high watermark for structural laws; its extensiveness has not been replicated post-crisis.[8] By contrast, universal banking had remained historically unfettered across much of the rest of the industrialized world, most notably in Germany, where universal banks such as Deutsche Bank and Commerzbank have been considered integral to the country's rapid industrialization.[9]

A host of alternative regulations designed to shore up individual banks and broader systemic security had emerged in the intervening period between the two crises, leading policymakers to assemble post-crisis reform packages that drew on multiple policies, at both the national and international levels.[10] Among these alternatives, the importance of bank capital requirements is worth acknowledging briefly here.[11] In their own right, capital requirements represent either a viable alternative or complement to structural regulations (depending on how far one believes systemic regulations show extend), and both share a similar desire to secure financial systems by reducing the collective threat posed by large, highly leveraged and interconnected individual banks. In their most recent manifestation capital requirements have thus led to the development of 'global-systemically

7 Butzbach (2016, 246). The term 'riskier' is admittedly slightly loaded here, and critics of structural regulations have pointed out that purely commercial banks such as Northern Rock were also badly exposed by the crisis.

8 Crawford (2011). Aside from the United States, only Japan and Belgium enforced equivalent laws, and all three countries had repealed them before the end of the century, by which point such measures were considered antiquated. See Barth, Brumbaugh, and Wilcox (2000), Konishi (2002), Stucki and Vanaerschot (2015).

9 Gerschenkron (1979).

10 Butzbach (2016).

11 Several scholars have examined the politics of capital requirements, both nationally and internationally. See, for example, Lall (2012); Howarth and Quaglia (2016).

important bank' (GSIB) status, reassigned annually by the Financial Stability (FSB) to a top league of large banks, and imposing extra regulatory burdens on and adding formal regulatory weight to the nebulous term 'too big to fail'.[12] But while over a hundred states, including all European Union and OECD members, have voluntarily adopted the latest iteration of the *de facto* global minimum standards for capital, Basel III (2010), far fewer have gone further and implemented structural regulations.[13] The clutch of states that have share certain limited commonalities, which leads to the use of a 'most similar-systems design' mode of comparative case study analysis for this paper.[14]

Case Selection

The five countries that proceeded with structural measures are Belgium, France, Germany, the United Kingdom and the United States. In each case, the government bailed out at least one FSB-designated GSIB during the subprime crisis, but beyond this starting point there are marked and consequential differences both between the ways these countries experienced the crisis and the final details of their final structural reforms. A full description of these details is beyond the scope of this paper, suffice to note that the UK's 'ring-fence' has been described as a particularly comprehensive reform, certainly when cast against comparable Franco-German ring-fences.[15] Nevertheless, juxtaposing two countries that categorically did and did not adopt the legislation simplifies this study somewhat.

Table 1. Crisis Effects and Structural Outcomes: FSB-Designated GSIB Host Countries

	Introduced structural regulation	**Did not introduce structural regulation**
Bailed out at least one GSIB	(1) FR, BE, DE, US, UK	(2) CH, NL
Did not bail out a GSIB	(3) *None*	(4) CN, ES, IT, JP

This paper focuses on two most-similar states from the array in *Table 1* above: the UK and the Netherlands. Despite reaching opposite outcomes, the two countries share multiple commonalities in terms of how they experienced the crisis and approached the structural reform question. First, while scholars have shown that not all bailouts are alike, these countries' bailouts were.[16] While Switzerland, France and the US made profitable interventions, the Netherlands was forced to fully nationalize one of its Big Three banks (ABN-Amro) and recapitalize another (ING) at an overall loss to the taxpayer, leaving only one unassisted (Rabobank). The UK government became majority owner of RBS, minority owner of Lloyds, again at an overall loss, while leaving three others (Barclays, HSBC, Standard Chartered) untouched through the subprime crisis.

12 FSB (2011).
13 Kara (2016).
14 George and Bennett (2005), Przeworski and Teune (1982).
15 Hardie and Macartney (2016), James and Howarth (2018).
16 Woll (2014); Mitchell 2016).

Second, the relative scale of the ongoing 'too big to fail problem', simply quantified, was also very similar in the two countries after the crisis: with the UK committing 23.1% of GDP to its bailout programmes and the Netherlands 23.7% against an unweighted EU average of 12%.[17] While the British GSIBs held almost three times the Dutch banks' total assets through 2015, relative to their national economies these levels were almost equivalent (339% and 334% of GDP respectively) (see *Figure 1*). The equivalent number was notably smaller in larger, diversified economies with a greater number of similarly sized and smaller GSIBs, such as Germany (134%) and the United States (63%).[18] In fact, the relative size of the banks led economists to ask not just whether the banks might have also become 'too big to save' next time round, irrespective of policymakers' intentions.[19] Speaking of the contribution of financial services to the British economy in general, Chancellor George Osborne said the re-regulatory process was complicated by the 'British Dilemma': balancing the benefits that a large banking and finance sector delivered against the overhanging threat this poses to the wider economy. However, in truth, this could equally be termed the 'Dutch Dilemma': Amsterdam remains a prominent financial center, and financial services also represent a strategic area of comparative advantage for the Dutch economy. In 2010, both countries shared a surplus in their trade in financial services, and by several measures the Netherlands was even more financialized than the UK.[20]

[FIGURE 1 HERE]

Finally, both countries were governed through the re-regulatory period by conservative-led coalition governments and their legislative processes were influenced by multiple groups of experts at various important points in the policy cycle. This is discussed at length below, but for now it should be noted that this casts some prior doubt on the extent to which partisan theories of financial regulation - such as Broz's work linking incoming left governments to tougher new regulations after right-wing deregulation – apply to this case.[21] In fact, unlike in the UK, the Dutch Labor Party (PvdA) entered government and controlled the Finance Ministry from November 2012 onwards, but still did not agitate for reform. I will suggest that political parties were critical in determining these outcomes, albeit in a non-ideological respect, but first it is necessary to address established alternative theories about the outcomes at hand.

17 Calculations based on Stolz and Wedow (2013, 86-87).
18 Banking balance sheet data, SNL (2018). GDP data, Beck et al. (2018). Author's calculations.
19 Demirgüç-Kunt and Huizinga (2013).
20 Engelen and Konings (2010).
21 Broz (2013).

Alternative Theories

Financial Systems

One explanation for differences in policy outcomes might be the countries' variable financial systems. This perspective has been formative in the literature on the political economy of banking and finance.[22] Zysman identified 'bank-based' and 'market-based' systems based on the respective prominence of banks and capital markets in financing the real economy and the attendant differences in structures of corporate governance, investment tenures and other factors this leads to.[23] Financial systems, in turn, work in tandem with other stable institutional arrangements in the political economy to reproduce distinct and enduring national forms of capitalism.[24]

The UK and Netherlands have been considered to approximate weak market-based and hybrid financial systems respectively.[25] Unsurprisingly, "banks play by far the most important role" in allocating resources in bank-based systems, so we might hypothesize that countries with a greater reliance on bank funding would be averse to legislating against the wishes of their largest banks, especially if those banks are arguing that regulations would limit their capacity to lend to the real economy.[26] Conversely, countries with more developed capital markets should have greater leverage in their pursuit of structural regulations.

However, this explanation is problematic for several reasons, and does not hold in the cases at hand. First, *Figure 3* shows that by some conventional indicators of financial system composition in the decade up to and through the crisis, the Netherlands appeared to be more 'market-based' than the UK, which had proportionally higher levels of bank lending to non-financial companies (NFCs). While the British stock market is better developed than the Dutch, the reverse is true of bond markets. Indeed, in light of recent changes in its banking landscape, financial systems theorists now concede that "in some sense [the UK] seems to be both marked-based and bank-based".[27] Whether the stylised bank-market dichotomy first outlined has survived the crisis and the rise of 'market-based banking', where large banks increasingly act as intermediaries between capital markets and the real economy, is the subject of an ongoing debate which is beyond the scope of this paper.[28] However, the oft-cited indicators in *Figure 2* cast some doubt over a simple 'financial systems' hypothesis in the cases at hand.

[FIGURE 2 HERE]

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22 Zysman (1983); Allen and Gale (2001).
23 Zysman (1983).
24 Cf. Hall and Soskice (2001); Schmidt (2002); Amable (2003).
25 Levine (1999); Allen and Gale (2001); Chang and Jones (2013).
26 Allen and Gale (2001, 4).
27 Allen, Carletti, and Gu (2015).
28 Schaberg (1999); Culpepper (2005); Hardie and Howarth (2013).

This is not to suggest that institutional approaches simply view institutions such as financial regulations as functionalist 'black boxes'. Indeed, scholars have responded to such charges by developing typologies of institutional change.[29] Though it is true that most GSIBs started to shrink their balance sheets and reduce their investment operations organically, as part of an endogenous process of post-crisis adjustment, structural regulations represent enforced change through 'reform': policy that Hall and Thelen note is explicitly mandated by governments.[30] The fact that a British conservative-led government legislated against the express wishes of its two largest non-supported GSIBs (HSBC and Barclays) is noteworthy, irrespective of their business models.

Scholars in this tradition often view the politics of continuity and change in political economy through the prism of coalitional politics, whereby sectoral blocs of actors self-interestedly seek 'wins', either reproducing continuity or engendering change. This is a neat fit in studies of distributional conflicts, such as wage bargaining, where such coalitions and outcomes are more readily identifiable.[31] However, the asymmetry of interest group representation in financial regulation, coupled with the highly uncertain and contested potential effects of reforms, lends itself to an alternative theoretical framework that examines relations between a narrower set of institutional actors: policymakers and business representatives.

Business Power

Theories of business power are a promising alternative. Traditionally, they have been categorized as either 'instrumental' or 'structural' in outlook, depending on how policymakers are perceived as being persuaded to represent business interests. These might respectively be understood as synonymous with political activities, such as lobbying, networking and campaign contributions;[32] and economic logics, a constant desire on the part of policymakers to induce investment, and thus jobs and growth, from private firms.[33] Given banks' often sizable political resources and their central role in the economy, these firms have become a logical locus for theoretical development in this area.[34]

Singularly 'instrumental' accounts of financial power still abound, drawing inferences from banks' lobbying money and networks with regulators and policymakers to their political power.[35] However, recent contributions drawing on structural theory have sought to examine its effects in concert with instrumental factors.[36] Large-N studies operationalize these forms of power using proxies, such as examining firms' size (structural power), lobbying spend (instrumental power)

29 Hall and Thelen (2009).
30 Ibid.
31 For example, see Swenson (1991).
32 This tradition draws heavily on Stigler (1971) and his economic theory of regulation.
33 Block (1977); Lindblom (1977); Lindblom (1982).
34 Culpepper (2015).
35 Johnson and Kwak (2011); Navidi and Roubini (2017).
36 Culpepper (2015).

and preferences against policy outcomes.[37] These data are not readily available for most European countries, but as noted the UK and the Netherlands are both highly financialized economies running surpluses in the export of financial services. Both are home to leading financial centers, in London and Amsterdam and, as we have seen, a small number of powerful banks. They thus cannot be easily disentangled by structural-instrumental correlative statistics. Indeed, the fact that London is a more prominent center than Amsterdam, and the UK is home to a banking sector that is still larger than the Dutch sector casts further doubt on this notion.

Small-N comparative studies have instead sought to tease out causal links by studying information flows and signaling patterns between policymakers and firms. Given the information asymmetry that generally exists between the two, both are eager for information exchanges that will inform policy. Indeed, far from being dopes who are always unwittingly manipulated by better-informed firms, policymakers often explicitly seek out information from industry to better understand and craft legislation.[38] This was demonstrably true in the two cases at hand. Firms are typically, though not always, skeptical of new government regulations and they are generally better informed about the potential consequences of proposed measures.[39] Their success in interactions with policymakers ultimately hinges on how credible policymakers find their information. When trying to stymie or water down proposed new rules, this may comprise multiple signals: direct cost projections; wider negative inducement effects on firms' ability to invest; or outright disinvestment threats, such as 'capital strikes' or relocation to friendlier regulatory jurisdictions.[40] Such 'signaling-games' were in evidence at various points in the two cases, but the extent to which policymakers and interest groups set the agenda for reform varied significantly between the two cases.

Party Politics and 'Systemic Action'

Hacker and Pierson present a stylized distinction between two political forces and ontological approaches. On the one hand there is 'policy-focused political science', where interest groups seek to influence policymakers and secure favorable long-term policy outcomes. This is predicated on E.E. Schattschneider's work on interest group influence in American politics, and underpins the perspectives presented by aforementioned business power theories. On the other is the voter-centric mode of analysis, which is based on Anthony Downs' famous edict that policymakers "formulate policies in order to win elections, rather than win elections to formulate policies".[41] While favoring and describing a long-term shift toward the dominance of the former in US politics, Hacker and Pierson accept that policymakers naturally chart a course between these two poles. Accepting this

37 Young (2015).
38 Bernhagen and Bräuninger (2005); Bernhagen (2007); Culpepper and Reinke (2014).
39 Vogel (1996).
40 Young, Banerjee, and Schwartz (2018).
41 Downs (1957, 28)

fact, the challenge for analysts comparing cases becomes one of identifying the variables that determine policymakers' orientations over time.

Culpepper's work on hostile corporate takeovers identified 'issue salience' as one important such factor. Culpepper demonstrated that when politics in an issue area of low public interest depart from their default 'quiet' setting and become 'noisy', business interests lose their grip on the policy agenda.[42] Financial regulation is an exemplary case of 'quiet politics', a traditionally exclusive realm dominated by organized business interests,[43] but brought into sharp relief by the unforeseen focusing event of the financial crisis.[44] However, while a window of high salience might have been a necessary condition for the adoption of a punitive policy such as structural reform, was it sufficient alone to guarantee adoption in all cases? I argue that in the cases at hand, salience had a greater catalytic effect in the competitive British 'majoritarian' system than it did in the diffuse 'consensus' Dutch system. This, in turn, was decisive in setting the reform agenda for the divergent policy outcomes in the two cases.

The UK and Netherlands have been juxtaposed as examples of two contrasting modes of democracy: 'majoritarian' and 'consensus', in Lijphart's terms.[45] There are multiple formal and informal institutional dimensions to this typology but I focus on twin facets that are particularly pertinent for this analysis: power-sharing and electoral systems. In 'consensus' systems multiple parties share office, often governing in broad and unstable coalitions. In the Netherlands between 2000 and 2010 six different leading parties were involved in power sharing arrangements at various points: CDU (centre-right), PvdA (centre-left), D66 (liberal), VVD (centre-right), LPF (right-populist), and CU (centre-right). In contrast, only the Labour Party had ruled with an outright majority in the UK since 1997. Moreover, in majoritarian electoral systems, parties generally have a greater incentive to propose distinctive policies in the pursuit of marginal electoral gains that might lead to consequential swings in numbers of elected representatives.[46] These historical and electoral dynamics led to 'systemic action' on the part of British political parties and 'systemic inaction' in the Netherlands.

42 Culpepper (2010).
43 Pagliari and Young (2016).
44 Kastner (2014).
45 Lijphart (1999)
46 Ibid.

Cases

As the national newspaper content analysis in *Figures 3* and *4* indicate, the salience of the crisis spiked rapidly through the crisis and peaked in 2010, when both countries held general elections within a month of one another. In the UK, for example, the 'state of the economy' being considered the primary issue facing the country jumped from 10% in early 2007 to 71% in May 2010 in a rolling opinion poll.[47] In the Netherlands, too, concerns abound as the economy contracted by 3.8% through 2009. However, though both campaigns were fought on economic competence only in the UK was the future of financial regulation also contested terrain staked out by political parties. These two campaigns, and the processes they set in motion, are now outlined in turn.

UK

In Britain, the opposition Conservatives consistently pinned blame for the crisis on Labour's general mismanagement of the economy, while also criticizing the 'irresponsible capitalism' that had animated the City.[48] Labour, for its part, tried to deflect this attack by pointing out the global character of the crisis.[49] Both parties entered the 2010 election acknowledging the need to tighten fiscal policy, but while the Conservatives depicted the public finances as in a state of crisis necessitating immediate austerity, Labour's call was for a gradual Keynesian schedule of adjustment that protected front-line public services until growth returned.[50]

Beyond this debate on the future of the economy, a political 'blame game' had emerged over the regulatory responsibility for the crisis, and the 'politics of blame avoidance' had become an important part of the parties' campaign messages.[51] The Conservatives focused their attention primarily on the failings of the Financial Services Authority (FSA), the industry-funded regulatory authority established by the Labour Party in 2001. On the recommendation of James Sassoon, a former UBS executive and government ambassador to the City, the party pledged restoration of prudential supervision to the Bank of England and the abolition of the FSA. The FSA had been more widely criticized for its complaint approach to the banks, most notably RBS, in the years preceding the crisis and had itself acknowledged that it had operated according to the 'light-touch' mantra preached by Labour policymakers.[52]

The FSA itself responded to the crisis through its Chief Executive, Adair Turner, whose 2009 review argued for a shift toward macro-prudential oversight, more powers for the FSA and favored a sensitive capital-based approach over structural

47 Ipsos-Mori (2014).
48 Swaine (2008)
49 See, for example, *BBC News* (2008)
50 Gamble (2015)
51 Hungin and James (2018).
52 *The Guardian* (2011a).

breaks, which it suggested were well-intentioned but logically flawed.[53] Sassoon had not addressed what he called the 'Glass-Steagall debate' at length, but stressed that a "full analysis and debate" was needed.[54] Approximations of these two positions were taken forward in the two parties' respective 2010 manifestos, with Labour echoing Turner in calling for greater international cooperation on tougher capital requirements and new rules for resolution, while the Conservatives pledged FSA-abolition and pushing for 'international cooperation' on structural regulations. The other side of Osborne's British Dilemma was also present as the Conservatives stressed that "fundamental reform" must "[avoid] badly-designed regulations that will damage our competitiveness."[55] However, Osborne was careful not to categorically rule out structural regulation, and remained open to exploring 'international cooperation' on the issue.[56]

The Liberal Democrats struck the most unequivocal tone, with structural reform representing an explicit plank of their election message and the front page of their manifesto claiming that only they would "establish clear separation between low-risk retail banking and high-risk investment banking," in the form of a UK version of Glass-Steagall.[57] The party's line on bank reform was established by Sir Vince Cable, the Treasury Spokesman and a respected economist who had called for "revolutionary changes [to financial regulations]…once the dust ha[d] settled."[58] Prior to the election, the British GSIBs had unanimously criticized 'narrow banking' and structural reform more broadly, both individually and through their peak association, the British Bankers' Association (BBA), calling instead for a new settlement limited only to capital requirements.[59]

After the 2010 election, the coalition Conservatives and Liberals negotiated a *quid pro quo* of sorts. The FSA would be dissolved and its powers handed back to the Bank of England, while an expert commission would seriously investigate if and how the structural reform sought by the Liberal Democrats might be achieved.[60] The Independent Commission on Banking (ICB) was the product of this latter commitment, and it was established swiftly, after the 2010 election. Ultimately, the ICB's five-member composition and workflow were essential to its findings, which in turn secured the foundations of structural reform in the UK. The outlook of the five commissioners would have a significant bearing on its output, and these were hand-picked by Osborne and Cable.[61] Although he did not follow Sassoon's advice by handing the structural question over directly to the Bank of England, Osborne consulted outspoken 'narrow banking' advocate and Governor of the Bank of England, Sir Mervyn King, for advice on suitable ICB candidates, while Cable pushed for the financial journalist Martin Wolf, who had

53 Turner (2009).
54 Sassoon (2009).
55 Conservative Party (2010).
56 Ibid.
57 Liberal Democrats (2010); *BBC News* (2010).
58 *The Telegraph* (2008).
59 House of Commons (2009, 94-96).
60 Hungin and James (2018).
61 Author's interview with Sir Vince Cable, Telephone, November 2017.

been a leading critical commentator throughout the crisis.[62] Martin Taylor was another notable inclusion, as the former Barclays executive had been especially critical of what he called 'parasitic' investment banks in his testimony to the prior Future of Banking Commission, a bi-partisan body which had fully endorsed structural reforms just as the ICB was being formed.[63] Collectively, the five commissioners combined diverse backgrounds with extensive expertise in competition policy and banking, and were headed up by Sir John Vickers, a former Chief Economist at the Bank of England who was unanimously praised in multiple interviews, being described as "well-respected",[64] "an outstanding academic",[65] and "fair-minded."[66] They were supported by a small but dedicated secretariat, who were seconded to support the commission during its frequent meetings throughout its 18-month tenure, helping to collect exhaustive data, including thousands of submissions, balance sheet figures and testimony from banks, other businesses and consumer groups.[67] According to one commissioner, the group was characterized throughout by a collegiate work ethic that sought to achieve a workable regulatory settlement, while disagreements were generally superficial and sporadic.[68]

Even before it published its final recommendations in September 2011, the ICB worked to fatally undercut the banks' lobbying playbook, shielding the Treasury from formative industry-to-policymaker communications and forcing the banks to consult the Premier Minister directly,[69] while also directly challenging several of the banks' strategic public statements and claims designed to weaken regulatory initiatives. First, the interim report questioned the impact of banks relocating their headquarters after HSBC, Barclays and Standard Chartered had each commenced strategic domiciling reviews through 2011-12.[70] The ICB then directly challenged HSBC's projections of scope and synergy gains achieved under a universal banking model, and disputed the claim calculated by a consultancy firm hired by the banks that the operational costs of the ring-fence would be between £12-15bn per annum.[71] The ICB instead suggested instead that annual collective costs would fall between £4-7bn, with the majority of this being accounted for by a reduction in implicit guarantees.[72] The 'social costs' to the UK economy, stemming from diversification losses and operational costs, were estimated at £1-3bn per annum. This did not include the one-off expense of implementing the reforms, which the Treasury later estimated collectively to be between £500m-£3bn.[73] Such estimates dwarfed and undermined those made by the banks themselves.

62 Ibid.
63 Future of Banking Commission (2010, 29). ICB member Clare Spottiswoode was also a member of the FBC, though her personal views on the issue were not voiced.
64 Author's interview with Former Conservative Minister, London, January 2018.
65 Interview - Cable (2017).
66 Author's interview with ICB Member 1, London, December 2017.
67 Independent Commission on Banking (2011a).
68 Author's interview with ICB Member 2, London, January 2018.
69 James (2018, 1636-39); *Telegraph* (2011).
70 *Reuters* (2010); Independent Commission on Banking (2011b); James (2017).
71 Independent Commission on Banking (2011a, 157); *The Guardian* (2011b).
72 Independent Commission on Banking (2011a, 141).
73 Financial Times (2015).

Industry lobbying rebounded in the two years between the publication of the ICB's report in 2011 and primary legislation in December 2013, but the upshot of structural regulation becoming a locked-in proposition on the policy agenda was twofold. First, now-fractured banks angled for bespoke concessions that would reduce overall costs based on their own business models, leaving only HSBC acting in a mode of outright hostility to the proposal.[74] Certain concessions were granted, such as a *de minimis* exemption for UK deposits that allowed the largely Asia-based Standard Chartered to avoid the regulation, but the essence of the ICB report would ultimately enter law. Second, as banks fragmented, all major political parties aligned behind a plan that was based on credible findings.

This is reflected in the work of the bi-partisan Parliamentary Commission on Banking Standards (PCBS), which considered ring-fencing alongside a broader range of issues over banking culture, and ran concurrently through 2013 after Libor and a series of smaller scandals had refocused public attention on the British GSIBs through 2012 (see *Figure 3*). In convening the PCBS, Osborne indicated his now clearly reformist credentials by granting a platform to "the most powerful backbencher in the Commons", the reformist Conservative and Chair of the Treasury Select Committee, Andrew Tyrie.[75] The PCBS also counted among its members former-Chancellor Lord Lawson, who had performed a *volte face* on banking regulation since overseeing the deregulatory Big Bang in 1986, and was now arguing for full separation. MPs with relevant interests and expertise from all major political parties worked amiably on a broad range of questions concerning the future of finance, and throughout the process the banks lacked a figure in Parliament prepared to publically defend them and voice concerns over structural measures.[76] The PCBS helped to secure the ICB's findings and Tyrie became a vocal critic of banks' attempts to weaken the ring-fence with lobbying.[77] The PCBS' main legacy was the 'electrification' of the ring-fence, allowing the regulator to break up banks if they attempted to 'game' and circumvent ring-fencing rules.[78] By this point, Labour had also fallen fully behind the proposal, with leading opposition figures now focused on holding the government to account over implementation. Primary legislation in December 2013 stayed largely faithful to the ICB report, setting a January 2019 deadline for implementation of the British retail ring-fence.

The Netherlands

The Dutch outcome is curious and has not yet been subject to any detailed scholastic enquiry. Howarth and Quaglia note that the fourth to sixth largest European economies - Italy, Spain and the Netherlands - had deliberately not adopted legislation and were content to wait and see what pan-European directives would emerge from Brussels.[79] Among this group, the Netherlands is an outlier for

74 James (2018).
75 *The Independent* (2013).
76 Author's interview with PCBS Member, London, December 2017.
77 *The Times* (2014).
78 Tyrie (2015, 41–42).
79 Howarth and Quaglia (2016b, 198).

reasons already described: two of its GSIBs, ABN-Amro and ING, were badly exposed and it took arguably similar steps to secure them at similar expense to the UK. While neighbors on all sides were attempting to shape their own destiny on the issue with domestic measures, the Netherlands did not legislate. However, this position was not reached by default, and was also the result of a political process that downplayed structural regulations in favour of engendering cultural change, at the behest of the banks themselves.

The agenda for Dutch reform was set decisively by the Maas Commission, which reported its recommendations early, in April 2009. Former ING executive Cees Maas was selected by the Dutch banks' industry association, the Dutch Banking Association (NVB), alongside former executives of Rabobank and ABN-Amro and the financial academic economic, Sylvester Eijffinger. While mildly critical of the banks in relation to the crisis, the report chiefly apportioned blame broadly to supervisors, monetary authorities, ratings agencies, investors and even savers themselves.[80] It formulated a set of recommendations in several sub-fields: governance, risk, remuneration and shareholder structures. Contra Sassoon, these were mainly 'soft' cultural measures designed to change management cultures, with the goal of 'restoring trust' in the system. The primary set of recommendations stemming from the report concerned a 'Banking Code' (*Code Banken*) of conduct, which entailed facets such as mandatory declarations of risk and a cap of 100% on bonus remuneration for all banking employees. Through 2008-09, bonuses were already being waived by leading bankers under a 'gentleman's agreement' between Finance Minister Wouter Bos (PvdA) and the leading banks, but the Maas Commission sought to formalize these rules.[81] The final headline recommendation was for a move towards mandatory deposit insurance protection and the introduction of a contribution scheme akin to the United States.

Licensed NVB members would be forced to comply with 48 piecemeal recommendations outlined in the report's first two chapters covering these four primary areas, or otherwise give a reasonable explanation as to why they could not do so, under the so-called 'comply or explain' principle.[82] The formal Banking Code was drawn up by the NVB in 2009 and based closely on the Commission's recommendations. Among these, a headline proposal was the so-called Banker's Oath (*Bankierseed*). The first measure of its kind in the world, the oath would require every Dutch bank employee to swear to behave in an upstanding fashion, and was designed to tackle the culture underlying Dutch banking from the bottom-up. Fixing bankers, not banks was to become a theme of successive governments' approach to re-regulation.

The initial Banking Code applying to firm practices was swiftly pushed through in a *fait accompli* with a 2009 parliamentary agreement between the governing Christian Democratic (CDA) and Labor (PvdA) parties. Notably, neither party

80 Maas et al. (2009).
81 *RTL Nieuws* (2009).
82 *Accountant.nl* (2009).

voiced concerns about the extensiveness of the recommendations, nor did they seek to carve out a distinctive stance on reform that departed from them. Though the Maas report is careful to deny that its measures constitute 'self-regulation', they would certainly still be adhering to measures developed by the industry body rather than an independent regulator. The report is also notable for what it *does not* put on the reform agenda, or even discuss at all. Mentions of new capital requirements such as a counter-cyclical buffer follow the 'softer' governance recommendations in Chapter 3, and so would not be considered mandatory. Moreover, structural regulations are not referenced in any form in the final report. The Banking Code entered legal force as early as January 1, 2010, six months prior to the general election.

Through the 2010 election cycle, which ran in parallel to the UK's own vote, no major Dutch political party pushed a regulatory reform agenda. Instead, the centre-right Christian Democrats (CDA) and Freedom and Democracy Party (VVD), and the centre-left Labour Party (PvdA) competed almost exclusively over the impact of the crisis on the public finances.[83] The three largest parties each called vaguely for pan-European cooperation and, in the case of the CDA, explicitly endorsed the Banking Code.

While the banking industry moved swiftly to shape the reform agenda through Maas, the Dutch Parliament followed suit when it formed the De Wit Committee in June 2009, at the height of the crisis. This was a classic Dutch omni-partisan parliamentary body, comprising eight parliamentarians, one from each of the eight largest parties, and headed up by Jan de Wit of the Socialist Party (PS), who was elected to the role on account of his reputation as an open-minded and fair arbiter not likely to be in thrall to the banks.[84] De Wit's work was divided into two cycles, the first examining the causes of the crisis and recommending regulatory responses, the second offering a critical appraisal of the government's role in securing the system throughout. The first report, entitled 'Credit Lost' (*Verloren Kredit*), was compiled after 39 interviews with academics, industry representatives, regulators and politicians through January and February 2010. The Commission worked with academics from Utrecht University to conduct an exhaustive analysis of potential regulatory responses, and hired an extensive team of expert support staff, including civil servants, lawyers and economists to aid in the production of the final report.[85] In this sense, it closely resembled the work of the PCBS in Britain.

The first phase of the De Wit Commission put regulatory reform back on the table, tabling twenty recommendations which, although less numerous than the Maas Committee's, constituted a more radical departure from legacy regulations. De Wit endorsed all of the Maas Commission's calls for a culture shift, yet it also made three new proposals that went much further. First, going beyond the leading

83 van Holsteyn (2011).
84 Author's interview with De Wit Committee Member, Amsterdam, April 2018.
85 Ibid.

parties, the committee stressed that while European and international cooperation was desirable, the Netherlands should be prepared to legislate domestically and unilaterally in all areas if necessary and possible.[86] While it did not recommend specific levels, it emphasised this point in the area of capital requirements, again suggesting that the Netherlands should be prepared to go above and beyond European or Basel base levels, should they be deemed inadequate by domestic authorities.[87] Third, the report made the case that the government and parliament needed to be better funded in order to adequately produce independent research into banking and finance, and stressed that all findings and information should be exposed to public scrutiny.[88] It also suggested that the regulators have greater exposure to information shared direct from banks to legislators, aiding in their provision of expert advice.

Critically, the report went on to recommend that parliament explore ring-fencing Dutch banks both along geographical and operational lines. The former relates to insulating Dutch and European Union operations from non-EU parts of the group, while the second concerns splitting 'utility and investment banking'. The Commission suggested that banking conglomerates separately capitalize customer-oriented banking practices and those "not directly consumer-related commercial activities with a higher risk profile."[89] However, it did not go as far as specifying precisely which activities should be given which designation, stating that the Ministry of Finance should work with the twin regulators – DNB and AFM – to establish the exact scope of the ring-fence. For its part, the NVB countered criticism that cultural change did not go far enough. It did not directly endorse of refute some of the wider-reaching recommendations of the De Wit report, but instead emphasised that it was already working hard with its members to implement the Maas recommendations:

> *"The banks have taken responsibility from the onset of the crisis and have shown self-reflection. They themselves have thoroughly investigated the causes of the crisis and have opted for better risk management, more expertise, more attention for the customer and a responsible remuneration policy with the Banking Code… [which] is unique and internationally normative.*"[90]

This was the path that was largely followed through the parliamentary term, as Finance Minister from 2010-12, Kees-Jan de Jager (CDA), made the Banking Oath mandatory and imposed a surcharge on banks' short- and long-term non-secured debts. All banks carrying over €20bn in assets would be eligible to a pay up to a 0.022% rate on these debts, with a small surcharge for banks with executive bonuses equivalent to over 100% of basic pay. The government estimated that this would generate a modest yield of €300m a year.[91]

86 European Parliament (2010, 10).
87 Ibid.
88 De Wit (2010, 581).
89 De Wit (2010, 583).
90 Nederlandse Vereniging van Banken (2010).
91 PwC (2011).

At no point during the 2010-12 parliament was the issue of structural regulation seriously on the reform agenda, with the issue consistently eclipsed by debates over the code and oath. Yet, these soft measures had done little to inspire the sort of consumer confidence policymakers were hoping for, and trust in the banking sector had not been restored as late as 2014. Survey data from March 2014 found that a plurality of bank customers thought of the oath as a 'political means to regain trust in the sector' while a majority of bank employees themselves considered it a 'meaningless gesture'.[92] Meanwhile, special questions added to the annual Dutch Household Survey between 2008 and 2013 highlighted an overall decline in trust in the capacity of the central bank as regulatory supervisor; a decline in consumers' faith in the liquidity situation of their own banks; and a linear year-on-year growth in the share of consumers concerned that their bank might fail going forward.[93]

It appears, then, that even as coverage of the subprime crisis was fading through 2012 (as shown in *Figure 4*), the lack of discussion over moral hazard issues and the too big to fail problem in favor of the targeting of 'culture' with oaths, codes and bonus levies had done little to achieve the banks' and government's stated aims of restoring confidence in the system. Partially in response to this, the outgoing De Jager formed the Wijffels Commission, a thirteen-member expert body whose mission closely paralleled the ICB's in the UK. The group, named for its chair, the respected economist and Rabobank executive Herman Wijffels, met nine times in The Hague throughout its 15-month tenure, and was tasked with examining competition, regulatory policy and the sustainability of the 'bancassurance' model utilized by the two Dutch bailed-out GSIBs: ABN-Amro and ING.

The Wijffels Commission was initially suspended by the collapse of the government and the 2012 election, but was reconvened in September 2012 by new Labor Finance Minister Jeroen Dijsselbloem under the auspices of the VVD-PvdA coalition government. At this stage, the reform agenda was simultaneously excessively large in terms of potential measures while also being substantively narrow in terms of serious focus, downgrading attention paid to the viability of structural regulations. In a PvdA report released prior to the election, separating 'utility' and 'investment' banking was listed as one of four measures designed to tackle one of ten separate priorities for bank reform.[94] However, when reconvening the panel Dijsselbloem did not alter De Jager's original composition, and this led to structural regulation being quickly sidelined by skeptics who easily outnumbered reformists on the commission.[95] Ultimately, the main debate swiftly moved onto other priorities: what to do with nationalized banks (ABN-Amro and SNS Reeal), whether to push the Dutch leverage ratio above the Basel III baseline, and how best to diversify the mortgage market.[96] The final recommendation on structural regulation, which arrived in June 2013, was to aim for the pan-European

92 Loonen and Rutgers (2017).
93 van der Cruijsen, de Haan and Jansen (2013).
94 Samsom (2012).
95 Interview –Wijffels Committee Member 1 (2018).
96 Interview –Wijffels Committee Member 2 (2018).

implementation of the proposed European Liikanen measures, with which Wijffels himself had been involved as a panel member and which ultimately never materialized. According to one commissioner, this recommendation was an expedient compromise, "not because there was any real enthusiasm for [Liikanen], but because we thought it was appropriate at the time."[97] In fact, by 2013 European rules would likely have had little impact on the Dutch Big Three banks. As the Wijffels Report states, "the Dutch banks themselves have indicated they will probably not be obliged with the current extent of their trading activities to separate them when this proposal is introduced."[98] The report went on to warn explicitly against following the Vickers model, stating that operational costs would rise, profitability would fall and Dutch companies would become reliant on foreign banks for capital, "which is not of interest to the Dutch economy."[99] The report concludes this topic by stressing that the Dutch government should take these points forward into any future European negotiations over the terms of the pan-European legislation. This is where the fate of structural regulations in the Netherlands was sealed, as the issue was regarded as settled by Dijsselbloem and other leading politicians at this point.[100]

Conclusion

This paper has sought to develop a new framework for understanding policy formation, based not on coalitional blocs or primarily on interest group activities, but instead on the agency exercised by policymakers in different political systems. This is a corrective to an implicit assumption that while business power is variable its operations are unidirectional and ubiquitous, and that policymakers nested in different democratic environments might respond to interest group and voter stimuli in universal fashions. I have suggested instead that the power-sharing and competitive features of majoritarian and consensus political systems can lead to important differences in outlook between policymaking at formative stages in the policy agenda, most notably through election cycles under conditions of high salience. This, in turn, has implications for the subsequent influence interest groups may exercise. British and Dutch banks both wielded significant influence over regulatory policy in the run up to the crisis and presented a similar overhanging continuation of the too big to fail problem after 2009, but while political parties agitated for reform and devised distinctive schemes in the UK, they did not do so in the Netherlands, leaving the re-regulatory agenda championed by the banks themselves unchecked.

Admittedly, this paper represents a first cut, and the explanatory force of this argument must be fully drawn out, tested and refined across more cases. However, in general terms it is important for scholars of business power and agenda setting

97 Ibid.
98 Wijffels (2013, 25).
99 Ibid.
100 Interview –Wijffels Committee Member 1 (2018).

to recognize that policymaking is a dynamic process, undertaken by diverse policymakers operating within different environments, and in this process even the views of the most powerful interest groups are not necessarily or automatically privileged. Whether the British or Dutch regulatory approach will ultimately prove more successful remains to be seen of course, and this debate will likely only be settled at the onset of the next crash.

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Figures

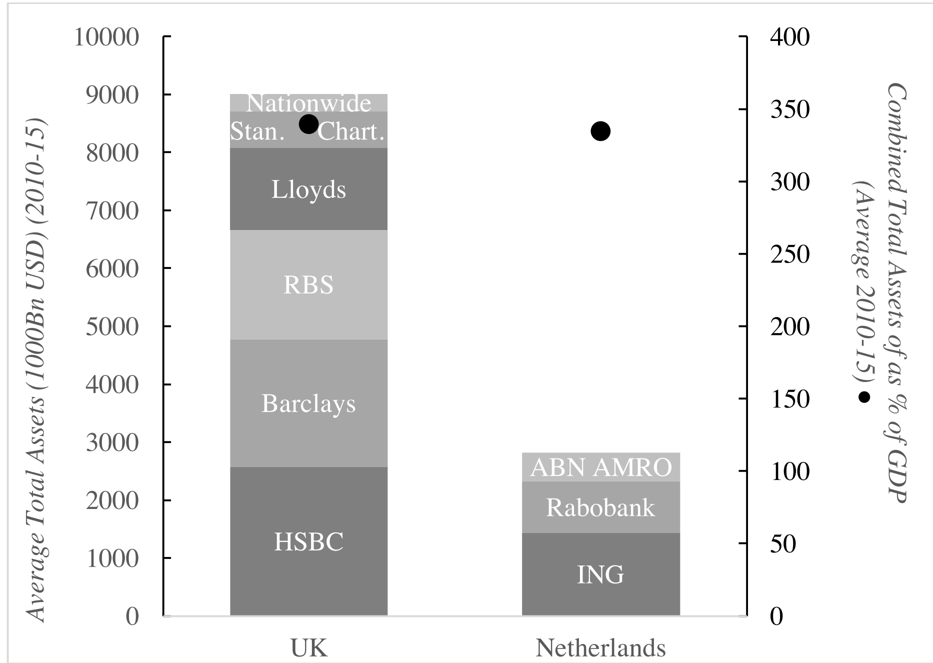

Figure 1. Total and Relative Size of GSIBs
Source: Banking balance sheet data, SNL (2018). GDP data, Beck et. al. (2018). Author's calculations. Note: Nationwide is a purely commercial firm but is listed as a GSIB by the EBA.

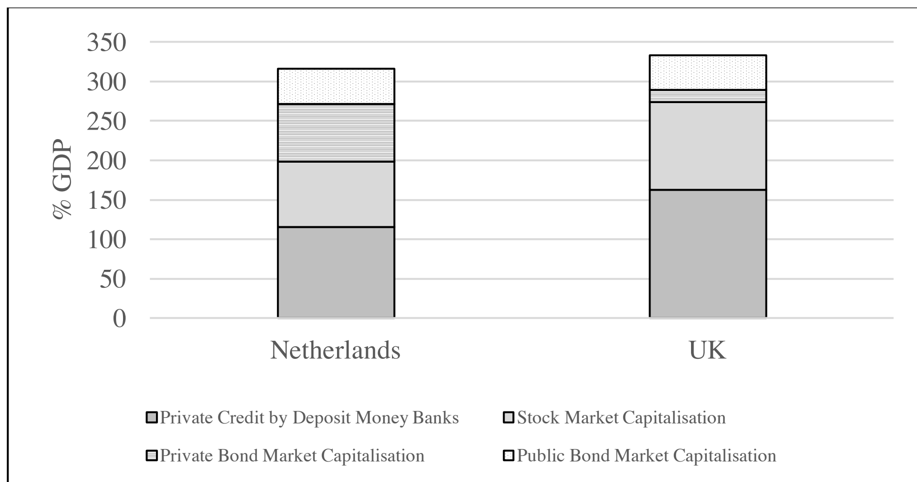

Figure 2. Sources of Funding for NFCs, 2006-2015
Source: Beck et. al. (Factiva 2018), Unweighted Year-on-Year Averages

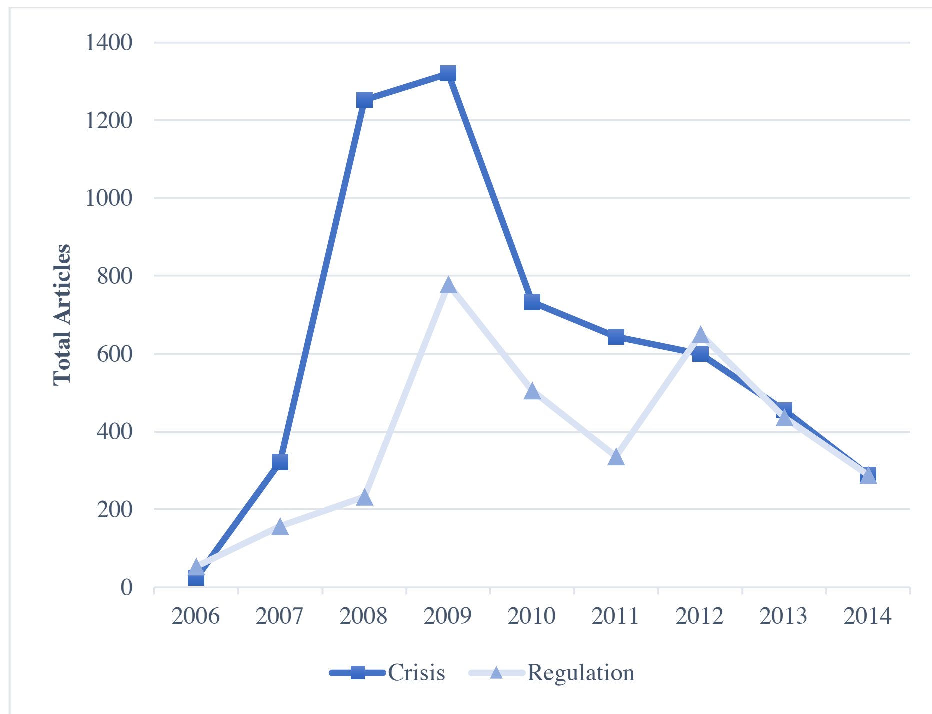

Figure 3. Coverage of the Financial Crisis in the UK (2006-14)
Source: Factiva Online Database (2018)
'Crisis' Keywords: "too big to fail" OR "too-big-to-fail" AND bank* w/5 crisis OR financ* w/5 crisis
'Regulation' Keywords: "too big to fail" OR "too-big-to-fail" AND bank* w/5 regulat* OR finance* w/5 regulat*

Parameters: Country: United Kingdom, Language: English, Sources Excluded: Reuters, Bloomberg, Dow Jones Newswires. Subjects: Economic News, Political/General News. Terms must be included in Headline and Lead Paragraph. Excludes Republished News; Recurring Pricing and Market Data; Obituaries, sports, calendars.

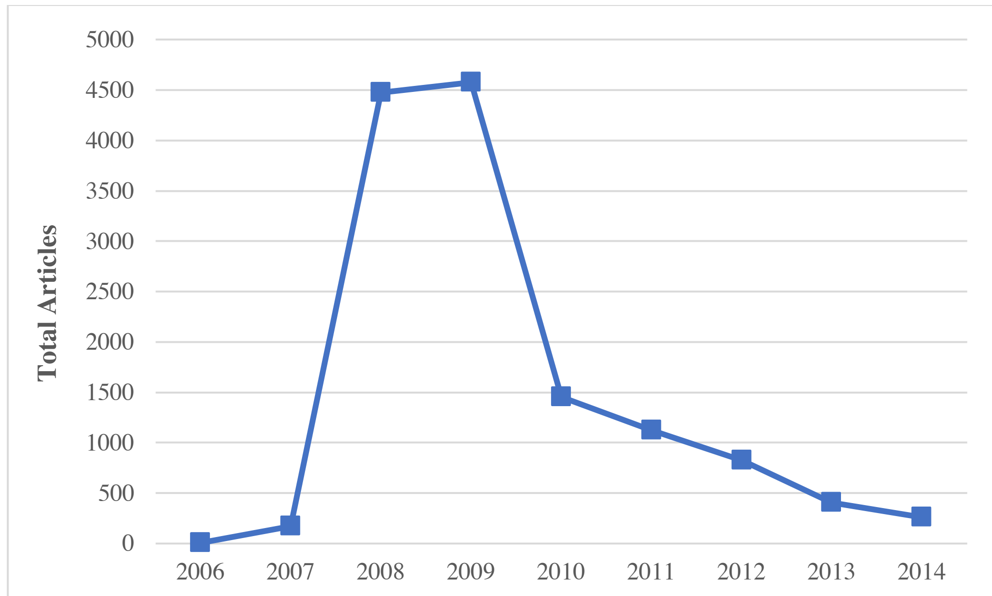

Figure 4. Coverage of the Financial Crisis in the Netherlands (2006-14)
Source: Factiva Global Database (2018)
'Crisis' Keywords: bank* w/5 crisis OR financ* w/5 crisis OR "kredietkrisis"
Parameters: Country: Netherlands, Language: Dutch, Sources Excluded: Reuters, Bloomberg, Dow Jones Newswires. Subjects: Economic News, Political/General News. Terms must be included in Headline and Lead Paragraph. Excludes Republished News; Recurring Pricing and Market Data; Obituaries, sports, calendars.