

Interest representation and influence in the EU:
comparative case studies of the CRA3 and AF4
interest representation and influence during recent EU
reforms in the context of the financial crisis

A thesis submitted to
The University of Manchester
for the degree of Doctor of Business Administration
in the Faculty of Humanities

2015

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Table of contents

List of tables.....	8
List of figures.....	10
List of abbreviations.....	11
Abstract.....	15
Declaration.....	16
Copyright Statement.....	16
Dedication.....	17
Acknowledgment.....	17
The Author.....	18
Chapter 1: Introduction to the research.....	19
1.1 Background: The financial crisis, rating agencies, audit firms and the EU.....	19
1.2 Problem statement.....	23
1.3 Overarching research questions and theoretically derived sub-questions.....	24
1.4 Research significance and purpose.....	25
Chapter 2: Literature review.....	28
2.1 Definition of terms.....	29
2.2 Strategic management in business research.....	32
2.2.1 Non-market strategy.....	34
2.3 EU interest representation in political science.....	43
2.3.1 Theories related to EU interest representation.....	49
2.3.1.1 The logic of direct and indirect action.....	50
2.3.1.2 The logic of alliance and identity building.....	52
2.3.1.3 The logic of venue shopping.....	53
2.3.2 Theories of interest group power and influence.....	55
2.3.2.1 Access goods theory.....	56
2.3.2.2 Structural characteristics theory.....	58
2.3.2.3 Issue characteristics theory.....	60

2.4 Applied analytical framework for the case studies.....	61
2.5 Summary	61
Chapter 3: Research methodology	63
3.1 Discussion and justification of philosophical foundation	63
3.2 Discussion and justification of research design.....	66
3.3 Discussion and justification of data collection.....	67
3.4 Discussion and justification of data analysis.....	72
Chapter 4: EU interest representation and influence of the CRA3	79
4.1 The EU reform of CRAs and the political environment.....	79
4.1.1 Institutions	80
4.1.2 Interest groups	81
4.1.3 Information	82
4.1.4 The EU decision-making processes.....	83
4.1.4.1 Stage 1: Regulation EC No 1060/2009.....	84
4.1.4.2 Stage 2: Regulation EU No 513/2011	84
4.1.4.3 Stage 3: Regulation EU No 462/2013 and Directive 2013/14/EU	85
4.1.5 Details about the reform stages, issues and outcomes.....	86
4.1.5.1 Stage 1	86
4.1.5.2 Stage 2	89
4.1.5.3 Stage 3	91
4.1.6 The CRA3 preferences.....	93
4.1.6.1 Preferences of other interest groups and level of conflicts.....	97
4.2 Analysis of the reform outcomes and the degree of preference attainment	101
4.3 EU interest representation and influence of the CRA3	104
4.3.1 EU interest representation.....	105
4.3.1.1 Direct and indirect action.....	105
4.3.1.2 Alliance and identity building	110
4.3.1.3 Venue shopping	113

4.3.2 Political power and influence	114
4.3.2.1 Influence based on access goods	115
4.3.2.2 Influence based on structural characteristics	117
4.3.2.3 Influence based on issue characteristics	119
4.4 Summary	120
Chapter 5: EU interest representation and influence of the AF4	125
5.1 The EU reform of AFs and the political environment.....	125
5.1.1 Institutions	128
5.1.2 Interest groups	129
5.1.3 Information	130
5.1.4 The EU decision-making process	132
5.1.4.1 Stage 1: Own initiative consultation - lessons from the crisis.....	132
5.1.4.2 Stage 2: Regulation EU No 537/2014 and Directive 2014/56/EU	133
5.1.5 Details about the reform stages, issues and outcomes.....	133
5.1.5.1 Stage 1	134
5.1.5.2 Stage 2	136
5.1.6 The AF4 preferences.....	139
5.1.6.1 Preferences of other interest groups and level of conflicts.....	144
5.2 Analysis of the reform outcomes and the degree of preference attainment	148
5.3 EU interest representation and influence.....	152
5.3.1 EU interest representation.....	153
5.3.1.1 Direct and indirect action.....	154
5.3.1.2 Alliance and identity building	160
5.3.1.3 Venue shopping	164
5.3.2 Political power and influence	166
5.3.2.1 Influence based on access goods	166
5.3.2.2 Influence based on structural characteristics	168
5.3.2.3 Influence based on issue characteristics	170

5.4 Summary	173
Chapter 6: Final discussion and conclusion.....	178
6.1 Case comparison.....	178
6.1.1 Political environment.....	178
6.1.2 Reform outcomes and the degree of preference attainment	184
6.1.3 EU interest representation.....	185
6.1.3.1 EU interest representation.....	186
6.1.3.2 Political power and influence	188
6.2 Implications for lobbying practitioners	192
6.2.1 Implications for CR3 lobbying practitioners	193
6.2.2 Implications for AF4 lobbying practitioners	195
6.3 Academic implications	197
6.3.1 Academic implications for EU interest representation.....	197
6.3.2 Academic implications for CPT and DPA methods	200
6.4 Contribution to knowledge.....	201
6.5 Limitations of this study.....	202
6.6 Paths for future research.....	203
Appendix A: The EU system explained.....	205
Appendix B: Details on the CRA3 and AF4.....	208
Appendix C: Pre-crisis stage of the CRAs reform and analytical table.....	212
Appendix D: Analytical table of the CRAs Stage 1.....	215
Appendix E: Analytical table of the CRAs Stage 2	218
Appendix F: Analytical table of the CRAs Stage 3	219
Appendix G: Current stage of the CRAs and analytical table	222
Appendix H: Analytical table of the preferences of the CRA3	224
Appendix I: Analytical table of the CRA3 DPA.....	229
Appendix J: Pre-crisis stage of the AFs reform and analytical table.....	234
Appendix K: Analytical table of the AFs Stage 1.....	238

Appendix L: Analytical table of the AFs Stage 2	243
Appendix M: Current stage of the AFs and analytical table.....	251
Appendix N: Analytical table of the preferences of the AF4.....	252
Appendix O: Analytical table of the AF4 DPA	259
Appendix P: Analytical table of the case comparison	267
Appendix Q: Interview invitations.....	270
Q.1 Interview invitations in German and English.....	270
Q.2 Brief description of research in German and English.....	272
Appendix R: Example of semi-structured interview guideline.....	274
Appendix S: Interview longlist (anonymised)	277
Appendix T: NVivo10 codes	278
References	279

Word count

Chapters 1 to 6:	71,732
Footnotes:	1,548
Total word count:	73,280

List of tables

Table 2.1: Comparison of the market and non-market environment	36
Table 2.2: Market and non-market components of integrated strategy	37
Table 2.3: Different relationships and tactics in the non-market environment.....	39
Table 2.4: Four perspectives on non-market research	42
Table 3.1: Different ontologies and epistemologies in social science	64
Table 3.2: Different research goals and corresponding functions of CPT	67
Table 3.3: Overview of interviews.....	71
Table 3.4: Comparison of the COV, CPT and CON approaches.....	74
Table 4.1: Interest groups during recent EU reform of CRAs	81
Table 4.2: Main sources/channels of information for the EU reform of the CRAs	82
Table 4.3: CRA Stage 1 decision-making process.....	84
Table 4.4: CRA Stage 2 decision-making process.....	84
Table 4.5: CRA Stage 3 decision-making process (regulation) (1/2)	85
Table 4.6: CRA Stage 3 decision-making process (directive) (2/2)	85
Table 4.7: EU interest representation of the CRA3 at a glance	105
Table 4.8: Power and influence of the CRA3 at a glance	115
Table 4.9: Final analysis of the CRA3 interest representation and influence.....	121
Table 5.1: Interest groups during recent EU reform of AFs	129
Table 5.2: Main sources/channels of information for the EU reform of AFs	130
Table 5.3: AF Stage 1 decision-making process.....	132
Table 5.4: AF Stage 2 decision-making process (regulation) (1/2)	133
Table 5.5: AF Stage 2 decision-making process (directive) (2/2)	133
Table 5.6: EU interest representation of the AF4 at a glance	154
Table 5.7: Power and influence of the AF4 at a glance	166
Table 5.8: Final analysis of the AF4 interest representation and influence.....	174
Table Appendix B.1: Overview of the leading international rating agencies.....	208
Table Appendix B.2: CRA3 sales and profit development 2011 – 2013.....	209
Table Appendix B.3: Overview of the leading international audit firms.....	210
Table Appendix C: CRAs pre-crisis stage analytical table.....	214
Table Appendix D: CRAs Stage 1 analytical table.....	215
Table Appendix E: CRAs Stage 2 analytical table	218
Table Appendix F: CRAs Stage 3 analytical table.....	219
Table Appendix G: Current stage of the CRAs analytical table	223
Table Appendix H: CRA3 preferences on level of single proposed measures.....	224

Table Appendix I: DPA analysis of the CRA3 preferences and outcomes.....	229
Table Appendix J: Pre-crisis stage of the AFs reform analytical table.....	236
Table Appendix K: AFs Stage 1 analytical table.....	238
Table Appendix L: AFs Stage 2 analytical table	243
Table Appendix M: Current stage of the AFs analytical table.....	251
Table Appendix N: AF4 preferences on level of single proposed measures	252
Table Appendix O: DPA analysis of the AF4 preferences and outcomes	259
Table Appendix P: Case comparison analytical table.....	267

List of figures

Figure 1.1: US bank failures between 2001 and 2013	20
Figure 2.1: Relevant academic areas and organisation of literature review	28
Figure 2.2: The four key elements of effective strategy formulation	33
Figure 2.3: Non-market and market environment.....	35
Figure 2.4: A typology of institutional forms	40
Figure 2.5: Areas of CPA studied in theoretical and empirical research.....	41
Figure 2.6: Analytical framework.....	61
Figure 3.1: Overview of research methodology.....	63
Figure 3.2: Organisation of the research project.....	68
Figure 3.3: Categories to explain the power of factors for causal inference.....	77
Figure 4.1: Social and causal mechanisms for the EU reform of CRAs.....	79
Figure 5.1: Social and causal mechanisms for the EU reform of AFs.....	125

List of abbreviations

AF	Auditing firm
AFs	Auditing firms
AF4	Four leading auditing firms
Approx.	Approximately
BDB	Bund deutscher Banken
BDI	Bundesverband der deutschen Industrie
BFCA	British Financial Conduct Authority
BFNA	Bertelsmann Foundation
Big 3	Three leading credit rating agencies
Big 4	Four leading auditing firms
Big 6	Six leading auditing firms
Bn	Billion
CDSs	Credit Default Swaps
CDU	Christlich Demokratische Union
CE	Copenhagen Economics
CEAOB	Committee of European Audit Oversight Bodies
CEBS	Committee of European Banking Supervisors
CEO	Chief Executive Officer
CEREP	Central Repository
CESR	Committee of European Securities' Regulators
CEU	Council of the European Union
CMSA	Commercial Mortgage Securities' Association
CON	Congruence analysis
COV	Co-variational analysis
CSR	Corporate social responsibility
CPA	Corporate political action
CPT	Causal-process tracing
CRA3	Three leading credit rating agencies
CRA	Credit rating agency
CRAs	Credit rating agencies
CSR	Corporate Social Responsibility
CSU	Christlich Soziale Union
C.	Circa
Cf.	Confer

DAX	Deutscher Aktienindex
DBA	Doctor of Business Administration
DG/DGs	Directorate(s)-General
DPA	Degree of preference attainment
DSW	Deutsche Schutzvereinigung für Wertpapierbesitz
EACRA	European Association of Credit Rating Agencies
EAPB	European Association of Public Banks
EBF	European Banking Federation
EC	European Commission
ECB	European Central Bank
ECO	European Council
ECOFIN	Economic and Financial Affairs of the EU
ECON	Economic and Monetary Affairs Committee of the EU
EESC	European Economic and Social Committee
EFAMA	European Fund and Asset Management Association
EFSF	European Financial Stability Facility
EGAOB	European Group of Auditors' Oversight Bodies
EI	European Issuers
EP	European Parliament
ERA	European Rating Agency
EY	Ernst & Young
ESBG	European Saving Banks' Group
ESCP	Ecole Superieur de Commerce de Paris
ESFS	European System of Financial Supervision
ESM	European Stability Mechanism
ESMA	European Securities' and Markets' Authority
ESME	European Securities Markets' Expert Group
ESRB	European Systemic Risk Board
Etc.	Et cetera
EU	European Union
EURIX	European Rating Index
E.g.	Exempli gratia
FBF	Fédération Bancaire Française
FEE	Fédération des Experts Comptables Européens
FMSL	Financial Market Stabilisation Law

FSAP	Financial Services Action Plan
FSB	Financial Stability Board
FTSE	Financial Times Stock Exchange
G20	20 major economies' governments and central bank governors
HGB	Handelsgesetzbuch
Ibid	Ibidem
IDW	Institut der Deutschen Wirtschaftsprüfer
IESBA	International Ethics Standard Board of Accountants
IFAC	International Federation of Accountants
IFRS	International Financial Reporting Standards
IKB	IKB Deutsche Industriebank
IMA	Investment Management Association
IMF	International Monetary Fund
INCRA	International Non-Profit Credit Rating Agency
IOSCO	International Organization of Securities' Commissions
ISAs	International Standards on Accounting
IT	Information Technology
I.e.	Id est
JURI	Legal Affairs Committee of the EU
Large-N	Large number
MAI	Measuring attributed influence analysis
MBA	Master of Business Administration
MBS	Manchester Business School
MEP/MEPs	Member(s) of the European Parliament
M	Million
MNE/MNEs	Multi-national enterprise(s)
No/No.	Number
NGO/NGOs	Non Governmental Organisation(s)
N.n.	Nomen nescio
N.d.	No data
OECD	Organization for Economic Co-operation and Development
PCAOB	Public Company Accounting Oversight Body
PIE	Public Interest Entity
PIEs	Public Interest Entities
PLC	Public Limited Company

PPE	Positive Political Economy
PR	Public Relations
P.	Page
Pp.	Pages
PwC	PricewaterhouseCoopers
Q&A	Questions and answers
RTS	Regulatory Technical Standard
RTSs	Regulatory Technical Standards
SEA	Single European Act
SEC	Securities and Exchange Commission
Small-N	Small number
SME	Small and medium enterprise
SMEs	Small and medium enterprises
SME CRA	Small and medium enterprise credit rating agency
SME CRAs	Small and medium enterprise credit rating agencies
SMP	Small and medium practitioner (auditors and audit firms)
SMPs	Small and medium practitioners (auditors and audit firms)
SOA	Sarbanes Oxley Act
Soffin	Financial Market Stabilisation Fund
S&P	Standards & Poor's
UK	United Kingdom
US/USA	United States of America
US GAAP	United States General Accepted Accounting Principles
WPK	Wirtschaftsprüferkammer
\$	US Dollar
€	Euro

Abstract

The University of Manchester
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Doctor of Business Administration
18 July 2015

Interest Representation and influence in the EU: comparative case studies of the CRA3 and AF4 interest representation and influence during recent EU reforms in the context of the financial crisis

Due to the financial crisis and political pressure for reform, lobbying in the EU became a crucial task for the financial services industry as a whole. The EC's crisis-induced actions to create stronger independence and better quality of services jeopardized the business models of the rating agencies and audit firms. The EC proposals carried threats, in particular, for the leading firms of both sectors (referred to here as the 'three leading credit rating agencies' (CRA3) and the 'four leading auditing firms' (AF4)) with regard to future customer relationships, revenue streams, and cost structures. This thesis examines how the CRA3 and AF4 represented their interests during recent EU reforms in the context of the crisis, what resources and conditions enhanced their power, and how the CRA3 and AF4 influenced the EU reforms.

This qualitative study analyses the two comparative cases of EU interest representation and influence of the CRA3 and AF4. By drawing on existing academic theories from the areas of non-market strategy and EU interest representation, the thesis develops an analytical framework to assess both cases. The EU interest representation and influence are analysed through causal-process tracing and supported by a triangulation of the analysis of the degree of preference attainment. The research rests on empirical data from extensive document analysis and 33 expert interviews.

The CRA3 lobbying was strongly affected by the crisis. Damaged reputation, low EU lobbying experience, weak political networks and no concerted actions were key characteristics, limiting their influence. The CRA3 made many political concessions, but achieved some success in the form of no change of the issuer-pays model and no general mandatory rotations. Existing structural coercions, coherent preferences of banks and investors, and a lack of alternative solutions were important aspects to achieve these outcomes. By contrast, the AF4 established a strong EU interest representation and received high influence. Their lobbying activities were very closely coordinated. The financial crisis and other external conditions such as the scope and salience in media were much less significant. Moreover, the AF4 benefited from excellent lobbying resources and superior access to EU decision-makers. Critical proposals, such as a change of the appointment and remuneration model or mandatory joint audits for PIE audits, could be completely avoided. In addition, the AF4 could receive acceptable mandatory rotation and non-audit services rules.

As a conclusion, both – the CRA3 and AF4 – faced no disruptive changes for their business models. In relative terms, the EU lobbying of the AF4 was much more sophisticated and they achieved higher influence. This study demonstrated the benefits of using an academic framework for practitioners optimising their lobbying activities and academics studying EU lobbying and influence. Future research should examine more closely the correlations and causalities between the different existing theories. Finally, this work of research showed the high significance of business lobbying for EU decision-making. This study revealed the political challenges for the EU authorities to achieve high quality post-crisis reforms for the stability of the EU system, dealing with two complex and important financial services sectors.

Declaration

I declare that no portion of the work referred to in the thesis has been submitted in support of an application for another degree or qualification of this or any other university or other institute of learning.

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Dedication

This thesis is dedicated to my mother Maria Hickert née Thurn and my little nephew Tristan Langshausen.

“It is important to learn hoping. Its work does not despair; it fell in love with succeeding rather than with failure.”

(Ernst Bloch (1885-1977), *The Principle of Hope*, 1959)

“Have the courage to use your own understanding. That is the motto of enlightenment.”

(Immanuel Kant (1724-1804), *Foundations of the Metaphysics of Morals*, 1785)

Acknowledgment

This research and manuscript are the results of the combined efforts of many persons. I am extraordinarily grateful for their assistance, guidance and constructive criticism during my demanding endeavour. These persons have been instrumental in the successful completion of this study. I am sincerely grateful to all of them because my doctoral studies meant a lot to me.

First of all, I want to express my deepest appreciation to my supervisors Matthew Allen and Jiajia Liu for their constant encouragement and support throughout my studies. They have gone truly above and beyond any call of duty to support and advise me throughout the research process. Their critical perspective, scientific advice and meticulous scrutiny constantly challenged my reasoning and thinking. I will be forever invaluablely grateful.

I would like to express my sincere gratitude to Jikyeong Kang for sharing her knowledge and constructive thoughts during the DBA programme. Many thanks go to David Bach and Kenneth A. Dubbin. Their lectures on business, government and society at IE Business School inspired me to do this research. I would also like to thank Patrick Ziechmann for giving me the chance of doing this study besides of my professional job. His work attitude and business acumen greatly shaped my professional capabilities during the past years.

Last but not least, I want to deeply thank my family and friends, particularly Wolfgang Schneider and Edin Rekic. Without their love and support I would not be able to do anything. I could not have made it this far. Moreover, I would like to thank Alexandre Lapersonne and Marcelo Castro for being great fellow students.

The Author

Dirk Alois Peter Hickert grew up in Marmagen/Eifel, a small country-side town located c. 70 kilometres southward from Cologne/Germany. His academic education started at RFH – University of Applied Sciences/Cologne, where he received in 2002 a first degree in business economics (Diplom-Kaufmann (FH)). In 2005, he earned his MBA from IE Business School in Madrid/Spain, which included an academic exchange with WHU/Koblenz. Dirk Hickert focused during his MBA on corporate finance, corporate strategy and entrepreneurship. The lectures on business, government and society were the initial spark for the development of this thesis. In 2011, he started his DBA studies at the University of Manchester/UK.

His professional career started at Arthur Andersen in Düsseldorf/Germany. First, he worked as a student worker between 2000 and 2002. After the completion of his first degree, he was an audit assistant between 2002 and 2004. During this time, he experienced the merger of the German Arthur Andersen partnership with EY after the Enron scandal. This was a key event for him to start thinking about the political challenges of financial services sectors to protect their business models and future strategies. After the completion of his MBA, he worked between 2006 and 2008 as a Business Development Manager for mk Technology Group close to Bonn/Germany, a German middle-sized family business in the industrial goods sector. During the outbreak of the financial crisis in 2008, he decided to move into consulting and specialised at PwC in the field of Corporate Restructuring. During the last years, he led manifold large and complex restructuring projects in sensitive contexts throughout various industries. His area of specialisation includes performance improvement programmes, restructuring concepts and action plans (strategic, operational and financial), M&A and debt advisory. He currently holds the position of a Senior Manager within the German PwC Business Recovery Services department.

Chapter 1: Introduction to the research

“In politics, if you are not at the table, you are on the menu.”

(Washington political saying of unknown origin)

This implication of the above saying can be extended to the EU as well. It means that large firms, such as the sector-leading credit rating agencies (CRA3) and audit firms (AF4), cannot afford to neglect the impact of political forces on their strategic plans (cf. Bach and Allen 2010).

The EU’s proposed post-crisis reforms of credit rating agencies (CRAs) and audit firms (AFs) incorporated a set of political risks for the CRA3 and AF4, as the reforms were directly targeted at them. These corporations were urged to dramatically increase their EU interest representation and to try to influence EU bureaucrats and politicians to achieve favourable political outcomes. Their objective was to lobby against harmful EU actions to protect their existing business models, including revenue streams, cost structures and future strategies. Lobbying became a crucial act of defence against the EU proposals¹.

The present research seeks to enhance our understanding of how the industry-leading firms that were mostly targeted by the EU reforms responded to the political threats of the EU proposals. The study examines the interest representation and influence of the CRA3 and AF4 during recent EU reforms to shed light on their political actions to protect their business models and future strategies.

The first chapter serves as an introduction to the whole research project. The background (1.1) gives the reader an understanding of the financial crisis and corresponding EU reforms of CRAs and AFs. The problem statement (1.2) provides the academic rationale for this study and justifies its feasibility. Section 1.3 presents the overarching research questions and the underlying sub-questions of this study. The sub-questions are linked to existing academic theories of EU interest representation and influence for the application of the analytical framework². Section 1.4 explains the significance and purpose of this study.

1.1 Background: The financial crisis, rating agencies, audit firms and the EU

The financial and economic crisis that broke out in 2007 had a severe global impact (cf. Schulz 2009, pp.2-12). As illustrated below in Figure 1.1, starting with a Unites States (US)-centred subprime crisis, the crisis led to the default of hundreds of

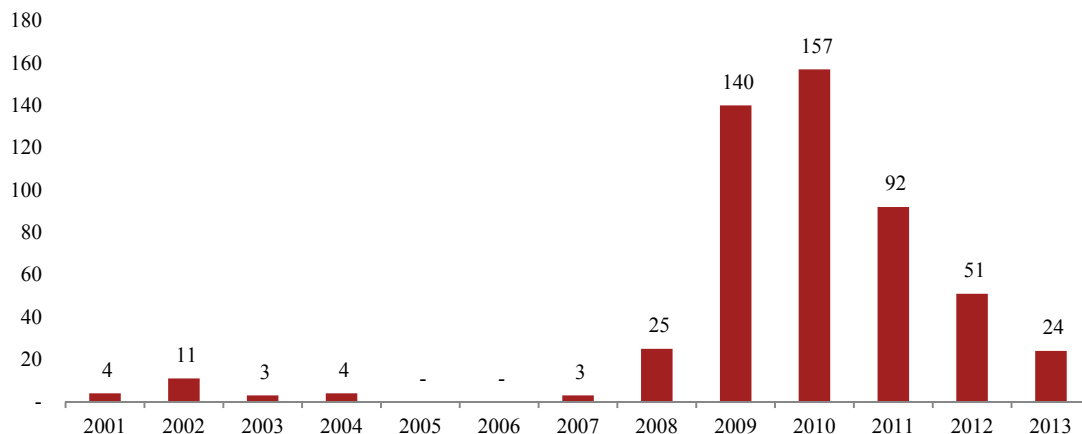
¹ Please refer to Section 2.1 for the definition of terms.

² Please refer to Section 2.4.

US financial institutions, including major banks like Bear Stearns, Lehman Brothers or Washington Mutual.

Figure 1.1: US bank failures between 2001 and 2013

US bank failures between 2001 – 2013



Source: Author's illustration, based on Statista³

The European Union (EU) banking sector was also strongly impacted by the crisis. The EU needed to establish large-scale banking stabilisation pacts to prevent the local instability of the banking sector from spreading. Prestigious EU financial institutions became distressed and received either governmental stabilisation support (e.g. IKB, LBBW or Commerzbank) or were finally liquidated (e.g. WestLB) (cf. Handelsblatt 2013). The next level of the crisis saw the emergence of an EU-centred sovereign crisis and some EU member states came close to state bankruptcy. This phenomenon was historically more theorised than considered as a realistic economic and political case in the EU. The chaos in the financial markets reached the real economy as well. Dramatically falling economic growth rates, rising levels of unemployment and soaring public deficits created one of the most notable recessions in modern times. Different corporate sectors such as the automotive sector came under pressure because of the prevailing conditions of the crisis. Corporate financing became a major challenge for many large and mid-sized firms due to the restrictive banks' lending behaviour. In consequence, corporate bankruptcies increased. Some of these impacts can still be seen today. The historically low interest rates of the US Federal Reserve and the European Central Bank (ECB) are outstanding examples.

The ordinary EU citizen was greatly overstrained by the events of the crisis. Public trust in the financial sector diminished dramatically, even resulting in a

³ <http://de.statista.com/statistik/daten/studie/202752/umfrage/anzahl-der-bankenpleiten-in-den-usa-seit-2001/>

discussion about the EU as a supranational system. The ‘European idea’ was questioned and radical political streams called for a disintegration of the EU and a suspension of its shared currency. Particularly in countries such as Greece and Spain, which bore the brunt of the social and economic distortions, the voices of Euroscepticism got louder (cf. Serrichio et al. 2013, p.51). A stronger national and supranational political regulation perhaps not experienced since the Great Depression of the late 1920s was a direct consequence of the crisis. Some scholars argue that the new worldwide relevance of government activism and regulation rests on the ties between the interests of business and society that are greater than they once were (cf. Reich 2009, pp.94-99). This argument implies a general relevance for this study because of the increased awareness of societal and political actors about the roles and responsibilities of the CRA3 and AF4 for economic stability.

Most notably, the banking sector was singled out as the main reason for the crisis and stronger regulation in this sector was a consequence. However, CRAs and AFs also became part of the regulators’ agenda. Regulators acted on demand because they needed to deal with the public perception that they had been asleep at the wheel and failed in their supervisory responsibilities (cf. Economist 2013).

The criticisms below highlight that the rating sector has been scrutinised in the EU since the beginning of the crisis. Firstly, they were criticised for their failure in the risk assessment of complex financial products. Their insufficient ratings of subprime products came to have serious implications for the crisis (cf. EC 2013c, p.1).

“Credit rating agencies are considered to have failed, first, to reflect early enough in their credit ratings the worsening market conditions, and second, to adjust their credit ratings in time following the deepening market crisis”.

(EU 2009, p.2)

From a political and public perspective, rating agencies did not properly evaluate financial products and instead allocated extremely favourable rating grades (cf. Schulz 2009, pp.20-22; Cengiz 2013, pp.19-24). This led to a valuation bubble at issuing banks. Bear Stearns was the first US investment bank that collapsed in 2008. Another prominent example is the collapse of Lehman Brothers due to non-recoverable subprime products in their balances, which finally resulted in the liquidation of the bank (cf. Nasiripour 2009). Afterwards, the controversy intensified due to the sovereign debt downgrading for the United States of America (USA) and various EU member states such as Greece, Portugal and Ireland (cf. Alessi et al. 2013). The EU strongly criticised

the quality and transparency of their services. Moreover, the independence of the CRA3 services became an issue in the EU political arena.

Consequently, the EU needed to increase their understanding of the role and business activities of the CRA3. The EU began evaluating if a stronger regulation was necessary and if there were any best measures. The EC initiated a process of EU-wide rating agency regulation in 2008 as the credit rating sector was not formally regulated in the EU before. The only existing framework was the International Organization of Securities Commissions (IOSCO) code of conduct (cf. IOSCO 2008). The IOSCO code covered only 14 pages and provided a loose regulative basis. At the time of the crisis, the IOSCO code became an inadequate basis for sector regulation.

The audit sector was also examined by the EU because of its role in the crisis. Here the Lehman case once again serves as a good example. Ernst & Young (EY) had been the auditors of Lehman Brothers before the crisis. Politicians in the US and in the EU wondered why they had not raised appropriate warnings. Some claimed that many financial products were no longer understood by the auditors, rendering their risk assessment weak. The Public Company Accounting Oversight Body (PCAOB) found that auditors failed this way in several audits of a substantial number of financial institutions. This led to an US lawsuit against EY in 2010 (cf. Hilzenrath 2011). The audit sector was assessed as inefficient and market oversight was questioned (cf. Magnan and Markarian 2011, p.215).

Consequently, the crisis and the insecurity of the financial system forced the EU to take actions on the AFs. Michel Barnier, the European Commissioner for Internal Market and Services, emphasised during this time that the status quo of audit regulation was no option for the future (cf. EurActiv 2010). From a broader perspective, according to Quaglia (2012, p.515), a new market-shaping EU regulatory approach for financial services was enacted on the basis of anti-free market rhetoric. In this respect, the EU used the crisis as an opportunity to break through national coalitions that blocked further financial regulation for many years (cf. Grossmann and Leblond 2012, p.1).

Two intensive processes of EU reforms and corresponding EU interest representation of the CRA3 and AF4 started. The EU initiated these reforms to restore trust in the markets, aiming for increased quality and independence of services. Both reforms were dealing with complex technical issues, various draft laws, consultations and corresponding lobbying activities of interest groups.

The two EU reforms entailed various threats for both sectors. The lobbying over various issues such as a change of the CRAs' issuer-pays model or a ban of non-audit

services became a difficult balancing act for the CRA3 and AF4. They were required to prove their social purpose besides fighting for survival of their business models and future strategies in the midst of the crisis (cf. Lowery 2007, p.29). Lobbying the EU system⁴ acquired highest importance (cf. Barker and Hughes 2011; Joffe 2013).

1.2 Problem statement

“Much we study, little we know. [...] While understanding interest group systems remains crucial to understanding the functioning of advanced democracies, the study of interest groups remains a somewhat niche field within political science. [...], the interaction between governments, political parties, and interest groups, as well as the potential impact or influence of interest groups on policy outcomes, has been somewhat neglected.”

(Beyers et al. 2008b, pp.1103-1105)

The above citation highlights the general tendency to avoid the study of interest group influence in the past. Reasons have been summarised from a recent study by Majori (2012, pp.8-9). The study of interest group influence has been avoided owing to problems of operationalisation (cf. Mahoney 2007a, p.1), because it is sensitive task and it is often hard to gather data. Lobbying actors are generally very reserved and do not speak about their activities due to the fear of disclosing delicate information. A leak of sensitive information could have a negative impact on their networks, reducing their future political influence. Dür and De Bièvre (2007b) explain that studying influence is a complicated task due to the variations across institutional structures, interest groups and issues. These factors are also highlighted by Mahoney (2007a, pp.38-44) in her study about lobbying success. But she includes the additional element of coincidence, arguing that lobbying success cannot be proved by influence in some cases because political outcomes are sometimes in line with the preferences of interest groups that do not actively participate in the lobbying process. This argument is generally noteworthy, but as will be shown, largely negligible for this present study. There are more problems that concern the study of EU interest representation. In particular, how to measure influence is a complicated task due to the problems of different channels of influence, counteractions of different lobbying groups and influence that can be exerted at different stages during the policy-making process (cf. Dür 2008a; Dür 2008b).

Following the above general element of the problem statement, some more specific elements for this study need to be mentioned. Particularly, the EU interest representation of the CRA3 and AF4 is a poorly researched academic area. Until now,

⁴ Please refer to Appendix A for details about how the EU system works.

only sectoral stakeholders have given their opinions about the power and influence of both sectors. A solid empirical study is yet to be conducted by the academic community. Studies asking about the interest representation and political influence of both sectors were not available either within a European context or within other political systems. The main reasons for the poor academic coverage are the ‘reserved characters’ of both industries. Having mentioned that lobbyists and interest groups do not generally want to speak about their political power and influence, this argument is particularly valid for the CRA3 and AF4.

However, the two comparative case studies⁵ about the EU interest representation and influence of the CRA3 and AF4 are feasible because of two reasons: the researcher is an experienced financial industry insider and the timing of this study was beneficial. The researcher has worked for large audit firms for more than 10 years and brings to the table an extensive network. This network provided excellent contacts to experts and key stakeholders during the past EU regulations of CRAs and AFs. In addition, this study came at an opportune moment. It can be assumed that access to interviewees would have been more limited at the outset of the EU actions between 2008 and 2011 because of the higher degree of uncertainty about the future direction. The researcher conducted this study between 2012 and 2015 at a time when EU bureaucrats, politicians and interest groups received a higher level of relaxation because of EU reforms that were either finalised or close to their final stage.

1.3 Overarching research questions and theoretically derived sub-questions

There is no straight answer as to how EU interest representation of interest groups affects political decision-making. Getting an answer to this question is difficult due to different aspects of EU interest representation and influence. Hence, two overarching research questions are set and further defined by a set of sub-questions that are derived from existing academic theories. These theories build the analytical framework for each case study beside of Baron’s 4Is-framework for the analysis of the political environment.

The general research questions are:

1. How did the CRA3 and AF4 represent their interests during recent EU reforms in the context of the crisis?
2. What resources and conditions enhanced their power and how did the CRA3 and AF4 influence the EU reforms?

⁵ Please refer to Section 3.2 for more details about the research design.

These questions embrace the two comparative case studies. Both questions contain a wide range of different implications. The first question highlights aspects of EU interest representation from a perspective of lobbying activities and behaviour. The second question focuses on resources and conditions for interest group influence. Hence, both questions need to be presented in more concrete terms. Existing academic theories of EU interest representation and influence⁶ constitute the required guidance for the sub-questions to allow an answer to the general questions and draw academic implications based on the empirical findings.

The first set of sub-questions relates to the CRA3 and AF4 EU interest representations' activities and behaviour to maximise their influence during EU reforms:

1. How did the CRA3 and AF4 lobby directly at the EU level and indirectly through member states and other secondary channels?
2. How did the CRA3 and AF4 build sectoral and other alliances?
3. How did the CRA3 and AF4 lobby at different venues?

The second set of sub-questions relates to the resources and conditions for the influence of the CRA3 and AF4 during recent EU reforms:

1. What information did the EU authorities need from the CRA3 and AF4, and how did that lead to the CRA3 and AF4 being able to exert an influence over the reforms?
2. How did financial resources, employees' expertise and other structural resources such as market power enable the CRA3 and AF4 to be influential?
3. How did different issue characteristics, such as a focusing event, scope and salience of the issue, reform type and technicality impact the influence of the CRA3 and AF4?

In addition, this study draws academic implications and asks the question about which findings are of importance for the different academic theories used within this work of research.

1.4 Research significance and purpose

The researcher's motivation resulted from the poor existing academic knowledge about the EU interest representation of the CRA3 and AF4. The study was identified as an academically significant opportunity to contribute to the field of EU interest representation. In addition, the high social relevance stimulated the researcher's interest,

⁶ Please refer to Section 2.3 for more details.

which was also bolstered by the importance of the two EU reforms for the future market development of CRAs and AFs. In particular, the researcher was curious about how both interest groups could protect their business models and future strategies through their interest representation during the recent EU reforms.

This study provides great insights into the lobbying of high-profile financial services sectors in the context of the last financial crisis. This study sheds light on the EU interest representation and influence of the CRA3 and AF4 during recent EU reforms. Limited knowledge about EU interest representation and influence of the CRA3 and AF4 exists, creating the research gap for this study and enabling a contribution to the academic area of EU interest representation.

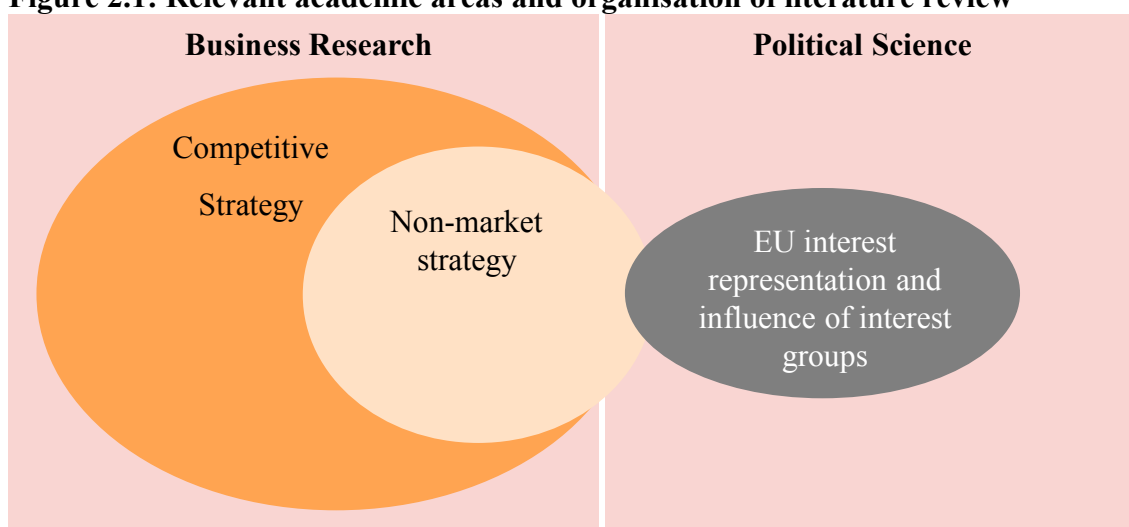
This study incorporates a unique character as it delivers important results for different groups of audiences. It is significant for market professionals, EU bureaucrats and politicians, the broader public, and finally for the academic community studying EU interest representation and influence. This study is relevant for professionals in the CRAs and AFs because it presents analytical insights about how the CRA3 and AF4 represented their interests and were able to influence EU decision-makers. This knowledge is valuable because it provides scope for reflection and learnings for future activities in the EU system. Secondly, this study gives EU bureaucrats and politicians the opportunity to rethink about the role and political influence of the CRA3 and AF4. Influence of large business groups is a sensitive and much-discussed issue in Brussels. Politicians and the broader public critically question the impact of interest groups on EU decision-making. For example, the impact of EU lobbying was a main issue during the panel discussion between the presidential candidates of the European Commission (EC) on 15 May 2014. All presidential candidates acknowledged the strong power of lobbyists and argued that a better understanding of lobbying forces is needed. In addition, the problem of poor knowledge about EU interest representation of the CRA3 and AF4 is also relevant for the broader public. Based on the case studies of the CRA3 and AF4, the broader audience gains better insights into how EU decision-making works and how large corporations assert influence. This aspect has a high relevance for the EU democratic systems. Finally, EU interest representation and particularly studies focusing on interest group influence are rare. This study contributes to the academic field of EU interest representation by presenting modern practices of EU interest representation and influence of the CRA3 and AF4 and by applying existing academic theories of EU interest representation and influence based on the analytical framework.

The final purpose statement can be summarised as follow: The purpose of this study is to gain knowledge of the CRA3 and AF4 interest representation and influence during the EU's proposed post-crisis reforms to contribute to the understanding of sector professionals, EU decision-makers, the broader public and the academic area of EU interest representation.

Chapter 2: Literature review

The literature review presents a compilation of academic articles and further publications relevant to the research topic. As illustrated in Figure 2.1, the review follows a systematic approach covering the literature on business research and political science. Hence, this study is embedded in a multi-disciplinary academic context. The motivation for this study was received from non-market strategy in business research. However, the literature review focuses on the theories of EU interest representation and influence in political science due to the higher significance for the research questions of this study.

Figure 2.1: Relevant academic areas and organisation of literature review



Source: Author's own illustration

Research on EU interest representation of both sectors is rare. No study directly addresses the question of EU interest representation of CRA3 or AF4 in the context of the recent crisis. With regard to the audit sector, articles cover the audit sector in a changed regulatory environment due to the crisis (cf. Humphrey et al. 2009), present a focused review of the EU Green Paper (cf. Humphrey et al. 2011) or discuss the changed structures of an audit association due to global regulatory pressure (cf. Loft et al. 2006). Some studies on CRAs explain their role and services in the context of crisis and regulation (cf. Hiss and Nagel 2012), shed light on their contribution to the financial crisis (cf. Mullard 2012; Paudyn 2013), or discuss governmental failures and conflicts of interest (cf. Gavras 2010). Further studies are more technical such as post-crisis variation in credit rating standards (cf. Opp et al. 2013) or the consequences of the rating reform for customer industries (cf. Theis and Wolgast 2012). As such, a research

gap exists in the existing literature that asks questions about the EU interest representation and influence of the CRA3 and AF4 during recent EU reforms.

Henisz and Zelner (2003, p.451) argue that the development of managerially relevant knowledge critically depends on the incorporation of insights and constructs from both disciplines of strategic organisations and political economy. They urge that scholars of strategic organisation should enter the field of non-market strategy and cross the disciplinary boundaries because those scholars are maybe better equipped with regard to a multidisciplinary analysis than their academic counterparts in political science. In this respect, this research follows Henisz and Zelner's call.

The next Section (2.1) presents the definition of terms. Section 2.2 gives an overview about the broader scope of the strategic management discipline in business research. This overview only serves as an orientation for the reader. Section 2.2.1 presents the more relevant literature on non-market strategy. Afterwards, the literature review builds the bridge to the field of EU interest representation (2.3) in political science. The literature of EU interest representation clearly constitutes the most important academic area for this research, presenting theories of EU interest representation (2.3.1) and of interest group power and influence (2.3.2).

2.1 Definition of terms

The definition of three main terms is important for the understanding of this study. Firstly, interest groups have to be defined. Secondly, the reader needs to understand what interest representation and lobbying means. Thirdly, it has to be explained what power and influence are in the context of this study. Dür (2008a, pp.1220-1221) argues that the definition of power and influence is often a major obstacle for the study of interest groups in the EU. Hence, he recommends a pragmatic approach that will be used for all definitions to avoid any unnecessary complexity. Some further definitions are given in this study at later points.

Many different actors represent their interests in the EU system such as businesses, labour groups, consumers, social groups, citizens and territorial groups (e.g. national governments) (cf. Majori 2012, p.13). As a result, various labels in addition the most prominent term of interest group can be found in the literature such as interest association, interest organisation, organised interest, pressure group, specific interest, special interest group, citizen group, public interest group, non governmental organisation (NGO), social movement organisation and civil society organisation (cf. Beyers et al. 2008b, pp.1105-1111) .

Beyers et al. use three factors for their definition of an interest group: organisation, political interest and informality (ibid, p.1106). Organisation relates to the nature of a group and explains their active character. In this context, Lowery (2007, p.29) talks directly about interest organisations. He underscores the aspect of the actor's organisation in a political setting where actors prepare themselves for specific political interests. Political interests refer to the attempt of these organisations to influence political decision-makers by political advocacy. In this respect, political advocacy uses informality to influence decision-makers outside the purview of public debate or elective occasions. Interest groups use interactions with politicians and bureaucrats to achieve most favourable political outcomes. However, the aspect of informality can be somehow misleading because of the formal attendance of interest groups during public hearings and contributions to consultations. Nevertheless, this study incorporates the three factors for the definition of interest groups like other prominent scholars before (cf. Eising 2008b, p.5).

The CRA3 and AF4 were grouped in this study as interest groups due to their active organisation in the EU political system and their similar interests as sector-leading organisations during recent EU reforms. Other interest groups are defined in a similar manner. The applied definition of interest groups distinguishes interest groups from other terms such as political parties, NGOs, social movements or civil society (ibid, pp.1107-1111).

Business organisations such as the CRA3 and AF4 are motivated by rent-seeking when they try to achieve favourable legislative outcomes in the political arena (cf. Beyers and Kerremans 2007, p.462). In this respect, lobbying and interest representation describe activities by interest groups to influence political decision-makers for favourable political outcomes. Both terms are used synonymously throughout this study even if interest representation allows for a wider range of activities in comparison to lobbying (cf. Classen 2014, pp.31-44).

The origin of the term 'lobbying' goes back to the Latin word 'labium', meaning entrance hall (cf. Charrad 2005, pp.2-3). He mentions that Warleigh and Fairbrass (2002, p.2) associate problems with the term 'lobbying' because many people relate unfair advantages of specific interest groups that harm democratic principles. Moreover, lobbying has been associated historically with a communication process. As early as in the 1960s, communication models were applied as means of changing perceptions (cf. ibid; Majori 2012, p.12; Milbrath 1960, p.32).

This study applies the below definition for lobbying:

“Lobbying is the attempted or successful influence of legislative-administrative decisions by public authorities through interested representatives. The influence is intended, implies the use of communication and is targeted on legislative and executive bodies”.

(cf. Charrad 2005, p.3; Koeppl 2001, p.71)

Interest representation incorporates a stronger technical aspect. It can be understood as a managerial task for interest groups, which includes lobbying as a means of communication. This more technical aspect of interest representation is important for this study due to the applied analytical framework.

This study applies the below definition for interest representation:

“Interest representation ranges across lobbying, the exchange of information, alliance building, formal and informal contact, planned and unplanned relationships: in other words, all forms of interaction that are designed to advocate particular ideas, persuade the decision-takers to adopt different positions or perspectives, and ultimately to influence policy.”

(cf. Charrad 2005, p.3; Warleigh and Fairbrass 2002, p.2)

EU interest representation has a special character because of aspects such as European integration, the multi-level EU system and the gradual Europeanisation of interest groups since the 1970s. In this respect, scholars underscore a specialisation of EU interest representation (cf. Andersen and Eliassen 1995, p.428), including different middle-range theories that are nowadays associated (cf. Bouwen and Mccown 2007; Lowery et al. 2008; Eising 2008b). These theories build the academic basis for the applied analytical framework of this study.

Dür (2008a, p.1220) explains that power and influence are two terms that lack of an accepted definition in academia. Power is described as an important but highly debated issue in the field of political science, which can be understood as a capability of an actor or as a causal construct. He argues that researchers can investigate the resources and the impact of actors on an outcome. This study incorporates both aspects due to the researched resources and the assessment of influence. He further explains that another level of complication involves the three different levels of power. These levels create either a traditional win or lose situation with respect to a particular issue, describe an actor's ability to set the agenda and avoid unwelcome issues, or finally highlight an actor's capacity to prevent other actors from recognising their original interests. He finally argues that a possibility to overcome the challenge of defining power can be the

focus on one specific level. In this respect, this study relates to the first level of power of a traditional win or lose situation.

Besides, Dür and De Bièvre (2007b, p.2) explain that the demise of research on power and influence of interest groups results from a well-known difficulty to operationalise research, to construct reliable indicators and finally measure these indicators either qualitatively or quantitatively. They define power and influence as control over political outcomes:

“Our approach regards actors as being powerful if they manage to influence outcomes in a way that brings them closer to their ideal points.”

(ibid, p.3)

A similar pragmatic definition is given by Dür (2008b, p.561):

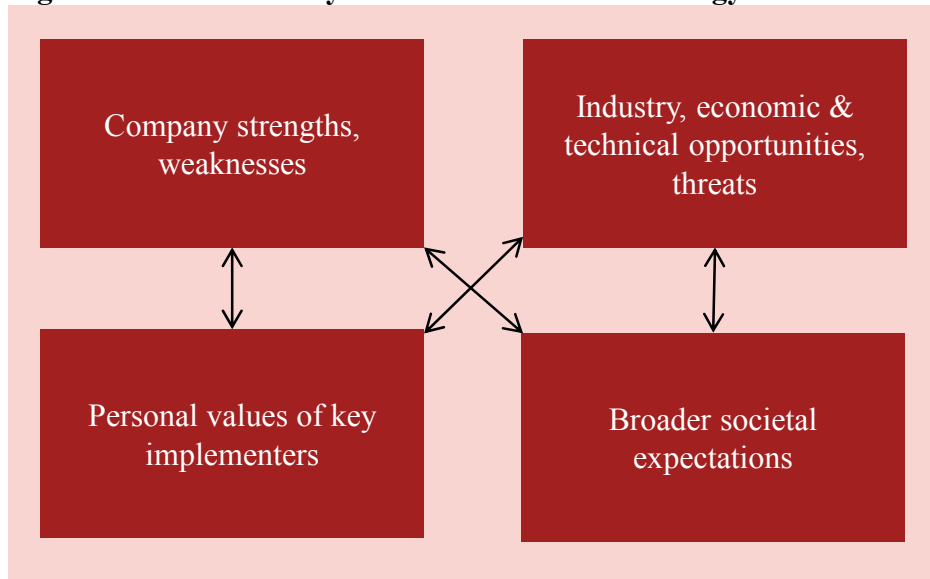
“Influence is generally understood as an actor’s ability to shape a decision in line with her preferences [...].”

2.2 Strategic management in business research

According to Teece et al. (1997, p. 509) the fundamental question of strategic management is how firms achieve or sustain competitive advantage. In this regard, the single firm is often the unit of analysis, investigating how corporations are competing against each other in different industries and countries. As early as the 1980s, modern strategic management literature was shaped by competitive strategy (cf. Porter 1980; Porter 1981; Porter 1985). Most studies look for superior economic performances of firms with an industry- and competition-centred view, based on core elements of industry analysis, competitor analysis and strategic positioning.

A basic framework by Porter (1981, p.110) shows four key elements of effective strategy formulation. As illustrated below in Figure 2.2, this framework includes broader societal expectations. Thus, this model to some degree promotes awareness of non-market forces. With an admittedly strong level of abstraction, this model serves as an early but blurred emphasis for the importance of non-market forces. It highlights that disconnecting firms or sectors from its broader industrial, social and political context would ignore substantial strategic implications.

Figure 2.2: The four key elements of effective strategy formulation



Source: Author's own illustration, based on Porter (1981, p.110)

The role of the government for competition in a global economy is again highlighted in later studies. To give example, Porter (2000, p.29) further sets apart the element of regulatory reforms that is considered independently in the context of economic policy for competitive strategy.

A further discussion about competitive strategy with regard to this research topic is not necessary because this study does not focus on competing firms in industries. It should only be mentioned in brief that other important streams of competitive strategy literature developed since the early 1980s. Most notably, research works on the resource-based view (cf. Wernerfelt 1984; Barney 1986; Barney 1991; Barney 2001) and derived theories of dynamic capabilities (cf. Teece et al. 1997; Helfat 2000; Winter 2003; Teece 2007) should be named. The resource-based view examines a firm's resource position for superior economic performance (cf. Wernerfelt 1984, p.171). Studies on dynamic capabilities investigate the ability of strategic and operational development of these resources. To give some relevant examples, studies focus on the knowledge accumulation of strategic consultancies (cf. van den Bosch et al. 2005), investigate core competencies of service firms (cf. Li et al. 2011) or develop a model of dynamic capabilities for service firms (cf. Salunke et al. 2011). It can be argued that the resource-based view is already apparent to some degree in competitive strategy frameworks through the question of company strengths and weaknesses. But researchers from this area argue that independent studies concentrating on specific 'resource bundles' to achieve privileged market positions are often overlooked (cf. Dierickx et al. 1989, p.1504). Drawing a further abstraction and finally closing this section, it can be

assumed that specific firm resources are needed to represent their interest in the political arena and influence decision-makers. These theories have been developed distinctively in the field of EU interest representation⁷.

2.2.1 Non-market strategy

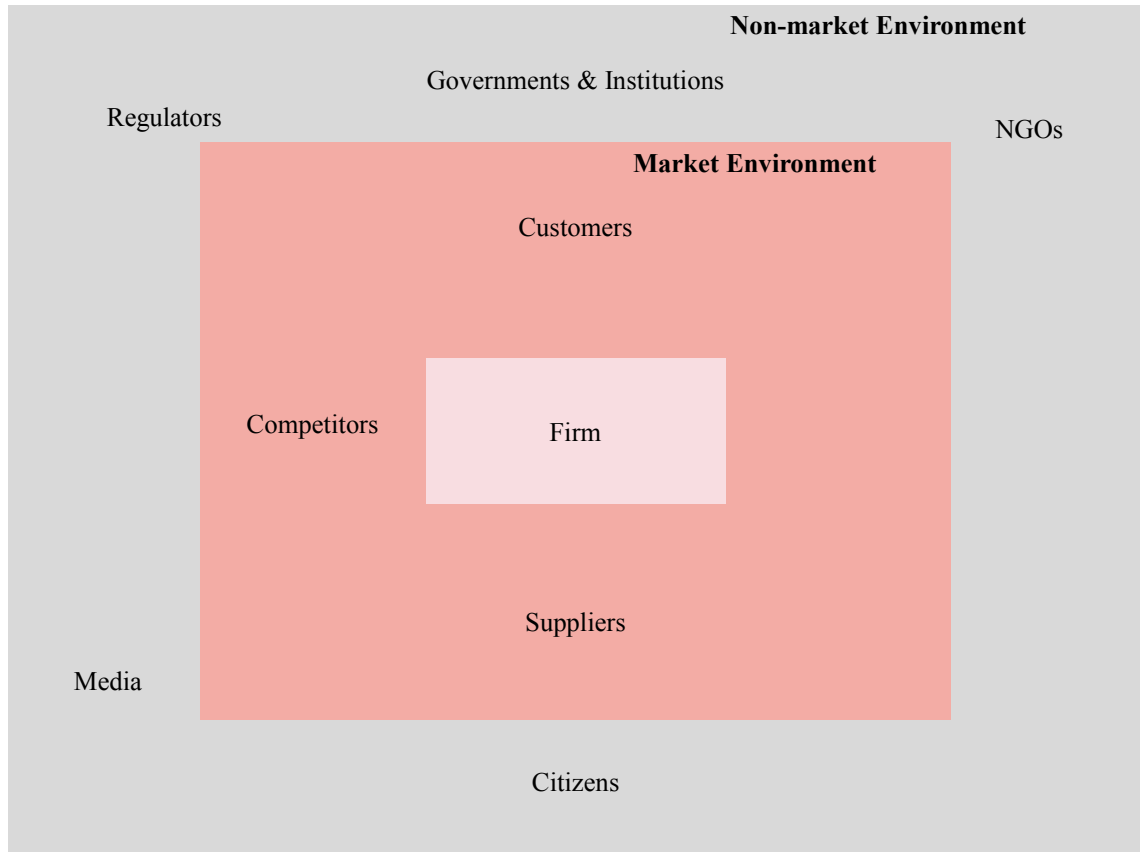
Non-market strategy can be positioned as business research at the interface between business, government and society. A growing body of literature investigated non-market strategy since the 1990s. Bach and Allen (2010) conclude in a recent study that working on non-market issues is not an easy task for managers, but it is a task with considerable benefits. Figueiredo and Figueiredo (2002) argue that managers are competent in achieving the optimal choice for single-stage problems. However, as problems are becoming more complex in the non-market environment, managers have difficulties finding optimal results. Evidence for these arguments derives from a study asking executives about socio-political issues (Bonini et al. 2008, pp.10-11).

Interestingly, just 13% of large corporations confirm that they tactically rely on non-market activities to manage socio-political issues, whereas 30% think that this strategy is most effective. The study shows that executives still rely on media and public relations management (45%). Particularly interesting for this research is the fact that financial services executives make a clear statement about which non-market force creates the most external pressure. Fifty-five per cent of respondents confirm that pressure resulting from regulators is the biggest threat. No other industry assessed the risks on a higher scale, only the energy sector expressed a similar concern (54%).

Non-market strategy literature can be defined as capturing the risks and chances resulting from the non-market environment by framing a non-market strategy aligned to market activities. Bach and Allen (2010) present in their article on what every Chief Executive Officer (CEO) needs to know about non-market strategy a good overview of the role of the non-market environment and the discipline of non-market strategy. They paint the non-market environment as surrounding the market environment and shaping industrial structures and market rules.

⁷ Please refer to Section 2.3 for more details.

Figure 2.3: Non-market and market environment



Source: Author's own illustration, based on Bach and Allen (2010)

Particularly during strong governmental activism following the financial crisis, businesses were forced to pay attention to the non-market environment. Regulatory interests can have a strong disruptive impact on existing market structures and current states of play. The non-market environment differs from the market environment in various ways.

Baron (2013, p.2) gives the following definition:

“The non-market environment includes the social, political and legal arrangements that structure interactions outside of, although in conjunction with, markets and private agreements.”

As illustrated below, Baron (1995b, pp.74-75) makes a clear distinction between market and non-market environments.

Table 2.1: Comparison of the market and non-market environment

	Market environment	Non-market environment
Institutions	Markets are an institution through which economic exchange is organised in a system of property rights governed by a unanimity rule	The non-market environment includes public institutions, which are characterised by majority rule, due process, broad enfranchisement, collective action and publicness, i.e. actions are typically in full view of the public
Enfranchisement	Participants in economic exchange, setting the market agenda	Market participants but also government officials, interest groups, activists, the media, and the public, setting the non-market agenda
Actions	Voluntary and produce private benefits	Typically provide public benefits that affect a broader group of parties
Outcomes	Resource commitment is very often the key factor in determining outcomes, dollars count in the market environment	Votes are very often the key factor, the number of voters count in the non-market environment
Prohibition	Collusion among firms in an industry is generally illegal	Collusion or cooperation among firms is generally permitted in governmental arenas. For example, trade associations cannot coordinate their member's market activities, but they can coordinate the lobbying by their members
Performance	Evaluated in terms of profits generated or value creation	Those who evaluate company performance use broader dimensions that include ethical principles and concepts of responsibility
Character	Characterised by the number of industry rivals, the ease of entry and exit, cost structures, the nature and rate of technological process, the nature of demand and dimensions of competition, and the rules of market competition, including antitrust laws and regulation	Characterised in terms of issues, institutions, interests and information

Source: Author's own illustration, based on ibid

The goal of non-market strategy is a structured process to enable firms to participate in the domain of policy-setting. Baron defines non-market strategy as a three-stage process of screening, analysis and choice (ibid, p.76), which incorporates a rent chain into the theoretical construct of distributive politics⁸. In this respect, he introduces vertically and horizontally concerted actions. These actions rest on the logic that if particular non-market issues affected a firm's rents, rents from other stakeholders (e.g. suppliers) could be affected as well. Hence, concerted actions in the non-market environment on a vertical level could be supportive. On the other hand, non-market issues could also affect complete industries. In that case, there is a potential for concerted actions on a horizontal level (e.g. with other sector players). This academic construct corresponds to the logic of alliance and identity building in the literature on

⁸ Baron (ibid, p.75) describes distributive politics from a structural pluralism perspective, where interests are diverse and competing for benefits.

interest representation (cf. Mahoney 2007b; Beyers and Kerremans 2007; Broscheid and Coen 2007)⁹. In conclusion, Baron (1995a)¹⁰ promotes an integrated strategy to optimise firm performance in the market and non-market environment, as illustrated below in Table 2.2.

Table 2.2: Market and non-market components of integrated strategy

	Market strategy	Non-market strategy
Definition	A market strategy is a concerted pattern of actions taken in the market environment to create value by improving economic performance	A non-market strategy is a concerted pattern of actions taken in the non-market environment to create value by improving its overall performance
Environment focus	Market environment mainly consists of five forces addressed by Porter, for example, customers, suppliers, competitors, new entry and substitutes.	Non-market environment consists of the social, political and legal arrangements.
Strategy-making process	A process consists of external environment analysis, internal competence evaluation, strategic plan making and selecting, action plan making and exacting, and feedback.	A process consists of issue perceiving and priority, issue analysing, selecting and acting.
Integrated strategy	Integrated strategy is to integrate non-market analysis and strategy formulation into the strategic management process and focus on both specific non-market issues that affect the firm and non-market action that complements market action	

Source: Author's own illustration, based on He (2006, p.358)

Some other authors published articles related to non-market strategy in recent years. Holburn and van den Bergh (2002) give insights into how firms decide whether to lobby legislatures or agencies in order to gain favourable policy outcomes. The study argues that a deficit in non-market strategy research exists due to a lack of a theoretical framework that links non-market outcomes with political actors and interest groups. It is suggested that integrating sector players (interest groups) as additional players into an analysis of the policy process facilitates the design of lobbying strategies. Further, it is mentioned that deciding which branch of government to lobby is important to achieve most optimal policy outcomes. Finally, they conclude that firms need to understand the broader public policy game to be successful, which is defined by the sequence of play, decision-making rules and players' preferences. Ingram and Silverman (2002, p.22) add that not only direct actions should be considered to influence regulatory outcomes. In summary, this shows again that business studies and political studies exist in parallel in

⁹ Please refer to Section 2.3.1.2 for more details.

¹⁰ His study draws on different case studies of Calgene and agriculture biotechnology, Cemex and the anti-dumping threat, and Toys'R'Us and globalisation.

two academic worlds and most studies do not bridge both fields. For example, the thoughts from Holburn and van den Bergh, and from Ingram and Silverman are analogously reflected in studies on EU interest representation on venue shopping (cf. Bouwen and Mccown 2007; Häge 2011) or direct actions (cf. Beyers and Kerremans 2007; Dür and Mateo 2012)¹¹.

The finding of the parallel development of studies in business research and political science applies to more studies. For example, Bonardi et al. (2006) contends that non-market performance is influenced by the twin characteristic of a firm's political environment as well as by internal capabilities. As another example, Mahon et al. (2003) investigate social networks in the context of non-market strategy and present theoretical conjectures about the relationships between stakeholder behaviour and issue evolution. In this respect, this article presents interesting complementary insights for lobbying behaviour through the application of stakeholder management, which is less intensively researched in the field of EU interest representation in political science. Another noteworthy study by Figueiredo and Kim (2004) examines when firms hire lobbyist based on a case study of lobbying at the Federal Communications Commission in the US. The results demonstrate that firms are sensitive about hiring lobbyists with regard to confidential firm-related issues. An integration of external lobbyists is avoided in cases with a risk of data leaks. On the other hand, when there is less risk associated with the leakage of data and there are industry-relevant issues, firms are less concerned. As an implication for this study, the integration of external lobbyists was less risky for the CRA3 and AF4 because of industry-relevant issues.

Other studies on non-market strategy show a strong Asian focus. Recent studies ask how market strategy and non-market strategy are integrated in the emerging setting of the Chinese mainland (cf. He 2006). This study is one of the few that uses a quantitative approach based on data from 438 questionnaire responses. He (2006) concludes that the non-market environment is a key issue when firms make their strategic decisions in emerging settings such as China. As illustrated below in Table 2.3, this study differentiates for the setting of the hypotheses between buffering and bridging as two different kinds of non-market responses to institutional pressure (cf. Oliver 1991).

¹¹ Please refer to Sections 2.3.1.1 and 2.3.1.3 for more details.

Table 2.3: Different relationships and tactics in the non-market environment

	Buffering	Bridging
The relationship between non-market strategy and environment	To influence and control its environment or to insulate a firm from external interference	To adapt to its environment or to meet and exceed external expectations
Tactics	Contributions to political action committees, lobbying and advocacy advertising	Adopting the legitimate managerial and technical practices, such as measures for reducing pollution and developing green products

Source: Author's own illustration, based on *ibid*, p.153

The findings demonstrate that Chinese firms use a more active approach of buffering tactics in comparison with their foreign counterparts. The distinctions between buffering and bridging is also used in a later study by He et al. (2007). Applying the similar dataset, this study asks which tactic is more favourable for various aspects such as economic performance. The findings reveal a negative influence of buffering on corporate economic performance. This study includes a discussion of the lobbying behaviour of the CRA3 and AF4. To give example, it is questioned how aggressive the CRA3 and AF4 tried to influence the political decision-makers during the recent EU reforms. It is further questioned which different approaches were followed such as informal lobbying tactics. Finally, the discussion includes the implications of the lobbying style on the influence of the CRA3 and AF4. In contrast to the above studies, this work of research does not use a quantitative approach because of different research goals and the problem of operationalisation. Receiving a reliable dataset based on questionnaire responses to build a robust qualitative study was not possible owing to the sensitivity and secrecy of the CRA3 and AF4 lobbying activities.

Another stream of non-market strategy literature targets more directly the institutional management of firms. This stream of literature builds to some extent a bridge with the studies of EU interest representation because it focuses specifically on the relationship between political institutions and firms. However, many of these studies address the institutional management of multi-national enterprises (MNEs) in the area of international business studies (cf. Boddewyn 1988; Rugman 1998; Henisz and Delios 2002; Rugman and Verbeke 2003; Henisz and Delios 2004; Henisz et al. 2010). Consequently, these studies only have a limited relevance for this work of research. To give example, Ingram and Silvermann (2002, pp.1-7) argue that MNEs are increasingly

constrained by institutions and that changed conditions in global markets stimulate the growing interest about institutionalism in strategic research. Reasons for this increased interest are the transitions from state socialism to more free markets (e.g. China and Russia), the constant towards internationalisation and globalisation, the impact from technological development, higher awareness about institutional forces and a stronger focus on historical business studies. Aiming to get a better overview about the different research directions, they categorise different types of research as illustrated below in Figure 2.4. This study fits into this typology as a study on centralised public institutions and business actors. In this respect, non-market strategy and business political activity are defined as relevant levers for strategy.

Figure 2.4: A typology of institutional forms

	De-Centralised	Centralised
Private	<p>Archetypal form: norms</p> <p>Chief actor: social groups</p> <p>Levers for strategy: human resource policy; corporate- culture building; inter-organisational networks</p>	<p>Archetypal form: rules</p> <p>Chief actor: organisations</p> <p>Levers for strategy: conventional strategy and structure tools; business groups</p>
Public	<p>Archetypal form: culture</p> <p>Chief actor: civil society</p> <p>Levers for strategy: partnerships with mobilised social groups outside the firm; framing</p>	<p>Archetypal form: laws</p> <p>Chief actor: states</p> <p>Levers for strategy: non-market strategy, business political activity</p>

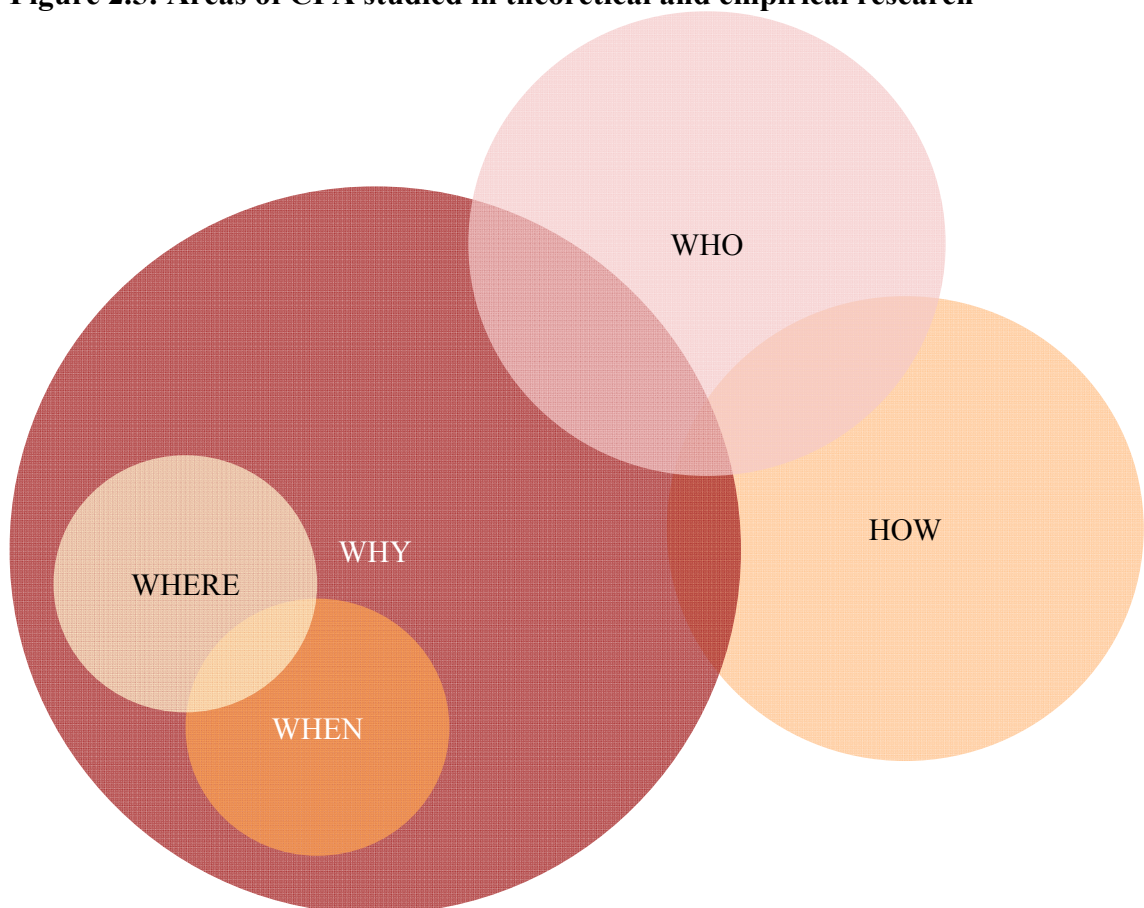
Source: own illustration, based on *ibid*, p.10

Henisz and Zelner (2003) develop a more general conclusion about the strategic organisation of political risks and opportunities. They identify two academic growth areas. Studies on firm-level heterogeneity explore specific resources and knowledge that affect the ability of firms to mitigate risks in political arenas. Studies on the social context of policymaking would create a better understanding of economic influences and cultural biases and beliefs that play a critical role in reality.

There is another term used to explain political activities of firms. Getz (1997) speaks about corporate political action (CPA). According to Getz, CPA refers to business activities to influence governmental policies and processes (cf. *ibid*, pp.32-33), matching exactly the research focus of this study and corresponding to studies in the field of EU interest representation in political science. Getz argues that CPA is different from the non-market strategy approach because it is not necessarily related to larger corporate strategy considerations and focuses directly on activities in the governmental

sphere. She reviews different literature on CPA in her article and summarises social science theories such as transaction cost, resource dependency or the exchange model (cf. *ibid*, p.54) as the academic foundations for researching CPA. As illustrated below in Figure 2.5, she shows that underlying questions of CPA research are closely interrelated. Getz argues that many studies describe the characteristics of firms that engage, their rationale and their methods. However, much less attention is paid to the questions about how CPA changes during time and in which settings it happens (cf. *ibid*, pp.53-65). In this respect, all below questions play to some extent a role for this work of research and are embedded in the applied analytical framework.

Figure 2.5: Areas of CPA studied in theoretical and empirical research



Source: Author's own illustration, based on *ibid*, p.44

As demonstrated, it can be summarised that the term 'non-market' has been widely adopted for different research directions. Boddewyn (2003) highlights this central criticism and complains that non-market research was used as an umbrella for the study of many different phenomena (cf. *ibid*, p.298). It is a paradoxical academic issue that the wide definition of non-market can be used for many managerial aspects and analysed by manifold directions of empirical research, whereas the broadness of this term raises problems of distinctiveness. As illustrated below, Boddewyn classifies

four main perspectives on non-market research. This research topic is associated to the first perspective, where the non-market environment is defined as a distinct set of macro-institutions such as the EU system. According to this perspective, firms' non-market activities result from specific corporate objectives such as a defense of existing business models and strategic plans, focus on political targets such as the political decision-makers, use resources and assets to influence and resist governmental pressure, and include different ways of responses such as direct and indirect action (cf. *ibid*, pp.304-305). As a final point, Boddewyn underscores that integrative models such as analytical frameworks to explain political activities and influence are missing (*ibid*, p.306).

Table 2.4: Four perspectives on non-market research

Perspectives on “non-market”	Non-market institutions are ...	Relationships between market and non-market organisations are dominated by ...	Successes (+) and failures (-)	Dominant types of researchers
1. A set of distinct superordinate macro institutions and their organisations that interchange with them through bargaining under purposive rationality to achieve some balance of power and integration among them	Exogenous and superordinate: The public interest supersedes private interests	Conflictual bargaining under purposive rationality	+ Integration - Disintegration	Political economists, functional sociologists, rational-choice strategists, corporate-social-performance analysts
2. Non-economic factors exogenous to external and internal markets or neutralised into market models focusing on efficiency	Exogenous and neutral: Private interests add up to the public interest under perfect competition	Autonomy under unbounded rationality	+ Efficiency - Inefficiency	Neoclassical and institutional economists, resource-based view-oriented strategists
3. Endogenised social factors that permeate economic exchanges to achieve individual, organisational and inter-organisational effectiveness	Endogenous and superordinate: Private interests are socially constructed toward the public interest”	Complementarity through relationships and moral commitment under bounded and socialised rationality	+ Effectiveness - Ineffectiveness	Sociologists, organisation theorists and behaviourists, social-issues scholars
4. Power-based correctives used to improve all organisations when economic competition among them fails to repair their decline	Endogenous and equal: Both private and public interests are flawed	Mutual correction through exit and voice under defeated rationality	+ Repair - Decline	Public-choice economists, political scientists, stakeholder theorists

General perspective: *Non-market* and antecedent expressions refer to internal and external organising and correcting factors that provide order to market and other types of organisations so that they may function efficiently and effectively as well as repair their failures.

Source: Author's own illustration, based on *ibid*, p.301

An important point has to be made to finish the literature review concentrating on the stream of non-market strategy in business research. A controversy about the term of ‘non-market strategy’ is ongoing in academia. Devinney (2013) argues that a differentiation between market and non-market strategies is useless because all strategies are finally market strategies and aim for superior economic outcomes. This is a reasonable argument. This perspective was also investigated during the present research when interviewing professionals from the rating and audit sectors.

Nevertheless, there are reasonable counterarguments as well. Managers need different academic frameworks in modern times with high complexity. Academia should be allowed using terms that are more distinctive to reveal specific managerial problems. In this sense, a distinction between market and non-market managerial activities is needed to address and categorise the complex implications of activities in the non-market environment. However, the general label of ‘non-market’ is perhaps becoming outdated because of the diversity of the research body. The embracing logic asks researchers to get into more detail during their scientific endeavours. This level of detail can be observed in the field of EU interest representation with respect to political activities of interest groups. Theories of EU interest representation and influence of interest groups present more precise knowledge about how managers can deal with challenges in the political arena to represent their interests and maximise their influence. Different theories, such as direct and indirect actions, alliance building and venue shopping, cover the activities and the behaviour of interest groups to optimise their influence in the EU system. Other theories deal directly with resources and conditions for influence in the political sphere. For example, these theories consider information supply and demand to get access and ultimately influence the political decision-makers. Moreover, structural characteristics theory asks about business resources and issue characteristics theory argues about specific conditions that determine influence of interest groups. As a result, a critique of the current development in the field of non-market studies in business research is justified due to its still generic character and missing research focus.

2.3 EU interest representation in political science

“[...] much of the recent progress in the [interest representation] literature is a result more of segmentation of theoretical issues.”

(Lowery et al. 2008, p.1231)

The above statement aptly reflects the current status quo of academic literature about EU interest representation. Research on EU interest representation picked up during the 1990s (cf. McLaughlin et al. 1993; Greenwood and Ronit 1994; Andersen and Eliassen 1995; Vandenberghe 1995; Grande 1996; Coen 1997; Coen 1998; Greenwood 1999), but still remains a niche topic (cf. Beyers et al. 2008b, p.1103). It is important to understand from the outset that there is still no general framework of EU interest representation and the measurement of influence remains a challenging task.

However, a particular interconnectivity of different theories is possible due to the common goal of influencing EU decision-makers. The goal of influencing political

decision-makers for favourable political outcomes includes questions about interest groups' activities and behaviours. It is questioned how interest groups organise in the domestic and supranational contexts to lobby EU decision-makers directly and indirectly, how they forge strategic alliances to gain a stronger identity or how they channel their efforts to different venues within the EU system. Besides, it is questioned how influence was received through access goods, structural characteristics and issue characteristics.

The field of EU interest representation has grown professional in the last decades. For example, lobbying consultants such as Burson-Marsteller publish guides for effective lobbying in the EU (cf. Burson-Marsteller 2005; Burson-Marsteller 2013). The guide from 2013 includes questions about lobbying regulation. Interestingly, 56% of the respondents state that lobbying is not sufficiently regulated at the EU level (ibid, p.11). Lobbying regulation is becoming increasingly important and has been also taken up by academic scholars (cf. Chari et al. 2011; Chari and Hillebrand-O'Donovan 2011). In essence, the perception about EU lobbying changed after the crisis and there is a stronger public concern about corporate lobbying undermining the EU system.

The lack of transparency regarding EU lobbying increases the need of politicians to gain a better understanding. For this reason, leading academics in the field of EU interest representation were consulted (cf. Coen 2007b; Lehmann 2003; Berg and Fagan 2012; Zibold 2013). Coen (2007b), who conducted a study for the European Parliament (EP), states that the strongly increased EU interest group activity in the 1990s results from a gradual transfer of regulatory functions from member states to EU institutions. With such lobbying resources and power nowadays in place,

“EU interest groups [...] exert influence along the European policy process from initiation and ratification of policy at the Council of Ministers (CEU), agenda setting and formulation at European Commission (EC) led forums, reformulation of policy at the EP committees, to the final interpretation, harmonisation and implementation of regulation in the nation state.”

(ibid, p.3)

A comprehensive study by Lehmann (2003), which was also commissioned by the EP, underscores that the multi-level EU system produces an equally multi-layered EU interest group organisation. The article states that besides the EC as a main venue of lobbying, the EP receives an increased importance for lobbying activities. Lehman concludes that the ability to identify focused policy goals, to develop relationships and credibility in the policy process, to understand the nature of the policy process and

institutional access, and to look for natural allies and alliances to develop profile and access are essential for lobbying success (ibid, p.18; Coen 2002).

Various scholars focus on the impact of interest representation for the EU democratic systems or research the EU system in more general terms (cf. Denzau and Munger 1986; Greenwood and Ronit 1994; McLaughlin and Greenwood 1995; Grande 1996; Greenwood 1999; Persson 2002; Mahoney 2004; Lehmann 2007; Saurugger 2008; Princen and Kerremans 2008; Eising 2008a; Hauser 2011; Kreppel 2011). In this context, Greenwood (1999) argues that corporate interest groups are an important contributor to the development of the EU democratic system. He incorporates a positive view about the contributions of EU interest groups. However, recent articles give a more critical view and highlight the above-mentioned problems of missing regulation and weak transparency (cf. Earnshaw and Judge 2002; Chari et al. 2011; Chari and Hillebrand-O'Donovan 2011).

Mahoney (2004) conducted an empirical study about interest group activity in the EU on a dataset of about 700 civil society groups. The dataset did not include interest groups such as corporations or professional lobbying firms. In this respect, further research would be necessary to achieve better empirical results. Mahoney's research motivation hinges on democratic principles of balanced interest representation to develop representative policy in the EU system. The study distinguishes between demand-side and supply side forces and shows how government demand influences interest group activities. Mahoney concludes that scholars have not paid much attention in the past to governmental institutions that motivate interest groups to become active. Princen and Kerremans (2008, p.1129) speak in this context about the "dynamic interplay between exogenous and endogenous elements of opportunity structures" for EU interest representation.

Another recent study investigates the impact of current EU lobbying practices on the EU after the Treaty of Lisbon (Hauser 2011). Hauser expresses his concern about unequal access to EU institutions and an asymmetrical provision of information. He states that reasons are that the EU institutions are strongly dependent on lobbyists' information due to own scarce resources, the geographic distance between Brussels and most other national capitals and the complex political structure of the EU itself (ibid, p.680). He concludes that issues regarding lobbying, legitimacy and democracy come up in all political environments, but the issues of unequal access and asymmetrical information are apparent particularly in the EU.

This research study contributes indirectly to the above discussions about the impact of interest groups on the EU democratic system. The discussion includes aspects such as the supply of and demand for technical information to create high-quality post-crisis EU reforms of CRAs and AFs. Another aspect is the relationship between the EU authorities and the CRA3 and AF4 that affected the development of recent EU reforms. To give example, the two case studies show the unequal access of the CRA3 and AF4 during recent EU reforms. Though both interest groups experienced a difficulty access to the EC, the AF4 were able to manage the access to the EP and CEU much better. On the contrary, the strong lobbying activities of the AF4 raised questions about lobbying regulation. This study shows that unequal access and asymmetrical information were critical issues during the post-crisis EU reforms of CRAs and AFs.

Another set of articles addresses the development of the academic literature on EU interest representation, leading the literature review now to the most relevant academic theories (cf. Andersen and Eliassen 1995; Charrad 2005; Woll 2006; Lowery 2007; Lowery et al. 2008; Eising 2008a; Eising 2008b; Mahoney and Baumgartner 2008; Beyers 2008; Beyers et al. 2008b). Taking a view in the 1990s, Andersen and Eliassen (1995) describe the growing importance of research on EU interest based on the shift of powers to the supranational institutions. He argues that EU interest representation is a distinctive field of research like counterparts in the US (cf. McLaughlin et al. 1993; McLaughlin and Greenwood 1995).

The study by Charrad (2005) reviews the academic development of studies over the past few years. This study is a brief summary of the actors, the above-discussed lobbying-democracy issue, different approaches of political science for the phenomenon of EU interest representation, as well as techniques and channels of influence. In particular, the discussion about the different approaches in political science for the phenomenon of EU interest representation is interesting at this point. The article states that EU interest representation can be associated with different theoretical schools of political exchange: pluralism, corporatism, networks, political economy and social movements. The theory of political exchange describes the relationship between EU institutions and interest groups. The most established theoretical approach is the theory of access (cf. Bouwen 2001; Bouwen 2002b; Bouwen 2004a; Bouwen 2004b). This theory describes how interest groups gain access to the EU institutions based on the provision of specific access goods (e.g. information and expert knowledge). The article further states that pluralist (passive role of the state) and corporatist (active role of the state) schools have been used for studies on EU interest representation. However, these

approaches have been assessed as doubtful because the state itself is not a central factor in the multi-level EU system. Instead, the policy network approach is described as the most recent approach that also assumes a resource dependency between political actors and interest groups. It is highlighted that the network approach shows that lobbying patterns are different in each political process and the relationship between the involved actors is crucial. The last two academic approaches are political economy and social movements. To give example of political economy, the article presents the logic of collective (indirect) action and underscores the problems to align national levels to assert influence on EU level. Finally, social movement literature focuses on protest models of mobilisation against conflicting policies. In summary, this article presents some interesting insights into different theoretical approaches for studies on EU interest representation. She makes the important point that a theoretically established framework for the analysis of EU interest representation is still missing (ibid, p.20). However, it can be criticised that her article incorporates a rather patchy character. For example, a discussion about other crucial theories of EU interest representation and influence such as alliance building, venue shopping, structural characteristics and issue characteristics are missing¹².

At this point, more prominent articles need to be consulted for a better understanding of the current status quo of research in the field of EU interest representation. The article by Eising (2008b) argues that a variety of studies have provided many valuable insights, but it is still questionable what they have contributed (cf. Eising 2008a) because of many controversies. According to Eising, these controversies result from the different theoretical influences of comparative politics, international relations, policy analysis and democratic theory. This argument seems still valid today and could be seen as a characterisation of EU interest representation literature. He concludes that the controversies resulting from the segmentation of studies would benefit from more transverse discussions covering the different theoretical constructs in the literature (ibid, p.21). Thus, this study attempts to make a modest contribution in that direction.

Mahoney and Baumgartner (2008) speak about a modern convergent trend of interest representation studies in Europe and in the USA (cf. Woll 2006). This convergence is developed more by European scholars because US counterparts still miss an international perspective as in many other academic fields (ibid, p.1270). It is further argued that past studies on EU interest representation focused on policy systems,

¹² Please refer to Sections 2.3.1 and 2.3.2 for more details.

whereas US studies already dwelt more on lobbying strategies. However, EU literature made up ground during the last years. Mahoney and Baumgartner underscore that interest groups are more active where the governmental system is more active (e.g. in the context of EU-wide reforms), governmental structures impact the locus of advocacy (e.g. lobbying the multi-level EU system at different venues) and that interest groups activities have to be aligned to the specific political contexts (e.g. activities in the context of the financial crisis).

Lowery et al. (2008) also assess the convergence between the US and the EU and ask if both areas can be really used on a comparative level or if this is currently a step too far. They express a somewhat critical view on the potential convergence. Their main argument is the different regional character of interest representation. In addition, they argue as well that the segmentation of middle-range theories is a major problem for convergence. They illustrate this argument based on the examples of the hyper-pluralistic US system, the neo-corporatist political system in the Netherlands and the neo-pluralistic EU system. They state that the recent EU literature is seen as qualitative, sector-delimited, descriptive and driven by theoretical issues.

Beyers et al. (2008b) say that though much has been studied in the field of interest representation, we know very little about it. As already mentioned, they describe the EU interest group literature as a niche field in mainstream political science because

“the interaction between governments, political parties, and interest groups, as well as the potential impact or influence of interest groups, has been somehow neglected.”
(*ibid*, p.1105)

They argue that no special journals focus on interest group literature and that traditional political science journals still focus on other areas like electoral, legislative and party politics (cf. DiSalvo 2013)¹³. They further argue that conflicting definitions are a major problem for the academic development in the past because due to plethora of neologisms. According to them, many synonyms were used in the past. All of these synonyms study different aspects. The issue of multiple synonymous terms is described as a problem regarding bundling the academic contributions. For example, they describe special interest organisation as a synonym that is currently in vogue. This term demonstrates the specific goals of a particular organisation. In this respect, the interests of one particular organisation stand against the interests of others, e.g. the interests of

¹³ DiSalvo (2013) presents a good overview of political science since the 1960s, being closer to the US development.

the CRA3 or AF4 against the objectives of the EC or broader social aims of the EU. This study uses the most common synonyms: lobbying and interest representation. These terms are used because they are most frequently used in practice and academia, which facilitated the empirical research process. Different neologisms such as special interest organisation are sometimes useful for specific studies in the field of interest representation, but not relevant for this work of research. As already stated, interest representation and lobbying are used synonymously even if interest representation covers a wider range of activities (cf. Classen 2014, pp.31-44)

To close this section, Beyers et al. (2008b, pp.1114-1115) give an excellent statement about studying EU interest representation and influence of interest groups (cf. Dür 2008a, pp.1223-1225):

“Few EU studies deal explicitly with the measurement of influence and the political impact of interest groups, which is indeed one of the most fraught, difficult and complex problems in political science research. Perhaps this gap in the literature reflects a social and political reality that is not always fully comprehended.”

2.3.1 Theories related to EU interest representation

The review by Coen (2007a) of empirical and theoretical studies in EU lobbying is a key article for this section because of a comprehensive overview about the academic development in recent years. This review summarises the different logics of EU lobbying that are currently in focus of scholars. As already mentioned, these different logics are so-called middle-range theories (cf. Beyers et al. 2008a, pp.1296-1299), exploring different aspects of interest group behaviours and activities.

As summarised by Coen (ibid, p.334), these four logics are:

- The logic of collective (indirect)¹⁴ and direct action (Beyers and Kerremans 2007; Eising 2007a)¹⁵ (Coen 1997; Coen 1998; Broscheid and Coen 2003; Bernhagen and Mitchell 2009; Dür and Mateo 2012);
- The logic of alliance and identity building (Mahoney 2007b; Beyers and Kerremans 2007; Hamada 2007) (Coen 1997; Coen 1998; Lahusen 2002; Klüver 2013b);
- The logic of access and influence¹⁶ (Broscheid and Coen 2007; Bouwen and Mccown 2007) (Bouwen 2002b; Dür and Mateo 2012; Chalmers 2013);

¹⁴ The logic of direct and collective action has been adjusted in this study for the application in the analytical framework. This study investigates the direct and indirect actions with regard to this logic. Collective actions are associated to the logic of alliance and identity building.

¹⁵ The sources in the first brackets within the four bullets are the references provided by Coen (2007a). During the course of the literature review, other relevant sources have been identified and clustered within second brackets for each theory.

- The logic of venue shopping (Bouwen and Mccown 2007; Beyers and Kerremans 2007; Schneider et al. 2007) (Coen 1997; Coen 1998; Eising 2004; Princen and Kerremans 2008; Häge 2011).

2.3.1.1 The logic of direct and indirect action

Coen (2007a, p.334) speaks about the logic of collective and direct action. This logic asks how and why interest groups approach EU authorities directly or indirectly through EU member state support. The use of the term ‘collective’ could be misleading for the reader because of a possible confusion with collective actions like alliance building. For this reason, this thesis refers to direct and indirect action. This decision is supported by academic literature, which uses the term ‘collective’ for a more self-contained meaning. For example, Klüver (2013a, p.64) speaks about a collective enterprise of interest groups that follows the same policy objectives.

“If direct lobbying is the most effective means of influencing policy, direct political channels can improve direct access via good political management of secondary [...] channels.”

(Coen 2007a, p.339)

The above citation shows how strongly direct and indirect approaches of EU interest representation are associated. An example is direct action by an interest group on the EC through a personal meeting, combined with indirect action towards national politicians to get their support and increase the pressure on EU level. Another example could be an interest group getting in touch with a member of the EP through their national political networks.

Beyers and Kerremans (2007) investigate the reasons for direct EU lobbying and the Europeanisation of domestic interest groups. Their quantitative study is based on hundreds of surveys and interviews with interest groups who interact with public actors in Belgium, France, Germany and the Netherlands. The study focuses on the Europeanisation of domestic interest groups based on the correlation of staff resources, critical resource dependencies and perceived budget competition. They argue that EU interest representation is not only triggered by specific needs in Brussels, but local factors also play an important role in the Europeanisation. Their research relates to some extent to the studies from Greenwood (1999) on supply- and demand-side factors for EU interest representation and the exogenous and endogenous opportunity structures mentioned by Princen and Kerremans (2008). They conclude that direct action is not

¹⁶ The logic of access constitutes the most prominent scheme about EU interest groups influence. Therefore, access goods theory is discussed in the next section.

only connected to interest group resources, e.g. the financial power of large firms. Moreover, EU opportunities stimulate direct action through general Europeanisation. Europeanisation is described as a matter of high complexity and strong contextualism. This complexity results from the multi-level EU system and the contextualism triggers interest group's embedding in its immediate EU environment. In this context, Eising (2007a) studied the phenomenon of elite business groups based on a survey of 34 large firms and 800 business interest associations. He argues that access patterns in the EU are based on resource dependencies between EU institutions and interest groups, institutional opportunities at the EU system and organisational capacities of interest groups.

Coen (2007a, p.335) states that it is estimated that professional business organisations represent around 76% compared to 20% public interest groups¹⁷. In this context, he argues that corporate interest groups have a comparative advantage such as financial power or more experienced staff to represent their interests directly on EU level. He concludes that the comparative advantages of EU corporate interest representation create the appearance of an elite EU environment. Thus, direct access to the EU authorities can be described as biased towards elite business groups. Coen (1997) investigated the evolution of the large firm as a political actor in the EU in an earlier study. This article presents essential thoughts for the logic of direct and indirect action, and the influence of elite business interest groups. This article also discusses the other two logics of alliance building and venue shopping, thus, making a contribution to all three logics of EU interest representation. In another related study, he further substantiates the aspect of indirect domestic support, multi-level lobbying channels and strategic alliances (cf. Coen 1998). In his first study from 1997, Coen researches the changed direction to the EU authorities based on a study of 94 large EU firms. The article outlines how large firms assume such a prominent role in the EU. He concludes that the gradual transition of lobbying resources is a consequence of the higher regulative power of the EU system. The resources of large firms allow for direct lobbying as an elite player in a pluralist environment (ibid, p.106), which facilitate strategic activities and behaviours like alliance building and venue shopping at the EC, EP and CEU. The same logic of privileged direct access on EU level applies to

¹⁷ Public interest groups such as NGOs play no role during the post-crisis reforms of CRAs and AFs. For example, NGOs such as FinanceWatch or LobbyControl did not actively participate during the recent EU reforms, only few articles covering the EU reforms were found. It was mentioned during an interview with an employee of FinanceWatch that the EU reforms of CRAs and AFs were in competition with many other files of higher importance, such as the reform of the banking sector. Consequently, public interest groups were not included as an interest group in this study.

resource-rich associations (c.f. Dür and Mateo 2012). In a more recent study, Bernhagen and Mitchell (2009) examine the determinants of direct corporate lobbying in the EU through a multivariate analysis. Based on data of 2,000 large firms, they confirm that a profit seeking model of corporate political behaviour can be applied. Their findings show that firm size and sectoral exposure to the EU supranational decision-making drive direct firm lobbying. Regulation is here one of the most convincing examples of sectoral exposure to EU authorities. They confirm that EU regulation represents a strong incentive for business lobbyists to increase their level of direct EU lobbying efforts (cf. Eising 2007b).

2.3.1.2 The logic of alliance and identity building

The logic of alliance and identity building describes how interest groups build strategic alliances in order to increase their political identity. In this study, it is questioned how the CRA3 and AF4 built alliances and concerted their actions together or with other allies. This logic of EU interest representation targets a better identity of interest groups to maximise the influence on EU decision-makers. Klüver (2013b, chapter 2.4)¹⁸ speaks in this context about interest group coalitions and mentions that scholars researching interest group coalitions in the past focused more on established formal coalitions. Issue-specific lobbying coalitions were less investigated. She defines lobbying coalition as a

“[...] set of actors who share the same policy goal. [...] interest groups [...] located on the same side of the policy space on a given issue form one lobbying coalition.”

(ibid, chapter 2.4)

Coen (2007a, p.339) states:

“Some political channels or alliances are therefore utilised, not for the collective good they create, but for the improved access they provide for individual lobbying”.

Mahoney (2007b) investigates the decision of interest groups to join coalitions in the US and the EU. Three dimensions of Baron's 4Is-framework are used as factors for the decision to join coalitions (cf. Baron 1995b, pp.74-75). According to this study, the decision depends on the institutional structure of the political system, the nature of the issue at hand and the characteristics of the interest group itself. However, the information level, the fourth dimension of the 4Is, seems to be another crucial factor when deciding whether or not build coalitions. Information aspects are mentioned by Mahoney (2007b, pp.366-367), but it is not formally incorporated in the analysis. The

¹⁸ The book by Klüver (2013) was accessed online. A direct page number could not be given and instead the chapter reference is provided.

analysis is based on interviews with 149 lobbyists from a random sample of 47 policy issues in the US and EU. The study reveals that formal coalitions are built on a lower rate in the EU compared to the US. Another important finding is that the broader political context is important for the decision to build coalitions. In this respect, they underscore the same contextual importance as Beyers and Kerremans (2007, p.476) previously did for the question of direct and indirect activities. With regard to this study, the contextual financial crisis plays an important role for the study of the CRA3 and AF4 interest representation and influence.

Hamada (2007) investigates the specific interest group strategies of Japanese firms in the EU system based on two case studies in the electronics and automotive sectors. The data draws on 30 interviews with corporations, business associations and EU institutions. Their study takes an external business perspective of Japanese firms that need to change their lobbying behaviour to align themselves with the EU system (cf. Barron 2011). They demonstrate that the logic of alliance building is as an important aspect for EU interest representation. The study by Lahusen (2002) is also interesting in the context of alliance and identity building from another perspective. It deals with the role of commercial consultancies in the EU to structure professional interest intermediation. These commercial consultancies are law firms, political consultancies, public relations consultancies or specialised management consultancies. These organisations are facilitators of alliance building. It seems interesting to ask which role commercial consultancies played with respect to the EU interest representation and influence of the CRA3 and AF4. Lahusen concludes that commercial consultancies are nowadays important providers of lobbying services (ibid, p.709). He states that the growing complexity of EU laws and the gradual transfer of competencies to the EU institutions increase significance of these services. In this respect, professional agencies provide competences in the form of technical advice for the EU decision-making process or the identification of critical EU decision-makers.

2.3.1.3 The logic of venue shopping

The logic of venue shopping describes how interest groups lobby different EU institutions at different venues. EU interest representation does not only focus on the EC as the main agenda-setter and includes also activities at other venues, such as the venues of the EP and CEU as joint decision-making powers. Also other EU institutions like the European Council (ECO) can provide important venues.

Coen (2007a, pp.338-340) says:

“As the study of European interest politics matures, it is important [...] to build studies that integrate lobbying across venues.”

The logic of venue shopping incorporates a dynamic character because business lobbyists need exact knowledge about the policy process for effective lobbying strategies at different venues. Coen (2007a, p.340) explains that for each specific venue, different access goods are required. For example, interest groups have to secure technical legitimacy at the EC and transnational policy credentials at the EP and CEU. Thus, considering the EU interest representation of the CRA3 and AF4, it is questioned how the sector-leading institutions incorporated venue shopping to optimise their lobbying activities and influence.

Various academic articles discuss the logic of venue shopping (cf. Eising 2004; Bouwen and Mccown 2007; Hamada 2007; Princen and Kerremans 2008; Häge 2011). For example, Häge (2011) researched the effect of the EP empowerment. The empirical analysis is based on data from 6,000 EU legislative decision-making processes between 1980 and 2007. They conclude that the EP empowerment nowadays strongly impacts the CEU decision-making process. Therefore, lobbying at the different venues of the EP is even more important today.

The study by Bouwen and Mccown (2007) is one of the most interesting studies about venue shopping. They investigate political and legal strategies of interest representation in the EU and develop a theoretical framework for the decision about lobbying and litigation strategies. According to them, the decision drivers for lobbying at different venues are associated with access, resources and the organisational form of interest groups. On the other hand, litigation activities are associated with the legislative and the judicial venues. In the EU, legislative venues are the different EU institutions of the ordinary legislative procedure (cf. EU 2013b, p.6). The main judicial venue is the European Court of Justice. In general, litigation prompts legal interaction of interest groups to influence political outcomes. They give the example of seeking a rule on the improper nature of legislative provisions for activities at the legislative venue (cf. *ibid*, p.426). They contrast the options with lobbying-only and litigation-only strategies. Further, they draw attention to combined activities at lobbying and litigation venues. They underscore that litigation strategies are more applicable to areas of legislative deadlock and lobbying activities at different venues of the EU institutions are still the most common choice. In light of this study, it is interesting to ask how the CRA3 and AF4 lobbied at different venues during the EU decision-making process and if they also considered litigation.

2.3.2 Theories of interest group power and influence

“A fundamental problem of complex multi-level systems such as the EU is the limited capacity to produce transparency and accountability. It is extremely difficult for citizens and political scientists (!) to assess who gained meaningful (not sham) access and who wielded real influence, i.e. whose interventions were crucial in the shaping of policy outcomes.”

(Beyers et al. 2008a, pp.1293-1294)

“While previous work has suggested certain factors may have a role in the relative power [...], no single factor can explain interest group influence.”

(Mahoney 2007a, p.36)

The above citations underline the complexity of studying interest group influence in the EU system. Studying interest group influence is still one of the most challenging tasks for academics in the field of EU interest representation (cf. Beyers et al. 2008b, pp.1114-1115). The study by Dür and De Bièvre (2007b) is a prequel to the study by Dür (2008a), which both discuss the question of interest group influence to understand the power of EU interest groups. Dür says that the general level of empirical studies tackling the issue of influence is still weak and full of contradictions. He says that the three obstacles are the definition of the terms ‘power’ and ‘influence’, considering different pathways of influence (e.g. access, selection, voice and structural coercion) and the measurement of influence. He argues that these obstacles can be managed by applying a pragmatic approach to define power and influence¹⁹, being conscious about the different pathways for influence and using a combination of methods for the measurement of influence²⁰ (cf. Dür 2008b).

Dür (2008a) argues that interest groups resources, political institutions, issue characteristics and interest groups strategies are the four factors for interest group influence. The first factor relates to interest group resources²¹ such as money, political support (networks) and information (cf. *ibid*, p.1214). He goes on to state that these resources are not distributed equally among different interest groups, a fact that gives advantages to better equipped interest groups (cf. Coen 1997; Eising 2007a). He defines resource approaches from a rational choice perspective that sees the trade of resources for political influence as an effort to maximise one’s own benefits. The second factor for interest groups’ influence is derived from the EU political institutions that shape the

¹⁹ Please refer to Section 2.1 for more details about the definition of power and influence.

²⁰ Please refer to Section 3.4 for more details about the applied analytical triangulation for this study.

²¹ These resources are concretised in the academic theories of access goods and structural characteristics. Please refer to Sections 2.3.2.1 and 2.3.2.2 for more details.

distinctive access patterns for interest groups (cf. Broscheid and Coen 2007)²². This factor relates to the question if access to the EU authorities is granted and turned into influence. Dür states that lobbying is a complex task due to the division of power in the EU. On the other hand, the EU system offers various venues and especially the EC and the EP are generally accessible (cf. *ibid*, p.1216). The third factor concerns the characteristics of the issue²³ such as a focusing event, policy type, degree of technicality and public salience. The questions are if the different issue characteristics allowed for influence of the CRA3 and AF4. For example, it is particularly important for this study to understand in how far the financial crisis impacted the influence of the CRA3 and AF4. The last factor relates to interest group strategies. Dür notes that interest groups have to secure effective strategies of EU interest representation to assert influence. Section 2.3.1 discussed the three theories of direct and indirect action, alliance and identity building, and venue shopping. In conclusion, all four factors mentioned by Dür are included within the applied analytical framework.

Apart from the three theories of EU interest representation there are three main theories for the analysis of interest group power and influence in the EU. These theories are:

- Access goods theory (Bouwen 2001; Bouwen 2002a; Bouwen 2002b; Bouwen 2003; Bouwen 2004a; Bouwen 2004b; Broscheid and Coen 2007; Bouwen and Mccown 2007; Eising 2007a; Eising 2007b; Dür and De Bièvre 2007a; Dür and De Bièvre 2007b; Mahoney 2007a; Dür 2008a; Dür 2008b; Chalmers 2011; Gornitzka and Sverdrup 2011; Majori 2012; Chalmers 2013; Klüver 2013a);
- Structural characteristics theory (Eising 2004; Eising 2007b; Beyers and Kerremans 2007; Dür and De Bièvre 2007b; Mahoney 2007a; Michalowitz 2007; Dür 2008a; Dür 2008b; van Schendelen 2010; Majori 2012; Dür and Mateo 2012; Klüver 2013a);
- Issue characteristics theory (Mahoney 2007a; Bouwen and Mccown 2007; Dür and De Bièvre 2007b; Michalowitz 2007; Dür 2008b; Dür 2008a; Majori 2012; Klüver 2013a).

2.3.2.1 Access goods theory

The theory of access is the most prominent theory. Peter Bouwen is the main proponent of this theory (cf. Bouwen 2001; Bouwen 2002a; Bouwen 2002b; Bouwen

²² Please refer to Section 2.3.2.1 for more details about the access goods theory.

²³ Please refer to Section 2.3.2.3 for more details about the issue characteristics theory.

2003; Bouwen 2004a; Bouwen 2004b). In 2001, he worked towards a theory of access to describe the degree of access that depends on the demand and supply of access goods (cf. Bouwen 2001). He defines access goods as follows:

“Access goods are goods provided by private actors to the EU institutions in order to gain access. Each access good concerns a specific kind of information that is important in the EU decision-making process. The criticality of an access good for the functioning of an EU institution determines the degree of access that the institution will grant to the private interest representatives.”

(Bouwen 2002b, p.370)

The theory-testing study by Bouwen (2002a) is the basis for the formal establishment of a theory of access. Bouwen explains the fundamental principle based on an exchange model of simultaneous information supply and demand. The theory was tested by Bouwen in the EU financial services sector (Bouwen 2002a; Bouwen 2004a)²⁴. For the study, he conducted 126 exploratory and semi-structured interviews and checked the hypotheses based on a method of paired comparisons. His hypotheses include a dependency ranking to test the different degrees of access. He states that interest groups capacities for providing access goods are ranked based on different kinds of information. This information includes expert knowledge, information about the European encompassing interest and information about the domestic encompassing interest (Bouwen 2002a, p.8). Expertise and technical know-how is required especially by public actors to understand markets and industries (e.g. knowledge requested by the EC for the establishment of the legislative proposals). Information about the European encompassing interest concerns information from the private sector, which is necessary to reflect the European interests (e.g. knowledge requested by the EP about the CRA3 and AF4 business activities in the EU in the context of the financial crisis). Information about the domestic encompassing interest relates to information that is needed to reflect the domestic interests of the member states (e.g. knowledge requested by the CEU about the impact of the EU reforms on the financial markets in the United Kingdom (UK), Germany or France). Majori (2012, pp.19-20) aptly summarises that the EC specifically needs technical know-how for drafting legislative proposals, the EP needs information about the European encompassing interest because of its responsibility of evaluating the EC's proposals, and information about the domestic encompassing interest is needed by the ECO as it actively deals with the needs and interests of member states.

²⁴ The same study was published in two different journals.

Another study focusing on the degree of access to the EP further increased the empirical robustness of the access theory (Bouwen 2003; Bouwen 2004b)²⁵. The empirical results show that European and national associations have a similar degree of access to the EP and a higher access compared to individual companies and consultancies. Other articles further consolidated the theory of access. To name just a few, Broscheid and Coen (2007) studies the nature of the ‘policy good’ and show that the informational demand of the EC adds to interest group activity. To give another example, the previously mentioned study by Bouwen and Mccown (2007) incorporates access goods in addition to issue characteristics for the analysis of lobbying and litigation strategies. Moreover, a recent study by Chalmers (2013) investigates the trading of information for access. This work examines in detail how specific kinds of information can be used for the development of informational lobbying strategies.

A major criticism of the access goods theory refers to the problem that access cannot be generally translated into influence (cf. Dür 2008a, p.1221; Dür and De Bièvre 2007a). Charrad (2005, p.10) points out another important criticism of the theory of access and highlights the view of Michalowitz (2004). The Michalowitz’s critique (ibid, p.43) concerns the neglect of the interest group character and their relationships in an exchange model. This study overcomes this criticism through the application of the analytical framework that also considers the relationships between interest groups and political actors.

2.3.2.2 Structural characteristics theory

Structural characteristics theory rests on different resources of interest groups, which can be used to assert influence in the political arena. Instead of trading information for influence as in the access goods theory, structural characteristics theory considers resources of interest groups such as financial power, expertise of employees or external positions as means for influence. These structural resources have to be developed over time and do not have the character of a fixed asset (cf. Majori 2012, p.21; van Schendelen 2010, pp.205-207).

Financial power enables interest groups to maximise their EU interest representation activities. For example, business groups with high financial resources can establish better direct and indirect actions, build stronger alliances and shop at all critical venues to influence the EU multi-level system. In addition, interest groups with high lobbying budgets can allocate a higher number of experienced staff. Moreover, an

²⁵ The same study was published in two different journals.

external position such as market power is a structural characteristic and is an important issue for interest group influence. For example, the credit rating sector as well as the audit sector are characterised by strong market power of the CRA3 and AF4. The CRA3 and AF4 are important for the stability of the financial system and embedded in a complex financial system. Hence, it is a sensitive issue for the EU to establish new legal frameworks for both sectors

In the context of external positions, Dür (2008a, p.1221) talks about structural coercion. Examples of structural coercion come exactly from the existing role of the CRA3 and AF4 in the financial system. More specifically, proposed measures by the EC such as a change of the issuer-pays model of the CRAs or a change of the appointment and remuneration model of the AFs can stand against structural coercions because of the existing state of play and a missing knowledge about how the changes affect the financial system. For this reason, market power and structural coercion are associated to the structural characteristics theory and included in the analysis of this study.

Majori (2012) mainly draws on studies by Eising (2004), Eising (2007b), Mahoney (2007a) and Dür (2008b) to explain the structural characteristics theory. For example, Eising (2004) argues that interest representation depends on their location in the EU multi-level system, on negotiation capacities and organisational resources. Negotiation capacities relate to the interest intermediation in a political setting. Organisational resources are time, money, staff and member support. The study draws on survey data of 800 German, French, British and EU-level trade associations as well as 34 large firms. Through the application of cluster analysis, different types of interest groups according to their lobbying strategies in the multi-level system are identified (niche organisations, occasional players, traditionalists, EU players and multi-level players). The study shows that multi-level players have greater capacities than organisations in the other clusters. Moreover, he underscores that organisational resources are widely considered as preconditions for effective interest representation (ibid, p.218). He demonstrates that financial resources are a crucial mean for superior (multi-level) EU interest representation strategies and strong influence.

As another example, the previously mentioned study by Mahoney (2007a) also supports the theories of structural characteristics and issue characteristics. Mahoney argues that three factors of institutional structure, the characteristics of the issue at hand, and the characteristics of the interest group itself and their lobbying strategy have to be understood for the success of lobbying groups. He underscores that financial resources

affect lobbying success (ibid, p.41). In addition, structural characteristics have been incorporated in many other studies as an important mean for interest group influence. For example, the previously discussed article by Dür (2008a, p.1214) about the power of interest groups in the EU highlights the importance of structural resources for lobbying success. Furthermore, Beyers and Kerremans (2007, p.463) argue that gaining resources is costly and resources lead to more capabilities of influence. To cite a final example, Michalowitz (2007, p.141) highlights that business interests are particularly successful as they can use high financial resources (ibid, p.141). In essence, there is no major criticism for the structural characteristics theory. This results from the general logic of power, which can be asserted by financial resources, experienced staff and structural coercions.

2.3.2.3 Issue characteristics theory

Dür (2008a, p.1217) explains that issue characteristics such as policy type, degree of technicality and public salience exert a strong impact on interest group influence. Policy types relate to the legislative form of EU policies. Regulations and directives are different forms of EU law-making and have different impacts on the EU as well as on member states. In addition, the question about policy type also relates to the previous status of EU reforms. It can be assumed that first-time reforms have different implications for the influence of interest groups compared to amended reforms. Technicality relates to the complexity of developing new laws for the European markets of CRAs and AFs. Thus, technicality creates demand for information. This relates this aspect to the access goods theory. Moreover, Dür mentions that the degree of influence on political outcomes seems higher in technically complex cases. Finally, he states that the salience of the issue is also important for lobbying success. Strong salience and media awareness have an obvious impact on political influence. For example, the public perception about the CRA3 was quite negative because of the financial crisis and their role in it. The media created a negative image of the CRA3 and influenced the EU authorities to act in the way they did. In general, a strong salience of the issues and high level of media coverage negatively affect interest groups when the interest group is having a negative public perception. On the other hand, when it comes to higher public credibility, interest groups can have advantages from a high salience of the issue and strong media coverage.

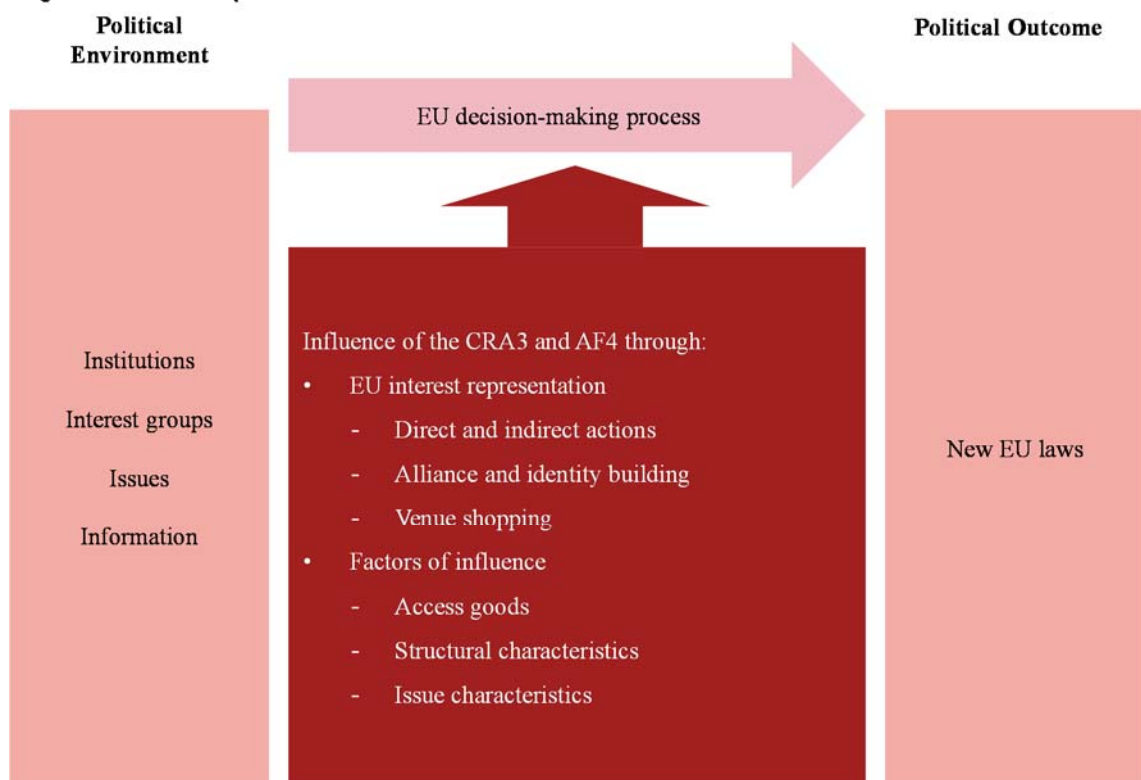
Mahoney (2007a) adds some more aspects to the issue characteristics theory. She summarises relevant aspects such as scope, salience, level of conflict and presence

of a focusing event related to the issue. Mahoney argues that in general the characteristics of the issue on which interest groups are actively working have a crucial impact on the probability of lobbying success. She states that a large scope and salience as well as a high level of conflict negatively affect lobbying success (ibid, p.50). High scope and strong salience of the issue could increase the risk of losing control over lobbying strategies, as many interest groups can use media and negative media coverage could strike back. Finally, she states that a focusing event plays an important role in lobbying success (ibid, p.40).

2.4 Applied analytical framework for the case studies

An analytical framework guides the cases studies of the CRA3 and AF4 interest representation and influence. This framework is based on the previously introduced academic theories.

Figure 2.6: Analytical framework



Source: Author's own illustration

2.5 Summary

This chapter presented the most relevant academic articles and publications in a structured manner. Firstly, the most important definitions were presented. Afterwards, the literature review focused on non-market strategy in the field of business research and on EU interest representation in political science. The study of the various

contributions impacted the methodological approach of this work of research. The applied analytical framework is a direct result stemming from the discussed middle-range academic theories. In this sense, the analytical framework integrates the most important theories to investigate the EU interest representation and influence of the CRA3 and AF4. Moreover, the inclusion of Baron's 4Is-framework was identified as a beneficial approach to structure the case studies in terms of issues, institutions, interests and information to provide greatest possible transparency and consistency for both comparative case studies.

Chapter 3: Research methodology

The research methodology, along with its design and chosen techniques, has to enable the researcher to investigate the EU interest representation and influence of the CRA3 and AF4 during recent EU reforms in the context of the financial crisis. The complete operationalised scientific inquiry of this study and the coherence of each single element of the research methodology are justified in this chapter.

Figure 3.1: Overview of research methodology

Philosophical foundation	Critical realism
Research design	Comparative case studies supported by analytical framework based on existing academic concepts and theories
Data collection	Expert interviews and document analysis
Data analysis	Process tracing and analysis of the degree of preference attainment

Source: Author's own illustration

3.1 Discussion and justification of philosophical foundation

The faculty of humanities delves into human culture. Its discipline of social science focuses on the study of social groups and relationships amongst actors, including areas such as management research, political science and economics. Social science is distinct to natural science. The major distinction is that social scientists focus on people as a subject matter compared to natural scientists who pay their attention to physical objects (cf. Easterby-Smith et al. 2008, pp. 60-62).

Different philosophical schools support a researcher's view on reality and knowledge in social science. Ontological assumptions about the nature of reality and epistemological assumptions about different ways of inquiring into the nature of the world are an academic prerequisite for a coherent research methodology to examine a specific situation of a research project (cf. *ibid.*, p. 60). As illustrated below, there are three main camps.

Table 3.1: Different ontologies and epistemologies in social science

Ontology of social science	Representationalism	Relativism	Nominalism
Truth	Requires verification of predictions	Is determined through consensus between different viewpoints	Depends on who establishes it
Facts	Are concrete, but cannot be accessed directly	Depend on viewpoint of observer	Are all human creations
Epistemology of social science	Positivism	Relativism	Social constructionism

Source: Author's own illustration, based on Easterby-Smith et al. (2008, p.62)

Representationalists claim that truth requires a verification of predictions. These researchers define quality based on the accurate reflection of reality and a stronger form of verification (ibid). Having a positivist epistemological position, facts are concrete matters for them. In other words, they believe that the world has an objective existence and it is possible to study knowledge objectively (cf. Fisher 2010, p.252). These researchers admit a pre-existing reality that exists independently of the observers and use specific designs such as experiments to test predetermined hypotheses and precisely measure factors to allow an elimination of alternative explanations.

Other researchers are more sceptical about an objective world. For example, relativists believe that truth rests on a consensus of viewpoints and facts depend on the observers' views. Relativists want to ensure that a broad viewpoint is integrated in the study to allow of a view of reality. Relativists try to overcome the challenge of gaining direct access to an existing reality by incorporating different perspectives based on surveys or interviews and applying methodological triangulations to increase the robustness of their work.

Nominalists take a more radical position as they believe that truth is created. These researchers are more interested in asking if different labels of experience are properly derived and how these labels can be accepted. Having a social constructionist epistemological position, they see facts as created by humans. Facts are not uncontested and are a matter of different accounts and interpretations (cf. Fisher 2010, p.257). Constructionists do not assume a pre-existing reality and focus on how people develop structures that help them to make sense of their surroundings. These researchers often apply the analysis of language and conversation to investigate how people create their own meanings.

According to the above more general classifications, the author of this research work belongs to the relativists' camp. The researcher acknowledges that truth varies according to place and time and observers of reality have different viewpoints (cf. Easterby-Smith et al. 2008, p.62; Collins 1983, p.88). It is important to see that many

more specific philosophical doctrines such as critical theory, hermeneutics, postmodernism, pragmatism or structural theory exist (cf. Easterby-Smith et al. 2008, pp.73-77)). All these philosophical theories imply different assumptions for researchers and present specific advantages and disadvantages for research studies. However, these more specific philosophical foundations are not discussed here. Instead, the philosophical discussion focuses on critical realism because this theory presents the specific researcher's view on reality and knowledge generation.

The philosophical stance of critical realism was developed by Bhaskar (cf. Bhaskar 1978; Bhaskar and Hartwig 2010). Critical realists are interested in exploring and explaining structures and mechanisms in social systems. It is a variant of the relativist position that is founded on a realist ontology and incorporates an epistemological interpretive thread (cf. Easterby-Smith et al. 2008, p.62). In this sense, critical realism acknowledges that social conditions have consequences in reality whether or not they are observed by social scientists. It also recognises that theories are human constructions. The below citation expresses the conscious compromise between representationalism and nominalism to arrive at a coherent whole by transcending its differences (cf. Easterby-Smith et al. 2008, p.62; Fisher 2010, p.261):

“The idea that there is an objective world, and the notion that our understanding of it can only be subjective and never objective or definitive, are shown not to be mutually exclusive.”

(ibid, p.261)

It is argued that critical realism provides a greater scope for a critical and liberal epistemological agenda compared to positivists' or constructionists' schools of thought (cf. Marks and O'Mahoney 2014, p.75). As a result, the critical realist's view is an appealing philosophical basis for this study. This work of research studies the experiences, events and mechanisms of interest representation and influence of the CRA3 and AF4 during recent EU reforms. However, the researcher acknowledges a socially constructed nature that has been used for the reasoning. In this respect, the applied analytical framework constitutes an interpretive grid to explain the empirical material (cf. Fisher 2010, pp.261-267). Furthermore, the perspective of critical realism is adequate for the comparative case studies about the CRA3 and AF4 interest representation and influence because it does not contradict any aspects of the research design and techniques (compare Blatter and Haverland 2012, pp.90-99).

3.2 Discussion and justification of research design

As mentioned earlier, this study is modelled on a small-N research design of two comparative case studies, which is particularly useful for studying ‘how’ and ‘why’ questions about complex social phenomena based on real-live events (Yin 2009, p.2). The two case studies are conducted sequentially (cf. Blatter and Haverland 2012, p.27). Both case studies are based on an analytical framework of existing academic theories, which leaves scope for theoretical deductions.

According to Blatter (2012, p.4) and Blatter and Haverland (2012, pp.18-20), there is little consensus on a general definition and a number of approaches underline case studies. They say that case study research is a non-experimental research approach that differs from large-N studies due to four characteristics of

“a small number of cases, a large number of empirical observations per case, a huge diversity of empirical observations for each case, and intensive reflection on the relationship between concrete empirical observations and abstract theoretical concepts.”

(ibid)

Other research designs could be quasi-experiments, naturalistic observations, literature studies, more statistical approaches of a large number of cross-sectional studies or longitudinal surveys. None of these options is as attractive as the case study design for this research topic because of their poor applicability, higher complexity with regard to operationalising this research project, a smaller degree of sense-making and their less frequent use in the field of EU interest representation. None of these other approaches facilitates an in-depth study of a social phenomenon in real-life context and a flexible scientific inquiry as the case study approach.

The justification of the case study approach is externally supported by its widespread use in the EU interest representation domain (cf. Coen 2007a, pp.333-334) and the appealing character for critical realists, who explore social groups in specific contexts and explain correlations of causative mechanisms (cf. Kessler and Bach 2014, p.183). The researcher chose both cases carefully and intentionally. In this respect, Kessler and Bach (ibid, pp.183-184) make an important statement about case selection of critical realists. They state that the quality of comparative case design depends on selection technique to reveal patterned differences or similarities in processes and outcomes, and a light theorisation to provide a tentative but plausible explanation for the findings. Both important features for the quality of comparative case studies are demonstrated in this work of research. Drawing on methodological directions of case

studies, Blatter and Haverland (2012, pp.99-105) say that cases have to be justified and considered carefully for CPT approaches. They argue that accessibility is the main precondition for the selection of cases based on the intended research goals. In addition, they underline the importance of theory selection, which refers to the above mentioned aspect of light theorisation.

Table 3.2: Different research goals and corresponding functions of CPT

Goals and pro-typical research questions	Major functions of causal-process tracing
<ul style="list-style-type: none"> • Providing rather comprehensive explanations of single, important events/outcomes: • What and who made it possible that this (Y) occurred? 	<ul style="list-style-type: none"> • Clarifying historical truth • Assigning responsibility
<ul style="list-style-type: none"> • Revealing and evaluating the effect of a cause: Does X make a difference? 	<ul style="list-style-type: none"> • Increasing the internal validity of causal inference by identifying links between X and Y • Complementing co-variational analysis
<ul style="list-style-type: none"> • Revealing and evaluating the preconditions for specific kinds of outcomes: Which (sequential and situational combinations of) conditions make Y possible? 	<ul style="list-style-type: none"> • Developing and testing middle-range or typological theories (configurational hypotheses) for specific kinds of outcomes • Complementing Qualitative Comparative Analysis as a static, cross-case analytical approach with a dynamic, process-centred within-case analytical approach
<ul style="list-style-type: none"> • Revealing and evaluating the effectiveness of theoretically specified mechanisms: Which (combination of) social mechanisms make X effectively Y? 	<ul style="list-style-type: none"> • Testing and developing theoretically specified casual mechanisms (configurations of social mechanisms) • Major part of a congruence analysis

Source: Author’s own illustration, based on Blatter and Haverland (2012, p.88)

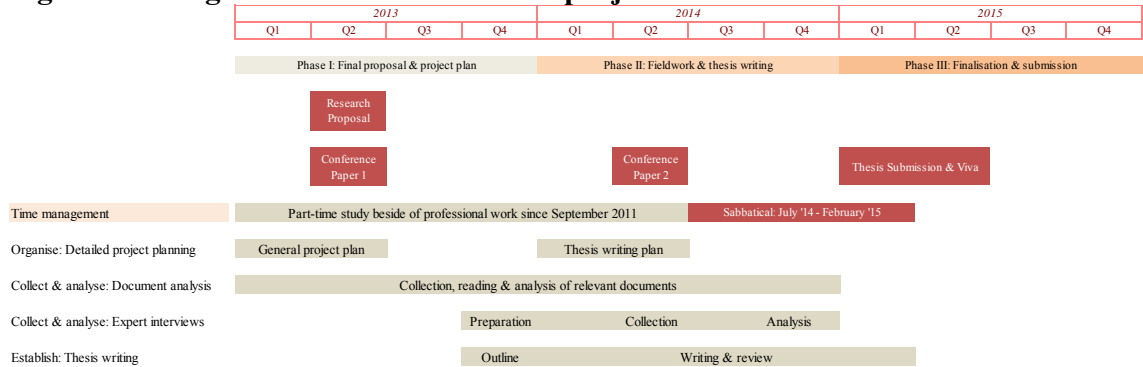
This study tries to achieve the first and third research goals as presented in the above table. This study provides comprehensive explanations of the CRA3 and AF4 interest representation and influence on the EU reform outcomes. In this respect, this study also reveals and evaluates the preconditions for the EU interest representation and influence of the CRA3 and AF4 based on the applied analytical framework comprising middle-range theories from the academic domain of EU interest representation. The focus is on a sequential, dynamic and process-oriented within-case analysis, which afterwards allows a static cross-case analysis. As discussed below in Section 3.4, the cases of CRA3 and AF4 EU interest representation and influence during recent EU reforms support the CPT approach as they represent a reasonable trade-off between possible depth and drawing comparative reasonings (cf. *ibid*, p.100).

3.3 Discussion and justification of data collection

Small-N case study researchers invest much time and intellectual energy in the process of data collection. Data collection and data analysis are not separated particularly for case studies using the CPT technique, and the main challenge is to get access to the necessary empirical data (cf. *ibid*, pp.25-26). Hence, the quality and reliability of empirical data define the cogency of CPT-based case studies (*ibid*, p.105). The importance of accessing meaningful data was always considered by the researcher.

The process of data collection was initiated early and followed a structured approach as illustrated below in Figure 3.2.

Figure 3.2: Organisation of the research project



Source: Author's own illustration

Data collection and the corresponding data analysis were part of an intensive research process. This is due to the high sensitivity of researching EU interest groups and influence. Access to the CRA3 and AF4 as the main units of analysis and collecting data for the establishment of the two case studies were challenging tasks. Both sectors seemed to be sealed and highly confidential with regard to their lobbying practices. Nonetheless, the researcher was able to achieve a convincing result of data generation. There are two main reasons for the high cogency of the case studies: firstly, the insider-view of the researcher and his more than 10 years of experiences as a senior manager in the financial services industry; secondly, a cautious mindset about the challenges and importance of the data collection process for this research study. Therefore, the researcher initiated a timely and structured process as illustrated above. The fieldwork followed the goal of collecting a convincing and robust set of empirical data to ensure quality of the in-depth comparative case studies. The insider role was especially supportive for receiving access to the interviewees because of a broad network and high reputation. Together with the guaranteed confidentiality, the insider role was a key aspect for convincing interviewees to participate in this study.

Yin (2009, pp.101-113) standardises six different sources that are generally applicable to case studies. These sources are interviews, documents, archival records, physical artefacts, direct observation and participant observation. In addition, Fisher (2010, pp.168-181) states that the decision about structured data collection depends on the degree of either exploring the unknown or surveying the already known.

As a result, a conscious decision was made to apply expert interviews and documents. Expert interviews were based on semi-structured interview guidelines²⁶. Semi-structured interviews were applied to enable necessary flexibility and adopt different lines of inquiry. Each interview guideline was aligned to the analytical framework to facilitate the data analysis. Document collection and analysis focused on data about the EU reforms and the influence of interest groups. The decision to rely on these two specific sources of data is justified by the nature of this study and the matter of accessibility. To achieve the necessary depth of information, it was necessary to speak with experts who directly participated in the lobbying process. Interviews are the only technique that allows of this in-depth line of inquiry. Other forms of interaction with experts like panels or surveys were ruled out. It seemed very doubtful that professionals of both industries would have participated in panel discussions. Surveys were not considered because a personal contact was assessed as a prerequisite for insider information. Documents were important sources because of their free accessibility in the internet. A large number of documents were accessible because of the official EU procedures (e.g. different proposals, regulations, directives, press releases, memos, impact assessments, reports, etc.) and the active nature of the involved interest groups (e.g. contributions to the EC consultations, press releases, position papers, impact assessments, press releases, etc.). In conclusion, the decision to combine expert interviews with the analysis of documents was of paramount importance to get broad and rich information about the EU interest representation and influence of the CRA3 and AF4 (cf. Blatter and Haverland 2012, pp.105-106). Interviews presented an opportunity for receiving information from stakeholders that was not disclosed so far because of its sensitivity. More direct observations would have been desirable, but were difficult to attain because of the secret nature of lobbying activities.

Desk-based document collection and analysis started early in spring 2013. The first step of extensive data collection was a pre-phase for the final research proposal that was accepted in June 2013. Overall collection and analysis of documents continued until the end of thesis writing. The reference list of this study includes all web addresses. The internet sources allowed for an in-depth analysis of the different issues of the reforms and the preferences of interest groups. The study of these documents was extensive. The documents were verified either through comparison with other documents or with information gathered from expert interviews, to avoid reporting biases as much as possible (cf. Yin 2009, pp.86-87). In summary, though documents are

²⁶ Please refer to Appendix R for an example.

an important data source for this study, they alone would not have sufficed to answer the research questions. It was essential to conduct expert interviews to increase the level and depth of information.

The interview process was intensified towards the end of 2013. The previous document collection supported the operationalisation of the interviews by pointing out different actors who could be invited. The interview process was the most crucial operational step to develop this study, which is why the researcher established a well-structured plan. First, email interview invitations were created as a respectful and informative first point of contact²⁷. This invitation was used as a blueprint and was customised for each interview request. In this respect, some interview invitations were written in a more personal tone in cases of existing network contacts of the researcher or from close professional colleagues. Each invitation email was sent along with a brief description of research, explaining the academic background of the project²⁸. The intention here was to maximise the credibility of the research project and to use transparency as a tool for reducing the initial modesty of potential interviewees to participate in this study. In this context, it was important to inform potential interviewees that this study is not seeking any information that might be regarded as commercially confidential and that all received information is completely anonymised. In addition, the aspect that this thesis is not available for publication for some years was an important argument for convincing interviewees to participate. Interviewees did not want the study to impact their professional and political relationships.

This study followed a non-probability sampling approach based on convenience, which was supported by the snowballing technique. In addition, potential interview partners were stratified. The aim of this approach was to have a balanced set of interviews per case and to achieve a point of informative saturation. The researcher prepared a comprehensive longlist²⁹ of potential interviewees during the screening of the documents, which developed during the complete fieldwork stage. The longlist comprised 104 potential interviewees, who were evenly distributed for each case. It was clear that an important strategic issue such as EU lobbying is an executive task at the top management of the CRA3 and AF4. Besides, senior experts were targeted in the EU political environment. The researcher conducted first interviews in January 2014. The interview process lasted for eight months until early September 2014. As already

²⁷ Please refer to Appendix Q.1 for an example.

²⁸ Please refer to Appendix Q.2 for an example.

²⁹ Please refer to Appendix S for the longlist.

indicated, a professional insider role, seniority in terms of relevant experience and the existing professional network came in handy while contacting interview partners and successfully establishing interviews with top-level executives. A main facilitator of the interviews for the case study on the EU interest representation and influence of the AF4 was a German AF4 public affairs department. The access to the interviews for the case study on the EU interest representation and influence of the CRA3 was supported by a business diplomat.

Table 3.3: Overview of interviews

Reference Longlist	No.	Name	Strata	Organisation	Interview form	Recording in minutes	Location	Appointment
1	1	n.n.	AF4 firm	AF4 1	Physical interview	75	Berlin	10.01.2014, 11.00am
2	2	Dr. n.n.	Rating sector lobbyist	New rating agency initiative 1	Physical interview	41	Düsseldorf	26.03.2014, 4.30pm
3	3	n.n.	Financial services expert	Political consultant	Physical interview	37	Cologne	03.07.2014, 11.00am
4	4	n.n.	AF4 firm	AF4 1	Physical interview	66	Berlin	03.06.2014, 2.00pm
5	5	Prof. Dr. n.n.	AF4 firm	AF4 1	Physical interview	34	Frankfurt	27.05.2014, 4.00pm
6	6	n.n.	Rating sector lobbyist	New rating agency initiative 2	Telephone interview	72	Washington	23.04.2014, 4.00pm
9	7	n.n.	Financial services expert	AF4 1 & former CRA3 2	Physical interview	41	Frankfurt	07.04.2014, 2.00pm
10	8	n.n.	AF4 firm	AF4 2	Physical interview	66	Berlin	08.05.2014, 1.30pm
11	9	n.n.	AF4 industrial lobbyist	Industry 1	Telephone interview	44	Brussels	09.05.2014, 1.00pm
13	10	n.n.	AF4 industrial lobbyist	Industry 3	Telephone interview	35	Brussels	29.04.2014, 3.00pm
14	11	n.n.	AF4 political lobbyist	Liaison Office of German party	Telephone interview	30	Brussels	30.07.2014, 1.00pm
15	12	n.n.	AF4 political lobbyist	Economic council of a party	Telephone interview	40	Berlin	09.09.2014, 4.00pm
19	13	n.n.	Financial services expert	Strategic consultancy 1	Physical interview	45	Frankfurt	07.04.2014, 10.00am
20	14	Dr. n.n.	Rating sector expert	Mid-sized rating agency 1	Physical interview	41	Düsseldorf	24.06.2014, 1.30pm
22	15	n.n.	CRA3 firm	CRA3 3	Telephone interview	65	London	03.07.2014, 4.00pm
35	16	Prof. n.n. & n.n.	Audit association	German Institute of Auditors	Physical interview	36	Düsseldorf	04.06.2014, 3.00pm
36	17	Dr. n.n. & n.n.	Audit association	German Chamber of Auditors	Physical interview	58	Berlin	19.06.2014, 2.00pm
39	18	n.n.	AF4 firm	AF4 1	Physical interview	40	Frankfurt	24.06.2014, 3.00pm
40	19	n.n.	AF4 firm	AF4 1	Telephone interview	72	Brussels	21.05.2014, 10.00am
44	20	n.n.	CRA3 firm	CRA3 2	Physical interview	62	Paris	31.07.2014, 2.00pm
49	21	n.n.	AF4 firm	AF4 1	Telephone interview	48	Rotterdam	16.06.2014, 10.00am
66	22	n.n.	AF4 firm	AF4 3	Telephone interview	69	Brussels	29.07.2014, 10.00am
68	23	n.n.	CRA3 firm	CRA3 1	Physical interview	66	Frankfurt	11.06.2014, 2.00pm
72	24	n.n.	Rating sector journalist	German newspaper 3	Physical interview	42	Frankfurt	04.07.2014, 3.00pm
76	25	Dr. n.n.	EU authority Rating & Audit	EC	Physical interview	55	Brussels	20.08.2014, 10.00am
83	26	n.n.	Rating sector journalist	German newspaper 2	Telephone interview	48	Berlin	15.07.2014, 10.00am
86	27	n.n.	AF4 firm	AF4 4	Physical interview	69	Düsseldorf	08.08.2014, 10.00am
91	28	n.n.	CRA3 firm	CRA3 3	Telephone interview	72	New York	13.05.2014, 4.00pm
94	29	n.n.	AF4 firm	AF4 1	Telephone interview	63	London	10.06.2014, 12.00am
99	30	n.n.	Rating sector expert	Lobbying monitor 2	Telephone interview	41	Brussels	08.09.2014, 2.00pm
102	31	n.n.	Rating sector expert	German bank 2	Telephone interview	47	München	08.07.2014, 10.00am
103	32	n.n.	CRA3 lobbyist	Lobbying firm 1	Telephone interview	20	Brussels	12.08.2014, 10.00am
104	33	Dr. n.n.	Financial services expert	Financial markets institute	Telephone interview	79	Frankfurt	07.08.2014, 10.00am
Note: No. 1 and 4 were not recorded, instead the duration of the meetings is given.						Sum Physical Interviews	17	
* This gives evidence for the balanced set of interviews per case. Moreover, it is important to recognise that many interviewees also referred to the other case.						Sum Telephone Interviews	16	
						Sum Audit Case Interviews*	15	
						Sum Rating Case Interviews*	15	
						Sum Mixed Interviews	3	
						Duration of records in minutes	1,719	
						Duration of records in hours	28.7	

Source: Author's own illustration

As illustrated above in Table 3.3, the structured plan and the above mentioned conditions made it possible for the researcher to draw 33 interviews with experts who were directly involved in the EU reforms and lobbying, or had a strong understanding of the lobbying processes. These interviewees were located in Germany, the UK, France, Belgium, the Netherlands and the USA. A major achievement of the interview fieldwork is that interviews were conducted with top executives of all CRA3 and AF4,

as well as profiled EU politicians, bureaucrats and lobbyists. Some interviewees' experience with EU reforms and lobbying of the CRA3 and AF4 reached back to the 1990s. It can be said that some of the most knowledgeable and powerful experts in the context of EU reforms of CRAs and AFs have been interviewed, which was not achieved by any comparable study.

In conclusion, this study achieved a very positive success yield of 32%³⁰. Twenty-three (22%) interviews were declined and 48 (46%) were skipped. Interviews were skipped when the researcher was able to obtain access to better interview partners or if the contact proved to be less knowledgeable with regard to the research topic. Thirty-one interviews were voice-recorded and transcribed. The analysis of the interviews was supported by a coding scheme in NVivo10³¹. Just one interviewee, who was interviewed twice, declined voice-recording of interviews; instead, hand-written notes were made. In total 34 actors were interviewed because of two interviews with one expert and two interviews with two experts during talks. Some interviews were conducted by telephone because of the geographical distance between the researcher and interviewees or the busy schedules of interviewees. This did not have a negative impact on the quality of the received data because of a detailed interview process with semi-structured guidelines, which had been sent out to interviewees a couple of days before appointments. Interviews were conducted either in English or in German.

3.4 Discussion and justification of data analysis

In general, case studies are often criticised for a weak justification and fuzzy application of analytical techniques. The first important decision to guide the comparative case studies has already been made. The applied analytical framework based on Baron's 4Is-framework and existing academic theories of EU interest representation and influence provides a defined structure for both cases³². This framework allows a transparent case comparison and supports a required light theorisation of the case studies to draw conclusions about academic implications. This section now details how the case studies were analysed to arrive at meaningful findings and to receive an overall coherent methodology. The justification of the applied analytical techniques is deeply considered to close the methodology chapter with a conscious focus on the analytical power of different approaches to justify the overall coherence and robustness of this study.

³⁰ Please refer to Appendix S for more details.

³¹ Please refer to Appendix T for the used NVivo codes to support the analysis of the transcripts.

³² Please refer to Section 2.4.

The book on design of case studies and explanatory approaches in small-N research by Blatter and Haverland (2012) was a useful source for the decision about the analytical approach of this study. Two other scholarly articles on case studies and techniques (Blatter and Blume 2008) and on innovations in case study methodology with regard to analytical techniques (Blatter 2012) also supported the decision. Besides, articles from specialised academics in the area of EU interest representation were consulted. Particularly, a study about the power of interest groups in the EU (Dür 2008a) and a note on methodology for measuring interest group influence in the EU (Dür 2008b) were consulted.

Blatter and Haverland (2012, pp.23-32) present an overview of three explanatory approaches to case study research. They point out differences with regard to research questions and goals, research focus, selection of cases and theories, data generation and analysis, and paths of generalisation. These three approaches are as follows:

- Co-variational analysis (COV);
- Causal-process tracing (CPT);
- Congruence analysis (CON).

This study applies CPT for both case studies. The justification for choosing CPT instead of COV and CON approaches is based on different criteria that are shown on the next page in Table 3.4. The decision to apply CPT can be derived directly from the research questions and goals of this study. The later consideration of the other criteria only strengthened this decision.

Table 3.4: Comparison of the COV, CPT and CON approaches

	Co-variational Analysis (COV)	Casual-Process Tracing (CPT)	Congruence Analysis (CON)
Research questions and research goals	Does variable X make a difference? Testing whether different values of X lead to different outcomes	What makes the outcome (Y) possible? Revealing the temporal interplay among conditions or mechanisms that lead to specific outcomes	Which explanatory approach provides more/new insights? Comparing the descriptive and explanatory merits of different theories
Focus	Independent variables as: <ul style="list-style-type: none"> • factors of influence • factors that have an autonomous influence 	Casual configurations as sequential and situational combinations of causal conditions or social mechanisms	Comprehensive theories that compete with and/or complement each other
Selection of cases and theories	Select multiple cases according to: <ul style="list-style-type: none"> • strong differences in respect of the independent variable of interest, and • high similarity in respect of control variables Selection of a plurality of 'comparable' cases	Select one or more cases according to: <ul style="list-style-type: none"> • their accessibility, and • the practical or theoretical relevance of the outcome Selection of one or more cases sequentially: <ol style="list-style-type: none"> 1. 'positive' case(s) 2. 'possible' case(s) 	Select multiple theories according to: <ul style="list-style-type: none"> • their place in the scientific discourse, and • the researcher's theoretical aspiration Selection of one or more cases according to the ex ante 'likeness' of cases in respect of the selected theories
Data generation	Observations: Information corresponding to the indicators specified for the variables Resulting data: Scores of each variable for all cases	Observations: <ul style="list-style-type: none"> • Information on the temporal unfolding of the causal process; • Information on spatial-temporal distance and proximity between causes and consequences; • Information on perceptions and motivations of important actors Resulting data: <ul style="list-style-type: none"> • Causal chains and conjunctions • Smoking guns • Confessions 	Observations: Information corresponding to the expectations propositions, hypotheses, predictions) deduced from theories Resulting data: A set of confirmations and/or contradictions for each theory
Data analysis • Drawing causal inferences for the cases under investigation	Necessary content of data: Co-variation among scores of the dependent variable (Y) and scores of the independent variable of interest (X) Conclusion: X has a causal effect on Y Further necessary conditions for conclusions: No theoretically plausible co-variation among scores of the dependent variable and scores of other independent (control) variables	Necessary content of data: <ul style="list-style-type: none"> • Comprehensive storyline • Smoking guns • Confessions Conclusion: Identification of configurations of conditions and/or mechanisms that are necessary and together sufficient for the outcome Further necessary tools for drawing conclusions: Counterfactuals and/or theoretical concepts of mechanisms and process dynamics	Necessary content of data: Differences among the theories in respect of the level of congruence between expectations and observations Conclusion: <ul style="list-style-type: none"> • Relative importance of selected theories • Comprehensive explanation through a combination of theories Further possible conditions for drawing conclusions: Ex ante expectation about the 'likeness' that the case(s) is congruent with the expectations derived from different theories
Generalisation – drawing conclusions beyond the cases under investigation	Statistical generalisation Drawing conclusions about the causal effect of X on Y from the selected cases and generalising to a population of cases that are similar with respect to all variables	Possible generalisation Drawing conclusions from the identified causal configuration(s) and mechanisms for an outcome and generalising to the set of potential configurations and/or to the set of proven causal configurations and mechanisms	Theoretical generalisation Drawing conclusions from the explanatory power of theories in more or less 'crucial' cases to the relevance of theories in the scientific discourse

Source: Author's own illustration, based on *ibid*, pp.27-29

Every empirical research project begins with a research question, which needs to be answered to accomplish the goal of the research project (ibid, p.23). The overarching research questions of this study ask how the CRA3 and AF4 represented their interests during recent EU reforms and what resources and conditions enabled their influence on the reform outcomes. COV analysis is described as an x-centred approach, which discovers if one specific variable (independent factor) makes a difference for the outcome (dependent variable). According to Blatter and Haverland, COV is applied when causal factors work independently of each other, resting on the ontological assumption of autonomous causal factors. On the contrary, CPT is a y-centred approach and asks for various factors to explain an outcome. They conclude that CPT researchers are keen to develop a possible complete explanation of an outcome, based on several factors, for a fully adequate understanding of a social process. This leads to the main difference between these two approaches. CPT researchers start with a plurality of factors that work together for a specific outcome. A holistic perspective of CPT researchers draws the attention to configurations of causal conditions or social mechanisms. Instead, COV researchers want to test the value of a specific variable for an outcome. In contrast to the COV and CPT approaches, CON researchers are interested in contributing directly to the academic community by comparing the descriptive and explanatory merits of different theories. These researchers ask questions about which theory better explains a particular phenomenon (ibid, pp.23-24).

This study seeks to explore the complex causal configurations of the CRA3 and AF4 EU interest representation and explain the influence during recent EU reforms. Neither COV nor CON approaches are able to answer the research questions of this study in the same way as CPT does. However, it is important to mention that the merits of the academic constructs are also discussed in this study³³. Academic implications are derived by empirical observations and not by formal testing of propositions or predictions according to the CON approach.

Moreover, it is important to discuss in brief the temporal interplay among conditions and mechanisms for a specific outcome, which is a crucial aspect for interest group influence. EU interest representation and influence of the CRA3 and AF4 during the EU decision-making processes are a temporal interplay for the EU reform outcomes. Yet, it is not possible to achieve a complete unfolding of all single actions that led to changed outcomes during various points in time. Consequently, this study investigates the EU interest representation and influence of the CRA3 and AF4 on the EU reforms

³³ Please refer to Section 6.3 for the academic implications of this research work.

through the applied analytical framework. The researcher developed sequential CRA3 and AF4 cases to obtain comprehensive storylines with smoking gun-observations and confessions by actors (cf. *ibid*, pp. 19-20). Information about the distance and proximity of causes and consequences as well as about perceptions, preferences and motivations of important actors are major elements of the case studies. Cross-case comparison rather strengthens the quality of observation of each single case than forming the basis of causal inferences. Moreover, conclusions of this study can be used for making possibilistic generalisations, which is described by Symon and Cassell (2012, p.365) as naturalistic generalisations and analytical refinement.

As shown, CPT facilitates a measurement of interest group influence based on a comprehensive storyline, which uncovers the causal mechanisms and conditions for social outcomes. Dür (2008a, p.1223) says that researchers had made advances in the past with respect to measuring interest group influence outside and inside the EU. However, he suggests that researchers should balance the disadvantages of different approaches through triangulation. Dür (*ibid*, pp.1223-1225; Dür 2008b) presents three most accepted approaches for measuring interest group influence:

- Causal-process tracing (CPT);
- Measuring attributed influence (MAI);
- Assessment of the degree of preference attainment (DPA).

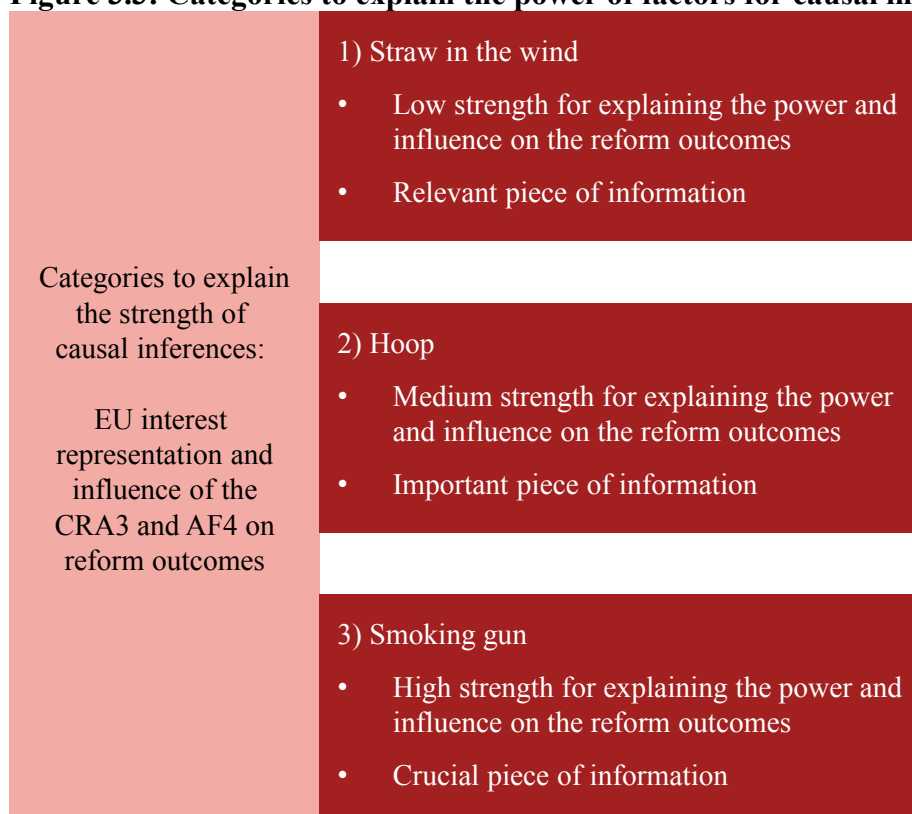
The DPA technique is applied additionally to strengthen analytical rigour of this study. This analytical triangulation is considered a robust way of conducting each case study and minimising the limitations of each applied approach as much as possible. CPT is the most popular approach for measuring interest group influence in the EU (*ibid*, p.562). The advantages of this approach spring from the researcher's ability to collect substantial information about actors and factors that influence political outcomes. In this context, semi-structured interviews allow researchers to achieve analytical depth (*ibid*, p.563). Nevertheless, Dür (*ibid*, pp.563-565) reveals that the CPT has five major limitations:

- Collecting precise empirical evidence;
- Cross-checking limitations;
- A missing yardstick to define the degree of influence;
- Confusing interest group action with influence;
- The problem of generalisation from a small-N study.

This study attempts to overcome these limitations as much as possible. The study is based on a structured and comprehensive fieldwork with a large number of reviewed documents and 33 expert interviews. Various documents are used and the researcher constantly reflected to cross-check the collected information. The applied analytical framework, along with the CPT and DPA techniques, presents a robust basis to distinguish actions from influence. In addition, the DPA technique and a comparison of cases can be used as a yardstick for the assessment of the degree of influence. Possibilities of generalisation have been already discussed.

Moreover, Collier (2011) presents a process tracing test for causal inferences, which was built for hypothesis testing. As illustrated below in Figure 3.3, Collier’s test was adjusted for this study to facilitate the assessment of influence during the CPT analysis. In this sense, this study uses a similar kind of categorisation to explain the impact of EU interest representation and influence of the CRA3 and AF4 on the reform outcomes.

Figure 3.3: Categories to explain the power of factors for causal inference



Source: Author’s own illustration, adopted from *ibid*, p.825

According to Dür (2008b, pp.565-566), the MAI method asks actors to assess their influence or the influence of others. He states that surveys are generally used during this process and a relative simplicity is the major advantage of this approach.

The major criticisms of this approach are that the MAI method measures perceptions of influence rather than influence itself, risks of biased answers and missing depths of answers (cf. Polsby 1960; Dür 2008a, p.1224). In addition, this approach allows of strategic falsification of actors who try, for example, to avoid counter-lobbies to maintain their own policy impact in future (cf. *ibid*). As a result, this method is not considered as an analytical approach for this study.

The DPA technique assumes that a close distance between the ideal point and the later policy outcomes explains the influence of a specific actor (*ibid*, pp.1224-1225; Dür 2008b, pp.566-569). According to Dür, this approach is applied in several studies on interest group influence in the EU. Furthermore, the advantages are the detection of influence in secret environments and the easy use for studies comprising several cases. On the other hand, he states that its major drawbacks are the difficulty of determining preferences and missing details about alternative causal factors, which could establish a coincidental closeness of an outcome to an actor's preference. Finally, he argues that the process of influence remains a 'black box' and the quantification of the degree of influence is problematic.

As a result, the DPA method is an adequate additional technique for the assessment of influence and to challenge the findings of the CPT analysis. Limitations for the DPA approach are not a major problem for this research because of the analytical triangulation. A determination of preferences is enabled through document analysis and empirical evidence collected during interviews. A risk of coincidental closeness and the black-box character are countered by the combined CPT analysis. The triangulation of the CPT approach, which is guided by the analytical framework, along with the DPA analysis builds a sophisticated model for the assessment of power and influence. In this respect, this study fulfils the recommendation of Dür for the use of a methodological triangulation to measure influence (cf. *ibid*, p.569-572).

In summary, this chapter explained the coherence of the applied research methodology and each single method and technique to ensure cogency of the research work. In addition, the chapter also described the ethos of the researcher with regard to research participants, data generation, data analysis as well as the overall academic standards of research.

Chapter 4: EU interest representation and influence of the CRA3

4.1 The EU reform of CRAs and the political environment

Breaking out in 2007, the financial crisis provided the main context for the reform of the CRAs. As was previously the case, the sector was not open to the broad public and the role of the CRAs in the financial system remained more confidential. However, public and political awareness in the EU changed fundamentally due to the role of the CRA3 in the crisis, beginning with the subprime debt crisis and ending with the sovereign debt crisis (cf. Hiss and Nagel 2012, pp.164-173, 265-268).

Especially their ratings of structured finance products were massively criticised and seen as a root of the crisis, apart from the dysfunctional banking system (cf. Utzig 2010, pp.1-3; Mullard 2012). At a later stage in 2011, the timing and methods of their sovereign ratings, for the USA and EU members states such as Greece and Portugal, were assessed as having a negative impact on established EU and International Monetary Fund (IMF) stability programmes and being counterproductive to the stability of the financial system (cf. Hiss and Nagel 2012, p.167).

Banks, rating agencies and other financial services sectors such as audit firms became part of the EU reform agenda. In this context, an increased level of negative media coverage and high public salience due to the crisis could be observed for the CRAs. A sector that was previously known only to financial experts made headlines in yellow press and came to acquire a negative image, which still exists today (cf. Morgenson 2008; Handelsblatt 2011; Bild 2011; Stephens 2012; Bild 2014).

Figure 4.1: Social and causal mechanisms for the EU reform of CRAs



Source: Author's own illustration, adopted from Blatter and Haverland (2012, p.95)

As illustrated above in Figure 4.1, the crisis initiated social and causal mechanisms that directly headed towards the CRA3. The initial condition was unfavourable and coupled with negative perception of politicians, media and EU citizens. This led to a situational mechanism of establishing a comprehensive EU reform. Particularly the CRA3 were pressured to establish an action-formation of EU interest representation to achieve influence during the transformational mechanism of EU decision-making. This case study investigates the EU interest representation and

influence of the CRA3 during recent EU reforms in the context of the crisis. In short, the analysis concentrates on how the CRA3 established their EU interest representation and what other resources and conditions allowed for influence in the EU political sphere.

4.1.1 Institutions

The EU multi-level governance system defined the arena for EU interest representation of the CRA3. The EC, EP and the CEU were the main institutions for the CRA3 lobbying activities. In addition, the European Securities and Markets Authority (ESMA) became increasingly important over time.

The relationship between the CRA3 and the EU authorities was impaired from the beginning. For the first time in 2008, the EU initiated a reform for the CRA. The EU was heavily under pressure to deal with problems of this sector due to the financial crisis. The EU saw the CRA3 as a ‘black sheep’ vis-a-vis the vicious banking sector. The perceived responsibility of the CRA3 for the crisis, along with a very negative perception by media and citizens, strongly influenced the relationships in the EU arena. It can be said that the CRA3 faced some prejudgement, which negatively affected their potential to convey arguments during the lobbying processes.

There were only few attempts by the CRA3 to reposition the political conflicts in the public arena. For example, the CRA3 tried to block the EU reform more publicly at the beginning of the third reform stage (cf. Barker 2011). The third stage covered the set of issues that strongly conflicted with the preferences of the CRA3 due to the direct risks to their business model (cf. EC 2011d). Consequently, the CRA tried to use public channels to fight issues. However, the prevailing negative public image of the CRA3 strongly limited scope of public efforts. As a consequence, the focus was clearly on issue-based lobbying in the EU political arena.

4.1.2 Interest groups

Table 4.1: Interest groups during recent EU reform of CRAs

Interest groups	Reasons
CRA3	- Direct target of the EU reform
SME CRAs	- Impacted through new legislations as a profession
Issuers (banks, companies, other issuers, related associations)	- Customers of the CRAs and directly influenced by new EU laws
Investors (banks, investment firms, hedge funds, other investors, related associations)	- Customers/information receivers of the CRAs and dependent on quality of information
EU public authorities (e.g. CESR, ESMA, EU member state ministries)	- Interest about the new EU reform because of regulatory functions
Other interest groups (other firms, institutes and associations, academics, individuals)	- Interest about the new EU reform because of professional or academic reasons

Source: Author's own illustration

The CRA3 were the main interest group because the EU proposals directly targeted the existing oligopoly of Moody's, S&P and Fitch. Their main interest was to retain the status quo of a liberal environment for their business activities. Nevertheless, the CRA3 also supported the EU reform because they realised that a stronger regulation of their sector became unavoidable in the aftermath of the crisis. The small and medium enterprise credit rating agencies (SME CRAs) comprised the second interest group. Their main interest was also to protect their business against harmful EU measures and to contribute to the better functioning of the sector. For example, they identified costs of compliance with new EU laws as a threat to their future competitiveness. The third interest group consisted of issuers (e.g. banks and companies) as customers of the CRAs. Their main interest was to continue business relationships with the CRAs and to avoid any negative impact on their business resulting from the EU reform of CRAs. Investors comprised the fourth interest group. Investors were particularly interested in increasing the quality of ratings to get better information for investment decisions. The EU public authorities were the fifth interest group. These authorities were particularly interested in their regulatory functions and the impact of new rules on CRAs throughout the EU. The EU public authorities are closely associated with the EU institutions. For example, the European Securities Markets' Expert Group (ESME) or the Committee of European Securities' Regulators (CESR) worked closely with the EC and developed reports on the role and performance of the CRAs. In addition, member state ministries were directly represented at the EU level through the CEU. Finally, other interested groups such as academics or other individuals are clustered as the sixth interest group.

4.1.3 Information

Table 4.2: Main sources/channels of information for the EU reform of the CRAs

Main sources/channels of information	Reason (Main motif)
Existing sector standards (IOSCO) and laws	Receive issue assessment (justification)
Independent reports (CESR, ESME)	Receive issue assessment (justification)
EC reports	Develop progress (justification)
EC impact assessments	Assess actions and consequence (justification)
EC frequently asked questions	Inform public (awareness)
EC & EP press releases	Inform public (awareness)
Consultation documents, round table summaries	Stimulate interest groups' responses (interest representation and inclusion)
Interest groups responses (emails, letters, calls, meetings, position papers, etc.)	Receive interest group preferences (interest representation and inclusion)
Regulation and Directive proposals	Democratic legitimacy (decision-making)
EP and CEU readings and debate summaries	Democratic legitimacy (decision-making)
ESMA technical advice	Define standards (precision)

Source: Author's own illustration

Creating and exchanging relevant information is a key task for EU decision-making and interest groups' activities. The EU reform of CRAs was a highly knowledge-intensive process. Particularly the high degree of technicality associated with financial services reforms required sound information for the EU authorities. This is illustrated by the time of approximately five years, which was needed to process all three stages of the reform. During this process, different kinds of information moved issues in the political arena.

As illustrated above in Table 4.2, different reasons and motivations moved different kinds of information. The most important sources of information were the EC proposals. However, the EC needed other kinds of information for justification and establishment of proposals. This justification was made by assessing existing sector standards and laws in the context of the crisis. In addition, different sector reports were published by the EC or received from other EU organisations such as CESR or ESME. These were important sources to create a better understanding about critical issues for the sector. Moreover, the EC developed own impact assessments to justify proposed measures. Even at an early point in this case study, it is interesting to see that the CRA3 or other interest groups did not develop own impact assessments to convey their views on the consequences of the proposed measures³⁴. Press releases and frequently asked

³⁴ At least, no published report of this kind was found during the analysis of documents. In addition, no interviewee mentioned the establishment of an own impact assessments of the CRA3. Even if impact assessments were established by the CRA3, these documents received not a high significance during the EU decision-making process.

questions were distributed to inform stakeholders and the public about the reform process. These documents were prepared by the EC and EP to create awareness. Moreover, EU decision-making required the views from different interest groups. This was received through consultation processes during Stages 1 and 2, as well as a roundtable discussion with sector representatives and public authorities. In addition, the CRA3 and other interest groups such as SME CRAs provided information to the EU authorities directly. Interviewees confirmed that the EC was updated with letters, phone calls or emails. In addition, the CRA3 stated that they held meetings with the EU authorities, especially with EP members, and with politicians in the EU member states to inform them about the reform and their own perspective on different proposals. Finally, the documents which were developed and exchanged during the formal decision-making process between the EU authorities were important sources of information. As mentioned above, the most important sources of information were clearly the different EC reform proposals that were used for readings and discussions of the EP and CEU. These were central documents during the EU decision-making process. This specific exchange of information was linked to the ordinary legal procedures of the EU to secure democratic legitimacy. In this respect, the ESMA contributed during later stages through the development of different regulatory technical standards (RTSs).

4.1.4 The EU decision-making processes

As illustrated below in Tables 4.3 to 4.6, the EU reform of CRAs was processed by the EU in three stages. The EU started reforming the CRAs in 2008. The first stage established the first distinctive legal framework for CRAs in the EU between 2008 and 2009. This stage generally focused on the registration, conduct of business and supervision. The second stage between 2009 and 2011 was to install the ESMA as a new supervision authority for the CRAs. The third stage between 2011 and 2013 further developed the legal framework based on the EU's point of view that the EU sovereign debt crisis had given evidence that the existing legal framework was insufficient. The directive focused on the issues of overreliance on ratings by investors. The regulation covered the issues of sovereign debt ratings, existing conflicts of interest (e.g. the issuer-pays model, shareholding structures between CRAs, etc.), market concentration and civil liability. All four decision-making processes were conducted as an EU ordinary legislative procedure. Each single reform was adopted after the first reading and there were no second readings or conciliation procedures.

4.1.4.1 Stage 1: Regulation EC No 1060/2009

Table 4.3: CRA Stage 1 decision-making process

	Type and instrument
	Ordinary legislative procedure - Regulation
Date	Key events
12.11.2008	Legislative proposal published
20.11.2008	Committee referral announced in Parliament, 1st reading/single reading
23.03.2009	Vote in Committee, 1st reading/single reading
01.04.2009	Committee report tabled for plenary, 1st reading/single reading
22.04.2009	Debate in Parliament
23.04.2009	Results of vote in Parliament (for: 569; against: 47; abstentions: 4)
23.04.2009	Decision by Parliament, 1st reading/single reading
27.07.2009	Act adopted by Council after Parliament's first reading
16.09.2009	Final act signed
16.09.2009	End of procedure in Parliament
17.11.2009	Final act published in Official Journal
Institution	Key actors
EP	Jean-Paul Gauzès, Economic and Monetary Affairs Committee
EP	Sharon Bowles, Legal Affairs Committee
CEU	Meeting 2957
EC	Charlie McCreevy, DG Internal Market and Services

Source: Author's own illustration, based on the EP Legislative Observatory

4.1.4.2 Stage 2: Regulation EU No 513/2011

Table 4.4: CRA Stage 2 decision-making process

	Type and instrument
	Ordinary legislative procedure - Regulation
Date	Key events
02.06.2010	Legislative proposal published
23.06.2010	Committee referral announced in Parliament, 1st reading/single reading
17.11.2010	Debate in Council
22.11.2010	Vote in Committee, 1st reading/single reading
25.11.2010	Committee report tabled for plenary, 1st reading/single reading
14.12.2010	Debate in Parliament
15.12.2010	Results of vote in Parliament (for: 611; against: 15; abstentions: 26)
15.12.2010	Decision by Parliament, 1st reading/single reading
11.04.2011	Act adopted by Council after Parliament's first reading
11.05.2011	Final act signed
11.05.2011	End of procedure in Parliament
31.05.2011	Final act published in Official Journal
Institution	Key actors
EP	Jean-Paul Gauzès, Economic and Monetary Affairs Committee
EP	Klaus-Heiner Lehne, Legal Affairs Committee
CEU	Meeting 3081
EC	Michel Barnier, DG Internal Market and Services

Source: Author's own illustration, based on the EP Legislative Observatory

4.1.4.3 Stage 3: Regulation EU No 462/2013 and Directive 2013/14/EU

Table 4.5: CRA Stage 3 decision-making process (regulation) (1/2)

Type and instrument	
Ordinary legislative procedure - Regulation	
Date	Key events
15.11.2011	Legislative proposal published
30.11.2011	Committee referral announced in Parliament, 1st reading/single reading
19.06.2012	Vote in Committee, 1st reading/single reading
22.06.2012	Debate in Council
24.08.2012	Committee report tabled for plenary, 1st reading/single reading
15.01.2013	Debate in Parliament
16.01.2013	Results of vote in Parliament (for: 579; against: 58; abstentions: 60)
16.01.2013	Decision by Parliament, 1st reading/single reading
13.05.2013	Act adopted by Council after Parliament's first reading
21.05.2013	Final act signed
21.05.2013	End of procedure in Parliament
31.05.2013	Final act published in Official Journal
Institution	Key actors
EP	Leonardo Domenici, Economic and Monetary Affairs Committee
EP	Cecilia Wikström, Legal Affairs Committee
CEU	Meetings 3178, 3205, 3237,
EC	Michel Barnier, DG Internal Market and Services

Source: Author's own illustration, based on the EP Legislative Observatory

Table 4.6: CRA Stage 3 decision-making process (directive) (2/2)

Type and instrument	
Ordinary legislative procedure - Directive	
Date	Key events
15.11.2011	Legislative proposal published
30.11.2011	Committee referral announced in Parliament, 1st reading/single reading
19.06.2012	Vote in Committee, 1st reading/single reading
22.06.2012	Debate in Council
28.08.2012	Committee report tabled for plenary, 1st reading/single reading
15.01.2013	Debate in Parliament
16.01.2013	Results of vote in Parliament (for: 599; against: 27; abstentions: 68)
16.01.2013	Decision by Parliament, 1st reading/single reading
13.05.2013	Act adopted by Council after Parliament's first reading
21.05.2013	Final act signed
21.05.2013	End of procedure in Parliament
31.05.2013	Final act published in Official Journal
Institution	Key actors
EP	Leonardo Domenici, Economic and Monetary Affairs Committee
EP	Sebastian Valentin, Legal Affairs Committee
CEU	Meeting 3237
EC	Michel Barnier, DG Internal Market and Services

Source: Author's own illustration, based on the EP Legislative Observatory

4.1.5 Details about the reform stages, issues and outcomes

The above illustrated decision-making processes just show the timeframes for CRA3 interest representation. The EU reform issues and outcomes during each of the reform stages need to be analysed now in more detail. This analysis includes also the pre-crisis stage between 2004 and 2007 to understand the emergence of issues during time³⁵. In addition, the current stage after the third reform stage is also included to inform about the actual issues after the formal EU reform has been established³⁶.

4.1.5.1 Stage 1

The subprime crisis hit the world and the banking sector was in a severe crisis due to worthless subprime assets. Banks such as the IKB Deutsche Industriebank (IKB) or Hypo Real Estate in Europe as well as Bear Stearns in the US collapsed. The USA initiated rescue measures for banks such as Fannie Mae or Freddie Mac. The UK renationalised their biggest mortgage bank Bradford & Bingley. As the EU's largest economy, Germany initiated rescue measures such as the Financial Market Stabilisation Fund (Soffin) and the Financial Market Stabilisation Law (FMSL). Moreover, the stock markets across the world cracked and Iceland was the first country that faced national insolvency and needed help from the IMF (cf. Lobbypedia 2011).

This all happened before the EC adopted the first proposal to reform CRAs in November 2008³⁷. One reason for the belated handling of the rating sector was the EU focus on the banking sector as the primary root of the crisis. During this time, the EU interest representation of the financial services industry intensified and the CRA3 established their EU lobbying activities due to the first-time risk of specific EU laws. Drivers for their higher awareness during this time were the single steps that were initiated by the EC Directorate-General (DG) Internal Market and Services.

The ESME report on the role of CRAs, which was commissioned by the EC, involved several meetings with senior executives of the CRA3. This report analysed the business model, the regulation environment and the CRAs' role in the crisis. The report stated that the CRAs operated in a self-regulated EU environment with weak oversight compared to the US where the Securities and Exchange Commission (SEC) had real supervisory power (cf. ESME 2008). Consequently, they recommended stronger cooperation with the SEC due to the global spread of CRAs and highlighted that

³⁵ Please refer to Appendix C for more details and the analytical table.

³⁶ Please refer to Appendix G for more details and the analytical table.

³⁷ Please refer to Appendix D that shows the analytical table (stages, date, steps, documents and issues/outcomes) for the discussion of this section.

particularly ratings of structured finance products needed more attention. They recommended various smaller measures for the enhancement of structured finance ratings summarised by stronger corporate policies, better corporate governance, increased communication and transparency, more awareness of performance measurement and a cultural audit of the CRAs to detect any conflicts of interest (cf. *ibid*, pp.18-22). In this context, their conclusion about external regulation and oversight is interesting. They did not recommend a full formal regulation. Instead, they fostered an enhanced self-regulatory model based on the IOSCO code of conduct with stronger CESR oversight based on annual reviews and forming an advisory group of different stakeholders (e.g. banks, academics, investors and the SEC).

Shortly after the ESME report, the second CESR report was published on 2 July 2008 (cf. CESR 2008). Their findings stood in stark contrast to the ESME recommendations. The CESR report opened the door to the EU reform proposals by stating that the EU needed to establish formal regulation in case market support and the establishment of an international standard setter failed. In this respect, CESR had changed their position with regard to a necessary formal regulation since the publication of their first report in early 2007. They compensated for changed positioning based on specific crisis conditions and the risks associated with ratings of structured finance products.

At the same time, the EC had already started working on a formal regulation of CRAs owing to the publication of the consultation process by the end of July 2008 (cf. EC 2008e) and the adoption of the reform proposal in November 2008 (cf. EC 2008i). The EC emphasised the need for an EU reform within the consultation process and distanced themselves from their earlier stand on sufficient self-regulation:

“Commissioner McCreevy declared: “I have been listening to many advisory bodies to the EC and watching developments in the industry and in other jurisdictions for the last year. I am convinced, like others in Europe, of the need to legislate in this area at EU level. CRAs will have to comply with exacting regulatory requirements to make sure ratings are not tainted by the conflicts of interest inherent to the ratings business. The crisis has shown that self-regulation has not worked.””

(EC 2008e, p.1)

The subsequent consultation process called upon all interested citizens and organisations to contribute to a new legislative framework for CRAs. The EC distributed an early consultation draft version for the stimulation of the consultation process and received 96 responses. Responses were issued by different public

authorities (e.g. Ministry of Austria, Committee of European Banking Supervisors (CEBS), etc.), registered organisations (e.g. Investment Management Association (IMA), etc.) as well as individual organisations and actors (e.g. American Chamber of Commerce, etc.). The public authorities lent strong support to an EU regulation and provided corrections to the EC proposals. The responses from registered organisations were dispersing with a tendency to the acceptance of a regulatory EU framework. Banking federations such as the European Banking Federation (EBF) recommended increased self-regulation on an updated IOSCO code with increased monitoring. Consequently, the EU lobbying of the CRA3 was configured at this time, but without any direct consultation responses. It is surprising that only few SME CRAs such as Feri Rating, a small German CRA, or AM Best, a small US rating agency, responded. This indicates that the EU reform was a sensitive issue for the CRA3 and they needed time to organise their interest representation.

The first EU reform proposal was adopted in November 2008 and put the EU in a leading role for the regulation of CRAs to restore confidence in the market after the crisis (cf. EC 2008b). EC President Barroso stated that the EU acted as a pioneer for the 20 major economies' governments and central bank governors (G20) member states (cf. EC 2009). The proposed measures created a more uncomfortable environment for the CRAs in the EU. The EC took a firm stance on the performance of the CRA3, which were affected by conflicts of interest, profit seeking, poor transparency and a lack of supervision (cf. EC 2008g, pp.2-4). A comprehensive EC impact assessment provided the rationale for their assessment (cf. EC 2008c; EC 2008d).

The first EU laws for CRAs were adopted by the EP and the CEU on 16 September 2009 and went into force on 17 November 2009 when it was published in the Official Journal (cf. EU 2009). An analytical comparison of the draft proposal and the final law revealed changes in various specifications and more detailed descriptions that were needed for the formal enactment in the EU. However, the final articles reflected only few substantial changes in the main proposed rules. It appears that the external pressure during the height of the crisis and the initial set-up of EU lobbying curbed the influence of CRA3. However, the proposed issues did not fundamentally contradict the main preferences of the CRA3. The acceptance of official registration, increased internal quality and external transparency standards were tolerable for them during this time considering the negative public and political perception of their professional performance. However, the most critical proposed measures concerned the prohibition of specific advisory services and ratings for financial instruments based on insufficient

information. The proposed strong basis of information for credit ratings, particularly for ratings of financial products, remained almost unaltered in the final reform (cf. EU 2009, pp. 12-13, §8 2., 5 (38)). Moreover, rules for the provision of advisory services were also integrated. In conclusion, the first EU reform stage represented a historic step towards an EU regulation of CRAs. The EU significantly changed its position with regard to the need of regulating CRAs due to the impact of the crisis. The strategic importance of EU lobbying soared to a new level for the CRA³.

4.1.5.2 Stage 2

The sovereign crisis of states became a major threat to the stability of the EU in 2010 and 2011. After the state crisis in Iceland in 2008, the 2010 sovereign crises of Greece and other EU member states became a political threat in the EU. The sovereign crisis unfolded in April 2010 when Greece was not able anymore to repay its state debts and officially applied for help to the EU and IMF. Several other member states such as Portugal, Ireland, Italy and Spain were also fighting state bankruptcy.

The EU reacted to the risks for the Eurozone with several measures. For example, in May 2010, the ECB started buying government bonds to provide liquidity for heavily indebted EU member states. In June 2010, they also set up the European Financial Stability Facility (EFSF) for the stabilisation of EU member states that were threatened by financial difficulties. The EFSF was the precursor of the actual European Stability Mechanism (ESM), which came into force on 27 September 2012.

These changes in the EU system called for an appropriate oversight for CRAs³⁸. The financial services sector was once again in the limelight because investment banks and hedge funds were ‘betting’ on state insolvencies based on financial instruments such as Credit Default Swaps (CDSs). The rating sector was directly involved because of their sovereign ratings, being opinion-makers about the probability of state defaults. The impact of the sovereign crisis and the new European System of Financial Supervision (ESFS), along with the establishment of the European Systemic Risk Board (ESRB), needed to be transferred to the current system of oversight for CRAs (cf. EC 2010j, p.2). Hence, the EU established the ESMA in January 2011 as a successor to the CESR.

The EC DG Internal Market and Services initiated the second stage of CRA regulation in June 2010. The new EU proposal focused largely on the new EU

³⁸ Please refer to Appendix E that shows the analytical table (stages, date, steps, documents and issues/outcomes) for the discussion of this section.

supervision of the CRAs by the ESMA (cf. EC 2010h). In addition, a debate about better corporate governance in financial institutions and better communication of financial services was launched (cf. EC 2010a). The EC again initiated a comprehensive impact assessment of the new EU proposals (cf. EC 2010b; EC 2010c; EC 2010j). The new EU reform proposal incorporated legal and textual modifications to establish the ESMA as the new EU oversight body of the CRAs. The impact assessment focused on different options for the establishment of the ESMA (cf. EC 2010c). The assessment maintained that direct oversight by the ESMA of all EU-registered CRAs and the centralised sanctioning power of the EC, which was then acting on recommendation, was the preferred option (cf. *ibid*, p.6).

Moreover, the EU initiated another comprehensive consultation. This process focused on a set of critical issues (cf. EC 2010f). In particular, the EU debt and sovereign crisis triggered this process of reassessing the existing legal framework for CRAs and highlighted ‘blind spots’. The first issue focused on the overreliance of financial institutions and institutional investors on external credit ratings. The EC argued that the importance of credit ratings, which are formally integrated in investment decisions, contradicts the aim of independent evaluations of financial institutions and investors. In addition, national and EU legislations made direct references to credit ratings. This provided the CRAs with an important role. The consultation process asked for measures to reduce the overreliance on ratings and increase the disclosure by issuers of structured finance instruments to allow investor’s own due diligences based on adequate information. The second issue focused on sovereign ratings. In particular, the EC questioned the timing and transparency of these ratings. The third issue again addressed the market concentration and competition among the CRAs. The CRA3 dominated the market and exercised significant market power. The EC asked for options to increase competition and decrease market concentration. The fourth issue concerned civil liability of the CRAs. According to the EC, the unharmonised liability throughout EU member states could stimulate the CRAs and investors to choose member state jurisdictions with a small risk of civil liability. Hence, the EC enquired about the need to establish a civil liability for the CRAs at the EU level. The last issue brought up again the main concern about conflicting interests. The issuer-pays model was – and it is still – the revenue model of the CRA3 and most SME CRAs. The EC expressed their concern that issuers were likely to exercise power on CRAs for favourable ratings. In this respect, the CRAs took a strong stand against such heavy reproaches owing to their

goals to retain their customer relationships and the existing revenue model. However, the EC asked for evidence and alternative options to solve this problem (cf. EC 2010f).

The EC received 93 responses. The responses came again from a large set of public authorities, registered organisations and other interest groups. The EC's summary of responses revealed the preferences of the different interest groups (cf. EC 2010i). This document summarised the concerns about overreliance on ratings and the need for independent due diligences against the mechanical use of ratings. The EC received support that sovereign ratings should be treated in the same way as corporate ratings with high transparency of methodologies, but with a longer notice period before publication. A lack of competition in the market for CRAs was confirmed, but there were many counter-arguments about appropriate measures to achieve this goal (e.g. state-support for new entrants, public-private partnerships, EU network of SME CRAs). A harmonisation of civil liability across the EU member states was supported by many respondents, clearly against the preference of the CRA3. Conflicts of interest due to the issuer-pays model were labelled as a general threat. However, all groups of respondents underscored the possibilities of dealing with the existing model. No other model (investor-pays model, payment upon result model, trading venues-pay model, government as hiring agent model or public utility model) was supported because of own conflicts of interest (cf. *ibid*, pp.1-4). It is important to see that each of the CRA3 responded during this consultation process³⁹, giving a clear view on their preferences.

Consequently, the Regulation (EU) No 513/2011 came into force on 11 May 2011 and amended the existing Regulation (EC) No 1060/2009 (cf. EU 2011). The new law covered the changes to set up the ESMA as the new oversight authority. None of the discussed issues of the consultation process were included. The political fight on these issues and proposals was transferred to the third stage.

4.1.5.3 Stage 3

The financial crisis crossed its peak between 2009 until 2010. By mid of 2011, a stabilisation of the Eurozone could be detected. In autumn 2011, the EU passed five regulations and one directive, the so-called six pack, as a stability and growth pact (cf. Lobbypedia 2011). The sovereign crisis receded and the EU went through one of the strongest financial crises in history. However, the reform of the CRAs was still ongoing because of remaining mistrust and a set of open issues that needed to be answered. The

³⁹ Their responses were used for the analysis of the CRA3 preferences, their degree of preference attainment and their EU interest representation. Please refer to Sections 4.1.6, 4.2 and 4.3 for more details.

above mentioned consultation from 5 November 2010 provided the basis for political disputes arising from the sensitive issues of overreliance, sovereign debt rating standards, competition and market concentration, civil liability and conflicts of interest. At this time, only a handful of SME CRAs were registered in the EU (cf. EC 2011f)⁴⁰.

The EC needed to conduct more consultations with different interest groups and experts to develop a stronger legal framework and discuss the above-mentioned issues. The roundtable to shape the future EU policy for CRAs focused on these issues. This consultation was conducted with a large set of 60 participants from all relevant areas (e.g. EU institutions, member states ministries, CRAs, etc.) (cf. EC 2011m). The summary of the discussion represented once again the views expressed by the different interest groups. The mechanical use of ratings was a major problem and increased due diligences and credit risk assessments through better access to information were recommended. The formal reference to ratings in legislation texts was once again raised as a problem and some participants called for a cautious process of gradual removal because of the crisis. Sovereign ratings were discussed with regard to higher transparency and increased notice period. The issue of weak competition was discussed on a more holistic level because of missing details by the EC and the time to effect changes in the marketplace. The participants drew parallel to the audit sector. Civil liability in gross negligence or intent across the EU was highlighted as a necessary measure. The issuer-pays model was also not addressed on a detailed level because of missing alternatives. However, a mandatory rotation comparable to the audit sector was suggested. The CRA3 strongly disagreed with a mandatory rotation because of the impact on their existing business model and client relationships. In addition, investment banks seemed also to be against this measure because of the loss of experience that comes with such a model. As a final point, the combined shareholder structure of the CRA3 was discussed to eliminate centralised market power (cf. EC 2011m).

Only a few months later, the EC adopted proposals for a new regulation and a new directive (cf. EC 2011d; EC 2011e). The directive, which was to transfer the implementation of rules to the EU member states, addressed the issue of fund managers' overreliance on ratings (cf. EC 2011h). The regulation included the issues of changed rules for sovereign ratings, diversity and independence, civil liability and conflicts of interest. The proposed regulation incorporated a wide variety of measures to tackle the conflicts of interests (e.g. mandatory rotation every 3 years, etc.). Moreover, different

⁴⁰ Please refer to Appendix F that shows the analytical table (stages, date, steps, documents and issues/outcomes) for the discussion of this section.

complementary legal changes were initiated. Many of these focused on the interaction between CRAs and the ESMA. Early in 2012, the EU regulated the fees for CRAs, which should be charged by the ESMA for registration and annual supervisory (cf. EU 2012a). It was the first time that an EU supervisory authority regulated the financial activities of a private entity (cf. EC 2012). In May 2012, the EC delegated four RTSs focusing on information provided to ESMA and a disclosure in a central repository (CEREP). New rules for fines by the ESMA and corresponding defence rights were set (cf. EU 2012b). The global harmonisation of laws was fostered by the recognition of the supervisory frameworks from the USA, Canada and Australia as equivalent standards (cf. EU 2012c; EU 2012e; EU 2012d).

In January 2013, the EP voted with a strong majority for the new regulation and directive (cf. EP 2013; EC 2013d; EC 2013f). The new legislative framework adopted a large set of earlier discussed proposed measures. The results of the third-stage reform were published in the Official Journal on 31 May 2013 (cf. EU 2013a). The outcomes were reported by the EC on 20 June 2013, nearly one and a half years after the first proposals during Stage 3 (cf. EC 2013g; EC 2013e). The new regulation contained specific rules to reduce the overreliance on ratings, establish better and more predictable sovereign debt ratings, limit the risks of conflicts of interest due to the issuer-pays model and the malicious shareholder network in the financial sector, and to make CRAs liable in case of gross negligence or intent. It should be noted that the final legislation limited the mandatory rotation to complex structured finance products, while the existing issuer-pays model remained in place.

4.1.6 The CRA3 preferences

This discussion follows the eight identified issues based on the consultations and the EU reform proposals to analyse the preferences of the CRA3 on the level of single measures⁴¹. These measures are non-cumulative to assign some measures to different stages. In addition, the analysis contains the assessment of the impact of the proposed measures on the CRA3 business model to highlight the strongest political conflicts. Afterwards, Section 4.1.6.1 describes the preferences of other interest groups and explains main conflicts with the CRA3.

The first issue was the EU reform itself. Before the crisis, the CRA3 always supported a liberal market policy based on free-market principles without governmental

⁴¹ Please refer to Appendix H for the analytical table. This table shows the detailed analysis of the CRA3 preferences on a single measure level.

regulation. Even after the outbreak of the crisis, the CRA3 strongly opposed new laws by the EU. They declared that the existing regulation based on the Financial Services Action Plan (FSAP) with three general directives (Market Abuse Directive, Capital Requirements Directive, and Markets in Financial Instruments Directive) together with the self-regulation based on the IOSCO code of conduct were sufficient. Their strategic motivation was to avoid any harmful laws that might hold sway over their existing business models, revenue streams and cost structures. However, during mid of 2008, the crisis changed the political arena and they had to face political reality. The initiation of the EU actions on CRAs became unavoidable because of the financial crisis and their publicly-perceived role in it.

The second issue concerned the operation, quality and fair presentation of ratings. The third issue addressed the legal treatment of insider information. These issues were tracked by the EC during the first stage of the EU reform. The CRA3 needed to align their preferences on various measures due to increasing pressure and the ‘evidence’ of weak professional performance on the basis of ‘independent’ reports (cf. ESME 2008; CESR 2008). They supported to improve the quality of services and handle insider information with more discretion. The interviewees confirmed that internal reviews and guidelines for rating methodologies already existed. Yet, the CRA3 realised that these existing internal functions could be enhanced. Consequently, they aligned their preferences and moved towards a cooperative relationship with the EU, trying to rebuild trust. The below citation summarises the view of the CRA3 quiet well.

Interviewee: "..., but, I think, it is interesting if you start looking at the regulation of the rating agencies in different ways. I mean, some respond to the financial crisis and the specific subprime crisis, but they also go beyond. The measures try to address some of the areas where we had room for improvement in terms of disclosure, in terms of, you know, governance, or established processes. [...] Everything existed, but it was not necessarily as square as it is now. So, the whole issue on transparency about the rating process is something that the regulation of CRAs, you know, has helped us improving dramatically and that is positive. [...]"

(Interview with a President of a CRA3)

The EC confirmed during the interviews that the relationship with the CRA3 was cooperative and issue-based, even if the preferences of the CRA3 contradicted some measures. For example, a conflicting measure was the proposed formal qualification of analysts. The CRA3 interpreted this proposal as unreasonable because learning had to be achieved on the job. According to them, a formal qualification would

not increase quality of ratings. However, this was a minor problem for the CRA3 in comparison to later proposals during the third stage, especially compared to the proposed change of the issuer pays-model and mandatory rotation.

The fourth to the eighth issues had been discussed in the political arena for a long time; some of them were already highlighted during the pre-crisis stage (e.g. the conflicts of interest because of the issuer-pays model). The EC gradually approached these issues over time. During the first stage, the EC banned advisory services and introduced specific disclosure rules for unsolicited ratings. However, the EC needed more time to prepare stronger arguments for other issues. During the second stage, the EC increased awareness about these sensitive issues based on the consultation (cf. EC 2010f; EC 2010i). The identification of the CRA3 preferences with regard to these issues could be achieved from their position papers during the consultation process (cf. Taylor 2011; Madelain 2011; S&P 2011). These documents present strong evidence for their preferences with regard to conflicts of interest, lack of competition and market concentration, overreliance on ratings, improvements in sovereign debt ratings and civil liability. These issues resulted in strong conflicts between the EU and the CRA3 during the third stage.

The fourth issue focused on existing conflicts of interest. The proposed change of the issuer-pays model was a key conflict. The CRA3 strongly object to this even today because of the far-reaching impact on their business model. A change of the issuer-pays model would dramatically affect existing customer relationships and corresponding revenue streams. The second main conflict was about prohibition of advisory and ancillary services to issuers. In this, the CRA3 saw a potential negative impact on customer relationships and a legally enforced limitation of services. The third fundamental conflict between the CRA3 and the EU was proposed mandatory rotation. The EC wanted to reduce existing conflicts of interest because of excessive closeness with customers, particularly in the segment of structured finance ratings. As mentioned, mandatory rotation was advocated by some actors during the roundtable discussion in 2011 (cf. EC 2011m). The EC used this opportunity directly and added this measure to their proposal, setting in motion a huge conflict:

“Also, mandatory rotation of CRAs would not only substantially reduce the familiarity threat to CRA independence resulting from a long business relationship between a CRA and an issuer, but would also have a significant positive effect on improving choice in the rating industry by providing more business opportunities for smaller CRAs.”

(EC 2011i, p.5)

Opposing mandatory rotation, the CRA3 argued that quality of ratings would be negatively impacted, required human and financial resources rise, and finally costs for issuers increase. Other proposed measures to decrease conflicts of interest of CRAs were disclosure of unsolicited ratings, establishment of independent members in the supervisory board, rotation of analysts and credit rating committees, reduced shareholder links between CRAs and a higher number of ratings for complex structured financial products. The CRA3 compromised on the first two issues to show their willingness to support higher independence and better quality of services. Furthermore, the impact on their business model was rather low. In addition, the CRA3 did not oppose a higher number of ratings for structured financial products. On the contrary, rotations of analysts and credit rating committees were not supported because the CRA3 saw again a negative impact on quality of ratings. Moreover, the CRA3 opposed any measures to change existing shareholder structures. According to them, shareholder structures did not leave a negative impact because of existing independence guidelines.

The fifth main issue focused on the lack of competition and the existing market concentration of the CRA3. Being profit seeking organisations, the CRA3 were interested in protecting market shares. They claimed to have created no market entry barriers in the past. According to them, high reputation based on quality services and independence was the most crucial factor for competitiveness in the market. In addition, they evaluated the EU reform itself as a further barrier for competition in the market because of additional costs of compliance. In summary, they underscored that they welcome competition in the market, but only driven by the market; customers shall decide rather than government policies. Owing to the long time that would be needed to establish more intense competition, the CRA3 did not strongly oppose to building a European Network of SME CRAs. On the contrary, they opposed the creation of a European CRA. They argued that an EU-funded organisation would create serious doubts about the independence of ratings and would conflict with liberal principles.

The sixth main issue referred to overreliance on ratings by issuers, investors and governments. This issue was already included during the first stage of the EU reform in 2009. During the third stage, further proposed measures unfolded with regard to references to external ratings in regulatory capital frameworks by the EU and its member states, the use of ratings in investment policies, independent decision-making and due diligences of investors and issuers, and the disclosure of information in a central repository. The CRA3 lent general support to these measures to foster the self-responsibility of issuers, investors and governments. They emphasised that they never

advocated any form of overreliance in the past. Support of these measures is quiet surprising because of the risk that their services could receive less importance in future. However, the investment community will always request independent ratings and a quick substitution by alternative assessments of creditworthiness seems unlikely.

The seventh issue resulted from the sovereign debt crisis and affected the quality, transparency and monitoring of sovereign ratings. The EC proposed specific laws such as higher publication frequency every six months, publication of a detailed research report, and the publication of sovereign ratings just after close of business and before EU trading venues reopen. The CRA3 took issue with these proposals because they assessed already established rules of the existing EU legal framework as sufficient for sovereign ratings. They argued that sovereign ratings were based on strong methodologies and had been generally accurate in the past. In addition, they underscored doubts with regard to a full publication of research reports because of intellectual property rights.

The eighth issue addressed civil liability for CRAs in the EU. The CRA3 strongly disagreed with any EU measures to create stronger civil liability. They argued that existing EU laws for the protection of investors and issuers are sufficient. This issue carried a high risk for the CRA3 because of the threat of future claims. The CRA3 currently experience this problem in the USA with a \$5bn civil fraud lawsuit of the government against S&P. Resulting from the crisis, this lawsuit provides an outstanding example of the threat of stronger civil liability. The US government accuses S&P for an inappropriate assessment of mortgage securities' risks during the subprime crisis because they were interested to get additional business from investment banks. This case is a cost-intensive battle for S&P and will most likely last for several years (cf. Viswanatha and Lacapra 2013).

4.1.6.1 Preferences of other interest groups and level of conflicts

The EU reform of CRAs predominantly targeted the CRA3 because of perceived failures during the crisis. Therefore, the main political battle was between the CRA3 and the EU institutions. Nonetheless, the SME CRAs were equally affected as market participants. For this reason, the discussion concentrates on the preferences of the SME CRAs and the corresponding conflicts between the CRA3 and SME CRAs. The preferences of other interest groups are shortly discussed in later section.

Ratings of structured financial instruments as well as sovereign ratings do not form the core business of the majority of SME CRAs, which are generally active in the

segment of corporate ratings. However, the EU reform made them liable for sector defaults, even if smaller firms did not have a direct contribution to the crisis. This problem explains the critical positioning of the SME CRAs towards the EU reform, as shown by the below citation. However, conflicts between the SME CRAs and the CRA3 were moderate. The SMA CRAs focused closely on proposed measures with a direct impact on their businesses such as registration, rating standards and compliance with new oversight rules.

“Nevertheless, the planned regulation of rating agencies [...] will have effects on our business because it sets standards on how rating agencies in general should be organised and how they should operate.”

(Knepel and Weiß 2008)

Initially, the majority of SME CRAs assessed the existing legal framework and the IOSCO code of conduct as sufficient for proper functioning of the sector. New costs of compliance were a major threat for them. The general complaint was that their costs structures would be stronger impacted in relation to the CRA3. The discrepancy between existing organisational resources and new organisational requirements from the EU reform was a direct threat for the majority of SME CRAs. Hence, they started lobbying for appropriate conditions to avoid that proposed measures such as registration, new operational requirements and stronger supervision harm their business models in an inappropriate way, which is expressed by the below citation.

Interviewee: “But if the EU requests from a small agency with 16 employees to have an own Compliance Officer, then you can call it an incisive turning point.”

(Interview with a CEO from a German SME CRA)

The preferences of the CRA3 and of other interest groups with regard to the proposed measures during the third stage were received from responses during the consultation process (cf. EC 2010f; EC 2010i) and from interviews. The SME CRAs argued that they generally support the initiatives of the EC, as expressed by the below citation.

“In general, we support the EC’s efforts to protect investors and the integrity of the market by requiring ratings agencies to improve disclosure and limit potential conflicts of interest. While we believe that this is only one part in repairing the flaws in the system that combined to create the credit crisis, we deem it to be a necessary one.”

(Lee 2011)

However, the SME CRA3 also opposed a change of the issuer-pays model⁴². This was a key issue for them and they had the same preference as the CRA3. The same closeness of preferences between the SME CRAs and CRA3 could be found in the mandatory rotation issue. The SME CRAs felt threatened because of a negative impact on their existing customer relationships. Consequently, the EC faced a very strong opposition on these key measures because also the banking and investment sectors were generally arguing against mandatory rotation. On the contrary, a reduction in the number of shareholding links between CRAs and more ratings for structured financial products were less relevant for the SME CRAs and they did not strongly oppose against these measures.

The EU concerns with regard to a lack of competition and existing market concentration had a natural closeness to the preferences of the SME CRAs. The SME CRAs shared the view of an excessively strong market concentration. They saw the chance to increase market shares in future. The initiative to start a European Network of SME CRAs was clearly in their favour⁴³. Their preferences with regard to the issue of overreliance on ratings were similar to the CRA3 and EC. They expressed the same concerns of too strong reliance on ratings of investors and issuers. New rules for sovereign debt ratings were not relevant for the vast majority of SME CRAs and they did not strongly oppose this proposal. On the contrary, the last issue of an enforced civil liability received no support. The SME CRAs saw the same threat for their businesses as the CRA3 did.

The issuers and investors were also directly impacted through the EU reform, for example, because of the duty of own due diligences to avoid an overreliance on ratings, new mandatory rotation rules or the number of rating on structured financial products. In general, their preferences, which were represented at the EU level through their professional associations and federations⁴⁴, were akin to the preferences of the CRA3 because they wanted to maintain current business practices and partnerships with the CRA3. The CRA3 allied to a large degree with the banking sector for the lobbying

⁴² Please note that some SME CRAs already work with other payment models, e.g. the investor-pays model. The view of the SME CRAs covers the majority of SME CRAs, which still work with the issuer-pays model.

⁴³ The building of a European Credit Rating Agency is still under investigation and not discussed here.

⁴⁴ The banking and investment sectors represent their interests in the EU more through own associations and federations, e.g. EBF, European Association of Public Banks (EAPB), European Saving Banks Groups (ESBG), Bund deutscher Banken (BDB), European Fund and Asset Management Association (EFAMA), Commercial Mortgage Securities Association (CMSA) or Investment Management Association (IMA).

against critical proposals such as a change of the issuer-pays model and a general mandatory rotation⁴⁵, which is expressed by the below citation.

Interviewer: "How did you act with your issuers?"

Interviewee: "Through the associations, [...], we have, I mean, ongoing relationship with the associations of issuers. And so, you know."

Interviewer: "And you spoke about the consequences of the reform?"

Interviewee: "Yes, but they were more worried than we were. I mean [...] that in a way that the rotation was worse for the issuers than it was for us. [...] You know, when it is important to us, it is only important to us. If there is one consequence of these regulations that affects us, that is painful, people do not care, they consider it as normal. But when you start to invite them because of common consequences, then it is different."

(Interview with a President of a CRA3)

A high number of contributions during the first consultation process in 2008 gives additional evidence for the increased awareness of the banking and investment sectors. They became particularly concerned about the risk that the EU initiatives could further harm their sectors. Some actors also opined that the IOSCO code of conduct was appropriate and argued that the EU should take more time for consultations to allow sectors a proper assessment about consequences before setting up new rules (cf. Ravoet 2008a; Ravoet 2008b, pp.6-7; BDB 2008, pp.1-2). Nevertheless, many banking and investment associations welcomed the EU initiative and made concrete recommendations with regard to other issues such as quality and transparency of ratings (cf. ESBG 2008; FBF 2008; Wilkie and Jones 2008; Schoppmann and Hemetsberger 2008).

In summary, the preferences of the banking institutions and investment firms were mostly aligned to the CRA3 preferences. They supported the establishment of an EU reform with a stronger supervisory authority, a better operation and fair presentation of ratings, and the legal treatment of insider information. There were no major conflicts with regard to the proposed measures during the first and second stage (e.g. advisory services, disclosure of unsolicited ratings, composition of supervisory boards, rotation of analysts, etc.). Besides, there were no major conflicts with the CRA3 during the third stage. They also expressed strong concerns about mandatory rotation for CRAs and changing the issuer-pays model. Moreover, the banking and investment sectors

⁴⁵ The close relationship between the CRA3 and banking associations is demonstrated by the change of employees. The CRA3 hired employees from the banking sector to establish their EU lobbying. For example, a former employee of the EBF became Vice President of Regulatory Affairs at one of the CRA3.

supported measures to reduce overreliance on ratings and lack of competition. Furthermore, no strong opposite preferences of these sectors to the CRA3 preferences could be discovered with regard to specific laws for sovereign ratings and civil liability (cf. BDB 2011; De Proft 2011; EBF 2011; EI 2011; ESG 2011; Schoppmann and Bartels 2011; Siebel and Kuper 2011).

The preferences of the EU public authorities largely matched the EC's views. The CESR and the ESMA worked together with the EC to develop new EU laws. In addition, member state ministries were interested in a stronger regulation of the CRAs to secure future stability of their markets. The other interested parties showed a very diverse set of preferences with a minor significance for the EU decision-making process. However, some of the strongest oppositions to the CRA3 should be mentioned. Some interest groups particularly targeted the quality of sovereign debt ratings of the CRA3 and the existing lack of competition in the market. As an example, the Bertelsmann Foundation (BFNA) was actively lobbying since 2011 for the establishment of an independent non-profit agency for sovereign ratings called International Non-Profit Credit Rating Agency (INCRA) (cf. BFNA 2011; BFNA 2014). In addition, Dr. Markus Krall, a former partner of several strategic consulting firms, tried to establish a non-profit European Rating Agency (ERA). Both initiatives waged a fight against the CRA3 and invested significant resources between 2011 and 2013. The BFNA published various reports and also consulted academics to support the rationale to establish such an agency (cf. Anheier 2012). However, both initiatives were not successful. INCRA lost much of its public visibility since 2013. ERA was cancelled in the second half of 2013 because of a lack of funding (cf. Cullen 2013).

4.2 Analysis of the reform outcomes and the degree of preference attainment

The discussion is based on the detailed analysis as shown in Appendix I. This analysis is a comprehensive comparison of the EU proposals and measures with the preferences of the CRA3. The comparison applies the DPA method to assess the distance between the policy outcomes and the CRA3 preferences. This discussion is in line with the different stages of the EU reform because of the importance of the temporal unfolding.

The CRA3 were able to achieve their political goals only until the outbreak of the crisis. This became apparent from the small gap between the outcomes and ideal points for the CRA3 for the nine measures that were of relevance during the pre-crisis stage. All issues and proposed measures, which were highlighted during the pre-crisis

stage, were regarded by the EU as insufficient to initiate an EU reform. Major concerns about the transparency of methodologies, advisory services, disclosure of unsolicited ratings and the shareholder links between CRAs were already there. In addition, controversial issues like the issuer-pays model and the lack of market competition were emphasised. However, no specific initiatives were taken and the CRA3 could maintain their liberal status quo in the EU. The external pressure for enforced laws by the EU appeared to be missing.

The number of matches between the CRA3 preferences and political outcomes fundamentally changed during the first stage of the reform after the outbreak of the crisis. In this respect, the crisis was not only the major factor for the initiation of the EU reform. Even more, the crisis significantly affected the conditions for influence of the CRA3 and the need to establish stronger interest representation in the EU. As mentioned, the first stage focused on the registration, conduct of business and supervision of CRAs. Three out of 13 proposed measures show a great distance between the CRA3 preferences and political outcomes. This clearly indicates a weak degree of preference attainment and low influence on the EU decision-making process. The establishment of an EU reform of CRAs provides a good example. After the outbreak of the crisis, the CRA3 were no longer able to avoid new laws. Further, they could not avoid new duty of registration in the EU, and required rotation of analysts and credit rating committees, even if they strongly opposed. Moreover, nine out of the 13 proposed measures during the first stage show at least a medium distance between the CRA3 preferences and the outcomes, which further strengthens the assessment of low influence. The CRA3 lost much substance for EU interest representation because of the crisis. Consequently, they needed to move their preferences towards the EU proposals. With this behaviour, the CRA3 tried to show their willingness to re-establish independence and increase quality of services. They moved towards a cooperative relationship because successfully blocking single measures was highly unlikely because of low public and political credibility. The most notable single measures were new rules for the transparency of rating methodology, creation of internal functions, prohibition of advisory services and disclosure of unsolicited ratings. Just one out of the 13 measures showed a close distance between the CRA3 preferences and the outcomes during the first stage. A formal qualification for analysts was not included in the new legislative EU framework.

The second stage of the reform focused on one single issue: the replacement of the CESR and the establishment of the ESMA as a new EU supervisory authority. This

issue was initiated to harmonise the EU financial services supervision. The CRA3 accepted this EU measure to contribute to harmonisation of supervision. In this respect, the distance between the outcome and ideal point was close because the CRA3 did not oppose.

On the contrary, the third stage became competitive. The third stage carried the most significant risks for the CRA3 business models and was the stage of strongest conflicts between the EU and CRA3. Three out of 14 proposed measures show a great distance between the ideal points for the CRA3 and the political outcomes. To give examples, new rules on cross-shareholdings, sovereign debt ratings and civil liability were strongly against the preferences of the CRA3 because of the high impact on their business models and increased risks of future claims. Six out of the 14 measures show a medium distance between the preferences of the CRA3 and the outcomes during the third stage. For example, a medium distance was assigned to these measures because the CRA3 retained some influence over new rules because they participated in the development (e.g. the ESMA RTSs). In addition, the CRA3 also understood the EU concerns and the reasonability of most of these proposed measures (e.g. CEREP, overreliance on ratings and their mechanical use). The CRA3 supported these measures and made compromises. One crucial reason for this behaviour was that the CRA3 needed to re-establish their voice within the EU system with regard to other strongly contested issues during the third stage. It can be assumed that an even stronger conflict would have further damaged their image and destroyed any chance to recover some trust. Just five out of the 14 measures show a close distance between the preferences of the CRA3 and the outcomes during the third stage, which indicates a still low but increased influence over time. In this context, it is important to see that the CRA3 received a close distance between their preferences and the outcomes on these two measures, which carried the highest risks for their business models. A change of the issuer-pays model could be avoided. General mandatory rotation has been also excluded and a rating rotation was only established for specific financial products. This is no kind of coincidental closeness as expressed by Dür (2008b, p.568) because the CRA3 strongly lobbied against these measures and triggered support from the banking sector to increase influence. In addition, the level of conflicts on these measures with other important interest groups such as the SME CRAs was small. Finally, the CRA3 received a close distance between their preferences and the outcomes on three measures, which were addressed to fight the lack of competition and market concentration. This result is associated to the aspect of coincidental closeness, because it seems that the EU lacks

appropriate alternatives to break market concentration and increase competition in the near future. To some extent, the same applies to a change of the issuer-pays model because the EU failed to present feasible alternatives. On the other hand, mandatory rotation could have been enforced as in the audit case. However, lobbying alliances and structural coercions were main factors to avoid this measure for this time.

4.3 EU interest representation and influence of the CRA3

The limited influence of the CRA3 became apparent by the increasing distance between the preferences and the political outcomes as shown by the DPA analysis. This chapter strengthens this assessment of limited influence based on the analytical framework through the further CPT analysis of the EU interest representation and influence of the CRA3. First, the behaviour and activities of the EU interest representation are discussed. The analysis then focuses on the factors of access, structural characteristics and issue characteristics to reveal the resources and conditions for influence.

The analysis shows that the EU interest representation and influence of the CRA3 was greatly challenged by the contextual factor of the crisis. The crisis affected the EU interest representation and the overall influence during the reform in various ways. The CRA3 had to adopt a more cooperative issue-based lobbying style with no strong level of informal lobbying because of their lost credibility. It can be assumed that any stronger forms of lobbying activities could have increased the risk of an additional over-lobbying debate, which would have further decreased their credibility. Their direct and indirect actions were also affected by the negative reputation resulting from the crisis. The CRA3 were only able to increase their lobbying actions over time because they encountered an EU reform for the first time. Their access to the EC, EP and CEU was limited. It was mentioned during the interviews that EU authorities, especially the EC, had many preconceptions when talking with representatives of the CRA3. In this respect, a difficult direct access to the EU authorities curbed the influence. Owing to the difficult relationship with the EC, the CRA3 needed to take alternative routes. They focused on direct actions regarding the EP and CEU and took indirect routes in the EU member states. They needed support from consultants due to scarce EU lobbying experience and weak political networks. Another notable characteristic was the missing lobbying alliance between the CRA3. Owing to existing US laws and the political pressure after the crisis, the CRA3 were not able to combine lobbying activities or to represent interests through associations. As an alternative route, the CRA3 teamed up

with banking and investor associations on such proposed measures that would have affected the professional relationships. As already mentioned, a change of the issuer-pays model and a general mandatory rotation were the outstanding proposed measures in this context. The CRA3 gradually increased their power and influence during the third stage, which enabled them – on the back of more favourable issue characteristics such as smaller public salience in the media – to avoid these proposals.

4.3.1 EU interest representation

This section explores the different characteristics of EU interest representation such as direct and indirect actions, alliance and identity building, and venue shopping. Table 4.7 summarises the EU interest representation of the CRA3. The details are discussed in the following three sections.

Table 4.7: EU interest representation of the CRA3 at a glance

CRA3: EU interest representation at a glance	
I	Direct and indirect actions characteristics
1	Cooperative issue-based style with stronger pressure on specific measures during the third stage
2	Various forms of direct action on EU level with no use of own impact assessments
3	Direct action of CRA3 dominated by the two leading CRAs
4	Indirect lobbying just in key EU member states to support EU actions
5	Indirect actions to ESMA on a regular basis for aspects of supervision and technical compliance
6	No strong evidence for informal lobbying and no issue of over-lobbying
II	Alliance and identity building characteristics
1	No direct alliances of CRA3 because of antitrust issues in the USA
3	No own federations to increase the identity of the CRA3
2	Issue-specific alliances with banking sector and investment firms (corresponding federations)
4	Use of professional consultants in Brussels to support lobbying activities
III	Venue shopping characteristics
1	Venue shopping of EC, EP and CEU as a standard practice along the EU decision-making
2	Lobbying around the EC because of especially difficult access to the EC (EP and CEU routes)
3	No evidence for actively lobbying the ECO
4	No evidence for use of litigation strategies

Source: Author's own illustration

4.3.1.1 Direct and indirect action

Lobbying behaviour

The CRA3 were quite limited with regard to options of lobbying behaviour. The political and public environment was greatly emphasised since the beginning of the first reform stage. Describing the CRA3 as a black sheep, the interviewees stated that the political community was scrupulously averted. It was further explained that the relationship between the CRA3 and EU authorities, particularly the contact with the EC,

was so stressed that a more aggressive lobbying behaviour would have delivered even more arguments to put sanctions to their sector. Moreover, the CRA3 were not able to initiate more offensive actions because of dearth of political networks. However, some examples show that the CRA3 followed more offensive actions, greatly relying on the power of their sector to threaten political opponents. The CRA3 increased their interest representation and changed sometimes to a more aggressive style during the third stage when a stronger and more intensive conflict developed because of threats of specific proposals such as a change of the issuer-pays model or mandatory rotation. In this respect, Coen (2007a, p.339) describes the prioritisation between strategic core and secondary issues as a logical consequence; he states that interest groups have to define their main goals and manage their political budgets accordingly. To give more examples, the CRA3 took a more aggressive route with regard to new laws for civil liability and sovereign ratings. They threatened that they would stop rating heavily indebted EU member states in case of a stronger civil liability in the EU, which could have an inverse impact on future investments in these countries (cf. Hiss and Nagel 2012; Spiegel 2011). However, this sort of more aggressive and media-enforced threatening style was not put to practice and remained exceptions. The strongest evidence for their lobbying behaviour came directly from the feedback of the EU bureaucrats. An executive bureaucrat responsible for the EU reforms of CRAs and AFs - who had an excellent overview about the lobbying activities of the CRA3 and AF4 at all venues - described the style as cooperative and not 'below the belt'. She argued that the CRA3 were aware of the wrong they had done. She confirmed that the lobbying behaviour was correct and issue-based, even if they sometimes tried to convey tougher messages. The interviewed CRA3 executives also confirmed this assessment.

Direct action

The CRA3 used various direct actions, such as personal meetings, position papers, participation in round tables and consultation processes, and emails or calls. Here the direct actions have to be already considered for different venues. In general, the CRA3 were actively targeting the venues of the EP and CEU as the main decision-making authorities⁴⁶. The CRA3 interacted directly with the responsible DG Internal Market and Services of the EC in various forms. They conducted personal meetings, participated in a roundtable discussion and explained their positions during two consultation processes. In addition, various emails and letters were sent to the EC. They tried to establish a direct relationship with the EC, but this attempt was thwarted from

⁴⁶ Please refer to Section 4.3.1.3 for more details about the venue shopping.

the very beginning. The CRA3 reported during the interviews that the EC did not really listen to them. According to them, the consultations did not contribute to the quality of EU laws. A CRA3 president said that the overall consultation process was seen as weak and the commissioned impact assessments were useless. On the other hand, the EC argued that the formal consultation process was set up correctly and that they always followed an open-door policy. The conflicting assessment of the access to the EC is a form of political play. The CRA3 claimed that their voices were underrepresented. The EC wanted to show that they listened to everybody, but following an independent and unbiased decision-making process. The truth lies somewhere in between.

In this context, it is also interesting to see that the CRA3 did not develop impact assessments for the proposed EU measures. Interviewees of the CRA3 stated that they did not develop own impact assessments because it was doubted that the EC would use this as a veritable source of information. One interviewee of the CRA3 described this as a dysfunctional tendency of the EC's decision-making process because voices of interest groups were not equally represented and existing expertise was not utilised to achieve the best legislative framework for the EU community. One reason was that the EC tried to avoid any impression of biased decision-making and high influence of sector-leading lobbyists. In this respect, it can be claimed that the EC was engrossed in the general debate of over-lobbying of elite business groups in Brussels⁴⁷.

The complicated relationship with the EC led the CRA3 to change their route to other venues during the EU decision-making process. The CRA3 specifically tried to lobby around the EC and focused mainly on direct actions targeted at the EP and CEU⁴⁸. This phenomenon is a key finding for the CRA3 EU interest representation in the context of the crisis. Particularly during the third stage, the CRA3 focused on approaching the EP and CEU members to develop direct contacts. For example, members of the Economic and Monetary Affairs Committee (ECON) and Legal Affairs Committee (JURI)⁴⁹ were contacted. Interviewees said that various meetings took place. In addition, the CRA3 tried to establish contacts to more conservative and liberal blocks of the EP.

Foremost the two largest CRAs were active players to speak with EP and CEU members during the reading stages and before debates. It turned out that the smallest one of the CRA3 was generally more passive and reacted with fewer lobbying activities.

⁴⁷ Ultimately, the question of the correct acceptance of lobbying will always remain unanswered based of different political stands and democratic contentions.

⁴⁸ This phenomenon was even stronger in the AF4 case. Please refer to Section 5.3.1.1 for more details.

⁴⁹ JURI was the lead committee during the EU reform.

During an interview with a CEO of the smallest firm of the CRA3, it was mentioned that they relied on the other two organisations because of generally shared preferences and less own resources for EU lobbying. In addition, it can be assumed that some strategic motivations played a role. The third-largest CRA3 saw chances to win additional market shares resulting from stronger EU laws.

There are two main implications for the academic community, which are resulting from these findings. First, the routes for direct actions were strongly affected by the general over-lobbying debate in Brussels. The current over-lobbying debate has a negative impact on the potential of EU interest representation of large businesses. Particularly the EC is nowadays a difficult route for direct actions because of their strong willingness to demonstrate independent decision-making. This development of a general distance of the EC towards business lobbyists could result in future problems for the quality of EU decision-making. It seems that the EU needs to develop better guidelines for the access of lobbyists, which is quite a difficult task. However, the EU has to make a conscious decision between the extremes of independent decision-making and receiving high-quality information through the proper inclusion of different voices. Consequently, direct actions of interest groups seem to drift nowadays towards the EU decision-making authorities, especially in a context of a focusing event such as the financial crisis. Interest groups that were directly targeted by EC proposals, follow a route of direct actions at the EP and CEU because of better chances to exercise influence. In this context, existing contacts in the EU member states play an important role to get a stronger voice at the EU level, particularly with regard to the EP and CEU.

Indirect action

All interviewees described the use of secondary political channels in the EU member states as a standard practice. The CRA3 tried to convey their positions at national levels to influence EU decision-makers in the EP and CEU. The CRA3 made these contacts in countries where they were already well represented and had established political networks. They focused primarily on the UK, France and Germany, which are the main financial centres in the EU. In addition, the CRA3 lobbied indirectly through their contacts with the ESMA. This route was particularly important for them to have an impact on the RTSs and develop compliance schemes.

Interviewees of the CRA3 explained that national routes were a substantial part of their strategic lobbying activities. They stated that they followed national routes because the opinions of political parties were shaped on this level before different views were conveyed to the level of the EU. As stated before, the CRA3 targeted at countries

with established financial markets. These countries exert a strong political power in the EU system. It was mentioned during the interviews that the CRA3 met members of the CEU at the national level as well as in their permanent headquarters in Brussels. In most cases, members of the EP were directly contacted in Brussels. National contacts to different parties supported the contact to the EP members. An interesting example is here the participation of the CRA3 during a congress of the German Christlich Demokratische Union (CDU)/Christlich Soziale Union (CSU) Bundestagsfraktion, which was held on 7 November 2011. The German CEOs of the CRA3 were speakers during the conference at an early point during the third stage. In addition, the EC was represented through an important representative of the DG Internal Market and Services⁵⁰. These kinds of meetings and conferences were important to inform the national levels about the EU reform and explain the positions of the CRA3. An interviewee explained that the main route led directly to the EU level, but actions towards the EU member states were necessary because of weak information at the national level, which is expressed by the below citation.

Interviewer: "What do you mean by local?"

Interviewee: "In the sense that we have a strong network in Europe and we use our resources here to reach out [...]."

Interviewer: "[...], with regard to the next question, [...] did you approach the national levels, for example German, France and the UK."

Interviewee: "Well, you know, EU regulation is Brussels (Interviewer: and Paris). Yes. Well, I mean, you can speak to the treasury and things like that, but it is not centred at the national politicians."

Interviewer: "So you focused more [...] directly on Brussels."

Interviewee: "Or let us put it this way, on the people that have a role in the outcome. [...] I mean a French member of the Parliament did not care a second, he did not even know that there is something."

(Interview with a President of a CRA3)

An interesting implication is here that the indirect routes were seen as supportive activities, but did not extend to all EU member states. The CRA3 could not develop their national routes on already established networks throughout the member states. The support of consultants allowed maybe to increase their reach, but the crisis impact and their negative perception challenged national routes. In addition, the indirect action of

⁵⁰ Detailed information and a complete video of the conference can be obtained online. Please see: <https://www.ducsu.de/veranstaltungen/ratingagenturen-wie-koennen-regulierung-und-wettbewerb-verbessert-werden>.

the CRA3 towards other institutions (CESR, ESME and ESMA), involved in the set-up of the EU reforms, was an important characteristic. The CRA3 confirmed that they had daily correspondences with the ESMA because of their supervising role. However, these contacts were also used to influence EU legal frameworks due to the pivotal role of the ESMA during the establishment of the EC proposals. For example, the ESMA orchestrated the development of the RTSs and it came to have strong impact on many practical applications such as registration or conduct of business.

Informal activities

The EC enforced strict rules to avoid informal⁵¹ contacts between bureaucrats and lobbyists. The interviews revealed that the EC rejected any informal invitations when such invitations reached the responsible DG Internal Market and Services. No invitations for informal meetings such as dinner invitations or fireside evenings were accepted. The EC insisted to rely only on the formal EU process. In addition, it was mentioned that the EC did not receive many informal invitations from the CRA3. The interviews with the CRA3 also confirmed this. Interviewees stated that their own policy and regulatory departments rigidly focused on the formal requirements towards the EU authorities. They explained that these formal requirements were enforced by each organisation and specific guidelines on US corruption. Nevertheless, some interviewees said that rare informal events such as a meeting with EP members over coffee happened ‘now and then’ and the coffee was paid for them. In conclusion, the CRA3 did not actively foster strong informal activities. No evidences of corruption or over-lobbying were found. Neither the interviews nor the publicly available documents provided any other indication. An important implication is here that informal activities are dependent from existing political networks and overall reform conditions. The CRA3 had a comparatively weak level of established contacts with EU bureaucrats and politicians. Hence, the CRA3 were not in a favourable position to initiate informal routes. It can be assumed that the CRA3 would have made more use of informal activities if they had been in a better position with dependable networks. In addition, the context of the crisis, US guidelines and the first time reform in the EU limited this potential.

4.3.1.2 Alliance and identity building

The characteristics of the CRA3 allying show very interesting insights because of strong limitations. The CRA3 were massively limited to represent their interests in a

⁵¹ During the investigation phase of this study, only parts of informal actions could be detected. The disclosure of informal actions was hard to reveal owing to the high secrecy.

way of concerted actions. There were no formal alliances between the CRA3 during the EU reform process. The CRA3 were not able to combine their direct and indirect activities because of existing US rules that prohibited a lobbying interaction.

The CRA3 were described during the interviews as historically not communicating with each other. This was enforced by the US SEC legislation of the Dodd-Frank Act Rulemaking, which was established between 2011 and 2014. Interviewees described this act as strictly enforced and rigidly followed by the CRA3. As expressed by the below citation, the current US legislation does not allow them to communicate with each other and distinguishes the political coordination between the CRA3 from other sectors such as the audit sector.

Interviewer: "How did you align the processes between the CRA3? Did you speak about the reform with the other two?"

Interviewee: "As you know, we are not allowed under the, what is the name again [Dodd-Frank Act]? In the US, the anti-trust legislation forbids to speak openly."

Interviewer: "And this is so [...] rigid?"

Interviewee: "You do not want to imagine."

Interviewer: "You do not speak anywhere? For example, you go to lunch with other Managing Directors [...] and speak with them about, you know, what are the last proposals at the EU level?"

Interviewee: "Well, I mean we could do that, but [...] that would be very risky business. [...] I mean my counterparts here; I see them maximum once a year. And you know when I see them? When there are hearings at the Parliament or hearings at the Senate. [...] Otherwise we try to stay away because of that perception of collusion and oligopoly. So we try as much as possible."

Interviewer: "This is another important aspect when you compare it with other sectors, for example, with the AF4."

Interviewee: "Oh, they are having lunch all the time."

(Interview with a President of a CRA3)

As cited above, the leading CRAs avoided close contacts because of the pressure on them with regard to the existing oligopoly and anti-trust issues. The anti-trust issue directly concerns the independence of the CRA3. For example, strong cross-shareholdings exist between the CRA3, which was also an issue during the EU reform. Independence is the key aspect for the business model of the CRA3. The CRA3 were very interested to avoid any doubts about independence and did not want to foster more concerns. They avoided any form of direct collaboration, even if this came at cost in the political game. If there were lobbying arrangements between them, they were done in a

strictly confidential way and could not be detected. However, it seems unlikely that secret alliances between the CRA3 were established because of the fear of the consequences of information leakage.

In addition, it is a unique characteristic that the CRA3 had no support from associations or federations to convey their preferences and to increase their identity in the political arena. Other financial services sectors such as banks or audit firms had a stronger visibility of their industry through support of professional associations. For example, the majority of EU lobbying of the banking sector was steered by their federations to develop a common voice. The missing sector federations also affected the relationships with EU bureaucrats and politicians. Especially members of the EP (MEPs) would like to speak with sectoral federations rather than single firms. Interviewees mentioned that EU politicians did not understand why they had to communicate with each of the CRA3. It was revealed that EU politicians became increasingly reluctant to speak about the same issues again. It was stated during an interview that the CRA3 tried to overcome this problem and considered at the beginning to establish an own association. However, this option was dismissed quickly because of the fear of existing US laws and the strong political pressure during the crisis. Nevertheless, it is likely that the CRA3 have to deal with this limitation in future and have to consider the establishment of a professional association.

In response to the existing limitations, the CRA3 established close contacts with banking and investor federations. These alliances were a key to increase pressure on the EU and lobby against proposed measures such as mandatory rotation and a change of the issuer-pays model. The CRA3 established particularly during the third stage strong alliances with issuers and investors (cf. BlackRock 2012). They developed these contacts foremost on association-level. It was also useful to work with the sector associations because the CRA3 could avoid the impression of too close bonds with direct customers. It was stated during the interviews that these associations were willing to coordinate their activities with the CRA3 because of common interests to remain the existing business relationships. As mentioned earlier, banking associations were described as worried more about new laws for CRAs than the CRA3 itself. Their concerns focused especially on a general mandatory rotation, a change of the issuer-pays model and overreliance on ratings. For example, interviewees mentioned that foremost the banking sector was strongly against mandatory rotation and a change of the issuer-pays model. They assessed these proposals as disruptive for the financial community and inappropriate when considering the risks for the stability of the

financial system. In this respect, the CRA3 were able to use these additional political forces for lobbying to create a higher pressure and better identity in the EU political arena. The close coordination between the banking sector and the CRA3 became also apparent through the hire of employees. Many specialists in the regulatory and public affairs departments of the CRA3 previously worked for banking or investor federations. These resources were utilised to transfer knowledge and expertise to the CRA3. In addition, the CRA3 could use these employees to strengthen political networks.

Moreover, the CRA3 required support of professional consultancies. These supporters increased their knowledge about EU lobbying. Interviews revealed that these consultancies were used as intermediaries to get at least some kind of coordination between the CRA3. Furthermore, it also transpired that these professional lobbyists established contacts with relevant political actors. A consultant of a major EU lobbying firm confirmed during the interview that they were hired by a CRA3 firm to organise their activities. The relationship with this consultancy had existed for years and was intensified during the EU reform. In particular, the two largest firms of the CRA3 worked together with prestigious consultancies in the fields of EU lobbying and PR. It was mentioned that legal counselling was not outsourced and the CRA3 used own resources.

This case shows that the CRA3 were strongly impaired to establish sector alliances. This can be seen as a major weakness considering EU interest representation and influence of the CRA3. An assumption could be that the CRA3 would have created a stronger level of influence, provided they were able to combine their lobbying activities. In this respect, the missing support of kindred associations is also an argument.

4.3.1.3 Venue shopping

The interviews revealed that the CRA3 organised their actions as a standard lobbying practice at different venues. Again, this was mainly fostered by the two largest firms of the CRA3 that were backed by consultants to manage the venue shopping. The identification of key players at different venues was important during the third stage when the CRA3 faced the most harmful proposals. Especially the venues of the ECON, JURI, the EP and CEU were approached.

As already discussed, the CRA3 focused very much on the EP and the CEU because of the problematic relationship with the EC. The CRA3 needed to waive many actions to the EC, which were not associated to the formal EC venues such as the round

table or consultations. Thus, venue shopping around the EC was followed. The CRA3 received only a small chance to contribute during the development of the EC proposals, which impaired their influence at an early of the reform proposals and increased the challenges for creating high influence at the venues of the EP and CEU. The EC put forward their proposals on information from other sources such as the CESR or the ESMA. A CRA3 interviewee stated that the EC would have been able to establish the proposals even if they have not heard anything from the CRA3. In summary, the EC venues were accessible, but rather on a formal level without a trustful dialogue. As a result, the alternative venues at the EP and CEU were the most critical routes for the CRA3 lobbying.

The venues at the EP and CEU were generally difficult to access because of matters such as weak political networks and the negative image of the CRA3. However, the EP and CEU were interested in general information from the perspective of the CRA3. A reason for better access to the venues of the EP and CEU was that their members were by nature not specialised in financial services such as credit ratings. This enabled the CRA3 to get in contact with members of the EP and CEU during the debates and reading stages. The interviewees confirmed that various meetings at these venues were established.

No evidence was found that the CRA3 systematically targeted the ECO to strengthen their influence over the EU decision-makers. The cooperative and issue-based behaviour seems to have skipped this route to target the power structures at the level of the ECO. In addition, the observations did not reveal the use of litigation to prompt legal actions during the EU decision-making process. This finding also aligns to the more cooperative style of the CRA3 during the EU reform. Likewise with informal actions, legal threats by the CRA3 could have further destroyed their reputation in the EU political arena.

4.3.2 Political power and influence

The previous section discussed the EU interest representation of the CRA3 as one factor for limited influence of the CRA3. However, the weak CRA3 interest representation with its specific characteristics of direct and indirect actions, alliance and identity building, and venue shopping was affected by other factors of power and influence. These factors of access, structural characteristics and issue characteristics provide direct explanations for the limited influence of the CRA3, as illustrated below in Table 4.8.

Table 4.8: Power and influence of the CRA3 at a glance

CRA3: Power and influence factors at a glance	
I	EU interest representation (please refer to Table 4.7)
II	Access goods characteristics
1	Provided information just allowed for limited access and transfer into influence
2	EC avoided a dependency on third-party information and highlighted their independence rules
3	EC sourcing through (independent) reports, broad consultations and own impact assessments
4	High level of reliance by the EP & CEU on information provided by the EC
III	Structural characteristics
1	Financial resources enabled the CRA to gradually increase own staff and consultant support
2	Market conditions enabled network support of issuers and investors during the third stage
3	Third stage structural coercions (issuer-pays model, mandatory rotation)/missing alternatives
IV	Issue characteristics
1	The financial crisis was the fundamental focussing event of the EU reform
2	Focusing event created a high level of negative public visibility and political pressure
3	Public mistrust used by the EU to install EU reform (scope and salience of the issue)
4	Reform type as a first time reform requested strong level of own EU decision-making
5	High technicality of specific issues managed by the EC through different sources
6	More favourable issue characteristics for some issues during the third stage

Source: Author's own illustration

4.3.2.1 Influence based on access goods

According to the access goods theory, exchange of information is the basis for access of interests groups and enables them to influence the EU multi-level system. The responsible EC employees – the DG Internal Market and Services, Unit F4: Audit and Credit Agencies – consisted of approx. 15 bureaucrats and required external support because of limited resources. They particularly needed a better understanding about the market and the complex services of CRAs for the establishment of proposals. These kinds of information were also important for the members of the EP and CEU. However, these authorities were especially interested about the EU encompassing and domestic encompassing interests of the EU member states.

The CRA3 had superior knowledge about the credit rating sector in the EU. They could provide a strong level of information because of large organisational resources and market-leading positions. Hence, they had different kinds of relevant information for the EC, EP and CEU. However, other interest groups such as the SME CRAs had also a sound knowledge. In addition, the EC consulted various independent sources such as CESR and ESME to gain better knowledge for the establishment of the EU reform proposals. In summary, the very difficult access of the CRA3 to the EU authorities with a poor potential to achieve influence through provided information is a key feature. The perceived failures of the CRA3 during the financial crisis damaged the access potential.

During the first and third stages, the EC needed huge information for the development of legislative proposals. During the first stage, demanded information of the EC was very technical. They needed to develop a thorough understanding regarding measures that needed to be proposed and their respective impacts. In this respect, the EC consulted independent reports from CESR or ESME. In addition, they developed own impact assessments and established a consultation process to gather information from all interest groups. During the third stage, they targeted strong measures such as changed rules for sovereign debt ratings, a change of the issuer-pays model and the establishment of mandatory rotation. It was learnt during the interviews that information from the CRA3 was always appreciated, but such information was no more important than information from other interest group. Consequently, cooperation with the ESMA became increasingly important for the EC. Own impact assessments and a further consultation process were established by the EC to achieve a large and balanced set of technical information and feedback from different interest groups. This included member state political institutions, academics, supervision authorities, different CRAs, and federations of issuers and investors.

Instead, the usual EP and CEU members needed basic knowledge about the market for CRAs. In addition, the specific EP working groups ECON and JURI needed more sophisticated information because of their direct responsibilities. It was confirmed that the CRA3 accessed the EP, particularly the working groups, and the CEU in their attempt to voice their opinions in several meetings. Nevertheless, the EC acted as a strong source of information for the EP and CEU; they created a strong counterbalance. The EC provided broad levels of information during each single stage of the EU reform through various briefing notes, attachments to their proposal drafts and detailed information through impact assessments.

As mentioned earlier, the CRA3 saw the formal consultation process and impact assessments as insufficient because of a perceived underrepresentation of their views. However, they skipped to fight in the EU political arena with own impact assessments based on empirical studies. The below citations express the critical stand of the CRA3 towards the EU's management of receiving a balanced level of information.

Interviewer: "Did you assess the consultations as pertinent?"

Interviewee: "It is very diverse. There was sometimes the feeling that the consultation was a pro-forma act. In our case, for example, we had an important recommendation with regard to the rotation of rating agencies, which was just mentioned casually

during a hearing. [...] But for us, this was a crucial aspect and we expected more consultations on this issue.”

(Interview with a Vice President of a CRA3)

Interviewee:” Let us take away any influence that the big ones [CRA3] may have over politicians. Imagine that it is just the mere fact that those constraints [on competition] are not being looked at in light of what their impact in terms of market are. They have never looked at it really. I mean they [the EC] do silly and totally fake, how do they call it, the impact assessments, which are a joke.”

(Interview with a President of a CRA3)

Interviewee: “[...] I believe that the EU authorities built their own views because of the crisis and the limited time. [...] There was no real consultation what I understand as a consultation. They said what they want to change, what the political interest is, and that they want to change it quickly. Of course, they spoke somehow with everybody, but it was very hard to change the view of the EU authorities even with rationale arguments when they once took a position.”

(Interview with a CEO of a CRA3)

To sum up, the CRA3 did not master strong influence based on provided information. The broad level of different knowledge sources, targeted independent decision-making of the EC, ‘lobbying’ efforts of the EC for their proposals and the negative perception of the CRA3 because of their role during the crisis are explanations for limited access based on provided information. These findings underline the major criticisms with regard to the theory of access. Firstly, the access goods exchange approach has a limited power for the explanation of influence if the characters of the public and private actors and their relationships are not considered (cf. Michalowitz 2004, p.43). This case study demonstrated that the stressed relationship between the CRA3 and the EU authorities had a fundamental impact on the CRA3 access based on an exchange of information to convey their preferences. Secondly, this case study showed that even if some access was granted, it did not automatically turn into influence (cf. Dür 2008a, p.1221).

4.3.2.2 Influence based on structural characteristics

Structural characteristics allow interest groups to assert influence based on different resources such as financial budgets, experienced employees or market power. Superior financial resources enable interest group to spend higher budgets and employ more educated employees to lobby for their preferences. Market conditions such as existing market power and structural coercions play are also an important role for influence because of the associated threat of changes.

The CRA3 had established regulatory affairs departments in Europe for many years. Details of the annual budgets were not provided by the CRA3 during the interviews. They strengthened their professional departments through a higher number of employees and external support of consultants. The CRA3 themselves spoke about a slight increase of resources. Even if different statements were made regarding the increase of budgets and professional staff, it can be reasoned that strong financial resources did not limit their lobbying power. The issue characteristics had a much stronger negative impact on the ability to get influence and were maybe a reason why the CRA3 did not invest more into the development of EU lobbying resources. They maximised their resources during the third stage when the CRA3 faced the highest risks, which were a change of the issuer-pays model, a general mandatory rotation, measures to decrease the existing market concentration, new rules for sovereign debt ratings and establishing a stronger civil liability. The CRA3 were able to align their resources to the higher political pressure and allocated money, time and staff to optimise their EU lobbying activities to assert more influence, but they were generally not successful.

However, their market power enabled the CRA3 to establish important alliances with issuers and investors. They were able to create a stronger lobbying identity against the most risky proposals for their existing business model such as the issuer-pays model or mandatory rotation. In particular, the banking sector supported the CRA3 against such measures because of identical preferences. This is a key characteristic of the stronger influence of the CRA3 during the third stage of the EU reform. Existing structural coercions that failed to effect a change of the issuer-pays model and introduce mandatory rotation due to established market practices were standing against the EU proposals. The CRA3 used these structural coercions to strengthen their political positions. Moreover, the EC was challenged to present feasible alternatives. The EC failed to create convincing models and arguments to bring about these changes. The CRA3 should not assess these existing structural coercions with regard to the issuer-pays model and mandatory rotation as always given. The CRA3 have to continuously renew the evidence that the issuer-pays model is the most appropriate revenue model and demonstrate that mandatory rotation is not necessary for higher independence. In the future, the EC could easily propose mandatory rotation if the CRA3 show any evidence of professional misconduct and doubts about their independence. Moreover, the EC could start again to attack the issuer-pays model if they can create feasible and convincing approaches. The EC mentioned during the interview that they are still working on these issues. In conclusion, the CRA3 just received higher influence on

issues where structural coercions could strengthen their arguments through the pressure of allied sectors.

4.3.2.3 Influence based on issue characteristics

Interviewee: "As already explained, rating agencies were just known by specialists and not by the broad public before the financial crisis. Since the crisis, everybody knows about rating agencies. And certainly, they are somehow perceived as the dark side of the force. I believe, let us say, if there is an image scale between -1 and +1, they are below -1."

(Interview with a Financial Services Expert)

According to the issue characteristics theory, different aspects of the issue such as a focusing event, scope and salience, reform type and technicality have an impact on interest groups' success in lobbying. As already stated, the specific issue characteristics have a strong explanatory power for the limited influence of the CRA3.

As expressed by the above citation, the financial crisis as the focusing event of the EU reform of CRAs was a key aspect for the limited influence of the CRA3⁵². A negative image of the CRA3 was apparent since the outbreak of the subprime crisis. As shown by the below citation, the EU used the negative image and the public mistrust to enforce rigid reform measures.

Interviewee: "The broad public, to be honest, they became totally agnostic to the subject. But what has happened is that politicians used, you know, rating agencies as a form of scape goat when it came on the radar of the public. [...] That it was used by the politicians to their advantage is no coincidence. [...]"

(Interview with a President of a CRA3)

Mahoney (2007a, p.40) argues that policy-makers are not advised to follow a special interest if the public is against it. Moreover, she adds that a focusing event can play an important role for lobbying success. This is clearly shown in this case study. The crisis largely destroyed the reputation of the CRA3. The scope of the financial crisis and the salience of the role of the CRA3 in media pressured the EU to act. The below citations illustrates that the CRA3 lost large parts of their lobbying potential because of their damaged public perception and corresponding distance of politicians.

Interviewee: "Hence, when the public opinion against us is hostile, this certainly affects the politicians. It is unthinkable that somebody wins elections, if they protect ratings agencies to get regulated."

(Interview with a Vice President of a CRA3)

⁵² An additional analysis of the crisis on the overall factors of the EU interest representation and influence of the CRA3 is included in the next section. Please refer to Section 4.4 for more details.

The first-time EU reform was a challenge for the CRA3 because of the high technicality. In this respect, the CRA3 could have used their superior knowledge to convey information to the EU authorities and influence the decision-makers. As already shown, this route to access EU authorities and increase influence was very limited⁵³. Hence, the first time reform and the high technicality did not support the influence of the CRA3. The EC followed an approach of independent EU decision-making. Consequently, the CRA3 lost much of their lobbying power particularly during the first and the second stages owing to the crisis and their negative image, which was already demonstrated by the DPA analysis⁵⁴.

However, the salience of the crisis changed during the third stage and the CRA3 became relatively less public attention. Interviewees explained that the media coverage of the EU reform of CRAs developed in waves. The subprime crisis, the banking crisis and later sovereign crisis were peaks of public salience in media. Even without a large scope and high salience, reducing the overreliance on ratings and a civil liability for CRAs were enforced by the EU. In contrast to that, the CRA3 could achieve favourable outcomes on the maybe two most critical issues for their existing business model: avoiding a general mandatory rotation and a change of the issuer-pays model. As explained earlier, a stronger influence could be achieved by means of alliances and structural coercions. Yet, the issue characteristics during the third stage played a role in this context as well. After 2011, the broad media coverage and public salience about the financial crisis strongly decreased. Interviewees explained that the decline of the crisis took the CRA3 more out of public discussion and transferred the EU reform to specialised press such as the Financial Times or The Economist. This allowed the CRA3 to lobby on these issues in a more favourable political environment with a lower level of public visibility and the chance to emphasise technical problems in correspondence to existing structural coercions. It is correct that the public conditions such as the scope and salience in the media were the same for the issues of overreliance on ratings and civil liability. However, there were no equally structural coercions and fewer technicalities for these issues, supporting a stronger influence of the CRA3.

4.4 Summary

The Table 4.9 below summarises the findings of the CPT analysis, which strengthens together with the previous DPA analysis the assessment of limited lobbying

⁵³ Please refer to Section 4.3.2.1 for more details about the limited access based on information.

⁵⁴ Please refer to Section 4.2 for more details about the CRA3 degree of preference attainment.

power and influence of the CRA3 during the recent EU reform. Afterwards, this section discusses how different factor characteristics of the CPT analysis explain the impaired influence. This explanatory power is categorised as small (straw in the wind), medium (hoop) or high (smoking gun). The discussion focuses more on the crucial pieces, the so-called smoking guns, because of their highest explanatory power. The analysis shows especially the impaired influence of the CRA3 owing to the financial crisis. For this reason, this section also includes an analysis of the impact of the crisis on other factor characteristics.

Table 4.9: Final analysis of the CRA3 interest representation and influence

DPA analysis			
	First and second stage: Large and medium distance between CRA3 preferences and outcomes for a majority of proposed measures		
	Third stage: Large and medium distance between CRA3 preferences and outcomes for various measures, but close distance for some important measures (issuer-pays model, mandatory rotation, market concentration)		
CPT analysis		Explanation power	Crisis impact
EU interest representation			
I	Direct and indirect action characteristics		
1	Cooperative issue-based style with stronger pressure on specific measures during the third stage	Hoop	x
2	Various forms of direct action on EU level with no use of own impact assessments	Hoop	x
3	Direct action of CRA3 dominated by the two leading CRAs	Straw in the wind	
4	Indirect lobbying just in key EU member states to support EU actions	Hoop	x
5	Indirect actions to ESMA on a regular basis for aspects of supervision and technical compliance	Hoop	
6	No strong evidence for informal lobbying and no issue of over-lobbying	Straw in the wind	
II	Alliance and identity building characteristics		
1	No direct alliances of CRA3 because of antitrust issues in the USA	Smoking gun	x
2	No own federations to increase the identity of the CRA3	Hoop	x
3	Issue-specific alliances with banking sector and investment firms (corresponding federations)	Smoking gun	x
4	Use of professional consultants in Brussels to support lobbying activities	Hoop	x
III	Venue shopping characteristics		
1	Venue shopping of EC, EP and CEU as a standard practice along the EU decision-making	Hoop	
2	Lobbying around the EC because of especially difficult access to the EC (EP and CEU routes)	Smoking gun	x
3	No evidence for actively lobbying the ECO	Straw in the wind	
4	No evidence for use of litigation strategies	Straw in the wind	x
Power and influence factors			
I	EU interest representation (please see above)		
II	Access goods characteristics		
1	Provided information just allowed for limited access and transfer into influence	Smoking gun	x
2	EC avoided a dependency on third-party information and highlighted their independence rules	Smoking gun	x
3	EC sourcing through (independent) reports, broad consultations and own impact assessments	Hoop	x
4	High level of reliance by the EP & CEU on information provided by the EC	Hoop	x
III	Structural characteristics		
1	Financial resources enabled the CRA to gradually increase own staff and consultant support	Hoop	x
2	Market conditions enabled network support of issuers and investors during the third stage	Smoking gun	x
3	Third stage structural coercions (issuer-pays model, mandatory rotation)/missing alternatives	Smoking gun	x
IV	Issue characteristics		
1	The financial crisis was the fundamental focussing event of the EU reform	Smoking gun	x
2	Focusing event created a high level of negative public visibility and political pressure	Smoking gun	x
3	Public mistrust used by the EU to install EU reform (scope and salience of the issue)	Smoking gun	x
4	Reform type as a first time reform requested strong level of own EU decision-making	Hoop	x
5	High technicality of specific issues managed by the EC through different sources	Hoop	x
6	More favourable issue characteristics for some issues during the third stage	Hoop	x
Crisis as the fundamental focussing event			
	Crisis and associated mistrust of politicians as a dominant factor for limited influence	Smoking gun	
Outcome			
--> During the first and second stages, the CRA3 had a low power and influence on the legislative outcomes			
--> During the third stage, the CRA3 still had low influence, but an increased influence on specific proposals (change of the issuer-pays model and mandatory rotation)			

Source: Author's own illustration

Interest groups optimise EU interest representation to achieve most favourable reform outcomes. The CRA3 established a cooperative lobbying style with direct actions in the EU political arena and lobbied at the different venues of the EC, EP and CEU. They also used indirect actions in the EU member states and on the ESMA in support of their preferences. However, the smoking gun, which is defined as a crucial piece for the explanation of low influence, is the missing CRA3 alliance. During the interviews, the CRA3, their consultants and other experts revealed that the CRA3 acted without any close coordination. This lack of an alliance and a weak identity greatly impaired the influence of the CRA3. In order to overcome this limitation, the CRA3 created alliances with issuers and investors to lobby against specific proposed measures during the third stage, which was an important characteristic for the increased influence against a change of the issuer-pays model and the establishment of mandatory rotation rules. In this respect, commissioned consultants supported coordination between them.

In addition, all three factors of power and influence – access goods, structural characteristics and issue characteristics – were significant to explain the impaired influence of the CRA3. This is demonstrated by the different smoking guns. However, the strongest explanatory power could be received from the issue characteristics theory; mainly because of the crisis as a focusing event. This finding underscores the importance of the issue characteristics theory for studies on EU interest representation and influence in a crisis context⁵⁵.

The access goods theory is based on an exchange model where access is granted for information. Depending on information demanded by political actors, supplied information of interest groups enables access and influence. In essence, the CRA3 had limited chances to influence the EU authorities through information. This too is an important characteristic of their limited influence. Even if there was particularly a high demand for information by the EC, the EC did not grant superior access to the CRA3. The negative image of the CRA3 and stressed relationship blocked the access and did not allow strong influence at the EC level. The access through information to the EP and CEU was also limited. The EP and CEU members also bore great mistrust because of the role of the CRA3 during the financial crisis. Moreover, the EC lobbied in the EP and CEU through its own pieces of information and had close relationships with the working groups.

Generally, the structural characteristics did not limit the EU interest representation and influence of the CRA3. For example, their strong financial resources

⁵⁵ Please refer to Section 6.3.1 for the detailed discussion of the academic implications.

enabled an optimisation of direct and indirect activities. The CRA3 started increasing staff and support by consultants from the outset of the reform. These resources enabled the learning curve of the EU interest representation of the CRA3. However, more important are the smoking guns of market power and structural coercions. These structural resources provide a strong explanation for the increased influence during the third stage. Existing market power such as close ties with issuers and investors and structural coercions enabled the CRA3 to have a stronger influence with respect to avoiding a general mandatory rotation and a change of the issuer-pays model. The coordinated actions with issuers and investors largely depended on structural coercions due to common preferences. In addition, the EU failed to present feasible solutions to build a stronger political stand.

As already mentioned, the issue characteristics of the EU reform of the CRAs have a major explanatory power for the limited influence of the CRA3. Here the key aspect is the financial crisis as the focusing event. Furthermore, the very negative publicity of the CRA3 caused a direct damage to influence. In this respect, the EC was able to use public mistrust and salience of the EU reform to initiate rigid actions. The EC gained an advantageous position to develop far-reaching proposals with a high independence from the CRA3 preferences. The EC was able to carve a strong political niche for itself position because of the crisis-ridden CRA3 and the first-time nature of EU actions. The technicality of the measures did not hinder their independent approach. However, more favourable issue characteristics enabled a stronger influence of the CRA3 during the third stage when the political fight concentrated on key measures. A lower scope and salience of the EU reform was favourable for the CRA3 interest representation and influence. The CRA3 were less influenced by the crisis and faced a decreasing level of public slamming through the media.

The financial crisis and its attendant mistrust have to be considered as the most dominant single characteristic of the impaired EU interest representation and low influence of the CRA3. Having a fundamental focus, this substantially defined the lobbying conditions for the CRA3. This characteristic shows a far-reaching and strong impact on other factor characteristics. The different aspects of the EU interest representation, access goods, structural characteristics and other issue characteristics have been greatly affected in a negative way.

The Table 4.9 shows that 22 out of 27 single characteristics were directly affected. The characteristics of EU interest representation were impacted with respect to lobbying style, direct and indirect lobbying activities. In addition, alliance and identity

building was strongly influenced because of the crisis. Moreover, venue shopping was particularly affected because of the CRA3's need to lobby around the EC. It is reasonable to assume that the CRA3 would not have to fight so strongly against the EC in a stable, crisis-free political environment. This is also reflected in the successful avoidance of EU laws for CRAs before the crisis began.

In addition, the access goods characteristics were heavily influenced by the crisis. The role of the CRA3 for the outbreak of the crisis destroyed much of their credibility as a useful source of information for EU laws. On the contrary, the structural characteristics show that the crisis had some 'positive' implications as well. It was demonstrated that existing market conditions and strong network alliances with issuers and investors facilitated a stronger identity and the use of structural coercions against specific EC proposals. Nevertheless, the crisis also affected the structural characteristics in a negative way. Higher financial resources and more professional staff were needed to represent the interests of the CRA3; the crisis strongly impacted the power of the CRA3 to make use out of these resources. Finally, the crisis influenced other issue characteristics such as reform type, technicality, and scope and salience of the issue. Instead of a more flexible directive, the EU favoured a regulation that secured binding rules across the 28 EU member states. Because of the crisis, the technicality was managed through the EC based on various sources to avoid a reliance on the CRA3. The high scope and strong salience of the EU reform of the CRAs directly resulted from the financial crisis.

Chapter 5: EU interest representation and influence of the AF4

The second case study on the AF4 interest representation and influence during the recent EU reform is structured in the same way as the previous case study. This approach facilitates a transparent and consistent way of case comparison afterwards.

5.1 The EU reform of AFs and the political environment

Audits are a crucial aspect of the financial system (cf. EC 2010e). Statutory audits are independent opinions on the fairness of company accounts and financial statements (cf. EC 2010d). Audit reports help management, shareholders, investors and other stakeholders to assess the quality of financial statements and get an understanding of a firm's ability to continue as a going concern. The obligation to have audited statutory accounts is requested at the EU level (cf. EC 2010g, p.6) and regulated in each of the EU member states. For example, the German Handelsgesetzbuch (HGB) §316 defines the statutory audit subjects for mid-sized and large corporations. Requirements in the UK are dependent on the country's own laws, e.g. having specific Scottish and English laws. However, all EU member states have to comply with supranational EU laws. Before the recent EU reform was initiated, the EU Directive 2006/43/EC was the binding law in the EU context. This directive detailed the requirements for audits in the EU member states and was transposed into the legislation of the EU member states.

The audit sector has a long history of close political relationships with the EU. This relationship was adversely affected by the financial crisis that commenced in 2007. As illustrated below in Figure 5.1, the crisis was again the main contextual factor for the new EU reform (cf. Humphrey et al. 2011, p.439). The EC stated that the audit sector was maybe no cause for the crisis, but significant malfunctions of the audit system have been detected during the crisis (cf. EC 2010e). There was no understanding with regard to why auditors did not reveal risks of collapsed banks during their audits.

Figure 5.1: Social and causal mechanisms for the EU reform of AFs



Source: Author's own illustration, adopted from Blatter and Haverland (2012, p.95)

Unlike banks and rating agencies, the audit sector did not receive much public awareness during the crisis. During the interviews, executives of the AF4 spoke often about a kind of political opportunism, expressing their lack of understanding about the

necessity of new EU laws. Consequently, there was a conflicting assessment about the role of the AF4 in the context of the crisis. The EU was quite convinced about enough evidence that the crisis revealed a lack of independence and quality issues. The AF4 did not agree with this opinion. The EU initiated the reform and the AF4 became threatened by potential consequences.

Humphrey et al. (2009) identify early that the international regulatory relationships of the audit sector were impacted due to the crisis, investigating key policy debates and institutional interactions with a focus on the International Federation of Accountants (IFAC) before the release of any EU proposal. They created higher awareness about the active nature of regulatory responses to the crisis with shifting and competing influences of political forces and professional participants (ibid, p.810). In this respect, various reports and policy proposals relating to the financial crisis were published between 2008 and 2009 by different institutions such as the previously mentioned IFAC, the Organization for Economic Co-operation and Development (OECD) or the G20 (ibid, p.821).

“The auditing profession may face some very severe challenges. The continued success of the profession depends in part on its response to these challenges. Research has a role in clarifying the nature of these challenges and in exploring the possible responses. To do this successfully, this research has to explore fundamental questions about why and where the auditor’s authority and power in society reside and how this location changes over time.”

(ibid, p.810; Bromwich and Hopwood 1982, p.21)

In terms of the above citation, a central challenge for the AF4 after the financial crisis was to deal with the new EU reform; interest representation once again became a fundamental task for their future success. Even if the power of auditors in society remains located at the same place as public office holders, their authority was questioned by the EU. Especially the independence and quality of services were scrutinised. This was also to some extent a result of their changed business models, where non-audit services nowadays have a more and more important role for their financial performance. A debate about their purpose in society started.

A major difference between the CRA3 and AF4 was that the audit sector was regulated since many decades. This sector had a long history at the EU level. The AF4 could develop their lobbying activities on the back of experienced top executives and an extensive network across the EU. For them, it was not about receiving a voice, because they already had it. It was much more to establish the highest possible political identity

to lobby against any EU proposals, which could negatively impact their existing business models and future strategies. They wanted to remain the legal status quo in the EU and no further limitations for their business activities.

The EU reform process started in 2010 on the basis of a Green Paper called ‘Audit Policy: Lessons from the Crisis’ (cf. EC 2010g). Humphrey et al. (2011) investigate principal perspectives and assumptions for the construction of the Green Paper to understand the mindset of the EC. They argue that auditors came into the public spotlight during the crisis, but were not publically accused on the same level like rating agencies, bankers and financial regulators (ibid, pp.431-432). They capture the central question during this time, asking why it could happen that financial institutions failed so quickly after having received a positive audit opinion (ibid, p.432). Sikka (2009; Humphrey et al. (2011, p.432)), who reviewed failed financial organisations with positive audit opinions, speaks about the ‘silence of auditors’.

Michael Barnier, the Commissioner for Internal Market and Services, confirmed in April 2010 that he wanted to initiate a real debate at the EU level about the role and governance of auditors (ibid, p.432). As expressed by the below citation, the EC initiative followed the EU’s previous focus on more urgent measures:

“The measures adopted both in Europe and elsewhere in the direct aftermath of the financial crisis have focused on the urgent need to stabilise the financial system. While the role played by banks, hedge funds, rating agencies, supervisors or central banks has been questioned and analysed in depth in many instances, limited attention has been given so far to how the audit function could be enhanced in order to contribute to increased financial stability. The fact that numerous banks revealed huge losses from 2007 to 2009 on the positions they had held both on and off balance sheet raises not only the question of how auditors could give clean audit reports to their clients for those periods, but also about the suitability and adequacy of the current legislative framework. [...] The Commission is keen to assume leadership at the international level on this debate and will seek close cooperation from its global partners within the Financial Stability Board and the G20. [...] In this context, it is important to stress that auditors have an important role to play and are entrusted by law to conduct statutory audits. This entrustment responds to the fulfilment of a societal role in offering an opinion on the truth and fairness of the financial statements of audited entities. The independence of auditors should thus be the bedrock of the audit environment. It is time to probe into the true fulfilment of this societal mandate. [...]”
(EC 2010g, pp.3-5)

5.1.1 Institutions

The EU institutions, namely the EC, EP and CEU, were the most relevant political authorities. The EC was the standard setter for the proposals of an amended directive on statutory audits and a first-time regulation on statutory audits for Public Interest Entities (PIEs). The consultation process based on the Green Paper was started as the EC's own initiative. The EP and CEU played important roles because of their joint decision-making power based on the ordinary legislative procedure. In addition, the single EU member states were important during the EU reform of AFs because of the decentralised legal frameworks and supervision authority.

The relationship between the EU and the AF4 dates back to the first EU laws during the 1970s. For a long time national experts of the AF4 contributed to proposals and laws. Many key actors, which steered the EU interest representation of the AF4 during the recent EU reform, were previously involved at the EU level in different roles. For example, several partners of the AF4 participated in Committees of Auditing, where the EC, the national supervisory authorities and the profession discussed matters of concern. Representatives of the AF4 were also active in independent organisations such as the International Ethics Standard Board of Accountants (IESBA) of the IFAC. For many years, the IFAC was a standard setter for self-regulation and independence rules. It was learnt that many EU member states had previously adopted these independence rules. In summary, the AF4 possessed excellent knowledge about the EU institutions and had strong political networks at the level of the EU as well as within each EU member state. However, as expressed by the below citation, the relationship with the EC was problematic since several years. In the early 2000s, the Enron scandal and other auditing scandals greatly impaired the relationship.

Interviewee: "With regard to the history, I do not know if Enron was the only turning point or also the change of the DG Internal Market and Services. It was only, let us say, about the relationship between the audit profession and the EC. The EP did not play such significance back in those days. [...] In the end, the mood shifted when the DG Internal Market and Services said that they do not want any national experts from the profession anymore. [...] This was a first break, [...] and the direct input was not possible anymore."

(Interview with an AF4 audit partner, Head of Risk and Reputation)

The recent EU reform of the AFs remained in the EU political arena. There was no broad media coverage. Only professional journals and few newspapers covered this issue. Interviewees stated that audit topics and specifically the EU audit reform did not

attract a large audience. They argued that interest only increases during scandals such as Enron, FlowTex or Parmalat. As expressed by the below citation, the low public awareness about the EU reform of AFs was not assessed as a disadvantage.

Interviewee: “Because it [the EU reform of AFs] is simply not attractive for the media. This makes our work [public relations] so difficult for positive topics. Nobody is interested about audit, if you formulate it drastically. It is difficult to position ourselves with market communication for an interesting topic such as automisation of auditing, reporting 4.0 or other topics. But it helps us with negative aspects that nobody is interested so much about us. And this helped us in this case.”

(Interview with an AF4 senior manager, Head of Public Relations)

5.1.2 Interest groups

Table 5.1: Interest groups during recent EU reform of AFs

Interest groups	Reasons
AF4	- Direct target of the EU reform
SMPs	- Impacted through new legislations as a profession
Professional bodies and associations	- Representatives of the profession
EU public authorities (e.g. member state supervisors, member state ministries, other public authorities)	- Interest about the new EU reform because of regulatory functions
Investors (banks, investment firms, hedge funds, other investors)	- Investment decision on the basis of audit reports
Preparers (businesses and groups of businesses)	- Impacted as customers of AFs and through new standards
Academics	- Interest about the profession and knowledge generation

Source: Author’s own illustration

The AF4 were the main interest group during the recent EU reform because the EC directly targeted at the existing oligopoly. For example, the regulation regarding statutory audits of PIEs was primarily relevant for the AF4. As already mentioned, the main interest of the AF4 was to protect their business activities against harmful EU laws. On the other hand, they also showed support to increase the quality of audits throughout the EU.

The summary of responses of the Green Paper could be used to identify other interest groups (cf. EC 2011n). The second interest group were small and medium practitioners (SMPs). These are all other professional auditors outside of the AF4 organisations. This group contributed also on a very high level to the development of new EU laws. In this sense, the recent EU reform was of high interest for mid-tier firms

such as Mazars or Grant Thornton because they saw chances to win market shares. Any EU laws that would reduce the existing market concentration of the AF4 would provide chances of increased market shares for mid-tier firms. The third interest group were professional bodies and associations such as the Institut der Deutschen Wirtschaftsprüfer (IDW) or the IFAC. These associations contribute to the profession as standard setters and represent the audit sector in a national or international context. The fourth interest group were the EU public authorities such as member state supervisors (e.g. the German Wirtschaftsprüferkammer (WPK)), ministries and other public authorities. As mentioned before, the supervision of auditors was decentralised at EU member state level. The new EU proposals included various measures that targeted at the supervision of auditors. The fifth interest group were investors. Investors such as banks or investment firms rely on audit reports to make investment decisions and are interested in high quality audit reports. Audit reports are besides credit ratings important sources of information for investors about the financial health of companies. The sixth interest group consist of the preparers of financial statements. These businesses are the customers of auditors. These firms were affected by new EU rules because of proposed measures such as mandatory rotation, a ban on non-audit services or new audit reporting standards. The last interest group were academics.

5.1.3 Information

Table 5.2: Main sources/channels of information for the EU reform of AFs

Main sources/channels of information	Reason (Main motif)
Existing sector standards, accounting standards and laws	Receive issue assessment (justification)
Independent reports and studies	Receive issue assessment (justification)
EC reports and studies	Develop progress (justification)
EC and EP impact assessments	Assess actions and consequence (justification)
EC frequently asked questions	Inform public (awareness)
EC & EP press releases	Inform public (awareness)
Consultation and conference documents	Stimulate interest groups' responses (interest representation and inclusion)
Interest groups responses (emails, letters, calls, meetings, position papers, etc.)	Receive interest group preferences (interest representation and inclusion)
AF4 and other impact assessments	Assess actions and consequence (interest representation)
Regulation and Directive proposals	Democratic legitimacy (decision-making)
EP and CEU readings debate summaries	Democratic legitimacy (decision-making)

Source: Author's own illustration

As already mentioned, the audit profession was a strongly regulated sector with different existing EU laws and professional standards since many years. For example, international associations such as the IFAC developed standards and codes for the profession. Other national institutions, such as the IDW in Germany, did the same with a stronger national focus. These sources were historically valuable pieces for the EU. Moreover, standards such as the International Standards on Accounting (ISAs) define international rules. In addition, existing laws based on the Directive 2006/43/EC were used to assess the status quo and to create the new legislative proposals. Other information was received through different reports and studies from the EC or independent organisations. Due to the very high complexity and technicality of the audit profession, impact assessments received an outstanding importance during the EU decision-making process. The EC and the EP published impact assessments to justify actions and to assess consequences of proposed measures (cf. EC 2011c; EC 2011b; EP 2012). It is important to see that the AF4 reacted and developed own impact assessments as a lobbying tool. In this respect, they acted as an alliance and commissioned an impact assessment to convey their common view about proposed measures such as mandatory rotation or a ban on non-audit services (cf. CE 2012). More information about the preferences of interest groups was received from the Green Paper consultation process and several conferences. The Green Paper consultation – the first stage of the recent EU reform – was a very detailed process with an outstanding level of responses. Moreover, the AF4 and other interest groups contacted the EU authorities through emails, letters or phone calls. In addition, different interest groups held personal meetings with the EC, EP and CEU to convey their views on the proposed measures. However, besides the impact assessments, the documents for the formal decision-making process of the EU were the most crucial pieces of information. The EC proposals for the new regulation on PIE audits and the amended directive on statutory audits were the key documents. These proposals were used in readings and debates at the EP and CEU during ordinary legal procedures. Other sources of information were documents to inform the public about the EU reform such as press notes or frequently asked questions.

5.1.4 The EU decision-making process

As illustrated below in Tables 5.3 to 5.5, the EU processed the reform in two stages. The reform was flagged off in November 2010. During the first stage between 2010 and 2011, the EC conducted the Green Paper own initiative procedure to establish a broad consultation on audit policy. The Green Paper covered a broad set of issues such as the role of the auditor, stakeholder communication, governance, independence and market concentration. The second stage between 2011 and 2014 established the new EU laws. A regulation on specific requirements regarding statutory audit of PIEs and a directive on statutory audits of annual accounts and consolidated accounts were adopted. Each legislative act was adopted after the first reading stage and no second readings or conciliations were necessary. Voting results were not published.

5.1.4.1 Stage 1: Own initiative consultation - lessons from the crisis

Table 5.3: AF Stage 1 decision-making process

Type and instrument	
Own initiative procedure - Initiative	
Date	Key events
13.10.2010	Non-legislative basic document published
17.02.2011	Committee referral announced in Parliament, 1st reading/single reading
17.02.2011	Referral to associated committees announced in Parliament
24.05.2011	Vote in Committee, 1st reading/single reading
31.05.2011	Committee report tabled for plenary, 1st reading/single reading
12.09.2011	Debate in Parliament
13.09.2011	Results of vote in Parliament
13.09.2011	Decision by Parliament, 1st reading/single reading
13.09.2011	End of procedure in Parliament
Institution	Key players
EP	Antonio Masip Hidalgo, Legal Affairs Committee
EP	Kay Swinburne, Economic and Monetary Affairs Committee
EC	Michel Barnier, Internal Market and Services

Source: Author's own illustration, based on the EP Legislative Observatory

5.1.4.2 Stage 2: Regulation EU No 537/2014 and Directive 2014/56/EU

Table 5.4: AF Stage 2 decision-making process (regulation) (1/2)

Type and instrument	
Ordinary legislative procedure - Regulation	
Date	Key events
30.11.2011	Legislative proposal published
15.12.2011	Committee referral announced in Parliament, 1st reading/single reading
20.04.2012	Referral to associated committees announced in Parliament
25.04.2012	Vote in Committee, 1st reading/single reading
29.08.2013	Committee report tabled for plenary, 1st reading/single reading
03.04.2014	Decision by Parliament, 1st reading/single reading
14.04.2014	Act adopted by Council after Parliament's first reading
16.04.2014	Final act signed
16.04.2014	End of procedure in Parliament
27.05.2014	Final act published in Official Journal
Institution	Key players
EP	Karim Sajjad. Legal Affairs Committee
EP	Kay Swinburne, Economic and Monetary Affairs Committee
EP	Jürgen Creutzmann, Industry, Research and Energy Committee
CEU	Meeting 3308
EC	José Manuel Barroso, DG Internal Market and Services

Source: Author's own illustration, based on the EP Legislative Observatory

Table 5.5: AF Stage 2 decision-making process (directive) (2/2)

Type and instrument	
Ordinary legislative procedure - Directive	
Date	Key events
30.11.2011	Legislative proposal published
13.12.2011	Committee referral announced in Parliament, 1st reading/single reading
25.04.2013	Vote in Committee, 1st reading/single reading
14.05.2013	Committee report tabled for plenary, 1st reading/single reading
30.05.2013	Debate in Council
03.04.2014	Decision by Parliament, 1st reading/single reading
14.04.2014	Act adopted by Council after Parliament's first reading
16.04.2014	Final act signed
16.04.2014	End of procedure in Parliament
27.05.2014	Final act published in Official Journal
Institution	Key players
EP	Karim Sajjad. Legal Affairs Committee
EP	Kay Swinburne, Economic and Monetary Affairs Committee
EP	Jürgen Creutzmann, Industry, Research and Energy Committee
CEU	Meeting 3308
EC	José Manuel Barroso, DG Internal Market and Services

Source: Author's own illustration, based on the EP Legislative Observatory

5.1.5 Details about the reform stages, issues and outcomes

Again, the decision-making processes just show the timeframes for AF4 interest representation. The EU reform issues and outcomes during each of the reform stages

need to be analysed now in more detail. This analysis includes also the pre-crisis stage between 2004 and 2007 to understand the emergence of issues during time⁵⁶. In addition, the current stage after the second reform stage is also included to inform about the actual issues after the recent EU reform has been established⁵⁷.

5.1.5.1 Stage 1

EU actions loomed already during an earlier consultation process between November 2008 and February 2009 (cf. EC 2008a; EC 2008h; EC 2008f)⁵⁸. Charles McCreevy, the Internal Market and Services Commissioner, stressed during the initiation that a review of the audit sector was necessary to increase competition and to contribute to the stability of the financial market (cf. EC 2008a). This consultation received a relatively small salience with just 67 responses. However, it was an important step for the EC to build a bridge for later initiatives.

The Green Paper consultation changed dramatically the awareness of the audit sector and other interest groups about potential new EU laws. The Green Paper became a very salient issue in the sector and was discussed along the hallways up to the cafeteria throughout the AF4. The salience is evident from almost 700 responses. This was the highest level of responses for any consultation of the DG Internal Market and Services since the consultation on Solvency II in February 2008 (cf. EC 2011n, p.2). Major contributors were professional bodies and associations, the AF4, SMPs, investors, public authorities, academics and businesses. The majority of responses came directly from the EU member states, especially from Germany, the UK, France and Spain (cf. EC 2011n, pp.3-6). The initiation of the Green Paper can be seen as the starting point for increased lobbying activities. The EC asked 38 questions within the Green Paper, many of them were carrying high risks for the AF4 with regard to their existing business models and future strategies.

Initially, the EC raised more general questions about the approach and purpose of the Green Paper, about the audit sector in society and ways to improve quality of auditing. It then went on to highlight seven main issues with different sets of questions (cf. EC 2010g, p.2), asking about the role of the auditor (including communication and international standards), governance and independence of audit firms, supervision,

⁵⁶ Please refer to Appendix J for more details and the analytical table.

⁵⁷ Please refer to Appendix M for more details and the analytical table.

⁵⁸ Please refer to Appendix K that shows the analytical table (stages, date, steps, documents and issues/outcomes) for the discussion of this section.

concentration and market structure, creation of a European market, simplifications for small and medium enterprises (SMEs) and SMPs, and international cooperation.

All of the AF4 contributed to the consultation and replied with single responses (cf. Deloitte 2010a; Deloitte 2010b; PwC 2010; KPMG 2010; EY 2010a)⁵⁹. As already noted, the EU debate about audit policy was generally welcomed by the AF4. Not all single issues raised in the Green Paper created great discomfort. They sent positive statements with regard to strengthen the role of the auditor, enhance the system of supervision, create a more integrated European market for auditors, simplify rules for SMEs and SMPs, and increase international cooperation of auditors. The conflict with the EU was located at the questions about independence and conflicts of interest. Further restrictions on non-audit services or establishing pure audit firms, mandatory rules for PIE joint audits or audit consortia, mandatory rotation and re-tendering, and changing the appointment and remuneration model of auditors were strongly opposed (cf. PwC 2010, pp. 4-5; Deloitte 2010b, p.3; KPMG 2010, pp.26-32, 39-42; EY 2010app, 11-13, 16-18).

The AF4 argued that a further restriction on non-audit services would negatively impact the overall quality of audits. From a business point of view, they were concerned about a loss of this revenue stream and the dramatic impact on their existing business model and future growth plans. The AF4 provide nowadays a large variety of different advisory and legal services, which strongly contribute to their revenues and profits. A further restriction on non-audit services or even a legally enforced establishment of pure audit firms carried significant risks. It is noteworthy in this context that also the mid-tier firms, which constituted the most active interest group besides the AF4, took issue with this owing to similar motivations. They just considered a restriction on non-audit services for PIEs and system-relevant financial institutions as an appropriate measure (cf. EC 2011n, p.19; Mazars 2010a, p.19).

A conflict between the AF4 and the mid-tier firms was more evident with regard to mandatory PIE joint audits and audit consortia. The AF4 strongly disagreed on this issue as well and again expressed their concerns about a negative impact on audit quality. On the contrary, the mid-tier firms saw a clear chance to gain market shares. They argued that the French model of joint audits on a case by case basis reduced market concentration and also proved as a model for high qualitative audit services (cf. EC 2011n, p.26).

⁵⁹ Please note that the AF4 reponses were also summarised by a qualitative analysis of the EC, which was used for the analysis of the preferences as well (cf. EC (2011n)).

In addition, the AF4 expressed their discomfort about mandatory rotation for audit firms. They argued that a frequent rotation and regular tendering processes would maybe increase independence of auditors, but only at very high costs of quality losses because of destroying the knowledge basis of auditors. From a business point of view, mandatory rotations and regular re-tendering carried risks of breaking established customer relationships and revenue streams. This measure would force the AF4 to exit audit engagements and change their planning parameters for audit fees, staff allocation and audit costs. In addition, other important interest groups such as professional bodies and associations, SMPs and public authorities generally disagreed. According to the professional bodies and associations, mandatory rotation for PIE audits after a specific period (e.g. 10 years) was an option (cf. *ibid*, pp.17-18).

The last major concern for the AF4 was the appointment and remuneration of auditors by third parties (e.g. regulators) instead of the audited company. They argued that the established system generally works well and audit committees limit concerns about independence. From a business point of view, a change of the appointment and remuneration towards regulators would also dramatically impact the customer relationships and business models, including aspects such as talent retention. This issue was also opposed by other interest groups such as SMPs, professional bodies and associations (cf. *ibid*, p.14-16). In summary, the Green Paper was an outstanding initiative of the EC to introduce later proposals on new EU laws. The EC defined during this stage the major issues of concern and the future proposed measures.

5.1.5.2 Stage 2

The conference held from 9 to 10 February 2011 was an important gathering for all interest groups⁶⁰. This conference was intended to summarise the responses to the Green Paper and to illustrate the next steps at the EU level. Chitty (2011) summarises the conference and says that the conference was over-subscribed with more than 450 participants. He states that the Green Paper created a high attention because of the far-reaching questions. Barnier's speech at the beginning of the conference clarified that the status quo of the audit sector is no option for the future, saying that concrete legislative proposals would be presented until November 2011. Finally, he comments that he perceived strong support from the EP during this conference for the initiation of concrete legal actions. The first day of the conference focused on professional standards

⁶⁰ Please refer to Appendix L that shows the analytical table (stages, date, steps, documents and issues/outcomes) for the discussion of this section.

of financial reporting for a greater level of transparency and better international application for investors (for a speech about financial reporting objectives, cf. Hoogervorst 2011). The second day addressed the main concerns about the audit market, which were already presented in the Green Paper. Discussions focused on the role of the auditor, independence, conflicts of interest, market concentration, and simplifications for small firms and auditors. Most notably, the provision of non-audit services and the length of audit engagements for single customers were highlighted as major problems. In addition, the market concentration of the AF4 for audits of PIEs was criticised. According to Chitty (2011), the AF4 audited 99 of the 100 UK Financial Times Stock Exchange (FTSE) and 27 of 30 Deutscher Aktienindex (DAX) firms. From a perspective of interest representation, this event presented an early chance for interest groups to position themselves. For example, mid-tier firms like Mazars or Grant Thornton actively supported PIE joint audits.

In early November 2011, shortly before the legislative proposals were published, the EC released a commissioned impact assessment to strengthen their own position (cf. ESCP 2011a; ESCP 2011b; ESCP 2011c). This lengthy study analysed the audit markets on a country-by-country basis because of the different characteristics in each of the EU member states. The study differentiated also between audit segments for listed and non-listed companies for the discussion about appropriate actions (cf. ESCP 2011c, pp.189-269). Hence, it was structured to promote distinctive proposals for a regulation on PIE audits and a more general directive on statutory audits. The executive summary of the report presented important key findings, which were picked up by the later EU proposals (cf. ESCP 2011b). To begin with, PIE audits were highly concentrated in the EU with a market share of the AF4 above 90%. Secondly, quality and independence of audits were clear matters of concern because of growing mistrust of investors and low switching rates of audited firms. To give example, the report revealed that the switching rate of UK FTSE 250 firms was historically below 2.8%. In addition, several risks were identified with regard to audit fees, e.g. the risk of price making of AF4 in concentrated segments, intense price competition between the AF4 with a negative impact on audit quality, and the risk of cross-subsidisation between loss-making audit engagements and profitable advisory services. The executive summary concluded that a variety of measures in necessary to tackle the existing problems within the audit sector, recommending PIE joint audits or audit coalitions to decrease market concentration, restricting Big 4-only bank covenants, reinforcing the role of audit committees, disclosing the initial appointment of auditors and limiting auditors' liability for more

competition. Beyond that, mandatory rotation, regular tendering, long-form audit reports to the audit committee, stricter rules on the provision of non-audit services and the implementation of ISAs could achieve a stronger independence. In summary, this report was the last ‘carte blanche’ for the upcoming EU reform proposals. Moreover, the risks for the AF4 were clearly highlighted again. Market shares could be reduced through mandatory joint audits or a ban on Big 4-only clauses. The establishment of mandatory rotation and tendering rules could break their existing relationships with audit clients. Finally, their most profitable services could get substantially reduced in case of a prohibition of non-audit services.

The EC published the proposals for a new regulation for PIE audits and an amended directive for statutory audits on 30 November 2011 (cf. EC 2011g; EC 2011j). These proposals aimed for increased independence of auditors, stronger competition in the audit market and a more harmonised market for statutory audits across the EU (cf. EC 2011l, p.1). The EC demonstrated with their single proposals the willingness to stand against a strong opposition of the AF4 (cf. EC 2011k, p.8). The regulation on specific requirements regarding statutory audit of PIEs carried some of the most significant risks for the AF4. The EC substantiated their proposed measures such as a mandatory rotation after six years with a cooling-off period of four years. The rotation period could be expanded to nine years in case of joint audits. Joint audits would not become mandatory, but were encouraged. In addition, regular tendering processes with a strong involvement of the audit committee and at least one offer of a mid-tier audit firm should be established. The provision of non-audit services to PIE clients would become highly restricted. Directly targeted at the AF4, they should be forced to establish pure audit firms. The EC supported their proposals with an impact assessment and other modes of communication such as a video about different technical aspects (cf. EC 2011a; EC 2011b; EC 2011c).

The EU decision-making process progressed for more than two years until April 2014. During this time, there was heavy combined AF4 lobbying against specific proposed measures, leading to a salient over-lobbying debate. However, the AF4 achieved many of their goals. Barnier communicated in his official statement on 17 December 2013 after the preliminary agreement between the EP and the EU member states that the reform became ‘less ambitious than previously proposed’ (cf. EC 2013a, p.1). For example, mandatory rotation for PIE audits was extended to 10 years instead of the proposed six years. Options were permitted to extend another 10 years in case of regular tenders or even 14 years in case of joint audits. Moreover, the establishment of

pure audit firms or new rules for the appointment and remuneration of auditors by third parties were completely taken out of the final laws. Instead, only specific non-audit services such as tax services and legal advice were black-listed for PIE audits. In addition, the provision of non-audit services was capped at 70% of the audit fees on the average of the past three years (ibid, pp.1-2). The favourable outcomes for the AF4 were once again confirmed by Barnier on 3 April 2013 after the adoption of the regulation and directive by the EP, in spite of the fact that the deal still had to be confirmed by the CEU due to the co-decision procedure (cf. EC 2014j; EC 2014i; EP 2014). The new laws were laid down a few days later on 16 April 2014 and were published in the Official Journal on 27 May 2014 (cf. EU 2014a; EU 2014b). Both texts went into force 20 days after the publication on 16 June 2014. Member states were forced to implement the amended directive in the next two years and the application of the regulation will be effective by mid of 2016.

5.1.6 The AF4 preferences

This section discusses the preferences of the AF4 with regard to the political issues and proposed measures by the EU⁶¹. The first main issue was the initiation of a new EU reform of AFs. The other seven issues and corresponding proposed measures were derived from the single questions of the Green Paper as well as from later legislative EU proposals⁶². In addition, the analysis contains the assessment of the impact of the proposed measures on the AF4 business model to highlight the strongest political conflicts. Section 5.1.6.1 discusses the preferences of other interest groups and the conflicts with the AF4.

The Green Paper consultation sent a clear message to the AF4 that the EU considered new legal rules. The preference of the AF4 was to maintain liberal market rules as much as possible, but they also supported better EU rules for the future stability of the system. The AF4 welcomed the discussion on better audits based on the Green Paper. Nevertheless, they made clear since the very beginning that some proposed measures are not acceptable. Proposals such as a mandatory rotation and a ban on non-audit services were directly criticised by the AF4 because they did not see any contribution for better audit services. Their contention centred always on audit quality and independence issues rather than expressing concerns about the negative impact on

⁶¹ Please refer to Appendix N for more details. This table shows the detailed analysis of the CRA3 preferences on a single measure level.

⁶² Please refer to the table as shown in Appendix N. The proposals during the second stage are marked with either a 'D' for directive or 'R' for regulation in order to get full transparency.

their financial performance. In summary, the AF4 supported new EU initiatives for higher independence and a better quality of statutory audits throughout the EU. However, they directly conveyed their detailed views about each proposed measure to demonstrate their rigid political positions.

The second issue focused on the role of the auditor, the proper communication between auditors and stakeholders, and the correct application of accounting standards. Though the discussion about the role of the auditor was welcomed by the AF4, they took serious objection to specific proposed measures. The analysis reveals that some measures discussed during the first stage were not carried forward. The proposals for an amended directive and a new regulation did not include a change of the qualification of audit reports, requested further information about Corporate Social Responsibility (CSR), or rules for more frequent and quicker audit reports. These measures were already dropped by the EC during the first stage owing to conflicting opinions of the AF4 and other interest groups about the reasonability of such actions. In addition, the AF4 disagreed with further measures such as providing more comfort about the financial health of audited companies, stricter rules for the disclosure of methodologies and reinforce professional scepticism. They argued that it was not the role of auditors to give more comfort about the financial health of audited firms, saying that the going concern statement already gives a sufficient indication about the future viability. They argued that their main responsibility was to give an opinion about true and fair financial statements. This discussed measure was later adjusted to the preferences of the AF4 during the second stage. Additionally, they argued that more transparency about audit methodologies could not close the expectation gap. They recommended detailed reports to the audit committee as a better solution. Furthermore, doubts about the professional scepticism were not shared. Finally, the AF4 lent their staunch support to the introduction of the ISAs as legally binding rules for audits across the EU. In summary, they supported only measures to enhance the communication between auditors and stakeholders, which they found reasonable. From a business perspective, the AF4 opposed other measures not just because of their disputed contribution to audit services. The AF4 also considered higher risks for their audits and corresponding costs, which could be associated with stricter EU rules. For example, providing more details about the financial health of companies and more transparency of audit methodologies would increase required skills and resources of audit teams. It was unclear if these costs could be forwarded to customers because of high competition in the sector and pressure on audit fees.

The third issue covered governance and independence of audit firms. The associated measures led to the highest conflicts between the EU and the AF4. The proposed measures for a change in the appointment and remuneration model, mandatory rotation and a ban on non-audit services were the most outstanding conflicts⁶³. The AF4 had strong preferences to avoid these measures. The EC included during the Green Paper consultation a discussion about the existing model of appointment and remuneration. The EC asked if a change from customers to a third party would be reasonable to reduce conflicts of interest, particularly with regard to the independence of PIE audits. The AF4 strongly opposed this measure and conveyed their view that such a change would not contribute to reduced conflicts of interest. They further argued that they have a justified preference because the existing model with effective audit committees had worked well in the past. In addition, they emphasised that an appointment by a third party, e.g. by a competent EU authority, would disenfranchise audit committees and shareholders. Furthermore, the EU should consider the risks of regulator's liabilities for audit failures in this context. They mentioned that an early information of regulators about proposed PIE auditors would be reasonable, but not a break of the existing customer relationships. A change towards an appointment and remuneration by third parties would have a fundamental impact on the audit market. From a business perspective, revenues streams for audits, either for all audits or just for PIE audits, would become unpredictable and relationships with customers would be weakened. Finally, this measure was excluded during the second stage and the proposal for the regulation for PIE audits only focused on a reinforcement of audit committees for the appointment and remuneration of auditors. On the other hand, the proposed measure of mandatory rotation could not be excluded completely. The AF4 did not agree at all with the establishment of mandatory rotations, neither just for PIEs nor for all audit clients. The contention of the AF4 was that mandatory rotations have very negative impacts on the quality of audits because of a forced disruption of existing knowledge. Consequently, the costs for the audited firms would increase and the management of audit processes would become more complex for large multi-national companies. Mandatory rotation was included in the later proposal for a regulation for PIE audits. The lobbying of the AF4 moved towards the goal of reducing a negative impact from mandatory rotation on their business models through longer rotation cycles and further exceptions in case of regular tendering. As an operational answer, the AF4

⁶³ It should be stated again that the AF4 obtained favourable results with regard to these proposals. Please refer to Section 5.2 for more details about the AF4 degree of preference attainment.

started to rearrange their planning board for PIE audits based on prospective new rules. The AF4 define audit clients as Channel 1 mandates, whereas non-audit services such as tax advisory, legal counselling or business advisory are Channel 2 mandates. The aim of the AF4 was to compensate for cancelled PIE audits through new Channel 1 clients and additional Channel 2 services to recover a potential loss of revenue streams and secure profits. The avoidance of the EU measure to create pure audit firms and ban non-audit services was another crucial issue for the AF4. The AF4 underscored the economic independence of audit firms and highlighted that such a measure would contradict with the EU goal to grow the internal market. Furthermore, non-audit services were important for the quality of audit services because of necessary expertise. The establishment of pure audit firms and a complete ban on non-audit services for the AF4 were carried forward to the second stage. The AF4 strongly opposed this proposal. After the establishment of pure audit firms exited political debates, the goal of the AF4 was to further reduce any harmful impacts of restricted non-audit services as much as possible, shifting this issue to the new EU regulation for PIE audits. There were many more proposed measures with regard to better governance and independence of audit firms such as reducing maximum levels of fees from single audit customers, higher transparency about the financial performance of audit fees, taking up positions in audited companies, internal quality reviews or a modification of audit ownership rules. The AF4 supported many of these measures. None of these measures carried comparable high risks for their business models and could be approached more moderately.

The fourth issue, the European supervision of audit firms, was already embedded in the previous Directive 2006/43/EC and existing national laws. In this respect, it was no surprise that the AF4 supported many aspects for a further EU harmonisation and better coordination of public oversight. In addition, even if stronger rules for supervision would maybe increase risks of stronger sanctions and boost costs for compliance, these measures were relatively low with regard to a direct impact on business models. The main goal of the AF4 was to preserve the system of national oversight and to avoid a new centralised European oversight authority. Consequently, the AF4 supported the vast majority of the proposed measures for better national oversight and stronger coordination at the EU level.

The fifth main issue addressed the existing market for audit firms in the EU and the strong domination of the AF4. From a business perspective, the AF4 were interested to maintain their market shares or even win market shares from competitors. Therefore,

the conflicts between the AF4 and the EU about the proposed measures to reduce existing market concentration were strong. These proposed measures received the highest importance for AF4 lobbying activities besides governance and independence issues. The EC discussed during the Green Paper consultation the model of mandatory PIE joint audits. This measure was strongly opposed by the AF4 because they did not see any value of such a law. Instead, they argued that mandatory joint audits would not improve audit quality and increase complexity to manage audit engagements. The EC used the evidence from the French market, where such rules have contributed to more competition. Nevertheless, the AF4 argued that appropriate audit formations should be led by market rather than being enforced by laws. A mandatory joint audit rule for PIE audits was not carried forward to the second stage. Instead, the formation of joint audits for PIE audits was used as an incentive to achieve longer mandatory rotation cycles for PIE audits. The EC further addressed the existing market concentration based on the Green Paper by asking about the circumstances leading to the prevailing market conditions. In this respect, there was a discussion about reasons to reverse the existing structure. The AF4 argued that any legally enforced reversals would contradict with previous approvals by the EC. The past mergers such as taking over the Arthur Andersen businesses after the fall of Enron were permitted by the EC. The remaining two measures discussed a ban on Big 4 only-clauses and the development of contingency plans including living wills. Due to their leading international market positions, the AF4 saw no material risk for a ban on Big 4 only-clauses. On the other hand, the development of contingency plans and living wills was less clearly supported. Some of the AF4 argued that contingency plans could be useful in case of system failures, but no living wills, which were established for financial institutions, were supported.

The seventh issue focused on simplifications for SMEs and SMPs. The EC enquired if all rules should be requested for smaller auditors and audited firms. These firms could be disproportionately stressed by the new EU rules. These proposed measures all had minor relevance for the AF4 and no large relevance for their business models. The AF4 argued against simplified reports during the first stage, but later showed their acceptance to facilitate audits for SMEs.

The sixth and eighth issues focused on the creation of a European market for auditors and international cooperation. In general terms, the AF4 showed their strong support for measures to develop a European market for auditors. They strongly supported a better international cooperation through the EC and the European Group of

Auditors' Oversight Bodies (EGAOB). However, they highlighted the importance of local laws and rules to secure high standards for audits. Furthermore, international cooperation was strongly supported to increase the harmonisation of the audit profession across different international territories.

5.1.6.1 Preferences of other interest groups and level of conflicts

Much like the EU reform of CRAs, the EU reform of AFs primarily targeted at the sector-leading oligopoly. Nevertheless, the new EU reform also affected many other interest groups⁶⁴. In particular, the SMPs were impacted. Hence, the analysis of the preferences of other interest groups and the conflicts focus on the SMPs. Furthermore, the preferences of the preparers, the customers of auditors, are discussed here in more detail. Preferences of other interest groups are shortly summarised at the end of this section with a focus on the most critical proposed measures for the AF4 (change of the appointment and remuneration model, mandatory rotation, ban on non-audit services and joint audits)⁶⁵.

The SMPs generally welcomed the new EC initiative to stabilise capital markets and create a better audit market (cf. Mazars 2010b, p.1). They mentioned that the role of the auditor should be reinforced. Communication of information to internal and external stakeholders should be enhanced, but single measures were not in the interest of the SMPs. For example, providing more comfort on the financial health of companies was – similarly to the AF4 – not supported. German SMPs recommended that an audited management report would be a good measure across the EU to increase the quality of forward-looking information (cf. EC 2011n, p.8). In addition, the SMPs did not support a change of the 'all or nothing paradigm' for the qualification of audits. In summary, the preferences of the SMPs with regard to the role of auditors were very close to the AF4. For example, legally binding rules for the EU-wide introduction of ISAs also received strong support. However, they requested that higher administrative requirements for them should be managed carefully (ibid, p.12).

Moreover, SMPs have generally the same profit seeking motivations. Hence, their preferences with regard to a changed model of appointment and remuneration, mandatory rotation and a ban on non-audit services were close to the AF4 preferences. They tried to avoid any negative impact on existing business practices and customer relationships, which could potentially decrease their revenues, increase costs and

⁶⁴ Please refer to Section 5.1.2 for more details about the involved interest groups.

⁶⁵ More details can be directly obtained from the summary of responses of the Green Paper (cf. EC 2011n).

weaken profits. For example, they argued that if new rules for the appointment and remuneration of auditors should be introduced, these rules should focus only on PIE audits and should allow SMPs to enter this segment (ibid, p.14-15). A general change in the existing model was opposed and their views hinted at a stronger role of the audit committee. Likewise, they argued that a ban on non-audit services should be considered only for PIE audits. They argued that the provision of non-audits services is a crucial revenue stream for SMPs (ibid, p.19). Finally, their view on mandatory rotation was more disperse. Some SMPs strongly opposed a general mandatory rotation because of increased costs and a negative impact on audit quality. Other SMPs expressed their support of mandatory rotation at least for PIE audits. Furthermore, they welcomed more regular and fair tendering processes (ibid, pp.17, 28).

Thus, the EC needed to differentiate between the impact of EU reforms on the entire sector and that on the AF4. This was achieved through the divided new EU rules based on the amended directive on statutory audits and a specific regulation for statutory audits on PIEs. Based on the analysis of the AF4 preferences, it appears that a vast majority of proposed measures for the role of the auditor, and the governance and independence of audit firms were embedded in the new regulation. The only major adjustment for better governance, which was channeled through the amended directive, was changed ownership rule to increase access to capital. This proposal was not in favour of the SMPs because they assessed that external interests would further harm the independence of audit services (ibid, p.21). On the contrary, they expressed their support to limit the fees from single clients to avoid dependencies of auditors, which would carry a risk for the independence of services (ibid).

The fourth issue targeted new rules for the supervision of auditors. An EU-wide coordination was supported by the SMPs. Some of the SMPs also considered the establishment of a European Supervisory Authority as a reasonable approach (ibid, p.23). The fifth issue of decreasing the existing market concentration was particularly in the interest of the SMPs. All initiatives to allow them better access and more revenues from large clients were supported, e.g. they strongly lobbied for the establishment of mandatory joint audits or audit consortia with the inclusion of at least one SMP for PIE audits (ibid, p.26). The same applied for a ban on Big 4 only-clauses. Moreover, they strongly opposed any further concentration of the market and a prohibition of further significant acquisitions of the AF4 (ibid, p.32). The sixth issue – the creation of a European market – and the eighth issue – a better international cooperation – were generally supported by the SMPs. For example, they encouraged better alignment of

examinations and trainings across the EU (ibid, p.33). A direct issue with a superior relevance for the SMPs was the seventh issue about simplifications for SMEs and SMPs. SMPs declared that simplifications were necessary because of higher regulatory requirements and corresponding administrative costs of compliance. However, their views about limited audits were quiet disperse (ibid, p.34).

As the preparers of financial statements and customers of AFs, the businesses were also directly impacted by new EU rules. Their general view on the role of the auditor was that auditors should provide a high level of assurance for historical financial statements and not become a further responsibility to assess financial health. In addition, they underscored that more informative audit reports and a better explanation of applied methodologies are important. On the contrary, the qualification system of audit reports was seen as reasonable, longer audit reports were not supported. Finally, higher sanctioning power of regulators was recommended by the preparers to increase the level of professional scepticism again (ibid, p.11). The views of the preparers were more distanced with regard to the binding application of ISAs throughout the EU because of the additional administrative burden (ibid, pp.13-14). In addition, their views on changes to increase the governance and independence of audit firms were different to the EC's proposals and more closely aligned to the AF4. An appointment by third parties was opposed (ibid, p.17), mandatory rotation was not favoured because of increased costs and a negative impact on audit quality, and a ban on non-audit services not supported because of a need for multidisciplinary skills (ibid, p.21). Better public oversight was generally supported (ibid, p.24) and joint audits were also considered based on specific conditions (ibid, p.27). In addition, they argued that Big 4 only-clauses constituted a barrier for market entry. However, they added that this measure was less effective to stimulate competition because only the AF4 had necessary skills and resources to deal with audits on a global scale (ibid, p.30). Finally, they were critical of a single passport for auditors because of national requirements and domestic laws, which are crucial for high-quality audits (ibid, p.34). The last significant issue for the preparers was the simplification for SMEs and SMPs. SMEs mentioned increasing administrative requirements which result from new regulatory rules. Hence, they considered limited audits with the application of proportionate rules as a reasonable measure. Nevertheless, they expressed their concern that such limited reports may lack credibility for financial institutions (ibid, p.36).

The professional bodies such as audit federations and associations represent the interest of the whole audit sector. Therefore, they had to develop a view with respect to

the needs of the AF4 and SMPs at the same time. This was a major challenge for them because of some conflicting views of their members. To give example, the preferences between the AF4 and the mid-tier firms divided particularly with regard to the proposed measure of joint audits (cf. Györkös 2011). As a result, the professional bodies did not take a clear position (ibid, p.26). Their positioning with regard to the other sensitive measures was much clearer. They rejected a change of the appointment and remuneration model, the introduction of mandatory rotation and a prohibition on non-audit services (ibid, pp.14, 17, 18). With respect to these preferences, they further strengthened the opposition of the whole profession against these proposed measures.

Public authorities such as member state supervisors were generally close to the positions of the EC. Both parties shared the common goal to re-establish stability in the financial systems and avoid a future crisis. However, their preferences were more moderate with regard to critical proposed measures for higher independence and less market concentration. They supported a change in the appointment and remuneration model to third parties just for specific PIE audits (ibid, p.16). In addition, the preferences were mixed towards the introduction of mandatory rotation (ibid, p.17). Furthermore, a general prohibition on non-audit services was not supported. They recommended that a decision about non-audit services should be made on a case by case level (ibid, p.20). Finally, they argued that joint audits carry many risks with regard to responsibilities and audit approaches (ibid, p.27). A remaining important issue for them was the future system of supervision. They favoured a stronger enforcement and coordination of oversight at the EU level by the EGAOB, particularly with regard to PIE audits (ibid, p.23).

Investors were generally interested in receiving better information from audit reports. They were not completely convinced that a change of the appointment and remuneration model towards third parties such as regulators was reasonable because this measure would harm relationship between shareholders and auditors. They made various proposals to limit potential conflicts, e.g. shareholders should always approve auditors and regulators should have a right to place a veto. In their view, an appointment by third parties would only make sense for specific cases (ibid, p.15). Views with regard to mandatory rotation were mixed. Mandatory rotation was not really supported, but they underscored that a regular tendering process should be established (ibid, p.17). Non-audit services should be allowed only if they directly contributed to the quality of audits. Further, they argued that guidelines and a higher transparency about approved non-audit services should be introduced to prevent against any conflicts of interest (ibid,

p.19). Finally, many investors' responses to mandatory joint audits were critical due to potentially higher costs, questions about responsibilities and doubts about the benefits of this approach (ibid, p.27).

Finally, some actors from the academic community carried their views. They argued that the social role of auditors needs to be aligned more closely with expectations of the public (ibid, p.6). There was no support for a change of the appointment and remuneration model. Rather, audit committees should be reinforced with independent directors (ibid, p.16). Their views on mandatory rotation were mixed. They suggested more investigations about potential impacts. They further underscored that mandatory rotation was beneficial for specific conditions, e.g. when switching costs were low and competition was inefficient. Nevertheless, some pointed out that mandatory rotation would make sense for PIE audits (ibid, p.18). On the proposed measure of banning non-audit services, academics took a very radical stand. They supported a full prohibition of non-audit services or a restriction of these services to audit clients as the best measures to secure independence. At least, all services should need previous permission of audit committees (ibid, p.20). Finally, they took a moderate stand with regard to mandatory joint audits, saying that such measure was just an additional option. Finally, they highlighted that radical approaches should be generally avoided in favour of smooth gradual developments (ibid, p.27).

5.2 Analysis of the reform outcomes and the degree of preference attainment

The discussion, which covers the eight issues based on single proposed measures, is based on the detailed analysis as shown in Appendix O. This analysis is a comprehensive comparison of the implications of the EU reform and the preferences of the AF4. The comparison applies the DPA method to assess the distance between policy outcomes and AF4 preferences, showing either a close, medium or great distance. Some measures are taken forward from the Green Paper consultation stage to the later legislative stage to illustrate their development over time. The focus is set on the proposed measures, which were the most critical ones for the AF4: a change of the appointment and remuneration model, mandatory rotation, a ban on non-audit services and mandatory joint audits.

Even if the amended directive for statutory audits and a new regulation for PIE statutory audits could not be avoided, expressed by the medium distance between this outcome and the ideal point of the AF4, the analysis reveals a close distance between the political outcomes and the preferences of the AF4 for a vast majority of proposed

measures. As a result, the DPA analysis shows favourable reform outcomes for the AF4 and suggests a strong level of influence. In conclusion, the AF4 were able to justify their role in society and to strengthen the legal basis for their business model.

The second issue focused on a key aim of the EU to enhance communication between auditors and stakeholders through better audits and more informative audit reports. Some proposed measures such as higher transparency rules carried some risks for the AF4 because of a potential impact on costs of audits. The outcomes show close distances to the ideal points of the AF4 for 13 out of 17 proposed measures. Another four out of the 17 single measures⁶⁶ show at least a medium distance. For example, a further provision of the financial health was dismissed during the first stage. The adjusted proposal of the second stage clearly illustrated the preferences of the AF4 that auditors should give a clear opinion on true and fair financial statements and no additional assurance about future viability. In addition, increased levels of information about the applied methodology and the qualification of audit reports could be avoided. The AF4 argued that long reports to the audit committee were a much more reasonable measure. The outcomes of the new regulation and the amended directive exactly show the preferred change by the AF4 towards an enforced audit committee; Article 28 of the directive adjusted the requirements of audit reports and Article 39 carried the rule of audit committees for PIE audits. The further specifications on audit reports for the audit committee were included in Article 11 for the regulation on PIE audits. In this respect, the outcomes show a strong alignment to the preferences of the AF4. The other rules with regard to a better communication show sometimes a medium distance, for example, with regard to the reinforcement of professional scepticism. A new rule (Article 21) was included in the regulation, even if the AF4 expressed an opposing view. However, all outcomes were perceived to have rather small impacts on the professional practices of the AF4, which could assure future compliance because of their large internal resources. Finally, the legally binding introduction of ISAs was supported by the AF4 and in favour of the whole audit fraternity.

The fourth issue targeted a better level of audit supervision across the EU. The AF4 highlighted already during the Green Paper consultation that they are in favour of better coordination of supervision throughout the EU. However, they wanted to avoid a centralised European oversight authority. In summary, all 13 proposed measures that

⁶⁶ Single measures are sometimes duplicated to illustrate the development over time. This approach seems more reasonable than excluding duplications because it shows how the issues moved either closer or farther away from the AF4 preferences during the lobbying process.

were allocated to the supervision of audits show a close distance between the outcomes and the AF4 preferences. New rules with stronger sanctioning powers of competent authorities were included in the directive (Articles 30a, 32) and the regulation (Article 23). The focus was clearly set to establish a stronger supervision for systemic-risk relevant PIEs. A new European oversight body could be avoided while the Committee of European Audit Oversight Bodies (CEAOB) was put in a central role, which was in the favour of the AF4.

The sixth to the eighth issue dealt with the creation of a European market, simplifications for SMEs and SMPs, and international cooperation of auditors. All these measures were of minor significance for the AF4 business model. Most of the proposed measures were not opposed by the AF4 and the outcomes did not conflict with their preferences. For example, the measures for a creation of a European market were generally supported, even if some cautions were expressed. In addition, the AF4 also promoted a stronger international cooperation. Even if the AF4 expressed their concerns about simplified rules for SMEs and SMPs, the outcomes did just have a marginal impact for the AF4 and generally aligned to their preferences.

The third and the fifth issue were the central areas of conflict between the EU and the AF4. These issues focused on changing the governance and independence of audit firms, and addressed the existing market concentration. The EC forced various proposals for these issues. Only two out of the 30 proposed measures for these issues showed a high distance from AF4 preferences. These measures related to increased transparency and greater disclosure of financial information during the first and the second stages. Even if the AF4 argued that existing laws were already sufficient, the EC moved this proposal to the legislative level and new rules were included in the final text. Various other measures such as banning the Big 4 only-clauses, better internal control or the enforced role of group auditors were generally supported by the AF4. Other measures such as the development of contingency plans with living wills were more strongly opposed. This measure was finally excluded from the new legislative framework. In summary, 23 out of the 30 proposed measures show a close distance between the AF4 preferences and the legislative outcomes. The remaining five measures show a medium distance.

The most significant lobbying was addressed to a change in the appointment and remuneration model, mandatory rotation, a ban on non-audit services and mandatory joint audits for PIEs. The change in the appointment and remuneration model to third parties such as regulators was discussed during the Green Paper consultation. The AF4

vehemently opposed this proposal along with the whole fraternity. The EC finally dismissed this proposed measure. Instead, the EU enforced the role of the audit committee for the appointment and remuneration of PIE auditors and established specific rules based on Article 16. The second main measure, the duration of auditors' appointments, set in motion the discussion about mandatory rotation. The AF4 took strong objection, once again supported by the whole audit fraternity. Consequently, the legislative outcome was more and more moved towards their preferences. Mandatory rotation was isolated for PIE audits and the previous rotation cycles could be gradually extended. Even if this measure could not be avoided completely, the legislative outcome could be managed by the AF4 and the impact on the existing business model could be limited. Therefore, the outcome shows a medium distance to the ideal point of the AF4. The third critical measure was associated to the ban on non-audit services. The EC questioned during the Green Paper consultation the establishment of pure audit firms and moved this proposal to later stages⁶⁷. A general ban on non-audit services would have tremendously affected the existing business models of the AF4, destroying their revenue growth and profitability. This was a major threat for the AF4, if not the most significant one. Finally, the issue of pure audit firms was dismissed and a prohibition of non-audit services just applied for PIE audits. The EU defined a blacklist of prohibited non-audit services and the procedures for approval of non-audit services. In addition, the fees for non-audit services were capped at 70% of the average three years' audit fees. In summary, it can be justified that this outcome is close to the ideal point of the AF4. Firstly, significant parts of non-audit services are generated in the midmarket segment. The avoidance of the pure audit firm and rules just for PIE audits still allow for a liberal playing field in this segment. Secondly, most AF4 do not receive a level of 70% of non-audit services with PIE audit clients. Thirdly, the AF4 are completely free to provide non-audit service to PIEs, if they are not auditing these entities. Hence, using a Channel 1 (audit clients) and Channel 2 (non-audit clients) management allows the AF4 to stabilise and grow their revenues. Some AF4 could be attracted by the chance to come out of low-margin audit engagements to get a level playing ground for the provision of more profitable non-audit services. Even if the associated reputation of PIE audits always remains a crucial aspect for the AF4, a future trade-off could be fostered. Finally, mandatory joint audits for PIEs were the last major concern for the AF4. This measure received the support of the mid-sized audit firms. It

⁶⁷ The regulation proposal spoke about a prohibition of non-audit services for audit firms of 'significant dimension'.

was argued that this model contributed to a less concentrated market in France. In addition, mid-sized firms explained that joint audits were perceived well by clients and did not impact the quality of audits. Opposing this strongly, the AF4 contended that audit quality would be reduced, coordination complicated and responsibilities impacted. From a business perspective, parts of the fees of the AF4 could be distributed to mid-sized firms and risks of losing knowledge and talents to these competitors motivated the AF4 to lobby against such measure. In the end, they appeared to be quite successful owing to the fact that this measure was excluded after the Green Paper consultation and was not considered for a new legislative framework.

5.3 EU interest representation and influence

The strong influence of the AF4 became apparent by the close distance between the preferences and the political outcomes of various proposed measures as shown by the DPA analysis. This chapter strengthens this assessment of strong influence based on the analytical framework through the further CPT analysis of the EU interest representation and influence. First, the behaviour and activities of the EU interest representation are discussed. The analysis then focuses on the factors of access, structural characteristics and issue characteristics.

The AF4 developed a very sophisticated EU interest representation during the recent EU reform. Some observers argued that even experienced lobbying sectors such as the banking sector could learn from the lobbying of the AF4 (cf. Newquist 2012). They were able to reach out towards the different EU authorities at the different venues through well-planned and commonly developed direct and indirect activities. The AF4 were able to master a strategic behaviour of their EU interest representation, which was characterised by an aggressive impact-focused lobbying style. The direct and indirect actions were aligned at the EU level and across all EU member states. The direct actions at the EU level rested on a common agenda and received a high level of attention by the AF4. This high level of direct activities was further supported by comprehensive indirect actions towards the 28 EU member states. These actions were concerted in a similar way by the AF4 to establish their contacts to the EP members and increase the influence on the CEU. The lobbying alliance of the AF4 triggered some negative aspects as well. The strong and aggressive EU lobbying with informal activities was not well perceived by the EC and some EU politicians. This resulted in an over-lobbying debate about the AF4. However, even if this debate created a more critical stand towards the AF4, it did not significantly impair their power and influence.

In summary, the access goods, structural and issues characteristics were supportive to assert strong influence. The provided information about their views and impact assessments was a very credible source for political actors. However, the damaged relationship between the EC and AF4 decreased their access at this institution. As a result, the AF4 concentrated on the direct decision-making powers of the EP and CEU. The AF4 received superior access to the EP and CEU based on provided information and because of long-lasting political networks. The AF4 could rely on their influence as market leaders and their market power supported the access to political players. Strong financial resources with a high number of experienced lobbying professionals supported the influence of the AF4. Moreover, the AF4 hired various external consultants to optimise their lobbying activities. The market power of the AF4 was a very important aspect for the development of common activities with their customers and federations. In this respect, structural coercions were used to strengthen the contention for their preferences. Finally, the issue characteristics were generally in favour for a strong lobbying power. A key characteristic was a relatively small pressure from the crisis as the focusing event for the EU reform. The AF4 lobbying was not significantly impaired by the crisis and the AF4 could rely on strong networks within the EU political system with relatively high credibility. The credibility of the AF4 was not harmed by any specific scandal, which could have resulted in a higher level of mistrust of political actors and citizens. The scope and salience in the media about the EU reform of AFs remained on a low level. The public awareness did not play a significant role for the EU reform and for the lobbying. The reform type was also to some advantage for the AF4 because they could move proposed measures between the amended directive for statutory audits and the new regulation for PIE audits. Finally, the high technicality was in favour of the AF4 because they could use their superior professional knowledge to present convincing arguments. This was a very important aspect for their commissioned impact assessment.

5.3.1 EU interest representation

This section explores the different characteristics of EU interest representation such as direct and indirect activities, alliance and identity building, and venue shopping. Table 5.6 summarises the EU interest representation of the AF4. The details are discussed in the following three sections.

Table 5.6: EU interest representation of the AF4 at a glance

AF4: EU interest representation at a glance	
I	Direct and indirect action characteristics
1	More aggressive impact-focussed lobbying with a direct pressure on EU authorities
2	Extensive and well planned direct actions of the AF4 with own impact assessments
3	High involvement of all AF4 with a strong level of aligned direct and indirect actions
4	Very comprehensive and aligned indirect lobbying action in the EU member states
5	Strong actions towards competent authorities to reach EGAOB
6	Evidence for informal lobbying actions, which fostered the over-lobbying debate
II	Alliance and identity building characteristics
1	High level of coordination between the AF4 and common actions as an alliance
3	Sensitive relationship with own federations
2	Well planned alliance building with many corporate federations to support their preferences
4	Use of consultants (lobbying, studies, legal) under the strong project lead of the AF4
III	Venue shopping characteristics
1	Strongly coordinated venue shopping to lobby at different locations during different times
2	Strong evidence of lobbying around the EC and focus on EP and CEU venues
3	AF4 established contacts to the highest political levels, including ECO members
4	Litigation strategies used as a threat, if lobbying influence insufficient

Source: Author's own illustration

5.3.1.1 Direct and indirect action

Lobbying behaviour

The AF4 are very experienced lobbyists on national and EU level with strong networks. During the decision-making process, they supported many aspects of the EU reform (e.g. the introduction of ISAs, higher power of audit committees, etc.). Nevertheless, they made very clear since the beginning, which proposed measures (change of the appointment and remuneration model, mandatory rotation, ban on non-audit services and joint audits) were not acceptable and started to fight these measures intensively.

*Interviewee: "My view is that it is a blocking way disguised as a cooperative way. [...] So, we seem very cooperative, but at the end of the day we do not want any changes."
(Interview with an AF4 partner, Head of Regulatory Affairs)*

The above citation is a good description of the AF4 lobbying behaviour, which was characterised by many interviewees and observers as aggressive. For example, Fleming (2013b) reported how the AF4 lobbied in a 'ferocious' way to block the reform on level of the EU member states. In addition, Fleming (2013a) reports that Barnier evaluated the AF4 lobbying as 'a bit aggressive' towards him and that single MEPs were threatened. The aggressive lobbying behaviour resulted from the severe risks from some proposed measures. For example, a proposed change in the appointment and remuneration model towards third parties would have strongly damaged their

relationships with audit clients. In addition, other proposals of a mandatory rotation, establishment of pure audit firms or a ban on non-audit services jeopardised their existing business models and future strategies. In summary, the strong direct and indirect lobbying activities, the close coordination between the AF4 and the high pressure on EU decision-makers were not perceived in a good light at the EU level and give evidence for the aggressive lobbying behaviour of the AF4. Informal lobbying activities, which were negatively perceived by the EC and some EU politicians, were also a strong piece of evidence for their aggressive lobbying behaviour. The strong lobbying activities of the AF4 resulted in a discussion at the EU level with an accusation of over-lobbying.

It was mentioned during the interviews that the atmosphere at the EU level was perceived to be poisoned. One reason was that the EC directly targeted at the AF4 as a 'political enemy'. The AF4 were challenged by this strong political pressure. They were forced to lobby against the EC proposals and to achieve a strong voice at the EP and CEU. A key tactic was that the AF4 discredited the EC's impact assessments and commissioned their own impact assessments (cf. CE 2012) to convince members of the EP and CEU about their views. As a result, the mistrust between the EC and the AF4 increased even further and it became impossible to establish a cooperative modus. An EC bureaucrat mentioned that the AF4 tried 'to kill the reform until the very end'.

Finally, the question needs to be asked why the AF4 could incorporate such an aggressive behaviour. Main reasons were no direct responsibility for the financial crisis, strong political networks and long lobbying experience. The AF4 were not directly blamed for the outbreak of the financial crisis. It was rather questioned why auditors did not send timely warning signals. This allowed them to remain a high reputation. They could rely on their existing political networks and start their lobbying activities based on many years of experience without being afraid of direct public accusations.

Informal activities

Informal lobbying activities and the over-lobbying debate were made public by journalists. Various press articles revealed the informal activities and the issue of over-lobbying by the AF4 (cf. Jones 2012; Fleming 2013a; Fleming 2013b). The interviews could be used for further investigations. For example, an interviewed EU bureaucrat mentioned several controversial informal incidents, which were also partly confirmed during the interviews with representatives of the AF4.

It was stated during the interviews that many EU bureaucrats and politicians have had a very negative impression about the AF4 lobbying. It was criticised that the

AF4 took an ‘extremely aggressive and extremely dirty’ lobbying route. For example, it was mentioned during an interview that the AF4 paid an official in the legal department of the CEU to challenge the legal basis of the regulation on PIE audits. This example shows that the AF4 headed even towards litigation strategies to strengthen their political position. Another example was the threatening of an MEP with respect to his future political career. This incident led to prohibited access to the premises of the EP for the accused AF4 representative. It was reported that this incident was put forward to the president of the EP. Finally, it was also learnt that the AF4 lobbied through informal routes to avoid active participation of the PCAOB during the EU reform process. According to the information provided, payments to some members of the US House of Republicans were made by the AF4 to prevent support from the PCAOB for the introduction of mandatory rotation rules.

These examples give strong evidence for informal activities by the AF4. However, it has to be questioned why the EC revealed this delicate information during the interview. It seems that a central aspect is that these actions were not seen as ethically correct. However, the communication of these incidents also expressed a high frustration of the EC. This frustration is explainable because of the very strong lobbying power, which the EC faced during the recent EU reform. In this sense, the revelation was a part of the political game between the EC and the AF4. The proposals shrunk increasingly and the AF4 were too successful from the EC’s point of view. Lobbying observers denoted that the EU reform outcomes became a ‘paper tiger’ (cf. Pop 2014).

The view of the AF4 on the informal activities and over-lobbying debate were divided. Some interviewees stated that a perception of over-lobbying was created and the sheer volume of lobbying activities the main reason. For example, many activities were taken together by the AF4 and activities were also done independently. Moreover, lobbying was not only done at the EU level, but also exerted on level of each of the 28 EU member states. Bearing in mind that a strong coordination was established between the AF4, the direct and indirect lobbying activities were stretched to the extreme end. However, it was also confirmed by some interviewees of the AF4 that there were some doubtful informal activities. It was explained that these incidents were exceptions and that the EC created the over-lobbying debate to increase the pressure on the AF4. Following their contention, the AF4 lobbying was not unusual and should be not considered as over-lobbying, as expressed by the below citation.

Interviewee: “It is very, very easy to use the over-lobbying accusation, and it happens all the time. If you are a legislator trying to achieve something, then you do not want

people undermining what you are trying to do. And accusing people of over-lobbying is a very easy thing to do because the natural inclination of someone who is accused of over lobbying is: “Oh god, oh well, we better do less.” Actually, if they had accused us of under-lobbying, that would have been a far more serious accusation. No, I do not think we over-lobbied, I think we did what we did very objectively, and we tried to come up with sensible arguments as to why things were bad. And I think we actually made quite a lot of progress in the EP in convincing sensible MEPs that many of these reforms were not going to achieve what the EU wanted to achieve. There were, however, one or two cases where an individual in a network probably went beyond what was appropriate, and that has given rise to this general perception that the Big 4 were over-lobbying. I can pin point it to one individual and one member of the EP.”
(Interview with an AF4 partner, responsible for EU Regulatory Affairs)

In summary, it can be argued that the EU lobbying behaviour and activities tended to over-lobbying. Specific incidents – even if they were exceptions – support that the AF4 lobbying was questionable from a standpoint of EU decision-making and influence of large organisations. In this respect, it appeared reasonable that the EC highlighted this issue to strengthen their concerns. However, political fights are goal-oriented and the argument of easy accusation of over-lobbying is reasonable as well. Once again, the truth lies somewhere in between.

Direct and indirect action

The AF4 established their direct and indirect EU lobbying activities since the beginning of the Green Paper consultation. It has to be mentioned again that the audit sector had been a regulated industry in the EU since many decades. Because of the very long history of dealing with EU regulatory issues, the AF4 had large regulatory departments with regulatory partners in each of the 28 EU member states and permanent representatives at the EU level. The AF4 possessed excellent contacts with political actors in each of the EU member state as well as at the EU level, which they could use as a superb basis for their direct and indirect lobbying actions. They focused on direct actions at the EU level, but indirect actions in the EU member states were to strengthen their power in Brussels. Each organisation established regulatory teams to plan and align the lobbying activities between the AF4⁶⁸. EU regulatory heads of the AF4 took responsibility within their organisations for planning and coordination of direct and indirect actions. The strong intensification of lobbying at the EU level and on level of the EU member states is expressed by the below citations.

⁶⁸ The AF4 acted as a very strong alliance. This was a key characteristic of the AF4 interest representation. Please refer to Section 5.3.1.2 for more details about the alliance and identity building.

Interviewee: “An intensification of the activities in Brussels was particularly required for the group of the AF4. A stronger political participation was developed on the basis of the existing resources. And – let us say it this way – contacts to political players were established, which were not on the radar so far.”

(Interview with an AF4 partner, Member of the Board and EU Regulatory Partner)

Interviewee: “They were already connected at the EU level. They have their federations here and in the meanwhile all own offices in Brussels. They acted with a slam.”

(Interview with a senior manager of a car manufacturer, Head of European Relations)

The AF4 intensified their direct actions because professional federations were not able to coordinate the different interests of the audit fraternity. As mentioned, conflicts of interests developed especially between the AF4 and mid-sized audit firms such as Mazars or Grant Thornton. It was stated that international audit federations such as the Fédération des Experts Comptables Européens (FEE) were challenged to speak with one voice to represent the interests of their members. National federations such as the IDW in Germany faced the same problem. The AF4 presented own position papers at the Green Paper consultation as well as at conferences. In addition, an EC bureaucrat confirmed during an interview that there were several meetings and that she received e-mails, letters and phone calls. However, due to the strong conflict between the EC and the AF4, the majority of the direct and indirect actions of the AF4 were transferred to the venues of the EP and CEU. The AF4 followed a well-planned schedule to contact the EP and CEU members and tried to establish personal meetings with the EU decision-making powers. In addition, they commissioned an independent impact assessment (cf. CE 2012) and developed other meeting supplements to explain their positions to the EP and CEU members. The impact assessment was a study about the impact of mandatory rotation, a ban on non-audit services and joint audits. The outcome of this document was that these proposals were assessed as unlikely to achieve a higher quality of services and better independence of auditors (ibid, pp.7-16). Besides, the AF4 participated in official hearings of the EP and CEU. A senior manager of an AF4, who worked directly in the regulatory team in Brussels, reported during the interview that strict rules were formulated for approaching individual politicians. For example, it was agreed that each country contacted their MEPs and own governments directly. No activities were started by EU teams in Brussels, which took a coordination role within the networks and arranged aligned activities between the AF4. Because of the AF4 direction towards the decision-making powers at the EP and CEU, the EC reacted to build a counterbalance to the AF4. It was mentioned by many interviewees that the EC

started to lobby for their proposals at the EP and CEU. This was perceived very critically by the AF4. Consequently, a fight between the EC and AF4 for influence at the EP and CEU started. In this context, specific countries played an important role. The AF4 targeted towards the UK, Germany and France and acted especially towards these countries to build a political front.

The direct actions towards the EP members and the JURI⁶⁹ and ECON were successful in creating a conflict between the EC and EP. Already in 2011, it was reported that the AF4 successfully lobbied against radical reforms. As mentioned, proposed mandatory joint audits for PIEs were excluded at an early stage. In this context, Barnier was described as ‘to buckle and as a result the proposals, particularly joint audit, [...] watered down’ (cf. White 2011). In 2013, it was stated that the EP became distanced to the EC proposals and ‘a fight between the EP and EC’ developed (cf. Fleming 2013a). Moreover, the direct and indirect lobbying activities stimulated a clash of the EU member states at the end of 2013 about mandatory rotation and non-audit services. The trialogue discussion between the EC, EP and CEU had to be postponed. This delay was particularly sensitive because the EU needed to get a deal until spring 2014 because of new EU elections (cf. Fleming 2013b).

The indirect lobbying towards the EU member states was developed during the whole lobbying process and was already evidenced in 2010, shortly after the Green Paper was issued. For example, a UK senior audit partner of an AF4 appealed to David Cameron to protect UK auditors against ‘ill-advised’ EU reforms (cf. Christodoulou 2010). In this respect, it was mentioned during the interviews that the AF4 reached out to the highest political levels in the EU member states such as the German Federal Chancellery. These indirect actions are still going on in 2015. It was stated that the DG Internal Market and Services received calls from the German Ministry of Justice for a ‘lenient interpretation and enforcement’ of the transition of provisions. Furthermore, the AF4 established indirect actions towards the national competent authorities in the EU member states and the EGAOB at the level of the EU. It was important for them to follow these routes to receive a common understanding about the future EU supervision. The AF4 opposed the establishment of a new centralised supervisory authority at the EU level. Instead, they promoted the existing system of national oversight with a better coordination at the EU level. The previous supervision of the EGAOB was described as ineffective and the AF4 lobbied for coordination through a newly established CEAOB. It was learnt that the CEAOB consists of the same people of the previous EGAOB. The

⁶⁹ JURI was the lead committee during the EU reform.

main difference is that the new oversight body is chaired by the EU member states and not chaired by the EC anymore, demonstrating a reduced influence of the EC.

The below citation is an excellent summary of the political fight at the EU level and on level of the EU member states. Furthermore, it indicates a reasonable criticism of the EU reform outcome with regard to EU harmonisation.

Interviewee: "In fact, much of the legislation, both the regulation and the directive, we supported. The only things we did not support were compulsory joint audits, audit-only firms, mandatory rotation every six years, and complete bans on non-audit services. [...] It was because we fundamentally did not believe that this was a sensible way to address the financial crisis. [...] I think part of the problem was that Mister Barnier had a number of red line issue. He wanted a regulation because he wanted to demonstrate that he was tough and remove flexibility of the member states. So, Barnier was trying to drive maximum harmonisation. And that in itself is probably a good goal. But because the nature of the proposal was so radical, the member states did not want them. So we ended up with a compromise and we have a regulation that got over 20 member state options in it. I mean that is just counter-intuitive. [...] My perception is that there were perhaps some in the other networks, who were remunerated by a member firm in a member state. And so there was a tendency for those individuals to push a national agenda first, and a European agenda second. Now, where the two agendas were aligned that was not a problem, but I think there were some cases where perhaps a national agenda was pushed at the expense of Europe."

(Interview an AF4 partner, Regulatory Head)

5.3.1.2 Alliance and identity building

The lobbying alliance between the AF4 is one of the most significant findings for the explanation of their strong influence. The AF4 concerted their actions to build a strong identity and lobbied together. It was reported that the AF4 closely aligned their actions in the EU political arena since the early 1990s. This lobbying cooperation was even increased during the development of the previous EU Directive 2006/43/EC. During this time, the AF4 also cooperated closely with the two biggest mid-tier firms. However, the coordination with the mid-tier firms was not promoted during the recent EU reform because of more conflicting interests. The below citation is an excellent example for the closely coordinated direct and indirect actions between the AF4 to achieve a strong identity at the EU level and on level of the EU member states.

Interviewee: "I have been working almost exclusively on the EU proposals. [...] And I am working now directly for the European Regulatory Partner of our network. [...] And I have two major jobs. The first is coordinating our regulatory partner network in the

EU. In every country we have one partner who is responsible for regulatory affairs, not full time of course, but on a part time basis. And the other part of my job is coordination with the other Big 4 firms to align our strategies with regard to the audit reform legislation. [...] I think it [the alliance between the AF4] has been incredibly successful. We have done almost all our lobbying effort together. We agreed the strategy with the Big 4, and there were monthly, no, weekly calls and meetings. A very intensive cooperation, I have been part of it myself. All the amendments that we have proposed to MEPs were agreed among the Big 4, all our talking points were agreed among the Big 4. So we have coordinated a lot. And that is [...] to make sure that, you know, other Big 4 firm do not say something different than we do because that would have been worse for us.”

(Interview with an AF4 senior manager from the regulatory team in Brussels)

The coordination between the AF4 was established since the Green Paper consultation. Even if they responded to the Green Paper individually, the AF4 coordinated their statements in advance. At least ‘the base lines were tuned’. The strong alliance between the AF4 was confirmed by all interviewees. The AF4 themselves, federations, national authorities or the EC, all highlighted the strong alliance between the AF4 to represent their interests during the recent EU reform. In addition, journalists reported about the common activities of the AF4 to unite against EU plans (cf. theConsultant 2011) and fight radical EU proposals (cf. White 2011). The AF4 coordination was assessed as a very resistant way of EU lobbying (cf. Newquist 2012). On the other hand, it has to be mentioned that the high degree of aligned actions were very critically assessed by EU authorities. As already explained, their common lobbying activities stimulated an over-lobbying debate because of excessive actions (cf. Jones 2012). Not only informal actions were responsible for the over-lobbying debate, also the close coordination to develop a common strategy for comprehensive direct and indirect actions was an issue in this context. The AF4 coordinated especially their actions in the UK, France and Germany. But also other EU member states could be included because of the international network structures of the AF4. It was reported that at least actions in the Netherlands, Poland, Italy and Spain were closely aligned as well. The close coordination of their regulatory departments and the relevance for it are explained by the below citation.

Interviewee: “I think our network is organised very similar to the other Big 4 firms. They each have a designated regulatory partner on country level. Those four individuals at country level work together to cooperate on public policy issues. One of those four is a designated champion, one is a deputy champion. What we do here is

pretty consistent with what the other three networks do, because, whether we like it or not, despite the fact that we compete every day in the marketplace, when it comes to public policy issues, there is no competitive advantage from taking a different position on a public policy issue. So we have to – whether we like it or not – present a common front on these sorts of issues. And we know from past experience that if there is a scandal in a country, because one firm may have done something wrong on the audit, the regulatory response will affect all of us equally. Our network firm in the UK does not do any big banks in the UK. The banking sector was, you know, quite badly impacted as a result of the financial crisis. We did not do any of these audits, but the regulatory response is affecting us.”

(Interview with an AF4 partner, Regulatory Head)

Several established platforms could be used for the coordination of actions. For example, the European Forum for Audit Quality in 2010 was an early opportunity to get in contact. However, this was just a spark for later coordination. It was confirmed that regular calls and meetings between the AF4 were established to create a close project management from strategy development to execution. In this respect, it was revealed that the AF4 met with two other mid-tier firms within 10 days after the Green Paper was issued. They coordinated a meeting with all six networks throughout the 28 EU member states and the regulatory networks in Brussels to ‘kick-start a stakeholder outreach program’. This program headed towards the business community, investors and local governments to get a view about their positions and establish closer contacts to increase their political profile.

The AF4 also reached out towards the professional bodies and federations. However, a high degree of aligned actions was difficult because of divergent interests. As mentioned before, the major obstacle was that federations such as the FEE on a European level or the IDW on a national level in Germany represent the common interests of the profession. Professional bodies across the EU member states are influenced by national interests. It was difficult for the AF4 to bundle these interests. An interviewee of a national association confirmed that the AF4 built foremost an own alliance to fight against the EU reform. Nevertheless, meetings were conducted with representatives of the federations to reduce the risk of unexpected proposals.

Moreover, the AF4 established alliances with industrial sectors. Many meetings were established with clients of the AF4 and industrial associations. It was a difficult task to activate these actors, especially the banking sector, because of many conflicting EU files with higher attention. The AF4 used these meetings to explain the impact of the EU reform on the existing client relationships and quality of audit services. Two

interviews were conducted with PIE audit clients during this study, with a German car manufacturer as well as with a global retail and wholesale firm. The interviewees confirmed that they were approached by the AF4 to support their lobbying activities.

In addition, it was explained during the interviews that the EC cooperated with investment associations such as the German Society for the Protection of Security Holders to strengthen their own proposals. Consequently, the AF4 tried to balance out the influence of the EC. However, it was learnt that this route was complicated because the investment sector was difficult to approach in a consistent way throughout the EU. The below citation demonstrates the complex character of activating industrial supporters.

Interviewer: "Would you also assess that the Big 4 created contacts with the industrial audit clients and the banking institutions? Did they support their political strengths during the lobbying?"

Interviewee: "They did, yes, but not enough and only at the very last moment in time, they started to be very active and really making a difference. But it was very late in the process. Some have been very engaged, but you know, a lot of people in the banking sector, for example, have said: "We do not like the reforms, we hate rotation, but we have other files to fight for." At this really important moment when we asked for help, you know, there was help. The BDI [Bundesverband der deutschen Industrie] was very good. Many German companies wrote letters, the insurance federation in Germany has been active, but I think there were too many other files that were more important to them."

(Interview with an AF4 senior manager from the regulatory team in Brussels)

Even if coordination and activities were directly managed by the AF4, various consultants were hired to support. Firstly, legal counsellors were integrated to protect their actions from a legal perspective. The AF4 were risk-averse and tried to avoid any form of anti-trust issues. This was a very important issue for them. The EC mentioned during an interview that anti-trust issues could become a high importance in future. It was mentioned that first dialogues between the DG Internal Market and Services and the EU competition authorities were started. In addition, the AF4 worked together with different lobbying firms in Brussels. These firms advised the AF4 with regard to the EU processes and lobbying activities. Moreover, they were used to access MEPs and other relevant political players. Finally, the AF4 hired an external consultancy to develop an impact assessment (cf. CE 2012). The below citation demonstrates the use of external consultants.

Interviewee: “First of all, we had lawyers because whenever you work together as four competing networks, it does raise a question of cartel behaviour and that sort of stuff. So, we have a law firm that polices everything we do collectively, just to make sure that we do not go beyond what is appropriate, and although we all know what we can and cannot do. Having that external counsel in the room is helpful. It is like an insurance policy, if you like. And then, in terms of how one engages with EU institutions, we had input from policy consultants, who would advise on, you know, the right person in the EP to be talking to. Whether it is the secretariat or whether it is the rapporteur or whatever. I mean European process is very complicated and there are plenty of people here in Brussels, who know that processes far better than we do. So we took their advice.”

(Interview with an AF4 partner, Regulatory Head)

5.3.1.3 Venue shopping

Likewise to the CRA3 case study, venue shopping was described during the interviews as a standard practice of lobbying. The AF4 lobbied around the EC and focused on the different venues of the EP and CEU, as expressed by the below citation.

“The Big 4 are campaigning hard to stop many of the core changes from being approved by the European Parliament and EU states.”

(Jones 2012)

The AF4 planned their actions to increase their influence during the different debates and readings of the EP and CEU. As a first step, the AF4 targeted broader groups at these venues. As a second step, their activities concentrated towards the specialists which were directly dealing with the EU reform and had a sound understanding about the proposed measures. The AF4 focused especially on the chairs, rapporteurs and shadow rapporteurs in the ECON und JURI at the EP. As already mentioned, the AF4 took a route towards the venues of the EP and CEU because of the damaged relationship with the EC. Nevertheless, the AF4 constantly tried to convey their views towards the EC because of their important role in the EU system and the close relationships between the EU authorities. The below citation is a nice summary of how the AF4 directed their venue shopping and the reasons behind it, e.g. the limited influence of the AF4 during the EC’s consultation processes.

Interviewer: “So the direct contact with the head of the responsible DG at the EC was not developed?”

Interviewee: “No, we – the Big 4 – only met her when she first came into post. [...] I think part of it is a concern that if the EC gets too close to the companies and the sectors they are regulating, there is this risk of regulatory capture.”

Interviewer: “How did you establish contact to the EP and the single venues?”

Interviewee: “The EP was much better. [...]. I mean, historically, we always found the EP a much more accessible organisation. [...].”

Interviewer: “Did you align the contacting of EP members with the other Big 4 firms?”

Interviewee: “Absolutely yes, oh yes. All of that was done in a collaborative way. [...].”

Interviewer: “What do you think about the formal consultation process? [...].”

Interviewee: “Yes, this is a good example of something that needs to be changed in the EU process. Because if the EC is acting in a benevolent manner, then they will craft balanced questions in a consultation and they will analyse the responses in a balanced and fair way [...]. There is a tendency, though, that if you want to achieve a certain policy objective, the questions that you ask in your consultation will be slightly skewed to encourage a right answer. So that is the first thing. Secondly, if you get the wrong answers, but you ignore them, that in itself is not appropriate. [...] And over the years, as the private sector lobby has got more powerful, the commissioners in response have become its own lobby. Of course, they enjoy a position of significant influence, in terms of the EP, in terms of the CEU, in terms of the trialogue.”

(Interview with an AF4 partner, EU Regulatory Head)

In summary, venue shopping was a successful process because the AF4 were able to get significant influence at the EP and CEU to fight against the proposals of the EC. It was learnt that the AF4 established a coordinated way to get in contact with the EP and CEU members and received a strong voice during single meetings. As a result, the AF4 successfully stimulated an independent thinking of the EP and CEU about the proposed measures of the EC. The venue shopping at EU level was also supported by indirect actions in the EU member states. As mentioned, the AF4 foremost focused to build a strong identity in these countries, where the financial services industry is clustered: the UK, France and Germany. In this context, the EU venue shopping reached out towards the ECO to get a voice at the heads of state and government. It was mentioned during the interviews that the AF4 established contacts to the highest political levels in the EU member states to campaign against the EU reform. Finally, the AF4 were not discouraged to bring up litigations. As already stated, the legal basis of the regulation for PIE audits was challenged, particularly with regard to a ban on non-audit services. A representative of a supervisory authority explained that the EU risked to damage existing propriety rights. A complete ban on non-audit services was described as an illegal intervention into ownership rights of the AF4, which would have been authorised neither in Germany nor in any other EU member state.

5.3.2 Political power and influence

The previous section discussed the EU interest representation of the AF4 as one factor for the strong influence of the CRA3. The CRA3 interest representation with its specific characteristics of direct and indirect actions, alliance and identity building, and venue shopping was affected by other factors of power and influence. These factors of access, structural characteristics and issue characteristics provide more explanations for the strong influence of the AF4. Table 5.7 summarises the power and influence factors of the AF4. The details are discussed in the following three sections.

Table 5.7: Power and influence of the AF4 at a glance

AF4: Power and influence factors at a glance	
I	EU interest representation (please refer to Table 5.6)
II	Access goods characteristics
1	Own information and networks allowed for superior access to EP, CEU and national levels
2	Access to the EC was difficult because of a critical stand against the AF4
3	Access was successfully turned into influence on the EP, CEU and national levels
4	Access to the EP and CEU created a high distance to the EC to build a political stand
III	Structural characteristics
1	High financial resources for lobbying budgets, employees and consultants
2	Extensive networks to industrial and political players based on market power
3	Structural coercions supported favourable political outcomes of specific proposals
IV	Issue characteristics
1	Financial crisis was the focussing event, but with low impact on AF4 lobbying power
2	Professional credibility of the AF4 maintained positive and political networks not damaged
3	Low level of public mistrust, low scope and salience of the issue in the media
4	Opportunity to use the directive and the regulation (reform type)
5	Technicality used by the AF4 to lobby for their preferences (impact assessments)
6	Issue characteristics remained stable and were favourable for the AF4

Source: Author's own illustration

5.3.2.1 Influence based on access goods

The AF4 had superior knowledge about the audit sector and the technical aspects of the EU reform proposals. In summary, the AF4 could successfully use their knowledge to provide relevant information to the EU authorities. The high quality of information allowed them to access the venues of the EP and CEU. This access could be turned into influence of creating a strong political opposition of the EP and CEU against the most harmful EC proposals. In other words, lobbying the EP and CEU members became a major challenge between the EC and AF4, which was succeeded by the AF4 largely because of convincing information. The below citations are a strong piece of evidence for the superior access to the EP and the CEU and the limited access to the EC.

Interviewer: “[...] The first question: would you assess that the different EU authorities were independent from information and knowledge of the Big 4? [...]”

Interviewee: “[...] You know, perhaps we should make a distinction here between the EC and the EP and the CEU. So the EC, we have had no interaction with them. I think there was one meeting in 2012 where the Big 4 met the new head of unit, and every single offer to help or to, you know, send questions, or whatever, was disregarded. So we have never had any meetings to discuss, even technical aspects. [...]”

(Interview with an AF4 senior manager from the regulatory team in Brussels)

Interviewer: “[...] So, right now during the process of the EU reforms, do you see a dependency from the EU authorities, like the EC foremost from information and knowledge of the Big 4?”

Interviewee: “Well, unfortunately not. What we had under the Barnier regime was a situation where in fact the EC did not want to hear what we had to say. And in fact, I can count on one hand the number of meetings that we have had with the EC over the last two or three years.”

(Interview with an AF4 partner, EU Regulatory Head)

Much evidence for the large and well managed exchange of information with political actors was received during this study. The AF4 created their access to EU decision-makers, besides their strong networks, through a high level of own information and stimulated demand of political actors for the views of the AF4 on the appropriateness of the EC proposals. The direction of provided information was clearly channeled towards the EP, with a focus on the responsible JURI and ECON, and the CEU. The AF4 used commonly commissioned impact assessments, coordinated briefing material for meetings with the EP and CEU members, single position papers to respond during the EC consultation and own lobbying webpages to convey their information during the recent EU reform. A crucial piece of information was one specific commonly established impact assessment (cf. CE 2012). This document was a direct attack against the EC proposals and was established to provide empirical evidence against the EC proposals of a ban on non-audit services and mandatory rotation. Moreover, the AF4 used another study which came to the conclusion that the majority of the interest groups did not support the radical changes of the EC proposals (cf. Böcking et al. 2011).

As expressed by the quotations above, an outstanding finding was the high reluctance of the EC to accept information from the AF4 as a credible source for the development of their proposals. The EC tried to develop their proposals independently and consulted various alternative sources of information to support their relatively small own resources in the DG. For example, independent studies (cf. Oxera 2007b; Oxera

2007a; ESCP 2011b) and information that was received during consultations (cf. EC 2010g; EC 2010e; EC 2011n) were key sources of information. As already discussed, the AF4 built since the Green Paper consultation a strong opposition against the most harmful measures for their business model, but they did not highlight their business motivations. Instead, they provided external empirical data to demonstrate that the EU followed the wrong path when relying on the EC proposals. The independent – but aligned – responses to the Green Paper (cf. Deloitte 2010b; EY 2010b; KPMG 2010; PwC 2010) were a starting point. This was later supported by the above mentioned studies such as the impact assessments and briefing notes for the EP and CEU. In addition, the AF4 increased the visibility of their assessments through information on webpages for a larger audience (cf. Deloitte 2012)⁷⁰.

From an academic perspective, this case underlines the importance of different characters and relationships between public and private actors for the explanatory power of the access goods theory (Michalowitz 2004, p.43). The ‘hermetically sealed’ character of the EC did not allow for access and influence of the AF4 based on exchanged information. The relationship was so distanced that the AF4 disregarded further actions and concentrated on routes towards the EP and CEU to lobby around the EC proposals. On the other hand, the relationships with the EP and CEU were stable. Supported by existing political networks of the AF4 across the EU, the provided information could be turned into influence. The AF4 were able to turn their access into influence on the EP and CEU because of a credibility of information and robust relationships (cf. Dür 2008a, p.1221). In this respect, the AF4 were embedded in a favourable political environment because they did not strongly suffer under a loss of credibility in the EU political system due to the financial crisis. This was particularly true with regard to the more conservative and liberal fractions of the EP and financial market place-oriented EU member states for the access to the CEU.

5.3.2.2 Influence based on structural characteristics

Excellent structural characteristics are another key finding to explain the strong influence of the AF4. Based on large financial power, the AF4 established a strong force of experienced professionals with a superior knowledge about EU interest representation. In addition, they could invest into the support of professional consultants to maximise influence during the recent EU reform. The below citation explains that large financial resources were an important factor for the successful lobbying.

⁷⁰ Please see also: <http://www.ey.com/GL/en/Issues/Governance-and-reporting/Public-policy>.

Interviewer: “[...] Do you think that the strong structural resources, like financial budgets and the experts throughout all those 28 countries, were a very important reason for the influence in Brussels?”

Interviewee: “Yes. Otherwise, as a small firm, they would have never been able to voice anything against the EU. So we need it. [...] This is more criticism of the EU decision-making process than anything else. The fact that you need this high level of interest representation is a consequence of the decision-making in Europe.”

(Interview with an AF4partner, responsible for the Dutch regulatory affairs)

Existing market conditions further supported the influence of the AF4. Due to strong market power, the AF4 were able to access political players and customers to increase their influence against potentially harmful EC laws. The AF4 were perceived as recognised professional organisations and could establish strong ties based on their large international networks across the EU. This enabled them to access political players at the level of the EU, foremost the EP and CEU, and national politicians on level of the EU member states. Market power and strong relationships with their customers supported the use of structural coercions to convince EU decision-makers about their preferences. These structural coercions supported the AF4 to fight particularly against the most dangerous proposal. The AF4 could successfully lobby against a change of the remuneration and appointment model, stronger mandatory rotation rules, a complete ban on non-audit services and mandatory joint audits because they received support from customers and were able to convince the EP and CEU members that the proposed measures by the EC were not requested by the market. For example, the AF4 argued that mandatory rotation based on the EC’s proposal would create significant damages to the EU system, creating economic costs of \$16bn (cf. Fleming 2013b). Another example for the existing structural coercions resulted from the high distance between the AF4 and the mid-sized firms. In this respect, it was argued that it would take many years for mid-tier firms such as Mazars or Grant Thornton to grow into the market of PIE audits because of minor international scope. Consequently, EU rules to force a transfer of PIE audits to mid-tier firms could be ruled out. Moreover, the contention of the AF4 that the quality of PIE audits would suffer under a strict ban on non-audit services was strengthened because clients and SMPs opposed as well. In this respect, the EC faced the power of the whole market. The same market opposition applied to the proposed change of the appointment and remuneration model. The proposed measure of joint audits for PIE clients was not supported by structural coercions because of the disperse preferences of the mid-tier firms and mixed views of customers. The fact that

the AF4 were able to eliminate this proposal directly after the Green Paper consultation demonstrates the strong independent lobbying power of the AF4.

The question remains open how stable these structural coercions are in future. In this respect, it can be assumed that the AF4 will maintain a strong market power and rely on structural coercions to avoid new EU actions, if the market works in a stable way without audit scandals. If new scandals of the AF4 would happen in the EU, it seems very likely that the EC starts again targeting at the AF4 because of doubts about their independence and conflicts of interest. However, the EC will be challenged by the strong lobbying power of the AF4 in a similar way. It seems that only more favourable issue characteristics, e.g. through a large scandal, could bring the EC into in a more advantageous political situation.

5.3.2.3 Influence based on issue characteristics

The below citation illustrates that the financial crisis was the focusing event for the EU reform. The EC claimed that the AF4 did not fulfil their professional responsibilities because of no early warning signals for later collapsed banking institutions (cf. Sikka 2009, pp.868-871; Humphrey et al. 2011, pp.431-433). Furthermore, the EC argued that they initiated the Green Paper consultation because they aimed for a further stabilisation of the financial system after the crisis and wanted to take a leading role for the assessment of the audit sector (cf. EC 2010g).

Interviewee: "Well, I have to say that when the Green Paper came out, there was clearly a perception that something did not work in the audit sector. Because to the man in the street it is very hard to explain how an auditor can give a clean opinion on a bank one day, and two months later that bank needs to be bailed out with tax payers' money from the government. So, you know, you can understand why there was a question mark over audit during the financial crisis."

(Interview with an AF4 partner, EU Regulatory Head)

However, a direct contribution to the outbreak of the crisis was strongly refuted by the AF4. The political perception that they did not have an immediate responsibility for the crisis was a very important point for their later contention about the necessity of the EU reform. This enabled the AF4 to create a more critical view of the EP and CEU with regard to the EC's proposals. As illustrated by the below citation, various interviewees of the AF4 saw the initiation of the reform by the EC as an act of political opportunism to prosecute the AF4 without sufficient reasoning. In addition, the EC wanted to sharpen their political profile and raise higher awareness about their active behaviour in the midst of the financial crisis.

Interviewee: “This is the question how you finally see audits in the context of the financial crisis, which was primarily a crisis of the banking sector. [...] When we heard the first accusations – I can remember when it started in 2008 – we said to ourselves that it was actually a good crisis for the audit sector because we were not standing directly in the firing line. This changed when the EC started with their initiative and said: “We had a look on the banking sector and targeted also the credit rating agencies. And now we pick the audit sector as a new element because we expected more such as earlier warning signals.””

(Interview with an AF4 partner, Regulatory Head)

As a result, the crisis did not strongly affect the EU interest representation and influence of the AF4 as a focusing event. The AF4 were able to distance themselves from the perception of a direct contributor to the crisis. Their credibility and reputation in the public, the EU arena and in the financial community remained generally stable.

Interviewee: “It is very hard [...] to get journalists interested in our issue. It is only interesting for them if there is a scandal, you know, but otherwise they are not interested.”

(Interview with an AF4 senior manager of an AF4 from the regulatory team in Brussels)

As illustrated by the above citation, audits and the audit sector do not create high public interest in the media without a large scandal. Many other reforms received higher attention in the EU such as the reform of CRAs. In addition, it was mentioned during the interviews that the political importance of the EU reform of AFs was relatively small in comparison with other matters such as the regulation of the banking sector. The issue of reforming the audit sector was a cumbersome topic. Political actors were not strongly engaged to create a public discussion. They saw no political benefit because of a small relevant audience that is interested in this issue. As illustrated by the below citation, there was just a small scope and salience of the EU reform of AFs in the media.

Interviewee: “You see an article now and then, but a real broad public discussion was never sensed. [...] Rating agencies was a completely different thing, also the issues of the banking union and banking regulation. With the best will, you cannot compare the level of the public discussion. Media work was never the overriding priority. It was the primary goal to get into talks with the political decision-makers.”

(Interview with an AF4 partner, Regulatory Head)

The implications for the influence of the AF are twofold. On the one hand, low scope and salience in the media helped them to remain their reputation in the political arena. The AF4 were not a public target. On the other hand, the high public disinterest limited their chances to generate attention for their view on the proposed EU measures.

However, the advantages carried relatively more weight. Consequently, the AF4 did not focus on media campaigns and concentrated on EU lobbying activities to achieve maximum influence. In addition, it was mentioned during the interviews that they dismissed common media campaigns to avoid perceptions of cartel behaviour. There was only some damage to the image of the AF4 because of their lobbying behaviour. Stimulated by the EC, the over-lobbying debate created a stronger negative political perception of the AF4. Interviewees of the AF4 assessed that the debate had some negative impact. However, the EC action to stimulate this debate was not taken too seriously by the AF4 and their consultants. The debate quickly passed by and did not attract a high level of public interest. As a result, the debate did not significantly affect their lobbying power and influence, even if some politicians became more critical with regard to the AF4. However, one implication is that the management of their political relationships – the backbone of the lobbying power of the AF4 – in the EU system could become more challenging in future. After the over-lobbying debate, there is an increased awareness about their lobbying activities. Foremost the discussion about their purpose in society is an important aspect in this context. The leadership teams of the AF4 started initiatives to outline their purpose in society in a more transparent way. A loss of professional reputation and a doubted purpose in society are major risks for the AF4. A current example for flawed public perception comes from the Netherlands. A damaged public image of the AF4 in the Netherlands resulted from a conflict between profit seeking and assigned public duties. Dutch AF4 partners invested together into a real estate project, which stimulated a strong public discussion. Moreover, it was reported that accusations of bribery to government officials stimulated a more critical public perception, which led to higher political awareness about the Dutch audit sector. As illustrated by the below citation, the AF4 need to prove their purpose to society for the future.

Interviewee: “[...] People now better understand what we do. However, they still do not fully understand what we do because I still think there is an expectation gap along the lines of what we are reporting upon because we only do historical information, not perspective information. But within that construct, the perception has changed. People now know more about us, appreciate to some extent what we do, but we are also in a worse daylight than we were before. Yes, I do feel that we need a new purpose definition and not just better communication. We have been trying that for too long and we are apparently not able to do that.”

(Interview with an AF4 partner, responsible for the Dutch regulatory affairs)

The reform type and technicality of the EU reform were supportive for the strong influence of the AF4, but with a smaller importance compared to the previously discussed issue characteristics. The EU actions focused very much on better rules for PIE audits because of the importance in the context of the financial crisis. The EU wanted to avoid that PIEs such as large banks get destabilised again in the future, which could trigger a new crisis in the market. In this respect, the simultaneous development of an amended directive for statutory audits and a new regulation for PIE audits presented an opportunity for the AF4 to move issues between both legislative frameworks and reduce the impact of new EU laws on their daily business. To give example, the proposed measure of a complete ban on non-audit services, resulting to a new business model of pure audit firms, was moved to the regulation on PIE audits. The AF4 could reduce the impact on their business, because the new laws just blacklisted specific non-audits services for PIE audits. No blacklist was established in the amended directive. As a result, the AF4 could remain their services for non-listed clients nearly untouched. Finally, the high technicality of the proposed measures, which is generally associated with the audit sector, was also a supportive aspect to assert influence. In concrete terms, the high technicality increased the significance of the AF4 impact assessments to build a strong contention against the assessments of the EC.

5.4 Summary

The Table 5.8 below summarises the findings of the CPT analysis, which strengthens together with the previous DPA analysis the assessment of strong lobbying power and influence of the AF4 during the recent EU reform. In addition, the comparison with the CRA3 case study allows for this assessment, serving as an additional yardstick (cf. Dür 2008b, pp. 563-565) after the triangulation of the CPT and DPA methods. Afterwards, this section discusses how the different factor characteristics of the CPT analysis explain the strong influence, categorised as small (straw in the wind), medium (hoop) or high (smoking gun). The discussion focuses more on the crucial pieces, the so-called smoking guns, because of their highest explanatory power. Finally, the analysis of the impact of the crisis on the other factor characteristics shows that the crisis was not a significant focusing event for the influence of the AF4.

Table 5.8: Final analysis of the AF4 interest representation and influence

DPA analysis			
	Very high number of matches between the outcomes and the preferences of the AF4, also with regard to the proposals with a high risk for their business model		
CPT analysis		Explanation power	Crisis impact
EU interest representation			
I	Direct and indirect action characteristics		
1	More aggressive impact-focussed lobbying with a direct pressure on EU authorities	Smoking gun	
2	Extensive and well planned direct actions of the AF4 with own impact assessments	Smoking gun	
3	High involvement of all AF4 with a strong level of aligned direct and indirect actions	Smoking gun	
4	Very comprehensive and aligned indirect lobbying action in the EU member states	Smoking gun	
5	Strong actions towards competent authorities to reach EGAOB	Straw in the wind	
6	Evidence for informal lobbying actions, which fostered the over-lobbying debate	Hoop	x
II	Alliance and identity building characteristics		
1	High level of coordination between the AF4 and common actions as an alliance	Smoking gun	
3	Sensitive relationship with own federations	Hoop	
2	Well planned alliance building with many corporate federations to support their preferences	Hoop	
4	Use of consultants (lobbying, studies, legal) under the strong project lead of the AF4	Hoop	
III	Venue shopping characteristics		
1	Strongly coordinated venue shopping to lobby at different locations during different times	Smoking gun	
2	Strong evidence of lobbying around the EC and focus on EP and CEU venues	Smoking gun	x
3	AF4 established contacts to the highest political levels, including ECO members	Straw in the wind	
4	Litigation strategies used as a threat, if lobbying influence insufficient	Hoop	x
Power and influence factors			
I	EU interest representation (please see above)		
II	Access goods characteristics		
1	Own information and networks allowed for superior access to EP, CEU and national levels	Smoking gun	
2	Access to the EC was difficult because of a critical stand against the AF4	Hoop	x
3	Access was successfully turned into influence on the EP, CEU and national levels	Smoking gun	
4	Access to the EP and CEU created a high distance to the EC to build a political stand	Smoking gun	
III	Structural characteristics		
1	High financial resources for lobbying budgets, employees and consultants	Smoking gun	
2	Extensive networks to industrial and political players based on market power	Hoop	
3	Structural coercions supported favourable political outcomes of specific proposals	Hoop	
IV	Issue characteristics		
1	Financial crisis was the focussing event, but with low impact on AF4 lobbying power	Smoking gun	
2	Professional credibility of the AF4 maintained positive and political networks not damaged	Smoking gun	
3	Low level of public mistrust, low scope and salience of the issue in the media	Straw in the wind	
4	Opportunity to use the directive and the regulation (reform type)	Hoop	x
5	Technicality used by the AF4 to lobby for their preferences (impact assessments)	Smoking gun	x
6	Issue characteristics remained stable and were favourable for the AF4	Smoking gun	
Crisis as the fundamental focussing event			
	Crisis did not significantly impair the EU interest representation and influence of the AF4	Smoking gun	
Outcome			
--> The AF4 had a strong power and influence during the recent EU reform on the legislative outcomes			

Source: Author's own illustration

The EU interest representation of the AF4 comprised their direct and indirect actions, alliance building and venue shopping. In summary, the EU interest representation of the AF4 was very professionally managed to create the highest possible influence on the EU political-decision makers. Outstanding characteristics were the aggressive and impact-focused lobbying style, the well-managed coordination of a large number of direct and indirect actions and the strong alliance of the AF4 to optimise their lobbying activities at the EU level and on level of the EU member states.

The high level of direct and indirect actions, the close coordination between the AF4, and the use of informal routes gave evidence for the aggressive lobbying of the AF4. The aggressive lobbying behaviour of the AF4 was a consequence of the strong pressure, which was exercised because of the far-reaching proposed measures of the EC.

Their behaviour was earlier described as a blocking way, disguised as cooperative. In addition, the AF4 conducted their direct and indirect actions coordinated and well-managed. Key players in the political arena were identified and the best ways of contacting operationalised. In this respect, the AF4 alliance building was a very crucial aspect. The AF4 coordinated their direct and indirect actions very closely. This high coordination enabled the AF4 to reach out into all directions at the level of the EU and at the level of the EU member states. This process was supported by different documents, which were together developed. One specific impact assessment was commonly commissioned to build a strong piece of evidence against proposed mandatory rotation and a ban on non-audit services. Moreover, the coordination between the AF4 was a key aspect to achieve a high visibility at the different venues during the EU decision-making process, particularly at the EP and CEU. This enabled them to build a strong political force against the proposals of the EC. To sum up, the EU interest representation of the AF4 was a strategically and operationally well-managed process to fight the EC proposals. The AF4 could receive a strong support from the EP and CEU, which increased the pressure on the EC and was responsible for the favourable reform outcomes.

All three factors of power and influence – access goods, structural characteristics and issue characteristics – supported the influence of the AF4 during the recent EU reform, which is demonstrated by the different smoking guns for each factor. In contrast to the CRA3 case study, particularly the issue characteristics did not impair the influence of the AF4 because of a much smaller relevance of the crisis⁷¹. Nevertheless, the issue characteristics theory remains an important theory for the assessment of interest group power and influence in the context of a crisis⁷².

The exchange of information is the theoretical foundation for the access goods theory. This theory assumes that access and influence of interest groups are enabled through supply and demand of information. However, this theory has to consider the characters and relationships of the political actors and interest groups (cf. Michalowitz 2004, p.43), which establishes a connection to the structural characteristics theory. In summary, the AF4 had superior access to the EU authorities, in spite of the fact that the relationship with the EC was damaged. The EC did not allow access and influence because they kept a high distance to the AF4, whereas the EP and CEU appreciated the information and granted access, which could be turned into influence. As explained

⁷¹ Please refer to Section 6.1 for the detailed case comparison.

⁷² Please refer to Section 6.3 for more details about the academic implications of this research work.

earlier, this was a key aspect to build a strong force against the EC's proposed measures that were conflicting with the preferences of the AF4.

Supportive structural resources for lobbying were also a key reason for the strong influence of the AF4. The AF4 already owned a high level of experienced staff and were also able to increase their budgets to strengthen their activities during the EU reform. An important aspect was that the AF4 were well-equipped since the beginning of the political fight. Their financial budgets for regulatory affairs, experienced professionals and the support of lobbying consultants allowed for a sophisticated EU interest representation to achieve positive legislative outcomes. Moreover, their market power enabled them to activate lobbying support from large corporations based on shared preferences. In this context, existing structural coercions played an important role. The EC did not receive a strong support from the market players for proposed measures such as a change of the appointment and remuneration model, a ban on non-audit services, mandatory rotation and mandatory joint audits. Instead, the AF4 could use their reliable networks with customers, federations and politicians to increase the pressure on the EC, highlighting existing market coercions.

Favourable and stable issue characteristics were very important for the strong influence of the AF4. The most outstanding aspect was that the financial crisis did not have a strong impact on the EU lobbying activities. Compared to the CRA3 case study, the AF4 did not lose their credibility in the political arena and did not face a high scope and salience in the media because of the crisis⁷³. There were no strong public and political accusations hurled at the AF4. The EU actions were not triggered by a scandal, which would have created a much higher public awareness and political pressure. Instead, the EU reform of AFs received a very small public visibility in media during and after the financial crisis because of its cumbersome character. Finally, the reform type and the technicality were supportive for the strong influence of the AF4. The two legislative frameworks based on the amended directive and a new regulation helped to move issues into different directions and decrease the impact of the new EU laws on the daily business of the AF4. Moreover, the technicality of the proposed measures was an important characteristic because the AF4 could create a strong stand against the assessments of the EC based on superior knowledge and impact assessments.

As noted above, the crisis had a small impact on the EU interest representation and influence of the AF4. However, some characteristics of the different factors were impacted. The Table 5.8 shows that six out of the 27 single characteristics were

⁷³ Once again, please refer to Section 6.1 for more details based on the formal case comparison.

impacted by the crisis. It is important to see that direct and indirect actions, alliance building and venue shopping of the AF4 were not generally impaired by the crisis. In addition, the different factors for influence – access goods, structural characteristics and issue characteristics – were not strongly affected as well.

However, the crisis had some minor impacts on the direct and indirect actions because of the over-lobbying debate and the informal lobbying activities. The informal lobbying actions and the over-lobbying debate received more attention because of the crisis. In addition, the crisis was a reason for more harmful proposed measures by the EC, which stimulated stronger lobbying activities such as informal actions or the use of litigation activities. In addition, the crisis further damaged the relationship between the EC and AF4. It can be claimed that the relationship with and access to the EC would have been less affected in a stable political situation without a crisis. Consequently, the AF4 took a route around the EC and lobbied at the venues of the EP and CEU. The crisis clearly impacted the issue characteristics, even though it was not a damaging focusing event and did not create a large scope and salience in the media. For example, the EU established a regulation for PIE audits because of the crisis to secure binding rules throughout the EU member states. In a less stressed situation, maybe an amended directive for statutory audits would have been considered as sufficient by the EU authorities. Moreover, the technicality of the EU reform was affected owing to the more far-reaching proposed measures by the EC as a direct reaction to the crisis. Indeed, this finally gave a higher amount of benefit to the AF4.

Chapter 6: Final discussion and conclusion

The final chapter of this research work sums up the overall study. Section 6.1 compares the two case studies. The implications for lobbying practitioners are then presented in Section 6.2, including insights into EU interest representation for the CRA3 (6.2.1) and the AF4 (6.2.2). Section 6.3 presents the academic implications and Section 6.4 summarises the contribution to knowledge of the research. Finally, Section 6.5 highlights its limitations and Section 6.6 recommends paths for future research.

6.1 Case comparison

The last two chapters form the basis for this case comparison. The case comparison now discusses the similarities and differences of both cases based on the detailed analytical table as shown in Appendix P.

6.1.1 Political environment

Institutions

Both EU reforms took place in the same arena of the EU multi-level system. The CRA3 and AF4 were confronted with the same EU authorities. The EC was the agenda setter and developed the proposals. The EP and CEU represented the decision-making power. However, the national context was a more important aspect for the lobbying of the AF4 because of existing decentralised national oversight of the profession and existing laws across the EU. The credit rating sector was historically not regulated in the EU, whereas the audit market had been a regulated sector for many decades. In this respect, it was even more crucial for the AF4 to align their direct actions at the EU level and indirect actions on level of the 28 EU member states to optimise their EU interest representation and influence. On the contrary, the CRA3 had to focus more at the EU level and the relationship with the ESMA as the centralised supervision authority. A key difference was that the crisis impaired the relationships between the EU authorities and the CRA3 much stronger. Nevertheless, the AF4 had also to deal with a historically damaged relationship with the EC because of prior scandals such as Enron or Parmalat. Relationships of the AF4 with the EP and CEU were not so much influenced. The EU arena remained the main place for EU interest representation of the CRA3 and AF4 during recent EU reforms. Both interest groups did not strongly foster a repositioning of the political fight on a public level. However, the EU reform of CRAs received a much higher scope and salience in the media due to the crisis. In summary, the EU political system remained the main arena for the EU interest representation and influence of the CRA3 and AF4. A longer political history in the EU system, a smaller impact of the

crisis and other aspects such as international networks positioned the AF4 more favourable in the EU political environment compared to the CRA3.

Interest groups

The CRA3 and the AF4 were the main targets of the EU reforms. The EC targeted the sector-leading institutions to increase independence and quality of services, aiming for a future stability of the financial system. Consequently, the CRA3 and AF4 were the main interest groups during recent EU reforms. Obviously, both EU reforms included different interest groups, but there were important differences with regard to the level of involvement. The involvement of other interest groups was much higher during the EU reform of AFs. For example, the EC consultation process in 2008 for the reform of CRAs received only 96 responses. In contrast, the Green Paper consultation on audit in 2010 received almost 700 responses, which was one of the highest numbers of responses for any consultation of the DG Internal Market and Services (cf. EC 2011n, p.2). This was because the EU reform of AFs impacted a much larger sector. Moreover, the SMPs of the audit fraternity – foremost the mid-sized firms – were more powerful organised with regard to EU regulatory issues. The AF4 faced a more complex interest group environment with more conflicts, especially with mid-sized audit firms such as Mazars or Grant Thornton. On the contrary, the CRA3 were not challenged by smaller sector players on a comparable level. In addition, the political environment was more complex for the AF4 because of the professional federations and national contexts. In summary, the AF4 and the CRA3 were the main interest groups, but the EU interest representation of the AF4 was more challenged by higher involvement and a more complex system of interest groups.

Information⁷⁴

Different kinds of information that moved the issues in the political environment were very similar. The most important sources of information involved the EC proposals. Moreover, the consultation processes were fundamental parts. This was particularly evident with regard to the EU reform of the AFs. As an example, the broad consultation process based on the Green Paper was the initial information about the EC actions and corresponding political issues. Furthermore, other kinds of information were provided such as EC reports, independent reports commissioned by the EC or information from other interest groups. Owing to the fact of a much stronger

⁷⁴ The discussion of the information directly relates to the access goods theory as well. Please refer to Section 6.1.3.2 for more details.

involvement of other interest groups and the larger existing sector standards and rules, the overall level of information was higher for the EU reform of AFs.

A key aspect that differentiated the information, which moved the issues in the EU arena, was the use of own impact assessments by the AF4. The AF4 commissioned an impact assessment especially with regard to the proposed measures of mandatory rotation and a ban on non-audit services (cf. CE 2012). This impact assessment became a crucial piece for the AF4 to strengthen their lobbying and stood directly against the EC's impact assessments. In this respect, the AF4 developed stronger information based on external studies to convince the EP and CEU that the EC proposals are not reasonable to achieve higher independence and more competition in the market. On the contrary, the CRA3 did not develop own impact assessments, which could have resulted in a more favourable position and stronger influence in the EU political environment. Another main difference was the level of existing rules and standards. As already mentioned, CRAs were historically unregulated in the EU. Just a few existing sector standards such as the IOSCO code of conduct existed as a self-regulation. By contrast, the audit profession has, for decades, been a highly regulated sector in the EU. Consequently, a very high level of professional standards and rules existed. For example, the FEE as an international professional body or national federations such as the IDW in Germany provided extensive information about professional standards in the past. Moreover, the existing Directive 2006/43/EC provided a solid basis for the new amended directive for statutory audits and the new regulation for PIE audits. In this respect, the AF4 could use more existing information to develop their political stand against the appropriateness of the proposed measures by the EC, but at cost of higher complexity. By contrast, the CRA3 could not consult a comparable level of professional standards and rules. In summary, the EC's proposals and documents for the EU decision-making processes were the most important sources of information for the EU lobbying of the AF4 and CR3. However, the AF4 used their own impact assessments to fight against the EC proposals by convincing the EP and CEU that the proposals lacked efficacy. In addition, the AF4 could establish their EU interest representation on existing regulatory standards and rules. Finally, the higher level of information supported the EU lobbying of the AF4, because they could rely on large professional resources and high expertise for their lobbying activities.

Process and issues

Both EU reforms were initiated to achieve a future stabilisation of the financial system in the context of the crisis. The EU targeted both sectors to increase

independence and quality of services, and to reduce existing market concentration. However, the EU decision-making processes distinguished between the two.

The EU reform of CRAs was performed in three stages. The first EU regulation between 2008 and 2009 set out registration, conduct of business and supervision of CRAs. The second amended regulation between 2009 and 2010 installed ESMA as the new supervision authority at the EU level. The third reform stage between 2011 and 2013 included a directive to encounter overreliance on ratings and an amended regulation. The EC proposals in the context of the regulation carried the most critical proposed measures for the CRA3. The proposed measures by the EC addressed sovereign debt ratings, existing conflicts of interests (e.g. due to the issuer-pays model or shareholding structures between CRAs), market concentration (e.g. mandatory rotation) and civil liability.

On the other hand, the EU reform of AFs was performed in two stages and started on the EC's own initiative with the broad based Green Paper Consultation between 2010 and 2011. The second stage between 2011 and 2014 was the EU decision-making process on the new legal frameworks and covered the general directive for statutory audits and the special regulation for PIE audits. The Green Paper consultation process already identified at an early stage the later proposed measures for the AFs. The main issues such as the role of the auditor, stakeholder communication, governance and independence of audit firms, as well as market concentration were highlighted by the specific questions. The subsequent EU proposals for the amended directive and the new regulation included the vast majority of the earlier discussed questions as proposed measures. In this respect, the Green Paper allowed the AF4 to directly identify the most critical proposed measures such as joint audits, a change of the appointment and remuneration model, mandatory rotation and a ban on non-audit services. The CRA3 were aware about many critical proposals such as a change of the issuer-pays model, mandatory rotation or reducing the level of cross-shareholdings since the beginning of EU reform. However, the EC seemed to have transferred the political discussion about the most critical proposed measures for the existing business model of the CRA3 towards the third stage. The EC needed more time and resources to prepare these proposals because of less existing knowledge about the market for CRAs. In addition, the EC always needed to respond more directly to the development of the crisis, for example, showing their efforts to answer to the sovereign debt crisis. The EU reform of CRAs was more fragmented than the EU reform of AFs, facilitating the EU interest representation of the AF4 because of better transparency about political issues.

Owing to the fact that the EU followed the same goals for both sectors, they proposed comparable measures, specifically targeting at the conflicts of interest. As a result, specific proposed measures such as a change of the revenue model (a change of the issuer-pays model for CRAs or a change of the appointment and remuneration model of the AFs), mandatory rotation rules and a ban on non-core services (advisory services for CRAs and non-audit services for AFs) were direct threats for the existing businesses. However, the two EU reforms also carried specific issues because of different kinds of services and the different history of both sectors in the EU. These specific issues included, for example, the harmonisation of accounting rules based on ISAs or measures to reduce the overreliance on ratings. In summary, the issues during both EU reform processes posed a great challenge to the CRA3 and AF4 lobbying due to comprehensive proposed measures with many risks for their existing businesses.

Preferences

The AF4 and the CRA3 tried to protect their existing business model since the start of EU actions. The CRA3 sought to block a specific legal framework in the EU, favouring existing self-regulation based on the IOSCO code of conduct. The AF4 attempted to avoid new rules in the EU because of perceived sufficient laws based on the existing Directive 2006/43/EC. However, both interest groups were not able to avoid the EU reforms. The CRA3 needed to compromise on the establishment of EU laws because of the political pressure due to their role during the financial crisis. The AF4 could not avoid the new EU actions because of strong pressure from the EC. Both interest groups later supported some EU actions to create higher quality of services and to prove independence. The CRA3 were mainly forced to accept EU actions because of the crisis and they needed to re-establish their credibility in the public and political environment. The AF4 interest representation and influence was not equally impacted by the crisis. However, they also supported some proposals to increase quality of services and to contribute to the further harmonisation of auditing throughout the EU.

In more detail, the CRA3 and AF4 strongly opposed specific proposed measures which carried high risks for their existing business models. The CRA3 especially objected to a change of the issuer-pays model, a prohibition of advisory services to issuers, mandatory rotations, government actions to decrease market concentration, stricter rules for sovereign debt ratings and a stronger civil liability for their services. They compromised on many issues which carried a smaller to medium risk for their business model to show their willingness to re-establish perceived independence and enhance quality of services. The AF4 preferences were particularly against a change of

the appointment and remuneration model, mandatory rotation, the establishment of pure audit firms and a ban on non-audit services, mandatory joint audits and EU actions to reverse the existing market concentration. The AF4 showed support for many other proposed measures such as a better communication to stakeholders based on their audit reports or the introduction of ISAs throughout the EU. In summary, the AF4 and CRA3 equally tried to avoid any damages to their existing business model and future strategies. Both interest groups avoided establishing their arguments based on business interests and focused on the appropriateness of proposed EU actions. For example, the CRA3 argued that some measures such as a change of the issuer-pays model are not feasible because of missing alternatives. Moreover, they showed their preference against a prohibition of advisory services to issuers based on existing standards of independence. However, the AF4 fought for their preferences with a more sophisticated EU interest representation to influence the EU decision-makers⁷⁵. For example, they built a much stronger case for their preferences based on commonly commissioned impact assessments against a prohibition of non-audit services and mandatory rotation.

Conflicts

The EC proposals were targeted at the sector-leading organisations. Consequently, the CRA3 and AF4 had strong conflicts with the EC because of proposed measures and corresponding direct threats to their business model. The CRA3 and AF4 reported that they experienced great mistrust and perceived the EC as not accessible to represent their interests. The relationship with the CRA3 was significantly damaged because of the crisis. The AF4 relationship had already been damaged years back. The intense conflicts with the EC resulted in a greater focus of EU interest representation to the EU decision-making power. However, the CRA3 were also confronted with mistrust of these EU authorities because of the crisis. On the other hand, the AF4 were able to rely on their established relationships with the EP and CEU. They generally had good relationships with conservative and liberal EP members and the financial market-oriented CEU members. Nevertheless, specific conflicts resulted within fractions of the EP because of the over-lobbying and informal lobbying activities of the AF4.

The conflicts between the SME CRAs and the CRA3 were relatively low. The SME CRAs were especially concerned about EC proposals which also influenced their future business. For example, they expressed concerns about high costs of compliance because of a stronger impact on their cost structures in relation to the CRA3. However,

⁷⁵ Please refer to Section 6.1.3 for more details about the EU interest representation and influence of the CRA3 and AF4.

many similar preferences did not foster conflicts between the SME CRAs and the CRA3. In addition, the EU interest representation of the SME CRAs was relatively low and they did not build a relatively strong lobbying force. The conflicts within the profession were much stronger for the EU reform of AFs. The AF4 experienced much stronger conflicts, especially with mid-sized audit firms. These interest groups were powerful lobbying forces and conveyed their preferences through strong lobbying activities. Most notably, the mid-sized audit firms lobbied for a decrease in the existing market concentration as they saw the chance to win more market shares based on EU proposals such as mandatory PIE joint audits. The CRA3 and AF4 faced few problems from conflicting interests of their customers. The CRA3 were supported by banks to convey their preferences with regard to some critical proposals such as mandatory rotation or a change of the issuer-pays model. The AF4 could count on the preparers of the audits statements with regard to critical proposals such as a ban on non-audit services or a change of the appointment and remuneration model. Conflicts with other interest groups had a relatively small significance for the EU interest representation and influence of the CRA3 and AF4 during recent EU reforms.

6.1.2 Reform outcomes and the degree of preference attainment

Most significantly, both EU reforms did not disrupt the business models of the CRA3 and AF4. They could maintain their services in a very similar way after the EU reforms. However, the CRA3 are nowadays embedded in a strict EU regulatory environment. The new rules have a direct impact on their cost structures mostly because of higher costs for compliance with new EU laws, such as reporting and communication with the ESMA. However, the CRA3 are likely to maintain their market-leading positions and economic performance. The AF4 are foremost challenged by mandatory rotation for PIE audits and a ban on specific non-audit services for PIE clients. However, the AF4 seem to be able to manage these challenges and minimise the impact of the new rules on their businesses. The AF4 currently lobby at the level of the 28 EU member states during the transitional period to achieve a most favourable harmonisation of rotation cycles. In addition, the AF4 established their services as Channel 1 services for audit clients and Channel 2 services for non-audit clients. It seems very likely that the AF4 can manage a loss of a PIE client through new PIE audit clients and new business with non-audit services, even if market shares of PIE audits in the EU are likely to shift. Moreover, the new EU mandatory rotation rules do not affect the non-listed market segment of the AF4.

The degree of preference attainment strongly differs. The CRA3 received a much weaker preference attainment in comparison to the AF4⁷⁶. During the first stage, three out of 13 measures show a great distance between the CRA3 preferences and political outcomes. Nine out of the 13 measures show at least a medium distance, just one measure shows a close distance. During the third stage, three out of 14 measures show a great distance between the ideal point for the CRA3 and the political outcomes. This includes crucial measures such as new rules for cross-shareholdings, sovereign debt ratings and a new civil liability. In addition, six measures show at least a medium distance. The CRA3 received a close distance for five proposed measures, indicating an overall weak influence that slightly increased over time⁷⁷. Most notably a change of the issuer-pays model and a general mandatory rotation could be avoided by the CRA3.

On the other hand, the degree of preference attainment analysis shows favourable outcomes for the AF4, which indicates stronger influence compared to the CRA3. The analysis reveals a close distance for a vast majority of proposed measures. For example, communication by auditors to stakeholders through better audits and more informative audit reports were the second issue of the EU reform. The analysis shows close distances to the ideal points of the AF4 for 13 proposed measures. The other four out of 17 show a medium distance. The outcomes for the other issues show a comparable high degree of preference attainment of the AF4. Most importantly, the AF4 received many of their preferences with regard to the third and fifth issues that concentrated on independence of audit firms and market concentration. In this respect, the analysis shows a close distance for 23 and a medium distance for another five out of 30 proposed measures, including critical proposed measures such as a change of the appointment and remuneration model, mandatory rotation, a ban on non-audit services and mandatory joint audits for PIEs.

6.1.3 EU interest representation and influence

The analysis of the EU interest representation and influence strengthened the high influence of the AF4 in comparison to the low influence of the CRA3. One reason was the more cooperative and issue-based lobbying behaviour of the CRA3 compared to the aggressive and impact-based lobbying behaviour of the AF4. In addition, the CRA3 showed a much smaller level of direct and indirect activities. Most significantly,

⁷⁶ Please refer to Sections 4.2 and 5.2 for more details about the DPA based on the single case studies.

⁷⁷ Please note that this is only an indication. The deeper analysis of the EU interest representation and influence of the CRA3 showed that especially structural coercions and missing alternatives played a role in this context. Please refer to Sections 4.3.2 and 6.1.3 for more details.

the AF4 could create much stronger lobbying alliances between themselves. There was no alliance between the CRA3. The CRA3 tried to overcome this limitation through alliances with issuers and investors, which helped them to increase influence on the most critical measures such as the proposed change of the issuer-pays model and mandatory rotation. The AF4 also built alliances with their customers but were much less dependent on these bonds because of their own power and influence. The dominating factor for the relatively weak influence of the CRA3 was the crisis as a focusing event. The AF4 lobbying was much less impacted by the crisis. In summary, the AF4 could establish a better EU interest representation and received more influence based on superior access, stronger structural resources and more favourable issue characteristics.

6.1.3.1 EU interest representation

Lobbying behaviour, direct and indirect action

The CRA3 acquired a negative image within the EU public and political arena because of their direct contribution to the crisis. In this sense, the CRA3 were more limited as regards their lobbying behaviour in comparison to the AF4. It can be assumed that a more aggressive style would have further weakened their reputation in the EU political system. Consequently, they established a more cooperative and issue-based lobbying style to re-establish their credibility and to show their willingness to contribute to the EU goals. On the other hand, the AF4 were not perceived as direct contributors to the crisis. Their performance before the crisis was questioned, but more indirectly. This allowed them to incorporate a more aggressive and impact-based style and to establish a stronger stand against the EC proposals. The AF4 saw the EU reform as a kind of opportunistic act on the part of the EC to strengthen their political profile during and after the financial crisis.

The higher aggressiveness is also supported by the overall level of EU interest representation of the AF4. They created more and stronger direct and indirect actions against the EC proposals, trying to convince the EU decision-makers at the EP and the CEU that the proposed measures of the EC were not reasonable to achieve better services, higher independence and more competition in the market. This was particularly seen for those measures which carried the highest risks for their existing business model. They established a strong force to fight the proposed measures of joint audits, mandatory rotation, a ban on non-audit services as well as a change of the appointment and remuneration model. A key feature of their lobbying was a strong

focus on the impacts of the EC's proposals. Since the very beginning, they challenged the proposals on the basis of their own impact assessments. In addition, they argued that all previous mergers and acquisitions of the AF4 were authorised by the EU. The CRA3 also fought the proposals of the EC with a focus on the most risky proposals for their business model. However, the CRA3 showed a much weaker lobbying; for example, they did not develop impact assessments to build stronger arguments for their views.

Informal activities

The stronger and more aggressive EU interest representation of the AF4 is also characterised by informal lobbying activities. The AF4 utilised all political channels to reach out to the EU decision-makers and to avoid EU laws with a damaging impact on their economic performance. The AF4 lobbying carried informal actions which were perceived negatively by the EC and created an over-lobbying debate. The AF4 did not shy away from asserting high pressure on the EU political system. The accusations of over-lobbying did not significantly impair their power and influence because of the generally solid political reputation. Finally, the fact that the AF4 tried to challenge the legal basis of the EU reform is another piece of evidence. In contrast, informal activities, over-lobbying and legal threats were not enforced by the CRA3.

Alliance building

A key difference between the EU interest representation of the AF4 and CRA3 was the level of concerted actions. The AF4 acted as a common lobbying force during the recent EU reform. On the other hand, the CRA3 were not able to establish an alliance because of existing US rules and anti-trust concerns. It can be claimed that the strong concerted actions between the AF4 was a key driver for their superior EU interest representation and high influence. The AF4 established a common agenda and aligned their EU interest representation on a very sophisticated level. The interviews revealed that the AF4 had coordinated their EU lobbying from a very early point and started increasing their common lobbying activities since the beginning of the Green Paper consultation. In this respect, the AF4 had a clear advantage over the CRA3. The CRA3 were forced to activate alliances with customers to compensate this limitation as much as possible and to get a higher identity in the EU political arena. The alliances with customers were an additional aspect for the EU interest representation of the AF4, which were also executed by them to strengthen their identity. However, the AF4 were less dependent on customer alliances.

Venue shopping

Damaged relationships with the EC were evident in both cases. Hence, the CRA3 and AF4 lobbied around the EC and concentrated on the venues of the EP and the CEU. However, the CRA3 lobbying was much more challenged. The relationships with the EP and the CEU were more strongly affected because of the crisis. On the contrary, the AF4 could establish their routes to the venues of the EP and CEU in a relatively less impaired political environment. The venues of the EP and CEU could be accessed because of their provided information and existing political networks. The lack of a strong political network was a key aspect for the weaker EU interest representation and influence of the CRA3. The CRA3 were more dependent on the support of external lobbying consultants to arrange their actions and to establish contacts within the EU political system. The AF4 also used different consultants to optimise their EU interest representation and to safeguard their actions from a legal standpoint. However, the AF4 were always in the 'driver seat' and were able to stretch their networks to the highest levels to get a strong voice, also into direction of the ECO.

6.1.3.2 Political power and influence

The AF4 had more power and higher influence during recent EU reforms also because of more favourable resources and conditions. Their political access was facilitated through more informative documents about the impacts of proposed measures. There was at least a similar demand of the EP and the CEU for information of the CRA3. However, the crisis-impacted image of the CRA3 and their loss of credibility in the political arena greatly destroyed the acceptance of the CRA3 views. The relationship with all EU authorities was rather distanced and the CRA3 were not able to access the EP and the CEU in the same way as the AF4. The AF4 were able to turn their access into influence. In addition, the structural resources of the AF4 were also more favourable. They were able to execute their EU interest representation through comparatively higher lobbying budgets, better knowledge, more experts and stronger external support. Each of the AF4 had established regulatory functions at the EU level and within the 28 EU member states. The AF4 even increased their budgets to strengthen their EU lobbying. On the other hand, the CRA3 had established regulatory functions, but significantly lower budgets, experience and reach across the EU. The high market power of the sector-leading organisations was a structural advantage for both interest groups. The AF4 could establish strong bonds with customers and industrial federations to lobby for common interests against proposed measures such as

a change of the appointment and remuneration model or a ban on non-audit services. Structural coercions strengthened their arguments at the EP and the CEU. However, structural coercions were more important for the CRA3 because of a higher dependency for influence. The CRA3 were able to struggle against the measures of a change of the issuer-pays model and mandatory rotation because of aligned preferences with issuers and investors. Finally, issue characteristics did impair power and influence of the CRA3 more severely. The dominant issue characteristic that affected many other characteristics of the EU interest representation and influence was the crisis as the central focusing event. The reform of the AFs was also stimulated by the financial crisis, but the EU interest representation and influence of the AF4 were not significantly impaired. In addition, a lower scope and salience about the EU reform and the reform type were supportive for the influence of the AF4. The high technicality was a positive characteristic for the CRA3 and AF4. However, only the AF4 could really benefit.

Access goods

The EC did not want to establish a high demand on the information of the sector-leading organisations, trying to demonstrate own capabilities for the development of adequate reform proposals. Consequently, access through provided information to the EC was limited for the CRA3 and AF4. They did not receive a voice, leading to them feeling aggrieved. The access to the EC was so limited that the CRA3 and AF4 were forced to direct their interest representation to the decision-making powers at the EP and CEU. The access of the AF4 to the EP and CEU was enabled through credible information and political networks. A key document was the commonly commissioned impact assessment. By contrast, the CRA3 provided less convincing information to the EP and CEU. However, it is important to see that the relationships played an important role in this context. The CRA3 relationships were much more damaged because of the crisis and the EP and CEU were critical of the provided information. On the other hand, the networks and established relationships of the AF4 were not strongly impaired because of the crisis and they were still seen as credible sources of information. This supported the AF4 to develop more influence on the EP and CEU.

Structural characteristics

The AF4 received also more influence because of their excellent structural resources. The CRA3 could not match the financial resources and lobbying expertise of the AF4. The AF4 invested more in EU interest representation and earmarked bigger budgets. They were more experienced professionals to deal with the EU reform. A main reason for this was that the AF4 had been embedded in a very strong EU regulatory

environment for decades. The CRA3 faced an EU reform for the first time and employed significantly less professional staff for regulatory issues. The CRA3 slightly increased their resources during the recent EU reform, but never close to that of the AF4. The AF4 also had a structural advantage because of their partnership structure across the EU. As a network of independent country partnerships, they had established regulatory functions in each country. Consequently, their decentralised resources allowed for a strong influence on the local governments. This aspect was important to develop a strong influence on the different CEU members and to activate their local contacts to reach out to the EP members in Brussels. The CRA3 were more dependent on external support of consultants to establish contacts in the 28 member states.

Another important structural characteristic for the CRA3 and AF4 was their high market power. The CRA3 and AF4 are important players in the financial system. This aspect was very important for the CRA3 to lobby against specific proposals. The CRA3 activated their contacts with issuers and investors to prevent fundamental changes. The change of the issuer-pays model and a mandatory rotation were particularly blocked through a common set of actions based on shared preferences, strengthening and highlighting structural coercions against these proposals. The broad coalition increased the pressure on the EU to rethink the risks of associated disruptive changes. In this respect, the CRA3 lobby was empowered during the third stage. It can be claimed that the CRA3 achieved favourable political outcomes of no change of the issuer-pays model and no mandatory rotation especially because of existing structural coercions. The EU was not able to present arguments and alternatives to break the existing market practices. Structural coercions also played also an important role in the influence of the AF4. The AF4 cooperated with their customers to lobby against many of the EC proposals. To give examples, the customers of the AF4 were requesting non-audit services and were against a change of the appointment and remuneration model.

Issue characteristics

The issue characteristics were fundamentally different for the CRA3 and AF4. Especially the crisis carried a much stronger impairment for the power and influence of the CRA3. The CRA3 were directly accused by the EU of contributing to the financial crisis. The AF4 were not considered a direct contributor to the crisis. The EU reform of the AFs was initiated as a further step of the EU to stabilise the financial system. A clear advantage was that the AF4 could protect their reputation and political networks. It can be claimed that the image of the AF4 would have been more damaged in another context such as a direct audit scandal.

The issue characteristics also differentiated with regard to the scope and salience of the EU reform. The CRA3 received a much higher public and political awareness. In this respect, the CRA3 earned a bad image and were directly blamed for the crisis. Negative publicity increased the pressure on the EU to establish strong rules for the credit rating sector. On the other hand, the scope and salience of the issue to reform the EU market for audit firms was rather small. The AF4 did not face a strong public pressure. This was an important aspect to maintain their professional credibility and avoid damage to their political contacts. The AF4 historically enjoy a high reputation for their professional services, even if earlier audit scandals such as Enron or Parmalat had challenged their image in the past. However, their image could be mostly re-established after the decay of these scandals. In summary, the AF4 did not face a high level of public mistrust during the EU reform, whereas the CRA3 lost their credibility in the public and political arena. It was important for the CRA3 that the reputation in the financial community was more protected to avoid a complete isolation during the EU reform.

The CRA3 faced different regulations during three stages. The AF4 faced one new regulation for PIE audits and the amendment directive for statutory audits. As a result, the AF4 were able to move some proposed measures between the regulation and the directive. Measures such as a ban on non-audit services could be moved to the regulation to protect business relationships with non-listed firms. In this respect, the AF4 were able to achieve many of their preferences from the amended directive, thus isolating some critical issues to the regulation on PIE audits.

Finally, the technicality of both EU reforms was very high. The EU dealt with complex proposed measures and needed high levels of expertise and knowledge during the decision-making processes. However, the high degree of technicality was better used by the AF4 to assert influence on the EP and CEU. The more impact-based lobbying with the publication of commonly commissioned impact assessments was a key aspect. The CRA3 used the technicality of the issues and proposed measures on a lower level. However, the technicality was also important for them to achieve some of the reform outcomes. An outstanding example was the incapacity of the EC to provide a feasible alternative to the existing issuer-pays model. The EC was not able to overcome the technical challenges and lost against the pressure of structural coercions.

6.2 Implications for lobbying practitioners

This section summarises the implications for lobbying practitioners which can be derived from this study. The first presented findings have a more general character because of a broader audience. Afterwards, key implications for the CRA3 (6.2.1) and AF4 practitioners (6.2.2) are discussed in more detail.

EU interest representation is a complex and demanding task. An early and comprehensive plan is a key success factor for effective EU interest representation and high influence on EU authorities. The comparative analysis demonstrated a better EU interest representation and higher influence of the AF4. The AF4 established a timelier planning and more sophisticated execution. In this respect, lobbying practitioners should not underestimate the importance to invest sufficient time and resources in the development and execution of lobbying activities. A proper analysis of the political environment including the institutions, interest groups, information and issues is the first step. This step should also include past lobbying actions to get some learnings. Secondly, the EU interest representation has to be developed on a detailed level. This should include direct and indirect actions, possibilities of alliances and the identification of main venues aligned to the EU legislative process. Practitioners should plan their direct and indirect actions to increase influence on the EC, EP and CEU. Further, strategic alliances should be considered at an early stage to increase influence and shape identity. Finally, lobbying practitioners have to be aware of all the different venues for their actions to get a strong political stand when it matters the most.

In addition, practitioners need to evaluate structural resources and the current conditions for power and influence. Firstly, they should critically assess which information is demanded by different EU authorities. Furthermore, they should understand how they carry their preferences based on supplied information. In this context, lobbying practitioners have to identify the needs of key players during the EU decision-making process. Advantages are clearly associated with interest groups that already have a good political network and can develop direct and direct actions based on established relationships in the EU system. Secondly, structural resources for EU lobbying have to be critically assessed and managed. This should include an assessment of needed financial resources and lobbying capabilities. In this context, the identification of structural coercions and external support of professional lobbying consultants should be considered as well. Both aspects can be valuable resources to strengthen influence. Finally, issue characteristics need to be evaluated in detail. The comparative case studies demonstrated that, in particular, a focusing event for EU

actions can play a significant role for power and influence. In concrete terms, the crisis strongly impaired the lobbying power and influence of the CRA3. The public pressure which was stimulated by the media strongly diminished the image of the CRA3. The AF4 EU lobbying power and influence was much less impacted. In this context, lobbying practitioners should evaluate the necessity of dealing with the scope and salience of the issues in media. In addition, other issue characteristics such as reform type and technicality should be analysed and evaluated to optimise all potentials.

All the above ideas for better EU lobbying and stronger influence during the EU decision-making process have been derived from the applied analytical framework. The rather limited knowledge of the interviewed practitioners with regard to existing academic contributions was surprising. Many interviewees were interested to get more information about academic theories in the areas of non-market strategy and EU interest representation. It was stated that they developed own lobbying expertise based on professional experience. This shows that non-market strategy and EU interest representation are still niche areas, not receiving a high attention from the professional community. Practitioners could strongly benefit from a better knowledge about existing academic contributions. For example, the applied analytical framework of this study could be used to develop lobbying strategies and to operationalise activities of EU interest representation. Likewise, a stronger interaction with practitioners would be beneficial for the academic community to achieve greater practical insights.

6.2.1 Implications for CR3 lobbying practitioners

The case study of the CRA3 EU interest representation and influence is a useful source of knowledge for professional practitioners. The CRA3 lobbyists can derive logical implications to improve their EU interest representation and increase their future influence on the EU political machinery. The main implications are a better common management of EU interest representation, superior access through more relevant information, increased allocation of financial resources and the management of the past conditions during the financial crisis.

The first main implication is that the CRA3 need a better approach to conduct their EU interest representation together. The CRA3 were strongly challenged by the first-time EU reform. These lessons should be now used to optimise future lobbying activities. In this respect, the CRA3 should focus to get a stronger political visibility based on common lobbying activities. The CRA3 seem to have lost much of their influence and identity because there was no lobbying alliance between them. The CRA3

need to find a way to convince political authorities that common interest representation contributes to the quality of EU decision-making and the stability of the financial system. In this respect, the establishment of an independent federation for the interests of the sector-leading organisations should be considered again.

The second main implication relates to the access to EU decision-makers based on better information. In the future, the CRA3 should prepare information for more convincing arguments that support their preferences. The use of commonly commissioned impact assessments by the AF4 is a good example. In addition, the stimulation of the academic community to develop empirical evidence could also be a good idea to strengthen their views. In this respect, the CRA3 should increase their visibility through provided information already before the EU plans new activities.

Thirdly, better EU interest representation and stronger political networks in the EU can only be achieved based on the allocation of financial resources. The CRA3 increased their budgets and professional staff during the recent EU reform. Established professional capacities need to be preserved to monitor the future directions of the EU and to optimise the starting point for future political fights. In this respect, the existing lobbying teams need to focus on the proposed issues of a change of the issuer-pays model and mandatory rotation. The CRA3 lobbying practitioners need to strengthen their arguments against these proposed measures based on better information, structural coercions and lobbying activities.

Finally, the enduring impression from the crisis has to be addressed by the CRA3. The CRA3 faced serious accusation from the public and political domains. In general, the CRA3 do not possess a very good image. This is a major problem, if not the most significant one, for the future power of EU interest representation. The CRA3 should consider measures to increase their public and political profile. A more successful EU interest representation and stronger influence can only be achieved through a better political profile based of a higher transparency about their services and a proof of their purpose in society. Furthermore, concerns about their independence have to be reduced through strict compliance with existing EU laws. Receiving a higher credibility and better image are major challenges for the CRA3. The success of any measures to create a more positive image in the EU remains doubtful. It is likely that a high scope and salience in the media will be re-established in case of future professional malpractices, addressing the negative image from the recent crisis again. Consequently, the future influence of the CRA3 will be impacted again by the recent crisis, if they do not act and manage to achieve a better image in the EU.

6.2.2 Implications for AF4 lobbying practitioners

The implications for AF4 lobbying practitioners can be also directly derived from the case study. A key insight of this research work is that AF4 practitioners can rely on strong existing resources and favourable conditions. Therefore, the AF4 should focus their actions rather on the protection of their influence in the EU system. Nevertheless, the AF4 face some challenging implications. These implications include the internal organisation of the future regulatory compliance, the lobbying on country level during the current transitions of the new EU laws into the national contexts, the re-establishment of damaged contacts and a management of the over-lobbying impression, as well as a protection against future EU anti-trust cases. Ultimately, the AF4 need to prove their purpose in society to encounter the distortion of the auditor's profile.

Firstly, the AF4 have to establish necessary safeguards to secure future compliance with new EU laws, which seems feasible because of existing internal resources. The AF4 have wide experience with regulatory requirements and possess large internal functions. A key issue will be the establishment of a reliable relationship with the EGAOB as the new EU oversight body. The compliance with new EU laws and a good relationship with the EGAOB will be important for the future political profile of the AF4 and a foundation for future influence.

The second implication relates to current lobbying actions at the level of the 28 EU member states. The new regulation and amended directive have various impacts on country levels within the 28 EU member states. In this respect, the AF4 lobbying practitioners need to manage these transitional processes closely. The outstanding task is associated with the harmonisation of the mandatory rotation cycles for PIE audits and non-audit services for PIE audits. Both laws are matters of national contexts. For example, the Netherlands had established in December 2012 rules for mandatory rotations and non-audit services for PIE audits. The Dutch rules defined a strict ban on non-audit services and mandatory rotation cycles after eight years. The ban on non-audit services became effective by start of 2013 and new mandatory rotation rules will come into force by early 2016. The unaligned rules, especially with regard to mandatory rotation cycles, were a major complaint of the AF4 during the end of the recent EU reform. The AF4 argued that mandatory rotation rules were not concrete enough and the EU missed a clear definition because of time pressure to finalise EU laws before new EU elections started. For example, it remained unclear which rotation cycles should be applied for international subsidiaries of PIEs across the EU. Many interviewees from the AF4 recommended that the parent company rotation cycle should have been made

mandatory for international PIEs to secure harmonised audit procedures. AF4 lobbying practitioners are currently actively involved in harmonising these rules across the EU.

The third main implication for AF4 lobbying practitioners comes from the damaged relationships with the EU authorities and the over-lobbying debate. Even if the over-lobbying debate did not significantly impact the influence during the recent EU reform, there is still a negative perception about the strong and aggressive lobbying behaviour. In this respect, the AF4 should consider developing a better relationship with the EC again. The strained relationship between the EC and AF4 holds risks for the quality of future EU laws. A more reliable and trustworthy relationship between the AF4 and the EC should be of high interest for the AF4 and the EU.

The fourth implication addresses future political challenges. It seems doubtful that the DG Internal Market and Services will impose new proposed measures after the establishment of the amended directive for statutory audits and the new regulation for PIE audits. Only audit scandals could stimulate new actions in the short run. However, AF4 lobbyists could soon face new challenges from EU competition policy. The recent EU reform had already addressed the existing market concentration, which could easily become a case of the EU competition policy in future. It was learnt that there had been talks between the DG Internal Market and Services and the EU anti-trust authorities. It was mentioned that current thresholds did not allow for actions of the EU competition policy. Nevertheless, the AF4 should not rule out future EU anti-trust issues and should consider timely actions to protect themselves.

Finally, the AF4 have to deal with their changed business model. This issue has already become a major concern for the top management of the AF4. The importance of revenues from non-audit services as a share of total revenues and for profitability has been growing constantly over the recent years. The AF4 could earn the reputation of aggressive profit seeking rather than securing quality and independence of audit services. In this respect, the AF4 need to discuss and formulate their purpose in society to avoid a larger expectation gap. This 'new definition' will have an important implication for their future political profile in the EU as modern international financial services providers beyond the classical auditor role. Historically their purpose in society has been directly linked to the primary function of auditing. The AF4 have to secure that their core purpose is not diluted by excessive profit seeking. This recommendation seems valid if the top management of the AF4 is interested in a future business model without disruptive political risks. However, a strategic amplification of high-yield consulting business seems already decided and the AF4 have to live with higher risks of

future political interventions. The independence of their audit services will be of paramount importance to secure their identity and corresponding credibility in the EU system. However, the AF4 have such powerful lobbying resources and strong influence in the political system that they seem well equipped for future games in the EU arena, if no exogeneous factors such as an audit scandal destroy their 'silent profile'.

6.3 Academic implications

First, Section 6.3.1 discusses academic implications of this study for the theories of EU interest representation and influence of interest groups. Afterwards, Section 6.3.2 highlights academic implications for the applied methodological approaches of CPT and DPA.

The discussion of the academic implications does not cover non-market strategy theory in detail. Baron's 4Is-framework has been adopted for the applied analytical framework of the case studies to analyse the political environment in terms of issues, institutions, interests and information. As a general academic implication, Baron's 4Is-framework was a useful basis to uncover the complex social, political and legal arrangements (cf. Baron 2013, p.2). It was a good starting point for the DPA and CPT analyses of the EU interest representation and influence of the CRA3 and AF4. Furthermore, many other aspects from the academic field of non-market strategy indirectly supported the quality of this study. To provide an example, the study from Mahon et al. (2003) focused on social networks and non-market strategy. This study underscored the importance of symbolic resources such as image or reputation. These arguments have been included in the analysis of EU interest representation and influence. The theory of access goods was critically assessed because of the importance of relationships between public and private actors (cf. Michalowitz 2004, p.43). As a result, this study found a close relationship between the academic fields of non-market strategy and EU interest representation. Both areas throw many useful insights that should be more closely related to enhance the quality of future research.

6.3.1 Academic implications for EU interest representation

The first academic implication for the field of EU interest representation and influence of interest groups is the strong segmentation of existing academic theories. This study tried to overcome the existing segmentation through the applied analytical framework. However, this implication is not a new insight. The strong segmentation of existing middle-range theories was already underscored by other academics such as Lowery et al. (2008, p.1231). Nevertheless, this study gathered further evidence for the

fact that strong segmentation of existing theories is a barrier for the future development of the academic area and a better applicability in practice. The still existing strong segmentation is surprising owing to the fact that the different theories of EU interest representation and influence of interest groups are all closely connected, as demonstrated by this study.

Coen (2007a, p.341) and Mahoney (2007a, pp.51-53) argue that it is important for the future enhancement of EU lobbying studies to concentrate on specific lobbying strategies. In this study, direct actions at the EU level and indirect actions in the EU member states (cf. Coen 1997), alliance and identity building (cf. Mahoney 2007b) and venue shopping (cf. Eising 2004) were the applied existing theories for the investigation on EU interest representation. This study demonstrated that analysing activities of EU interest representation were a crucial step to explain the power and influence of interest groups and their lobbying strategies. Moreover, theories of EU interest representation were greatly dependent on different theories of influence. Especially the issue characteristics shaped the EU interest representation of the CRA3 because of the crisis as a strong focusing event. In addition, this study demonstrated a close connection between the theories of EU interest representation and the structural characteristics theory. In general, theories of EU interest representation deal with how interest groups make the best use of structural resources. For instance, the AF4 could establish many direct and indirect actions at different venues, build a strong alliance and increase their identity, and obtain support from their clients based on strong structural resources, such as financial power, lobbying experience, specialised staff and market power. In contrast, comparatively inferior structural resources were a main reason for the weaker EU interest representation and influence of the CRA3.

Wider academic implications show that direct and indirect actions can be considered as a basic theory for understanding EU interest representation. Alliance and identity building, and venue shopping are more complementary aspects of EU interest representation. Nevertheless, alliance and identity building is a crucial aspect to explain how interest groups can optimise their direct and indirect actions through common actions with other interest groups that share same preferences and follow same political goals. This study showed that alliance building was also a relevant aspect to explain power and influence of interest groups. Further theoretical reflections show that alliance and identity building is a more useful theory to complement the analysis of direct and indirect actions than thoughts on venue shopping. Venue shopping was described during the interviews as a standard practice. The empirical findings revealed that professional

lobbyists consider venue shopping as a matter of course for EU interest representation. However, even if this study has received some evidence that venue shopping is the less relevant theory for the analysis of interest group activities, venue shopping remains a key aspect for interest group influence because of the specific EU multi-level system.

As mentioned above, it seems necessary that academics focus on more studies to integrate existing theories in future to provide a better sense of the complex phenomenon of EU interest representation and influence. The two case studies on the EU interest representation and influence of the CRA3 and AF4 show that all theories have a role in the explanatory process. Instead of just asking which single theory has the best explanatory power for influence (cf. Majori 2012), questions about relationships and causalities of existing academic theories should be asked. This study should have underscored the importance of these questions for further progression of the academic field of EU interest representation. The academic community should closely focus on the complementary use and associations between existing theories to develop frameworks that are more sophisticated. This seems to be a worthwhile direction because of a higher knowledge generation for practitioners. Questions regarding EU interest representation actions – the ‘what’ – should be more closely connected to the questions regarding interest group influence – the ‘how’ and ‘why’ –.

However, knowing that more confirmatory studies for existing middle-range theories are necessary to arrive at a higher level of generalisation, interest representation and influence will always remain dependent on specific cases and contexts. To give example, this work of research demonstrated that the crisis had a decisive impact on the EU interest representation and influence of the CRA3 and had less relevance for the lobbying and influence of the AF4. In this respect, the issue characteristics theory (cf. Dür 2008a, p.1217; Mahoney 2007a, pp.47-50) showed a great relevance for the analysis of the other factors of EU interest representation and influence. As a result, the analysis of the issue characteristics theory seems to have a high importance for the analysis of influence in cases with a specific focusing event. Moreover, the other theories that explain influence such as access goods theory and structural characteristics theory seem to depend on the issue characteristics theory to some extent because it reveals prevailing conditions for access through information and influence based on structural resources.

Moreover, the access goods theory (cf. Bouwen 2001; Bouwen 2002b; Bouwen 2004a) strongly relates with the structural characteristics theory. For example, the CRA3 and AF4 tried to provide critical information to the EC, but access was not

granted because of other factors such as damaged relationships and weak credibility. This criticism was already underscored by Dür (2008a, p.1221) and Michalowitz (2004, p.43), who emphasized that the access goods theory does not sufficiently take relationships between actors into account. In this respect, structural resources (cf. Majori 2012, pp.21-22; van Schendelen 2010, pp.205-207) such as political relationships or market power play an important role. This study demonstrated how closely the access goods theory and the structural characteristics theory need to be interrelated.

Finally, the last academic implication that could be derived from this study relates to the difficulty of revealing EU interest representation and influence of interest groups. This research study showed that studying EU interest representation and influence is a challenging task because of issues such as high secrecy of interest groups. Much effort was necessary during the operationalisation of this study to obtain access to interview partners and collect empirical evidences. In this respect, a strong conceptualisation such as the applied analytical framework is crucial to reduce risks of wrong interpretations about actions and influence of interest groups.

6.3.2 Academic implications for CPT and DPA methods

The main academic implication for the CPT (cf. Blatter and Haverland 2012, pp.23-32; Dür 2008b, pp.562-565) and DPA (cf. Dür 2008a, pp.1224-1225; Dür 2008b, pp.566-569) methods is that this study demonstrated the useful scientific combination of these approaches for the assessment of interest group influence. The combination of these analytical approaches enabled the researcher to get a robust assessment of the CRA3 and AF4 influence during recent EU reforms. The combined analysis is useful because of strong supplementary characters. More precisely, this research study demonstrated that DPA and CPT methods outweigh limitations of each analytical model to a large extent. A rigorous CPT analysis provides a comprehensive basis for case studies on interest group influence. The CPT method allows overcoming limitations of the DPA approach as it helps to determine preferences, to identify different causal factors and conditions, and to unfold processes of influence (cf. *ibid*, pp.567-569). The DPA can be seen as a useful additional yardstick for the assessment of influence, an additional step to cross-check information collected during interviews and to avoid confusion between interest group actions and influence (cf. *ibid*, pp.563-565). In conclusion, a combined use of the DPA and CPT methods is recommendable to gain high clarity for the measurement of influence. Each method helped to question the

analytical outcomes of the other. However, the measurement of strength of causal inferences for the assessment of influence remains always problematic, which is an inherent aspect of qualitative studies. Collier (2011, p.824) argued that many CPT analyses lack academic rigour because of difficulties associated with descriptive inferences. As a potential measure, this study demonstrated that a categorisation for different levels of influence is helpful in the context of a CPT analysis. Finally, the unfolding of the causal processes for the CPT posed a major challenge for this study (cf. Blatter and Haverland 2012, pp.27-29). As mentioned earlier, the identification of precise empirical evidence was a time-consuming and complex process. EU interest representation is a sensitive research area involving high secrecy on the part of actors. Hence, it is an illusive assumption that studies on EU interest representation and influence are able to unfold all single actions during various points in time. In this respect, an analytical framework based of academic theories of EU interest representation and influence is useful to draw robust inferences about power and influence of interest groups.

6.4 Contribution to knowledge

This study aimed to examine the EU interest representation and influence of the CRA3 and AF4 during recent EU reforms. The researcher believes that this goal was achieved. This research work fulfilled its major goal of making an incremental contribution to research. Based on an original idea, the project has been made possible through the researcher's access to data. This study successfully uncovered the previously unexplored EU interest representation and influence of the CRA3 and AF4 during recent EU reforms. In this sense, this study contributed to the academic area of EU interest representation and provided insights for lobbying practitioners. Besides, this study presented one of the first attempts to bridge the academic areas of business studies and political science with reference to non-market strategy research and studies in the area of EU interest representation. Furthermore, it can be said that this study achieved its methodological and theoretical aims. It directly engaged with theoretical and empirical research literature through an applied analytical framework. Academic implications and possibilistic generalisations for theoretical discourse could be received.

This work of research demonstrated that the AF4 established a comparatively stronger EU interest representation and were able to exert more influence on the EU reform outcomes compared to the CRA3. The individual case studies and the case comparison discussion presented the empirical findings for this assessment through

detailed answers to the research questions. The EU interest representation of the CRA3 and AF4 with its specific characteristics of direct and indirect actions, alliance and identity building, and venue shopping was revealed. In addition, the empirical findings showed how different resources and conditions affected the power and influence of the CRA3 and AF4. The case studies demonstrated how access was granted in exchange for information and could be used to assert influence. In addition, it was demonstrated how different structural resources enabled influence of the CRA3 and AF4. Finally, evidence with regard to the specific conditions for influence of the CRA3 and AF4 was presented based on different issue characteristics.

6.5 Limitations of this study

While the researcher believes that the presented arguments in this thesis are persuasive, this study is not without limitations. These limitations impact the degree of certainty for the overall research. In general, the EU reforms and the corresponding EU interest representation and influence of the CRA3 and AF4 were discrete and sensitive cases. However, the researcher's 'insider' status provided access that others may have found difficult to achieve. Nevertheless, the researcher cannot claim that all actions during the lobbying processes could be revealed. It is likely that this study did not cover all details during the lobbying processes of the EU reforms. Some limitations will persist with regard to preferences of interest groups, lobbying activities of different interest groups at different times and places, as well as causalities for influence.

Moreover, the work of research shows limitations due to its analytical methods. The study used CPT as its primary analytical approach and combined the DPA method to overcome some limitations. Some limitations with regard to the CPT methods remain a critical issue for this study. Dür (2008b, p.563) argues that even well-designed CPT studies face problems. This study is subject to some typical limitations (cf. *ibid*, pp.563-565). This study is limited with respect to causal chains and causal mechanisms because not all intervening lobbying activities could be revealed. Moreover, there are analytical risks resulting from the assessment of causal mechanisms between lobbying activities and influence on the reform outcomes (cf. *ibid*, p.562). The researcher made diligent efforts to collect precise empirical evidence. Nevertheless, some gaps for different views and causal mechanisms on the assessment of influence could not be ruled out.

Furthermore, this study faces limitations from collected evidence (cf. *ibid*, p.563). This study relied on 33 expert interviews and various documents. It crosschecked the information in detail. Nevertheless, not everything could be

crosschecked. In particular, information derived from interviews has to be handled with care. Some data could be biased. The risk of biased information remains always critical for qualitative studies on EU interest representation and influence. Besides, a higher number of interviews could have provided more evidence for the EU interest representation and influence of the CRA3 and AF4. However, the number of interviews conducted for this thesis achieved 'saturation point'.

The assessment of the degree of influence also comes with limitations. Dür speaks in this context about the 'intersubjective verifiability of qualitative judgements' (cf. *ibid*, p.564). In this respect, the assessments of influence of the CRA3 and AF4 have to be handled with caution. However, this study has made a conscious decision to rely on a combined assessment of CPT and DPA methods. In addition, it has used an adjusted model from Collier (2011) for the CPT categorisation of influence.

Additionally, the study should be treated with caution because of the general risk of confusing action with influence. Dür (2008b, p.564) states that CPT analyses could tend to address excessive influence to more active interest groups. However, this risk is not a major threat for the quality of this study because of the additional verification based on the DPA method.

The final limitation of this research work relates to its research design (cf. *ibid*, pp.564-565). As a small sample study, its explanatory power is limited because of the missing potential for larger generalisations. However, the intention of this study was not to make inferences about a larger population or to draw universal conclusions. Instead, this study tried to reveal the EU interest representation and influence of the CRA3 and AF4 based on in-depth comparative case studies. Nevertheless, the researcher made a conscious decision to integrate an analytical framework. This framework was a key to link the case studies with existing academic theories. Even if a generalisation about a larger population was not possible, this design allowed for possibilistic generalisations, presenting insights for further development of theory.

6.6 Paths for future research

In line with other critics (cf. Coen 1997; Coen 2007a; Coen 2007b; Mahoney 2007a; Dür and De Bièvre 2007b; Beyers et al. 2008a; Dür 2008a; Dür 2008b), the author of this thesis strongly encourages further EU interest representation studies. It became apparent that research on EU interest representation and influence of interest group remains a niche exercise and relevance is underestimated. The current scope of

studies is most likely not adequate in relationship to the importance for economic, political and social concerns.

Both academic domains – non-market strategy and EU interest representation – struggle with a fragmented character. The academic field of EU interest representation would benefit from more studies of the relationships of the existing middle-range theories to increase the understanding about correlations and reciprocal causalities between each other. This study only made an incremental step in this direction. Further studies should investigate causal mechanisms between different theories to gain deeper academic insights. For example, it could be of interest to investigate the dominance of the issue characteristics theory based on a large-N study, comparing and asking questions about how external conditions such as a focusing event or strong media pressure impact EU lobbying and other factors of influence. This direction could further contribute to establish a general framework of EU interest representation and influence. Academic initiatives to develop a stronger-tested and further-developed analytical framework for EU interest representation and influence would contribute to higher professional visibility of scientific work.

Moreover, the recommendation from Henisz and Zelner (2003, p.451) is assessed as important and shared by the author of this work of research, saying that many studies conducted by scholars of the political science domain lack a deeper understanding about strategic rationales for lobbying. In this respect, future studies should bridge the fields of non-market strategy and EU interest representation more consciously. This would equally contribute to a better understanding of political actions for strategic management, which is equally underrepresented in business research.

Finally, more studies about interest representation of financial services sectors would be of high interest. Studies on the banking sector in specific political contexts would be highly interesting to reveal actions and influence of these elite business groups. Another promising direction for further investigations could be a study of the CRA3 and AF4 interest representation and influence on a global scale. This work of research only concentrated on the specific cases of interest representation and influence during recent EU reforms in the context of the financial crisis. With the CRA3 and AF4 being global players, studies across various political systems would be of interest to get a comprehensive overview of the international reach of lobbying activities to protect their business models and future strategies.

Appendix A: The EU system explained⁷⁸

The 28 member states are at the core of the EU. Based on several treaties, the member states pooled parts of their sovereignty to strengthen the EU as a political power. The last amended treaty is the Lisbon Treaty, which was signed on 13 December 2007 and came into force in 2009. This treaty simplified working methods and voting rules. It further created a president of the ECO and new structures for a more powerful EU. Most notably, the new ordinary legislative procedure was established based on the Lisbon Treaty and became the norm for the majority of policy areas. The ordinary legislative procedure was also applied to the development of the new regulatory frameworks for CRAs and AFs.

In general, there are three different types of legal acts: regulations, directives and decisions. A regulation is a law that is applicable and binding in all member states and does not need to be passed into national law of the EU member states. Nevertheless, it is often necessary for national laws to be aligned with the new supranational EU laws to avoid legislative conflicts. A directive is a law that binds the member states or a group of member states to achieve a particular objective. The difference from a regulation is that member states individually decide how objectives can be achieved. EU decisions are binding in their entirety and can be addressed to member states, groups of people or individuals (e.g. anti-trust decisions for mergers and acquisitions). Finally, different recommendations and opinions are just EU statements without any binding force.

The EU system incorporates seven institutions. Decision-making at the EU involves the EC, EP and CEU⁷⁹. In addition, the ECO is another important venue for lobbying the EU system. The specific multi-level governance makes lobbying in the EU a distinctive academic field and presents different opportunity structures for lobbying at different venues at different times (cf. Grande 1996; Eising 2004; Princen and Kerremans 2008; Dür and Mateo 2012, p.969).

The EC is located in Brussels/Belgium and represents the EU as a whole, promoting its common interests. The EC is a politically independent institution with c. 33,000 bureaucrats. The EC is a crucial venue for EU lobbying due to its role of an agenda-setter with a formal right of initiative, proposing and formulating new legislation. Besides, the EC is responsible for the implementation and enforcement of the laws, manages the EU budget, and represents the EU around the world. The EC is

⁷⁸ The information in this section is based on the EU (2013b). This reference is the central reference for this rather descriptive part. Additional references are embedded apart from the researcher's own words.

⁷⁹ Scholars very often use just the term "Council" and also historically applied the term "Council of Ministers".

appointed every five years within six months after the elections of the EP. The last election of the EP took place from 22 to 25 May 2014. Jean-Claude Juncker was elected the new president after José Manuel Barroso who had held this position since 2004. The president decides in cooperation with the member state governments about key personnel of the EC bureaucrats, which start work upon receiving approval from the EP. The EC is divided into several departments and services, known as ‘Directorates-General’. The responsible DG for the EU reforms of CRAs and AFs was the ‘DG Internal Market and Services’. The DGs are the actual forces who devise and draft the EC’s legislative proposals. The drafting of laws and particularly the new EU reforms of CRAs and AFs required substantial levels of political, technical, and market-relevant knowledge. In this respect, the ‘Unit F4: Audit and Credit Agencies’ within the ‘Directorate F: Capital and Companies’ of the ‘DG Internal Markets and Services’ required information from different actors during the establishment of the legislative proposals.

The EP is officially located in Strasbourg/France, but also operates from Brussels and Luxembourg. The EP represents the EU citizens and is the only directly elected political institution in the EU. The constitution of this directly elected body positively influences the democratic legitimacy of EU laws. As pointed out earlier, the last election took place in the first half of 2014. Martin Schulz is the president of the EP since January 2012. The 751 MEPs are allocated among the member states based on their share of the EU population. The vast majority of MEPs are members of a national political party in their home countries. The EP shares with the CEU the legislative power, controls all EU institutions and, in particular, serves as a supervisory body of the EC. The EP approves or rejects the president of the EC and has the power to censure the EC. Finally, the EP shares the authority with the CEU over the EU budget. The EP’s work is divided into two main stages. The first stage is the preparation for the plenary session, where MEPs in different committees specialise in particular areas like the EU reforms of CRAs and AFs. The EP has competences to make amendments to the EC proposals. The second stage is the plenary session itself, where MEPs examine proposed legislations and vote for amendments before deciding on the new legislative text as a whole. The co-decision right and the consultation procedures of the EP provide a good opportunity for lobbying activities (cf. Lehmann 2009, pp.39-45).

The CEU represents the governments of the EU member states. Ministers of the member states meet at the CEU to discuss EU issues and decide on EU laws based on the mentioned co-decision right with the EP. Different ministers from the member states

attend different councils depending on the nature of subjects. The presidency of the CEU rotates every six months. The main responsibilities of the CEU are to pass EU laws, to coordinate member state policies, to develop EU foreign and security policy based on the guidelines of the ECO, to conclude international agreements between the EU and one or more member states or international organisations, and finally to adopt the EU budget in cooperation with the EP.

The ECO is a central power and a head function of the EU system. The ECO is also located in Brussels and consists of the heads of the EU member states and the presidents of the ECO and EC. The former Belgian Premier Minister Herman van Rompuy was the president of the ECO since 2009. He was replaced towards the beginning of December 2014 by Polish Prime Minister Donald Tusk. The high-profile composition of the ECO bringing together the EU's top political leaders is the main reasons for interest groups to approach this institution. The main responsibility of the ECO involves a strategic task to define political directions and priorities. The ECO presents the highest level of political cooperation as a summit meeting. In general, the members of the ECO take decisions by consensus or by qualified majority rules. These summits take place at least twice every six months. Their conclusions are later picked up by the CEU or urge the EC to put forward specific proposals.

The great majority of EU legislation uses the Ordinary Legislative Procedure (EU 2013b, p.6) that shares power equally between the EP and the CEU. As a result, both institutions are crucial venues for lobbying, with the EP being the most important as it appears to provide better access to interest groups (Hayes-Renshaw 2009, pp.70-88). The official process starts with a proposal of the EC that consults different stakeholders for opinions (e.g. from market players, associations, local governments, etc.). The EC proposal is then presented to the EP and the CEU for a first reading. Both institutions can adopt a position and make amendments. Afterwards, the EC itself can amend the proposals again. The act is directly adopted if the CEU approves the EP's position. Otherwise, the same process is repeated as a second reading. The act is later adopted if the CEU approves all EP amendments. Otherwise, a conciliation committee is convened if the CEU and EP fail to compromise. This committee represents an equal number of CEU and EP members agreeing on a joint text. Afterwards, the act is adopted if the EP and CEU agree on the proposal from the conciliation committee. On the contrary, the case is not adopted if the EP and CEU are still in disagreement over the proposal of the conciliation committee.

Appendix B: Details on the CRA3 and AF4

As illustrated below in Table Appendix B.1, the CRA3 comprise S&P, Moody's and Fitch. The CRA3 were founded in the USA and dominate the worldwide market of rating services. Predictions reach a historic level of c. 95% worldwide market share (EC 2013c, p.1). The EU is a main market for their services. As illustrated below in Table Appendix B.2, their financial performance even increased between 2011 and 2013, despite their negative connotations during the financial crisis and increased regulatory pressure.

Table Appendix B.1: Overview of the leading international rating agencies

	S&P (2013)	Moody's (2013)	Fitch (2011)
Market share worldwide	c. 95%		
Revenues*	3,937 (+11%)	2,973 (+9%)	732
Operating Profit*	1,489	1,235	227
Operating Margin	38%	42%	31%
Employees	c. 10,000 in 39 countries	c. 8,400 in 33 countries	c. 2,337
Headquarters	New York, USA	New York, USA	New York, USA and London, UK
Owner	Unit of McGraw-Hill Financial, indirect ownership of large hedge funds and financial investors	Ownership of large hedge funds and financial investors	c. 60% Fimalac Holding and 40% Hearst Corporation, also indirect ownership of large hedge funds and financial investors

* in \$m

Source: Author's own illustration, based on company reports and publications

Table Appendix B.2: CRA3 sales and profit development 2011 – 2013

S&P Ratings	2011	2012	2013
Revenues*	1,767	2,034	2,274
Operating Profit*	720	849	1,000
Operating Margin	40747%	41740%	44%
S&P Capital IQ	2011	2012	2013
Revenues*	1.031	1.124	1.170
Operating Profit*	214	206	211
Operating Margin	21%	18%	18%
S&P DJ Indices	2011	2012	2013
Revenues*	323	388	493
Operating Profit*	189	212	278
Operating Margin	59%	55%	56%
S&P Total	2011	2012	2013
Revenues*	1.356	1.514	1.665
Operating Profit*	1.123	1.267	490
Operating Margin	83%	84%	29%
Number of employees (estimation)	c. 8,800	c. 9,400	c. 10,000
Moody's	2011	2012	2013
Revenues*	2.281	2.730	2.973
Operating Profit*	888	1.077	1.235
Operating Margin	39%	39%	42%
Number of employees (FTE - end year)	c. 6.100	c. 6.800	c. 8.400
Fitch	2011	2012	2013
Revenues*	526	no data	no data
Operating Profit*	163		
Operating Margin	31%		
Number of employees (FTE - end year)	c. 2.300		

* in \$m

Source: Author's own illustration, based on company reports and publications

CRA3s have important service functions in the financial system and are often described as the secret playmakers of the global financial system (cf. Horstmann 2013). They issue ratings and assess the default likeliness of companies, financial instruments, and states. In this respect, they are a crucial source of information for financial market participants. Their ratings are based on various quantitative and qualitative factors that try to reveal the default risk. Each rating agency uses a spectrum of rating classes ranging from investment grade to junk grade.

Ratings can have a direct and strong impact on the financial markets. Ratings influence the trust of investors and simultaneously determine borrowing costs of debtors. To give an example, the downgrading of the creditworthiness of Greece and Spain increased the interest rates of their bonds because of a higher default likelihood, thereby worsening the situation for the two countries and the EU stabilisation process (cf. Gentle 2010).

As illustrated below in Table Appendix B.3, the AF4 comprise Deloitte, PwC, EY and KPMG. All firms operate as a network of country partnerships. These partnerships operate as separate legal entities in each country under a common brand and have a relatively higher degree of independence vis-à-vis the more centralised CRA3. The AF4 cover more than 90% of the auditing market for listed companies in most of the EU member states (EC 2010g, p.15).

Table Appendix B.3: Overview of the leading international audit firms

2013	Deloitte	PwC
Market share	AF4: c. 90%	
Revenues*	32,401 (+4%)	32,100 (+4%)
Assurance*	not disclosed (+3%)	14,800 (+1%)
Advisory*	not disclosed (+9%)	9,200 (+8%)
Tax*	not disclosed (+6%)	8,200 (+5%)
Operating Profit	not disclosed	not disclosed
Operating Margin	not disclosed	not disclosed
Employees	c. 203,000 in 150 countries	c. 184,235 in 776 locations
Headquarters	New York, USA	London, UK
Owner	Global partnership network	Global partnership network
2013	EY	KPMG
Market share	AF4: c. 90%	
Revenues*	25,800 (+6%)	23,420 (+2%)
Assurance*	10,936 (+4%)	10,210 (-1%)
Advisory*	5,751 (+18%)	4,970 (+5%)
Tax*	6,946 (+7%)	8,240 (+2%)
Operating Profit	not disclosed	not disclosed
Operating Margin	not disclosed	not disclosed
Employees	c. 175,000 in 150 countries	c. 155,000 in 155 countries
Headquarters	London, UK	Amstelveen, Netherlands
Owner	Global partnership network	Global partnership network

* in \$m

Source: Author's own illustration, based on company reports and publications

Audit firms are also an important source of independent information in the global financial system as they provide statutory reports of the annual financial statements. Auditors hold public offices in different jurisdictions and review firms' financial performance according to general accepted accounting principles (e.g. US-GAAP, IFRS or national standards). Having grown their reputation in audit services, the AF4 are these days diversified international financial services companies with main activities in the fields of auditing, tax, legal, and advisory services.

Market concentration has increased constantly over the past few decades. The disappearance of Arthur Andersen in 2002 after the Enron scandal in 2000 marked the last step in the market's current structure. Second-tier audit firms show a merging trend, but are far behind the AF4 in terms of market share, financial power, and international reach.

Profits and margins are not usually disclosed in this sector due to the privately held national partnerships. However, the pressure on audit services emerged long time ago. This pressure increased constantly due to the saturation of the audit market and price competition, leading to decreasing margins (cf. Lückmann 2014). The AF4 need their other business segments to foster their future financial performance. Their tax, legal and advisory services are a fundamental strategic cornerstone to boost growth and profitability. The AF4 generate the highest margins from these services and follow a growth strategy in a strong attacking mode (cf. Dowideit 2013). Though managed organically, their growth is also increased through acquisitions. In addition, an expansion of services from auditing-support and IT-consulting to more operational and strategic advisory services can be observed during the past years. For example, Deloitte bought Monitor in 2012; PwC bought Booz in 2014, a leading strategic consulting firm with a sales volume of over \$1bn. The AF4 can leverage on a significant competitive advantage of international reach and full-range services to customers. They sell their advisory services through their audit services networks. Their unique international scale transforms the advisory markets and leads to the industrialisation of consulting services (cf. Leendertse 2014). As a result, audit firms are nowadays much better described as highly diversified international financial service providers that historically developed from auditing services. Their purpose in society appears to be changing.

Appendix C: Pre-crisis stage of the CRAs reform and analytical table

As early as 2004, the DG Internal Market and Services initiated a call to CESR for technical advice on possible measures concerning CRAs. Owing to the complexity of the issue and global spread of rating agencies, CESR was directed for a close collaboration with the CEBS and the US SEC. The EC's commitment to this call resulted from the ECOFIN conference in April 2002. In addition, the EP in 2004 requested the EC to submit its assessment of the need for legislative proposals on CRAs by 31 July 2005 (cf. EC 2004b, pp.1-3). In its call for technical advice, the EC had identified four key issues (cf. EC 2004b, pp.3-9), targeting potential conflicts of interests within rating agencies, transparency of rating agencies' methodologies, legal treatment of rating agencies' access to inside information, and concerns about a lack of competition in the market.

The issuer-pays model was highlighted as the major concern with regard to the conflict of interests. The discussion around the issuer-pays model remained a critical but rather untouched issue even today. The EC asked if additional services for issuers such as advisory services, close bonds to issuers due to solicited ratings⁸⁰ and high payments from single customers might influence the ratings of these issuers. These are still fundamental questions about the independence of CRAs because they clearly affect the existing CRA business models. A change of the issuer-pays model would change revenue streams and the *modus operandi* of the CRAs and issuers. The further conflicts of interest draw the attention to capital links between the CRAs and issuers. As explained earlier, the CRA3 are owned by large hedge funds and financial investors. In particular, the ownership structures of the leading two organisations – S&P and Moody's – overlap, which draws implications of conflicts of interest and market concentration at the same time (cf. Horstmann 2013, pp.64-66; Hiss and Nagel 2012, pp.174-188). In essence, the issue of rating agencies' methodologies is about the quality of ratings. The EC enquired about the skills of the staff, organisational aspects, compliance, and audit functions. In addition, the transparency of rating methodologies was probed because of risks related to biased ratings. In addition, the EC pointed out a lack of clarity and harmonisation of legislation with regard to insider information. Moreover, the DG Internal Market and Services requested advice regarding the interaction between CRAs and issuers during the development of ratings, asking about

⁸⁰ Solicited ratings are directly commissioned by the borrowers or investors. For example, ratings for structured financial products and corporate ratings are usually solicited ratings. Unsolicited ratings are commissioned by the CRAs. For example, sovereign ratings are usually unsolicited ratings.

the development of assumptions, quality checks by issuers and implications of new data. Finally, the market concentration and entry barriers to the CRA market were probed. This too issue is a major criticism that has not died down yet. Moody's and S&P each held historically an estimated 40% market share while Fitch had about 15% market share, a fact that left very little choice for issuers. The EC enquired about measures that could reduce existing market barriers.

In summary, the EC DG Internal Market identified key issues of conflicting interests, transparency and quality of ratings, use and control of insider information, as well as the market concentration of the CRA3. The missing piece comprised a clear picture of the sector and feasible measures. This was beyond any concrete regulative framework due to moderate external pressure. This interpretation is based on the low publicised activity of the EC between 2004 and 2005. In this respect, it is surprising that the results from CESR, which should have been provided by 1 April 2005, were not published by the EC. The EC just confirmed the CESR report on 9 January 2006 (cf. EC 2006b). A CESR document was published on 10 January 2007 about the compliance of CRAs with the IOSCO Code of Conduct. This came nearly two and a half years after the initial call to the CESR.

The IOSCO Code of Conduct was accepted as the only instrument of self-regulation for a sector which was described by the EC as one with public objectives (cf. EC 2004a, pp.2-4) and playing a vital role in global securities and banking markets (cf. EC 2006a, p.1) . Even after the establishment of the importance of the sector and initiating the first steps at the EU level, the EU market for CRAs remained unregulated with a self-regulation model and general financial services directives without any direct applicability for the CRAs (cf. EC 2006a; EC 2006b).

The widespread reliance on a method of self-regulation with the application of general security directives (Market Abusive Directive, Capital Requirements Directive, and Markets in Financial Instruments Directive) seems remarkable in an ex-ante evaluation because of the Enron and Parmalat scandals. From an ex-post perspective, it appears as a kind of negligence that was not exclusive to the EU. This political stand of the EU remained unchanged until the start of the financial crisis in 2007. In January 2007, the EC stated based on a CESR compliance report⁸¹ that the self-regulation of the sector functions reasonably well (cf. CESR 2006; EC 2007a). It should take only a few

⁸¹ The CESR compliance report was a synoptic comparison between the IOSCO codes and CRA3 codes, relying on an analysis of written codes and survey responses.

months until the start of the financial crisis in mid-2007 that the EU realised the existing model was inadequate.

Table Appendix C: CRAs pre-crisis stage analytical table

Stage	Date	Steps	Documents	Issues/Outcomes
Pre-crisis (1/1)	27.07.2004	Call to CESR for technical advice on possible measures concerning credit rating agencies	- Call for technical advice - Annex to the call for technical advice	Issues: - Potential conflicts of interest within rating agencies - Transparency of rating agencies' methodologies - Legal treatment of rating agencies' access to inside information - Concerns about possible lack of competition in the market for provision of credit ratings
	09.01.2006	The EC has adopted a communication on 23.12.2005 setting out its approach on credit rating agencies	- Press release: EC sets out its policy on credit rating agencies - Communication from the EC on CRAs - Annex on IOSCO Code Of Conduct Fundamentals for CRAs	Outcome: - EU keeps relying on general financial services directives and the self-regulation based on the IOSCO Code
	10.01.2007	EC welcomes EU regulator's (CESR) first report on CRAs	- Press release - Report	Outcome: - EC confirmed political position of sufficient self-regulation and general financial services directives

Source: Author's own illustration

Appendix D: Analytical table of the CRAs Stage 1

Table Appendix D: CRAs Stage 1 analytical table

Stage	Date	Steps	Documents	Issues/Outcomes
	04.06.2008	The role of CRAs	- ESME report to the EC	<p>Issues:</p> <ul style="list-style-type: none"> - Stronger cooperation with the SEC recommended - Oligopolistic structure has negatively impacted ratings - Unfavourable methodologies of structured finance products; robust methodologies for corporate ratings - Transparency of rating methods could be enhanced; CRAs support confirmed - Better understanding of rating labels needed with regard to factors such as liquidity and volatility - Corporate rating changes considered satisfactory, structured finance rating changes need improvement - Surveillance resources for corporate ratings appropriate, more surveillance for structured finance products needed - Special formal qualification for analysts recommended - No adequate response on changed market conditions for structured finance products - Independent and robust due diligence for structured finance products recommended - Scope to adopt a more systematic approach for structured finance products - Gardening leave cannot avoid transfer of knowledge to clients by leaving staff - Conflict of interests no issue for corporate ratings, but for structured finance ratings because of high level of involvement with issuer/sponsor and close advisory risks; higher control of independence recommended by an independence committee <p>Outcome:</p> <ul style="list-style-type: none"> - No formal regulation directly recommended; increased self-regulation and stronger CESR oversight authority recommended; particularly problems in the area of structured finance highlighted; independent board of directors recommended
Stage 1 (1/3)	02.07.2008	CESR's second report to the European Commission on the compliance of CRAs with the IOSCO Code and the role of CRAs in structured finance	- Report	<p>Issues:</p> <ul style="list-style-type: none"> - CESR and market participants conclude that there is no evidence that a regulation of CRAs would have affected the issues of the subprime crisis and support market-driven improvement - The updated IOSCO code is assessed as a satisfactory minimum standard for the CRA conduct, except ancillary and advisory services - The IOSCO Code and the initiatives by market participants are not assessed as sufficient with regard to structured finance products and the corresponding influential role of CRAs - The EC should immediately form an international standard setting body for the CRAs - CESR believes that the full support of the market is needed for such monitoring body, which is taken for granted by CESR - If international regulatory involvement fails, this body should be established on EU level <p>Outcome:</p> <p>The EU should ensure integrity and quality through regulation if international regulatory involvement cannot be achieved on a satisfactory level</p>
	31.07.2008	Consultation on policy proposals regarding CRAs	- Press release - Consultation - Contributions	<p>Issues:</p> <ul style="list-style-type: none"> - First consultation on the authorisation, operation and supervision of CRAs - Second consultation on the issue of over-reliance on ratings in the EU legislation <p>Outcome:</p> <ul style="list-style-type: none"> - 96 contributions received from public authorities, registered organisations and individuals, but no contributions from CRA3 and general few contributions from the rating sector - Responses show a tendency of support to reduce the over-reliance on ratings and to establish a reform with supervisory of CRAs on EU level based on a new regulatory framework - First clear statement about the need of EU regulation of CRAs by the former EU Commissioner McGreevy

Stage	Date	Steps	Documents	Issues/Outcomes
Stage 1 (2/3)	12.11.2008	Commission adopts proposal regarding CRAs	<ul style="list-style-type: none"> - Press release (23.04.2009) - Press release (12.11.2008) - Frequently asked questions - Proposal - Citizens' summary - Impact assessment - Executive summary of impact assessment 	<p>Issues:</p> <ul style="list-style-type: none"> - The EU taking a leading role for the regulation of CRAs - Introduction of a registration procedure of CRAs to enable EU supervision by CESR - Required legal presence of CRAs to secure the compliance - Issuer-pays model identified as major conflict of interest just shortly mentioned (p.32, Article 34 of the proposal) - Goals: <ul style="list-style-type: none"> (1) Avoid that ratings are affected by conflict of interests (2) Ensure the quality of the rating methodology (3) Ensure transparency of their services - Main proposals: <ul style="list-style-type: none"> - Prohibition of specific advisory services - Prohibition of ratings for financial instruments without a sufficient quality of basis information - Disclosure of models, methodologies and key assumptions - Differentiation of ratings for complex products by adding a symbol - Obligation to publish annual transparency reports - Establishment of an internal function for quality reviews - Establishment of specific independent director rules
	12.06.2009	The EC publishes a mandate to CESR for technical advice on the equivalence between certain third country legal and supervisory frameworks and the EU regulatory regime for CRAs	<ul style="list-style-type: none"> - Commission mandate to CESR 	<p>Outcome:</p> <ul style="list-style-type: none"> - Mandating of CESR for stronger comparisons between EU activities and third country legal and supervisory frameworks

Stage	Date	Steps	Documents	Issues/Outcomes
Stage 1 (3/3)	17.11.2009	Regulation (EC) No 1060/2009 of the EP and of the CEU on CRAs (went into full application on 07.12.2010)	- Regulation law	<p>Outcomes compared to proposal:</p> <ul style="list-style-type: none"> - Article 1: Subject matter unchanged - Article 2: Scope further specified to CRAs registered in the EU - Article 3: Definitions further specified without substantial changes - Article 4: Use of credit ratings expanded and more detailed - Article 5: Equivalence terms inserted - Article 6: Independence and avoidance of conflicts of interest largely unchanged; specified with regard to ancillary services; no adoption on any changes of the issuer-pays model, just further investigations mentioned (pp.10 (73)) - Article 7: Rating analysts, employees and other persons involved in the issuing of credit ratings just slightly changed; no time-condition for rotating analysts, instead "appropriate gradual transition mechanism" - Article 8: Methodologies, models and key rating assumptions further defined - Article 9: Outsourcing rule added - Article 10: Disclosure and presentation of ratings further specified, particularly the symboling of structured finance ratings, no use of authorities for rating credibility - Article 11: General and periodic disclosure specified to CESR supervision - Article 12: Transparency report unchanged - Article 13: Public disclosure fees remained unchanged - Article 14: Requirement of registration unchanged - Article 15: Application for registration specified - Article 16: Examination of the application for registration of a CRA by the competent authorities specified - Article 17: Examination of the applications for registration of CRAs by the competent authorities added - Article 18: Notification of the decision on the registration, refusal of registration or the withdrawal of registration of a CRA with changed procedures - Article 19: Registration and supervisory fees further specified - Article 20: Withdrawal of registration just marginally specified - Article 21: CESR role more specified - Article 22: Competent authorities added - Article 23: Powers of competent authorities more specified - Article 24: Supervisory measures by the competent authorities of the home member states more specified - Article 25: Supervisory measures by competent authorities other than competent authority of the home member states more specified - Article 26: Obligation to cooperate more specified - Article 27: Exchange of information added - Article 28: Cooperation in case of a request to on-site inspections unchanged - Article 29: College of competent authorities more precised - Article 30: Delegation of tasks between competent authorities unchanged - Article 31: Mediation slightly precised - Article 32: Professional secrecy slightly precised - Article 33: Disclosure of information from other member states added - Article 34: Agreement of exchange of information unchanged - Article 35: Disclosure of information from third countries slightly precised - Article 36: Penalties precised - Article 37: Amendments to Annexes slightly precised - Article 38: Committee procedure expanded - Article 39: Reports expanded and precised, revision by Dec. 12 on various issues, incl. market concentration and issuer-pays model - Article 40: Transitional provision precised - Article 41: Entry into force defined
	29.12.2009	Corrigendum to Regulation (EC) No 1060/2009 of the EP and of the CEU of 16 September 2009 on CRAs	- Corrigendum of regulation law	<p>Outcome:</p> <ul style="list-style-type: none"> - Correction of 1 wording mistake (p.27, Annex 1, Section C, point 3c)

Source: Author's own illustration

Appendix E: Analytical table of the CRAs Stage 2

Table Appendix E: CRAs Stage 2 analytical table

Stage	Date	Steps	Documents	Issues/Outcomes
Stage 2 (1/1)	02.06.2010	EC adopts proposal to amend Regulation (EC) No 1060/2009 of the EP and of the CEU on CRAs	<ul style="list-style-type: none"> - Press release - Frequently asked questions - Commission's proposal - Impact assessment - Summary of the impact assessment 	<p>Issues:</p> <ul style="list-style-type: none"> (1) Main objective to establish efficient and centralised EU supervision by ESMA (2) Second objective to reform corporate governance in financial institutions (3) Third objective to increase communication on financial services (transparency, responsibility, crisis management) - Launch of public consultation for financial institutions regulation - Two principles on directors' and staff remuneration in financial services sectors underscored - Proposal includes basically changes to establish ESMA as new oversight authority for the CRA - Impact assessment confirms the central EU oversight of ESMA and the sanctioning power with the EC as the preferred option
	28.09.2010	EC adopts a decision on the recognition of the legal and supervisory framework of Japan as equivalent to the requirements of Regulation (EC) No 1060/2009 of the EP and of the CEU on CRAs	<ul style="list-style-type: none"> - Decision of the Commission 	<p>Outcome:</p> <ul style="list-style-type: none"> - Official confirmation of the equivalence of the Japanese legal and supervisory framework to the current EU legislation
	05.11.2010	Consultation on CRAs, new initiative	<ul style="list-style-type: none"> - Press release - Consultation document - EC summary of responses and individual responses 	<p>Issues:</p> <ul style="list-style-type: none"> - Reassessment of current legislation because of Euro debt and sovereign crisis - 5 main issues (consistent to the recent Financial Stability Report): (1) Over-reliance of financial institutions and investors on external credit ratings (2) Improving sovereign debt rating with regard to time and transparency (3) Competition and break of CRA3 market concentration (4) Civil liability of credit rating agencies (5) The issuer payment model as a central conflict of interests <p>Outcomes:</p> <ul style="list-style-type: none"> - 93 responses received within the consultation process on the above issues - All CRA3 firms published responses - Various preferences with regard to the main issues of over-reliance, specifications for sovereign ratings' timing and methodologies, a lack of competition without appropriate measures against this issue, EU-harmonised civil liability in cases of gross negligence or intent, and conflicts due to the issuer-pays model without better models and alternatives
	11.05.2011	Regulation (EU) No 513/2011 of the EP and of the CEU of 11 May 2011 amending Regulation (EC) No 1060/2009 on CRAs	<ul style="list-style-type: none"> - Amended regulation law 	<p>Outcomes:</p> <ul style="list-style-type: none"> - Amended changes to establish ESMA as EU oversight authority - ESMA can impose fines on CRAs "according to the level of seriousness of the infringements" - No implementation of issues from the previous consultation process included at this stage

Source: Author's own illustration

Appendix F: Analytical table of the CRAs Stage 3

Table Appendix F: CRAs Stage 3 analytical table

Stage	Date	Steps	Documents	Issues/Outcomes
Stage 3 (1/3)	06.06.2011	List of registered CRAs	- List	Outcome: - Just few SME CRAs registered
	06.07.2011	Roundtable on CRAs - Summary	- Summary	Outcomes: (1) Over-reliance an important issue, but no concrete and suitable alternatives and measures identified (2) Serious concerns expressed with regard to sovereign ratings by CRA3; CRA3 directly attacked ("not logical, questionable, disruptive, not credible") because of improper methodologies for European downgrades; consensus on higher transparency and long notice period before changes; no consensus on specific regulation for sovereign ratings and an EU body for sovereign ratings (3) Concerns about the oligopolistic structure and the need of increased competition stressed; measures for increased competition and the impact on quality unclear; alternative to establish an EU rating agency brought forward by a MEP, but this was strongly criticised because of time requirements and conflicts of interest (4) Some support for civil liability in case of gross negligence or intent; more stringent liability for CRAs drawing parallels to the audit firms discussed (5) Strong level of conflicts with regard to issuer-pays model; alternatives of non-profit investor-pay and focus on conflicts in the registration process discussed; greater transparency to counter conflicts mentioned; the mandatory rotation was brought up in comparison to the audit industry, but very conflicted opinions; shareholder structure and similarity of shareholders of the CRA3 discussed
	15.11.2011	EC adopts new proposals on CRAs	- Press release - Frequently asked questions - Proposal for a regulation - Proposal for a directive - Impact assessment - Executive summary of the impact assessment	Issues: - Development of the Euro debt crisis has shown that existing framework is not sufficient (1) Reduce over-reliance on ratings - Directive for fund managers to reduce references to external ratings and do own due diligences similar to the Capital Requirements Directive IV from July 2011 - Upcoming similar rules for insurance companies next year - General obligation for investors to do own assessments - Communication of ratings to ESMA and publishing under a freely available European Rating Index (EURIX) (2) More transparent and frequent sovereign debt ratings - Member states ratings every 6 months instead of 12 months - Information of member states and investors about underlying facts and assumptions - Publishing only after the close of business and at least 1 hour before opening of trading venues (3) More diversity and stricter independence against conflict of interests - At least 2 ratings from different CRAs for complex structured finance products - Prohibition of big shareholding in different CRAs - Mandatory rotation of CRAs (4) Civil liability of CRA in cases of gross negligence or intent - Liability in case of causing damage to an investor because of gross negligence or intent - Claims by investors to national courts; burden of proof for CRAs
	06.01.2012	An updated list of registered and certified CRAs published by ESMA	- Updated list	[No historical list accessible]
	28.03.2012	EC delegated Regulation (EU) No 272/2012 of 7 February 2012 supplementing Regulation (EC) No 1060/2009 of the EP and of the CEU with regard to fees charged by the ESMA to CRAs	- Supplement of law	Outcomes: - Registration fees and supervisory fees for registered CRAs and certification fees and annual supervisory fees for third countries' CRAs - Different fee calculations for different types (e.g. registration fee depending on number of employees)
	02.04.2012	Credit rating agencies will start paying fees for their supervision (MEX/12/0402)	- Midday Express EC news briefing	[Please see above]

Stage	Date	Steps	Documents	Issues/Outcomes
Stage 3 (2/3)	30.05.2012	- Publication of the first RTSs on CRAs	- Supplement laws [misleading link of EC webpage to specific standards]	<p>Outcomes:</p> <ul style="list-style-type: none"> - Commission delegated four regulations establishing regulatory technical standards for CRAs - The four standards complement the current EU regulatory framework for CRAs and were developed by ESMA (1) specific information to be provided by CRAs in its application for registration to ESMA (2) specific presentation of the information to be disclosed by CRA in a central repository (CEREP) to allow investors a comparison of the performance of different CRAs in different rating segments (3) the process of ESMA's assessment of rating methodologies (4) specific information CRAs have to submit to ESMA and time intervals in order to supervise compliance
	05.10.2012	EC adopts a decision on the recognition of the supervisory framework of the US, Canada and Australia as equivalent	- Decisions of the Commission	<p>Outcome:</p> <ul style="list-style-type: none"> - Official recognition of the equivalence of the US, Canadian and Australian legal and supervisory framework to the current EU legislation
	16.10.2012	EC delegated Regulation (EU) No 946/2012 of 12 July 2012 supplementing Regulation (EC) No 1060/2009 of the EP and of the CEU	- EC delegated Regulation (EU) No 946/2012 - Midday Express EC news briefing	<p>Outcome:</p> <ul style="list-style-type: none"> - Rules of procedure on fines imposed to CRA by ESMA, including rules on the right of defence and temporal provisions
	16.01.2013	New rules on when and how CRAs may rate state debts and private firms' financial health were approved on 16.01.2013 by the EP. They will allow agencies to issue unsolicited sovereign debt ratings only on set dates, and enable private investors to sue them for negligence	- Statement by Commissioner Barnier - Press release of the EP - Frequently asked questions	<p>Outcomes:</p> <ul style="list-style-type: none"> (1) Reducing over-reliance on ratings <ul style="list-style-type: none"> - Credit institutions and investment firms must develop own rating capacities and risk assessments (due diligences) - The EC should consider to develop a European creditworthiness assessment - By 2020 EU legislation should not directly refer anymore to external ratings, financial institutions should then not be anymore obliged to automatically sell assets in the case of a downgrade (mechanistic effects) - CRAs must publish all ratings on European Rating platform for better comparability and visibility (CEREP) (2) Sovereign debt ratings: Set dates and higher level of information <ul style="list-style-type: none"> - Publishing of sovereign debt ratings at least 2 but no more than 3 times per year (exceptions possible in exceptional circumstances) - Dates must be published by the CRA at the end of the previous year - Ratings must be published after EU markets closed and at least one hour before reopen - Duty of information about underlying facts and assumptions to (3) Reduce conflicts of interest due to issuer-pays model: Capping shareholdings, mandatory rotation for complex structured finance products <ul style="list-style-type: none"> - CRAs have to refrain issuing a rating or disclose that that rating is maybe affected, if a shareholder or member of the CRA holds more than 10% of voting rights in the rated entity - Prohibition to simultaneously hold stakes more than 5% in more than 1 CRA, unless the CRA belongs to the same group (cross-shareholding) - Mandatory rotation after 4 years for structured finance products (re-securitised assets) (4) Civil liability of CRA in case of gross negligence or intent <ul style="list-style-type: none"> - Investors or issuers can sue CRAs in cases of intent or gross negligence, even if a contractual relationship between the parties exists. A breach would include ratings which are compromised by conflicts of interest or outside the published calendar
	20.03.2013	An updated list of registered and certified credit rating agencies is published by ESMA	- Updated list	[No historical list accessible]

Stage	Date	Steps	Documents	Issues/Outcomes
Stage 3 (3/3)	20.06.2013	New legislation on credit rating agencies enters into force. In November 2011 the EC put forward proposals to reinforce the regulatory framework on credit rating agencies and deal with outstanding weaknesses. The new rules were published in the Official Journal of the EU on 31 May 2013 and entered into force on 20 June 2013	<ul style="list-style-type: none"> - Press release - Frequently asked questions - Text of Regulation 462/2013 - Text of the Directive 2013/14/EU 	<p>Outcomes:</p> <ul style="list-style-type: none"> (1) Reduced over-reliance on credit ratings - Credit institutions and investment firms must develop own rating capacities and risk assessments (due diligences) - Member states and European Supervisory Authorities should avoid references to external credit ratings, review their rules and guidelines and remove credit rating references, if they have the potential to create mechanistic effects (if possible); no new EU legislation should refer anymore to external credit rating by 2020 - Financial institutions should then not be anymore obliged to automatically sell assets in the case of a downgrade (mechanistic effects) - Directive sets out reliance on external ratings in sectoral legislation for collective investment funds (UCITS), alternative investment fund managers (AIFMD) and institutions for retirement provision (IORPD) - CRAs must publish all ratings on European Rating platform for better comparability and visibility, available as from June 2015 (2) Sovereign debt ratings: Set dates and higher level of information - Publishing of sovereign debt ratings at least 2 but no more than 3 times (exceptions possible in exceptional circumstances) - Dates must be published by the CRA at the end of the previous year - Ratings must be published on Friday after EU markets close and at least one hour before reopening of EU trading venues - Duty of information about underlying facts and assumptions to (3) Reduce conflict of interests due to issuer-pays model: Capping shareholdings, mandatory rotation for complex structured finance products - CRAs have to disclose publicly if a shareholder with 5% or more of the capital or voting rights holds more than 5% of the capital or voting rights of the rated entity - Prohibition of a rating from a CRA if a shareholder of a CRA holds 10% or more of the capital or voting rights and also 10% or more of a rated entity - Prohibition to simultaneously-hold stakes more than 5% in more than 1 CRA, unless the CRA belongs to the same group (cross-shareholding) - Mandatory rotation after 4 years for structured finance products (re-securities assets) - Issuer must engage at least two different CRAs for the ratings of structured finance products (4) Civil liability of CRA in case of gross negligence or intent - Investors or issuers can sue CRAs in cases of intent or gross negligence, even if a contractual relationship between the parties exists. A breach would include ratings which are compromised by conflicts of interest or outside the published calendar <p>Further issues:</p> <ul style="list-style-type: none"> - The EC will review the situation in the rating market and report to the EP and CEU about the appropriateness of the development of a special European system for creditworthiness assessments of sovereign debt - The EC should submit by end of 2016 a report on the feasibility of supporting a European CRA dedicated to the assessment of member states' sovereign debt and/or a European credit rating foundation

Source: Author's own illustration

Appendix G: Current stage of the CRAs and analytical table

Even in a more peaceful and stabilised post-crisis economy, the EU remained very active on its reform measures. The EC initiated several steps for the further optimisation of its market for CRAs. Their continuous actions demonstrated the ongoing political pressure on the CRA3 in the EU. The EC tried to break the existing market concentration and the market-dominating oligopoly. In July 2014, a roundtable was organised by the DG Internal Market and Services (cf. EC 2013b). The feasibility of a European SME CRAs network was discussed to tackle the problem of missing market competition. The DG Internal Market and Services nowadays works in close cooperation with the SME CRAs to change existing market conditions. In May 2014, the report of the EC, submitted to the EP and the CEU, on the feasibility of a network of smaller CRAs was published (cf. EC 2014k; EC 2014g). According to the EC, creating a network of smaller CRAs was feasible but time-consuming and depending on a long-term regulatory framework. After discussing the appropriate measures for specific sectors to reduce the reliance on credit ratings (cf. EC 2014h; FSB 2014), the EC adopted three new delegated regulations in September 2014 (cf. EC 2014a; EC 2014e; EC 2014b; EC 2014d; EC 2014c; EC 2014f). These new regulations focused on disclosure requirements on structured finance instruments, reporting requirements on fees charged by CRAs to their customers, and reporting requirements for the European Rating Platform. As a result, the pressure on the CRA3 to represent their interests in the EU political arena continues at a high level.

Table Appendix G: Current stage of the CRAs analytical table

Stage	Date	Steps	Documents	Issues/Outcomes
Current stage (1/1)	01.07.2013	An updated list of registered and certified CRAs published by ESMA	- Updated list	[No historical list accessible]
	02.07.2013	Roundtable with SME CRAs on 2 July 2013 organised by the EC	- Minutes	- Mrs. Nathalie Berger (Head of Unit of the EC Audit and Credit Rating Agencies Unit) organised this meeting - The roundtable was attended by representatives of 13 SME CRAs, ESMA, the European Economic and Social Committee, and European Association of Credit Rating Agencies (EACRA) - Roundtable initiated to assess the feasibility of a SME CRAs network in Europe due to the commissioned report by the EP and CEU Outcomes: - Importance of increasing the credibility and reputation of SME CRAs to investors and the investment community was stressed - Strong cooperation with ESMA to develop the technical advice for such a network and increased market competition
	28.04.2013	EC adopts implementing decisions on the recognition of the legal and supervisory framework of five jurisdictions	- Press release - Implementing decisions: - Argentina - Brazil - Hong Kong - Mexico - Singapore	Outcome: - Official recognition of the equivalence of the legal and supervisory framework from Argentina, Brazil, Hong Kong, Mexico and Singapore to the current EU legislation
	05.05.2014	The EC adopted a report addressed to the EP and the CEU on the feasibility of a network of SME CRAs in the EU	- Press release - Report - Staff Working Paper	Outcomes: - Key objective for the EC is to improve pre-conditions for stronger competition in the CRA market - Long-term goal is to grow new market players - Options assessed as feasible to build either an integrated or cooperative network - Short-term solution to establish a regulatory dialogue for the SME CRAs - Long-term solution targets to develop regulatory framework for such a network
	16.05.2014	Response to the Financial Stability Board (FSB) request for action plans to reduce reliance on CRA ratings	- EC staff working paper: "EU action plan to reduce reliance on CRA ratings" - Report from the FSB on the thematic review on FSB principles for reducing reliance on CRA ratings	Outcomes: - EC reacted on the FSB report to reduce reliance on CRA ratings. The FSB report focussed much on the different financial sectors (e.g. banks, central banks, insurances, pension funds, etc.) - EC demonstrated how their CRA regulation and sectorial legislation cover the issues, which were named by the FSB
	30.09.2014	The EC has adopted three delegated regulations setting out RTSs needed to implement key provisions of the regulation on CRAs	- Draft texts of regulations and annexes	Issues: (1) The disclosure requirements for issuers, originators and sponsors on structured finance instruments (2) Reporting requirements for CRAs on fees charged by CRAs to their clients (3) Reporting requirements to CRAs for the European Rating Platform

Source: Author's own illustration

Appendix H: Analytical table of the preferences of the CRA3

Table Appendix H: CRA3 preferences on level of single proposed measures

No.	Reform issues and measures	Stage	Preferences of CRA3	Risk for CRA3 business model
I	EU reform on CRA with supervisory authority			
1	Assessment of sufficient regulation: indirect financial services directives (Market Abuse Directive, Capital Requirements Directive and Markets in Financial Instruments Directive) and self-regulation based on IOSCO Code	Pre-crisis	No new EU reform necessary (sufficient regulation based on Financial Services Action Plan (FSAP) (Market Abuse Directive, Capital Requirements Directive and Markets in Financial Instruments Directive) and IOSCO Code)	High
2	Reform of the EU market for CRAs and establishment of EU supervisory body for enforcement (CESR) because of dysfunctional market during the crisis	1	Unchanged preference of no new EU reform; still sufficient regulation based on FSAP and IOSCO Code	High
3	Duty of registration and authorisation process for CRAs in the EU; legal representation (office) in an EU member state	1	No registration and authorisation process (accepted after the EU reform was initiated); no need of legal representation in an EU member state	Low
4	Installation of ESMA as new supervisory authority with sanctioning power	2	ESMA accepted due to overall harmonisation of financial services supervision in the EU	Medium
5	Specific RTSS with regard to information for ESMA for registration, ESMA's assessment of methodologies and information for supervision to ESMA	3	Low level of formal requirements and information to be provided to ESMA	Medium

No.	Reform issues and measures	Stage	Preferences of CRA3	Risk for CRA3 business model
II Operations, quality and fair presentation of ratings				
1	Action to secure that employees have no lack of skills	Pre-crisis	No action because lack of skills assessed as sufficient	Medium
2	Specific formal qualification for analysts to secure sufficient skills	1	No formal qualification; lack of skills assessed as sufficient and learning "on the job"	Medium
3	Transparency of methodologies	Pre-crisis	No legal action preferred; transparency assessed as sufficient	Medium
4	Transparency of rating methodology (particularly for structured finance products) - Sufficient information - Disclosure of models, methodologies and key assumptions - Explanation of rating changes and changed conditions for ratings	1	No strong preferences against increased transparency; support of issue to show willingness to re-establish perceived independence and quality of services	Medium
5	Labelling for differentiation of complex ratings (symbol)	1	No strong preferences against this issue; support of issue to show willingness to re-establish perceived independence and quality of services	Low
6	Creation of internal functions to review compliance and quality of ratings - Including a mandatory compliance officer - Including specific rules for at least two independent directors	1	No strong preferences against this issue; support of issue to show willingness to re-establish perceived independence and quality of services	Medium
7	Annual transparency report for better information	1	No strong preferences against this issue; support of issue to show willingness to re-establish perceived independence and quality of services	Low
III Legal treatment of insider information				
1	Lack of legislation for access and use of insider information	Pre-crisis	Sufficient rules based on FSAP and IOSCO Code	Low
2	Specific independence rules to secure no misuse of insider information, disclosure of any conflicts of interests, and to protect property and records in possession from fraud	1	No strong preferences against this issue; support of issue to show willingness to re-establish perceived independence and quality of services	Low

No.	Reform issues and measures	Stage	Preferences of CRA3	Risk for CRA3 business model
IV	Conflicts of interest in the sector			
1	Change of the issuer-pays model	Pre-crisis - ongoing (strongly highlighted during end of stage 2 and stage 3)	No change of issuer-pays model because of missing alternatives without conflicts of interest; conflicts can be managed through appropriate regulation	High
2	Prohibition of advisory services to issuers (particularly for ratings of structured finance products)	Pre-crisis	Strong preference against any prohibition because of no conflicts of interests and proper management of independence	High
3	Prohibition of advisory services (particularly for ratings of structured finance products)	1	Strong preference against any prohibition because of no conflicts of interests and proper management of independence	High
4	Disclosure of unsolicited ratings	Pre-crisis	No need for disclosure of unsolicited ratings	Low
5	Disclosure of unsolicited ratings, their policies and procedures	1	No strong preferences against this issue; support of issue to show willingness to re-establish perceived independence and quality of services	Low
6	At least one third, but no less than two, independent members (directors) in the supervisory board; no link of compensation to ratings	1	No strong preferences against this issue; support of issue to show willingness to re-establish perceived independence and quality of services	Low
7	Rotation of analysts and credit rating committees	1	No rotation supported because of negative impact on rating quality	Medium
8	Shareholding links between CRAs	Pre-crisis	No enforced changes of shareholding structure accepted	Medium
9	Decrease similarity of CRA3 shareholders and manage cross-shareholdings between CRAs and rated entities	3	No enforced changes of shareholding structure preferred because of no impact on independence of ratings	Medium
10	At least two ratings for complex structured financial products	3	Supported because of small risk of impact for them and support of general risk of over-reliance on a single rating	Low
11	Mandatory rotation for CRAs after three years in general, 1 year rotation if more than 10 ratings on debt instruments, maximum duration of six years, appropriate cooling-off period	3	Strong conflicting preference and not supported because of strong impact on customer relationship, increased costs for issuers, higher need of resources, and negative impact on quality	High

No.	Reform issues and measures	Stage	Preferences of CRA3	Risk for CRA3 business model
V	Lack of competition and existing market concentration			
1	Entry barriers and oligopolistic market structure	Pre-crisis - current	Against governmental actions, market rules should develop competition	High
2	European Network of SME CRAs as an answer on the existing market concentration	3 - current	Maintain market structure; customers decide and level the competitive playing field of competition; EU regulation itself increases entry barriers for new competitors	Low
3	Establishment of European Credit Rating Agency	3 - current	No support because strong potential for conflicts of interest and independence doubts of such an agency and potential harm for a competitive playing field	Medium
VI	Overreliance on ratings (mechanistic use)			
1	Increased independence and due diligence of issuers and investors/ independence committee; decreased level of references in investment guidelines of investors	1	No strong preferences against this issue; support of issue to show willingness to re-establish perceived independence and quality of services	Low
2	Limitation of references to external ratings in regulatory capital frameworks by the EU and its member states	3	Note that ratings generally performed well in the past as a yardstick for decision-making, but general acceptance of this issue because they claimed that this use was not advocated by them in the past and they understand the risk of mechanistic use	Medium
3	Lower use of ratings of investment managers in investment policies and guidelines	3	Some support as well, but also awareness that ratings generally performed well and investment managers should make own decisions in consultation with clients	Medium
4	Independent decision-making and due diligences of issuers and investors	3	Supported because market participants relied too heavily on external ratings in the past and should use a variety of measures of creditworthiness	Medium
5	Disclosure in a central repository (CEREP) & applicable RTS	3	Supported to enable access to information about CRA performance in different rating segments	Low

No.	Reform issues and measures	Stage	Preferences of CRA3	Risk for CRA3 business model
VII Improving sovereign debt				
1	Enhance transparency and monitoring of sovereign debt ratings - publication every six months instead of twelve months - publication of full research report - published after close of business and at least one hour before the opening of EU trading venues	3	No need to add additional requirements for sovereign debt ratings; methodologies and processes assessed as quite accurate (independent, transparent and timely); full publication of research report could conflict with intellectual property rights	High
VIII Civil liability of CRAs in the EU				
1	Civil liability to investors and issuers in case of gross negligence (previous discussion about "wrong ratings")	3	Adamant disagreement with position that CRAs should be held liable for any damage directly caused to investors by an incorrect rating; ratings predict the future and this will always lead to inappropriate assessments; existing laws for the protection of investors and issuers are sufficient; liability would be an unfair act and drive CRAs to be more defensive in their ratings; also poses a hurdle for new market entrants	High

Source: Author's own illustration

Appendix I: Analytical table of the CRA3 DPA

Table Appendix I: DPA analysis of the CRA3 preferences and outcomes

No.	Reform issues and measures	Stage	Preference of CRA3	Outcome	Degree of preference attainment - Distance between outcome and ideal point
I EU reform on CRA with supervisory authority					
1	Assessment of sufficient regulation: indirect financial services directives (Market Abuse Directive, Capital Requirements Directive and Markets in Financial Instruments Directive) and self-regulation based on IOSCO Code	Pre-crisis	No new EU reform necessary (sufficient regulation based on Financial Services Action Plan (FSAP) (Market Abuse Directive, Capital Requirements Directive and Markets in Financial Instruments Directive and IOSCO Code)	EU keeps relying on general financial services directives and the self-regulation based on the IOSCO Code of Conduct	Close distance; complete matching between preferences and ideal point of the outcome
2	Reform of the EU market for CRAs and establishment of EU supervisory body for enforcement (CESR) because of dysfunctional market during the crisis	1	Unchanged preference of no new EU reform; still sufficient regulation based on FSAP and IOSCO Code	EU establishes a reform for the first time; new legal framework for CRAs in the EU	Great distance; very small impact on the EU decision to take action
3	Duty of registration and authorisation process for CRAs in the EU; legal representation (office) in an EU member state	1	No registration and authorisation process (accepted after the EU reform was initiated); no need of legal representation in an EU member state	Duty of registration and authorisation process for CRAs in the EU; legal representation (office) in an EU member state	Great distance; very small impact on the EU decision
4	Installation of ESMA as new supervisory authority with sanctioning power	2	ESMA accepted due to overall harmonisation of financial services supervision in the EU	Installation of ESMA as new supervisory authority with sanctioning power	Close distance because no conflicting preference
5	Specific regulatory technical standards (RTSs) with regard to information for ESMA for registration, ESMA's assessment of methodologies and information for supervision to ESMA	3	Low level of formal requirements and information to be provided to ESMA	Specific regulatory technical standards established	Medium distance because CRA3 were involved during the development process of the RTSs and asked for development
II Operations, quality and fair presentation of ratings					
1	Action to secure that employees have no lack of skills	Pre-crisis	No action because lack of skills assessed as sufficient	No action to secure sufficient skills of employees	Close distance; complete matching between preferences and ideal point of the outcome
2	Specific formal qualification for analysts to secure sufficient skills	1	No formal qualification; lack of skills assessed as sufficient and learning "on the job"	No formal qualification established; term says: "appropriate knowledge and experience required"	Close distance between ideal point and outcome
3	Transparency of methodologies; communication of information and assumptions for ratings/ changes of ratings	Pre-crisis	No legal action preferred; transparency assessed as sufficient	No actions to increase transparency of methodologies	Close distance; complete matching between preferences and ideal point of the outcome
4	Transparency of rating methodology (particularly for structured finance products) - Sufficient information - Disclosure of models, methodologies and key assumptions - Explanation of rating changes and changed conditions for ratings	1	No strong preferences against increased transparency; support of issue to show willingness to re-establish perceived independence and quality of services	Specific laws enforced - Sufficient information - Disclosure of models, methodologies and key assumptions - Explanation of rating changes and changed conditions for ratings	Medium distance because CRA3 were "forced to accept" this issue because of the crisis context; ideal point moved because of realising that issue is not avoidable

No.	Reform issues and measures	Stage	Preference of CRA3	Outcome	Degree of preference attainment - Distance between outcome and ideal point
5	Labelling for differentiation of complex ratings (symbol)	1	No strong preferences against this issue; support of issue to show willingness to re-establish perceived independence and quality of services	Labelling for differentiation of complex ratings (symbol)	Medium distance because CRA3 were "forced to accept" this issue because of the crisis context; ideal point moved because of realising that issue is not avoidable and beneficial to re-establish credibility
6	Creation of internal functions to review compliance and quality of ratings - Including a mandatory compliance officer - Including specific rules for at least two independent directors	1	No strong preferences against this issue; support of issue to show willingness to re-establish perceived independence and quality of services	Creation of internal functions to review compliance and quality of ratings - Including a mandatory compliance officer - Including specific rules for at least two independent directors	Medium distance because CRA3 were "forced to accept" this issue because of the crisis context; ideal point moved because of realising that issue is not avoidable and beneficial to re-establish credibility
7	Annual transparency report for better information	1	No strong preferences against this issue; support of issue to show willingness to re-establish perceived independence and quality of services	Annual transparency report for better information enforced	Medium distance because CRA3 were "forced to accept" this issue because of the crisis context; ideal point moved because of realising that issue is not avoidable and beneficial to re-establish credibility
III Legal treatment of insider information					
1	Lack of legislation for access and use of insider information	Pre-crisis	Sufficient rules based on FSAP and IOSCO Code	No action to regulate access and use of insider information	Close distance; complete matching between preferences and ideal point of the outcome
2	Specific independence rules to secure no misuse of insider information, disclosure of any conflicts of interests, and to protect property and records in possession from fraud	1	No strong preferences against this issue; support of issue to show willingness to re-establish perceived independence and quality of services	Specific independence rules to secure no misuse of insider information, disclosure of any conflicts of interests, and to protect property and records in possession from fraud	Medium distance because CRA3 were "forced to accept" this issue because of the crisis context; ideal point moved because of realising that issue is not avoidable and beneficial to re-establish credibility
IV Conflicts of interest in the sector					
1	Change of the issuer-pays model	Pre-crisis - ongoing (strongly highlighted during end of stage 2 and stage 3)	No change of issuer-pays model because of missing alternatives without conflicts of interest; conflicts can be managed through appropriate regulation	No change of the issuer-pays model; analysis revealed that any option comes with weaknesses	Close distance between preferences and ideal point of the outcome
2	Prohibition of advisory services to issuers (particularly for ratings of structured finance products)	Pre-crisis	Strong preference against any prohibition because of no conflicts of interests and proper management of independence	No action to prohibit advisory services	Close distance; complete matching between preferences and ideal point of the outcome
3	Prohibition of advisory services (particularly for ratings of structured finance products)	1	Strong preference against any prohibition because of no conflicts of interests and proper management of independence	- Prohibition of advisory services (no recommendations for design of structured finance products) - Detailed definition of allowed ancillary services (duty of disclosure) - A "grey zone" still exists	Medium distance because CRA3 are still allowed to perform specific ancillary services to issuers and a "grey zone" exists
4	Disclosure of unsolicited ratings	Pre-crisis	No need for disclosure of unsolicited ratings	No disclosure of unsolicited ratings enforced	Close distance; complete matching between preferences and ideal point of the outcome

No.	Reform issues and measures	Stage	Preference of CRA3	Outcome	Degree of preference attainment - Distance between outcome and ideal point
5	Disclosure of unsolicited ratings, its policies and procedures	1	No strong preferences against this issue; support of issue to show willingness to re-establish perceived independence and quality of services	Disclosure of unsolicited ratings, its policies and procedures	Medium distance because CRA3 were "forced to accept" this issue because of the crisis context; ideal point moved because of realising that issue is not avoidable
6	At least one third , but no less than two, independent members (directors) in the supervisory board; no link of compensation to ratings	1	No strong preferences against this issue; support of issue to show willingness to re-establish perceived independence and quality of services	At least one third , but no less than two, independent members (directors) in the supervisory board; no link of compensation	Medium distance because CRA3 were "forced to accept" this issue because of the crisis context; ideal point moved because of realising that issue is not avoidable
7	Rotation of analysts and credit rating committees	1	No rotation supported because of negative impact on rating quality	Enforced gradual rotation mechanism of analysts and committees	Great distance; very small impact on the EU decision to take action
8	Shareholding links between CRAs	pre-regulation	No enforced changes of shareholding structure accepted	No legal actions taken	Close distance; complete matching between preferences and ideal point
9	Decrease similarity of CRA3 shareholders and manage cross-shareholdings between CRAs and rated entities	3	No enforced changes of shareholding structure preferred because of no impact on independence of ratings	Very specific rules on CRAs cross-shareholdings and prohibition of ratings when shareholdings of the rated entity	Great distance; very small impact on the EU decision to take action
10	At least two ratings for complex structured financial products	3	Supported because of small risk of impact for them and support of general risk of overreliance on a single rating	At least two ratings for complex structured financial products	Medium distance because CRA3 were "forced to accept" this issue because of the crisis context; ideal point moved because of realising that issue is not avoidable
11	Mandatory rotation for CRAs after three years in general, 1 year rotation if more than 10 ratings on debt instruments, maximum duration of six years, appropriate cooling-off period	3	Strong conflicting preference and not supported because of strong impact on customer relationship, increased costs for issuers, higher need of resources, and negative impact on quality	Mandatory rotation rules just for specific asset class; length should be proportionate and generally equal to the expired contract, but no longer than four years	Close distance because CRA3 "managed" to get a general mandatory rotation out of the legal framework; ideal point moved because a certain compromise was necessary for the EC
V Lack of competition and existing market concentration					
1	Entry barriers and oligopolistic market structure	Pre-crisis - current	Against governmental actions, market rules should develop competition	No legal actions taken	Close distance; complete matching between preferences and ideal point of the outcome
2	European Network of SME CRAs as an answer on the existing market concentration	3 - current	Maintain market structure; customers decide and level the competitive playing field of competition; EU regulation itself increases entry barriers for new competitors	Initiative still under investigation	Still close distance; complete matching between preferences and ideal point of the outcome
3	Establishment of European Credit Rating Agency	3 - current	No support because strong potential for conflicts of interest and independence doubts of such an agency and potential harm for a competitive playing field	Initiative still under investigation	Still close distance; complete matching between preferences and ideal point of the outcome
VI Overreliance on ratings (mechanistic use)					
1	Increased independence and due diligence of issuers and investors/ independence committee; decreased level of references in investment guidelines of investors	1	No strong preferences against this issue; support of issue to show willingness to re-establish perceived independence and quality of services	Issue "mentioned" in new legislation text	Medium distance because CRA3 were "forced to accept" this issue because of the crisis context; ideal point moved because of realising that issue is not avoidable and beneficial to re-establish credibility

No.	Reform issues and measures	Stage	Preference of CRA3	Outcome	Degree of preference attainment - Distance between outcome and ideal point
2	Limitation of references to external ratings in regulatory capital frameworks by the EU and its member states	3	Note that ratings generally performed well in the past as a yardstick for decision-making, but general acceptance of this issue because they claimed that this use was not advocated by them in the past and they understand the risk of mechanistic use	Regulation and new directive: Member states and European Supervisory Authorities should avoid references to external credit ratings, review their rules and guidelines and remove credit rating references, if they have the potential to create mechanistic effects (if possible); no new EU legislation should refer anymore to external credit rating by 2020	Medium distance because CRA3 had no strong preference against it, even if this could weaken their role in the future
3	Lower use of ratings of investment managers in investment policies and guidelines	3	Some support as well, but also awareness that ratings generally performed well and investment managers should make own decisions in consultation with clients	Regulation and new directive: Financial institutions should not rely solely and mechanistically on external credit ratings	Medium distance because CRA3 had no strong preference against it, even if this could weaken their role in the future
4	Independent decision-making and due diligences of issuers and investors	3	Supported because market participants relied too heavily on external ratings in the past and should use a variety of measures of creditworthiness	Regulation and new directive: Managers shall employ risk-management processes and systems; they should further develop their own rating capabilities	Medium distance because CRA3 had no strong preference against it, even if this could weaken their role in the future
5	Disclosure in a central repository (CEREP) & applicable RTS	3	Supported to enable access to information about CRA performance in different rating segments	CEREP established	Medium distance; ideal point of the outcome close to their preference because of support of this issues and also contact to ESMA for RTSs establishment
VII Improving sovereign debt					
1	Enhance transparency and monitoring of sovereign debt ratings - publication every six months instead of twelve months - publication of full research report - published after close of business and at least one hour before the opening of EU trading venues	3	No need to add additional requirements for sovereign debt ratings; methodologies and processes assessed as quite accurate (independent, transparent and timely); full publication of research report could conflict with intellectual property rights	- Publishing of sovereign debt ratings at least 2 but no more than 3 times (exceptions possible in exceptional circumstances) - Dates must be published by the CRA at the end of the previous year (rating calendar) - Ratings must be published on Friday after EU markets closed and at least one hour before reopening of EU trading venues - Duty of information about underlying facts and assumptions to member states and investors	Great distance; very small impact on the EU decision to take action

No.	Reform issues and measures	Stage	Preference of CRA3	Outcome	Degree of preference attainment - Distance between outcome and ideal point
VIII	Civil liability of CRAs in the EU				
1	Civil liability to investors and issuers in case of gross negligence (previous discussion about "wrong ratings")	3	Adamant disagreement with position that CRAs should be held liable for any damage directly caused to investors by an incorrect rating; ratings predict the future and this will always lead to inappropriate assessments; existing laws for the protection of investors and issuers are sufficient; liability would be an unfair act and drive CRAs to be more defensive in their ratings; also poses a hurdle for new market entrants	Civil liability to issuers and investors in case of gross negligence or intent - Investors or issuers can sue CRAs in cases of intent or gross negligence, even if a contractual relationship between the parties exists. A breach would include ratings which are compromised by conflicts of interest or outside the published calendar	Great distance; very small impact on the EU decision to take action

Source: Author's own illustration

Appendix J: Pre-crisis stage of the AFs reform and analytical table

Relevant EU regulations for audit firms reach back to the 1970s (cf. EU 2006, p.87). These regulations governed statutory audits of annual accounts and consolidated accounts in the EU (for a historical review, cf. Humphrey et al. 2011, pp.433-436). The latest EU regulation before the new initiatives in 2010 started was the Directive 2006/43/EC (cf. EU 2006), which focused on a harmonisation for statutory audits on annual accounts and consolidated accounts in EU member states and highlighted already specific rules for PIEs⁸². The directive introduced stricter rules, but allowed a future growth of non-audit services. It was mentioned during the interviews that the sector perceived this directive as the EU standard for the next decades, but the financial crisis upset their political projections. The implementation of the Directive 2006/43/EC was a year-long process which completed in 2010 due to its complex transition to EU member states (cf. Humphrey et al. 2011, p.439).

The development of this directive and new laws such as the US SOA was caused by the Enron fraud case in 2001, which was formerly one of the largest energy companies in the USA, and the Parmalat case in 2003 (cf. EC 2010e, p.1). The perception of massive failures of auditors was a serious international issue for the sector. These scandals created worldwide mistrust with respect to the role and independence of auditors. To give example, the SOA requested the creation of an independent oversight authority in the USA for audit firms of SEC-listed companies, known as the PCAOB. The Enron scandal destroyed Arthur Andersen's perceived independence, the paramount good for auditors. Arthur Andersen was filleted and other international audit firms took over parts of the business. The brand disappeared, resulting in the existing market domination of the AF4. In summary, the sector came to earn a much stronger mistrust due to market concentration, concerns about independence, and the quality of audit services.

The increased mistrust swept over to the EU sphere. It was learnt during the interviews that the relationships between the EC and the leading audit firms worsened dramatically. Prior to the Enron scandal, the EC and the leading audit firms shared a very close relationship, courtesy of the EU Committee on Auditing. The committee included sector representatives and member states officials for the harmonisation of standards across the EU. The interviewees mentioned that the EC asked for this support

⁸² PIEs are defined as "entities governed by the law of a member state whose transferable securities are admitted to trading on a regulated market of any member state. [...] Member states may also designate other entities as public interest entities, for instance entities that are of significant public relevance because of the nature of their business, their size or the number of employees" (EU 2006, p.92).

because there was a dearth of own resources. Sector experts had been lending their support to the EU on recommendations for independence and accounting rules. Such level of mutual trust, allowing the international audit firms to directly influence the EC, became outdated after the fall of Enron.

In October 2007, the EC commissioned a lengthy study on the ownership rules of audit firms (cf. EC 2007b; Oxera 2007a; Oxera 2007b). Focusing on the the issue of high market concentration of the AF4, the Oxera report discussed how entry barriers for international audits such as missing financial resources or weak international reputation of mid-tier firms could be reduced. In addition, the EC distributed two further EU recommendations to increase the responsibilities of public oversight bodies (cf. EC 2010e, pp.2-3).

From a strategic perspective to optimise their business models, the AF4 could use the existing liberal rules to make large investments in their non-audit services. Enron seemed history and the AF4 focused on profits again. However, a main insight from the Enron collapse was the fundamental conflict of interest resulting from audit and advisory services for the same client (cf. Löhr and Knop 2014). Owing to the financial crisis that started in 2007, restricting non-audit services or even establishing pure audit firms received stronger political awareness again because of concerns about the independence of auditors. Consequently, the AF4 were compelled to establish powerful EU lobbying activities to protect their existing business models, revenue streams, and future strategies. The below citation illustrates the persistent character of protecting their businesses in the political arena.

Interviewee: “The audit profession had always the tendency to fight for their vested rights to the bitter end. [...] We have always defended our existing business model to the finish.”

(Interview with an AF4 Partner, actually responsible for Risk and Reputation and formerly national expert at the EC)

Table Appendix J: Pre-crisis stage of the AFs reform analytical table

Stage	Date	Steps	Documents	Issues/Outcomes
Pre-crisis (1/2)	17.05.2006	New legislation Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and repealing Council Directive 84/253/EEC	- Directive law	<p>Outcomes:</p> <p>Harmonisation of EU statutory audit requirements of annual and consolidated accounts, including a focus on stricter rules for PIEs</p> <p>Chapter I: Subject matter and definitions</p> <ul style="list-style-type: none"> - Article 1: Subject matter - Article 2: Definitions <p>Chapter II: Approval, continuing education and mutual recognition</p> <ul style="list-style-type: none"> - Article 3: Approval, continuing education and mutual recognition - Article 4: Good repute - Article 5: Withdrawal of approval - Article 6: Educational qualifications - Article 7: Examination of professional competence - Article 8: Test of theoretical knowledge - Article 9: Exemptions - Article 10: Practical training - Article 11: Qualification through long-term practical training - Article 12: Combination of practical training and theoretical instruction - Article 13: Continuing education - Article 14: Approval of statutory auditors from other member states <p>Chapter III: Registration</p> <ul style="list-style-type: none"> - Article 15: Public register - Article 16: Registration of statutory auditors - Article 17: Registration of audit firms - Article 18: Updating of registration information - Article 19: Responsibility for registration information - Article 20: Language <p>Chapter IV: Professional ethics, independence, objectivity, confidentiality and professional secrecy</p> <ul style="list-style-type: none"> - Article 21: Professional ethics - Article 22: Independence and objectivity - Article 23: Confidentiality and professional secrecy - Article 24: Independence and objectivity of the statutory auditors carrying out the statutory audit on behalf of audit firms - Article 25: Audit fees <p>Chapter V: Auditing standards and audit reporting</p> <ul style="list-style-type: none"> - Article 26: Auditing standards - Article 27: Statutory audits of consolidated accounts - Article 28: Audit reporting <p>Chapter VI: Quality assurance</p> <ul style="list-style-type: none"> - Article 29: Quality assurance systems <p>Chapter VII: Investigations and Penalties</p> <ul style="list-style-type: none"> - Article 30: Systems of investigations and penalties - Article 31: Auditors' liability <p>Chapter VIII: Public oversight and regulatory arrangements between member states</p> <ul style="list-style-type: none"> - Article 32: Principle of public oversight - Article 33: Cooperation between public oversight systems at community level - Article 34: Mutual recognition of regulatory arrangements between member states - Article 35: Designation of competent authorities - Article 36: Professional secrecy and regulatory cooperation between member states <p>Chapter IX: Appointment and Dismissal</p> <ul style="list-style-type: none"> - Article 37: Appointment of statutory auditors or audit firms - Article 38: Dismissal and resignation of statutory auditors or audit firms <p>Chapter X: Special provisions for the statutory audits of public-interest entities</p> <ul style="list-style-type: none"> - Article 39: Application to non-listed public-interest entities - Article 40: Transparency report - Article 41: Audit committee - Article 42: Independence - Article 43: Quality assurance <p>Chapter XI: International aspects</p> <ul style="list-style-type: none"> - Article 44: Approval for auditors from third countries - Article 45: Registration and oversight of third-country auditors and audit entities - Article 46: Derogation in the case of equivalence - Article 47: Cooperation with competent authorities from third countries

Stage	Date	Steps	Documents	Issues/Outcomes
Pre-crisis (2/2)	17.05.2006	New legislation Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and repealing Council Directive 84/253/EEC	- Directive law	Chapter XII: Transitional and final provisions - Article 48: Committee procedure - Article 49: Amendment of Directive 78/660/EEC and Directive 83/349/EEC - Article 50: Repeal of Directive 84/253/EEC - Article 51: Transitional provision - Article 52: Minimum harmonisation - Article 53: Transposition - Article 54: Entry into force - Article 55: Addressees
	October 2007	Study on the ownership rules of audit firms	- Press release - Oxera report - Oxera report annex	Outcomes: - Clear domination of the audit market for major listed companies by the AF4 - Smaller audit firms would need years of investments to expand and enter an international level - External investor ownership structures instead of auditors itself could increase the level of expansion because of lower cost of capital - Other barriers to enter besides missing capital: reputation, the need for international coverage, international management structures and liability risks - Current ownership structures important to retain human capital - Existing ownership structures also an issue for independence of auditors from a regulatory perspective; but alternative ownership structures assessed are unlikely to impair independence in practice; conflicts of interest could be managed through safeguards

Source: Author's own illustration

Appendix K: Analytical table of the AFs Stage 1

Table Appendix K: AFs Stage 1 analytical table

Stage	Date	Steps	Documents	Issues/Outcomes
Stage 1 (1/5)	11.11.2008 - 28.02.2009	EC consultation on ways to help create more market players	<ul style="list-style-type: none"> - Press release (11.11.2008) - Consultation - Press release (15.07.2009) - Summary report - Contributions authorised for publication 	<p>Outcomes:</p> <ul style="list-style-type: none"> - Further examination after the Oxera report to find ways to increase competition with new players in the international audit market - More international audit firms needed to maintain a sustainable market - The financial turmoil of the financial argument was used as a reason for more international competition, because the current crisis could even expand the existing gap between the AF4 and mid-tier audit firms - Consideration of bringing new capital into the audit market by deleting ownership restrictions (Article 3 (4) of the 2006 Directive) to allow third parties to invest - In addition, finding ways against the existing access barriers for entering the international market (reputation, quality and expertise of staff, low switching rates of companies with regard to their auditors, international reach, differences in independence rules) - The DG Internal Market and Services received 67 responses for its public consultation process, the majority from auditors - Consultation respondents recognise the need for measures to stimulate the market for international audits or at least no further concentration - Further, the majority of respondents (90%) supported to remove entry barriers for international audits - Changed capitalisation rules can be protected by safeguards to secure independence of auditors - Other issues during the stakeholder process: lack of harmonisation of regulatory requirements (independence, professional qualification, multiple registration for cross-border services, liability limitations) - Issues of new governance rules and finding measures to reduce the lack of recognition of mid-tier audit firms (new tendering rules)

Stage	Date	Steps	Documents	Issues/Outcomes
Stage 1 (2/5)	13.10.2010 - 08.12.2010	EC own initiative of non-legal procedure: Consultation on audit policy Green Paper "Lessons from the crisis"	- Press release - Frequently asked questions - Statement by Commissioner Barnier - Green Paper * Numbers refer to the sections of the Green Paper	- The question was raised how - in the wake of the financial crisis - the role of the auditors can be enhanced to reduce any new financial risk in the future Issues: (2)* Role of the auditor - Question if "reasonable assurance" about material misstatement is sufficient for a true and fair view on financial statements; aim for "substance over form" to detect "fraud and error" (2.1) Communication by auditors to stakeholders - Higher level of assurance to stakeholders requested and move back to substantive verification of the balance sheet and less reliance on compliance and system works recommended - Audit behaviour in form of "professional scepticism" questioned - Qualified audit reports and "all or nothing" paradigm discussed - Need of better external communication (level and quality of information provided in audit reports) mentioned - Better internal communication between audit committee, external statutory auditors and internal auditors - Corporate social and environmental responsibility and focus on sustainability issues by auditors - Extension of the auditor's mandate; less reliance on historical information and more forward-looking analysis during audits (2.2) International Standards on Auditing (ISAs) - Adoption of clarified ISAs by EU member states; "when" and "how" (EU legal binding) to introduce ISAs in the EU (3) Governance and independence of audit firms (management of conflicts of interest) - Appointment and remuneration of auditors through third party (e.g. regulator) instead of the audited company itself; special relevance of this concept for large companies and/or systemic financial institutions - Mandatory rotation of audit firms instead of just exchanging "key audit partners" - New non-audit services concept because there is currently no EU-wide ban which restricts auditors from offering non-audit services to audit clients; Article 22 of the Directive just sets out that audit services shall not be provided if the auditor's independence; currently very divergent manner of implementation across the EU member states; potential result of "pure audit firms" because auditors should ideally have no business interest in the company being audited - Fee structure limits to the proportion of fees an audit firm receives from a single client compared to the total audit revenues of the audit firm (issue of dependency from single mandates) - Publication of financial statements of audit firms and question about if these statements shall be audited (by EU or national statutory bodies)

Stage	Date	Steps	Documents	Issues/Outcomes
Stage 1 (3/5)	13.10.2010 - 08.12.2010	EC own initiative of non-legal procedure: Consultation on audit policy Green Paper "Lessons from the crisis"	- Press release - Frequently asked questions - Statement by Commissioner Barnier - Green Paper * Numbers refer to the sections of the Green Paper	- Organisational requirements and corporate governance of audit firms should be strengthened to mitigate conflicts of interest and reinforce independence - Revisiting ownership rules and the partnership model of audit firms to secure liability claims and enable audit firms to raise capital. Current majority voting rights of auditors and control of the management board needs revision; this change could also help mid-tier firms to gain better access to capital and grow more rapidly - Role of group auditors for audits of large groups in multiple jurisdictions shall be reinforced (4) Supervision - Oversight systems should be organised to avoid conflicts of interest with the audit profession; EU supervision needs to be more integrated with closer cooperation between national oversight bodies, option of establishing a new oversight authority on EU level similar to the CRAs (e.g. ESMA) needs to be considered; additional call to reinforce a dialogue between regulators and auditors, particularly for large or listed entities (mandatory rules) (5) Concentration and market structure - Joint audits / Audit consortia to allow mid-tier firms to become active players - Mandatory rotation of auditors and re-tendering also relevant to create a more dynamic audit market with more relevant players, particularly for listed companies - Addressing the Big 4 bias and "Big 4 only"-clauses, option to create a European quality certification for audit firms - Development of a contingency plan or living wills in case of a demise of a systemic audit firm - Reassessment of the drivers of previous consolidation, need of reversal of current structure (6) Creation of a European market - Harmonise European market for the provision of audit service and reduce barriers to the cross-border operation of audit firms which stem from regulatory layers an national, EU and international level (European audit passport) (7) Simplification: Small and medium-sized enterprises (SMEs) and practitioners (SMPs) - Reduce administrative burden for SMEs and impact of regulatory environment for SMPs through limited audits (8) International cooperation - Increase level of trust and create mutual reliance between EU oversight bodies and their counterparts in third countries

Stage	Date	Steps	Documents	Issues/Outcomes
Stage 1 (4/5)	13.10.2010 - 08.12.2010	EC own initiative of non-legal procedure: Consultation on audit policy Green Paper "Lessons from the crisis"	- Access to the consultation (EC summary of responses and individual responses) * Numbers refer to the sections of the Green Paper	Outcomes: - Extensive level of responses (688 total replies), highest level of responses of any consultation in the Internal Market and Services area since the public consultation on Solvency II in February 2008 - Interest groups were clustered as professional bodies/associations, AF4, mid-tier firms and SMPs, investors, public authorities, academics and businesses - 87% of replies from EU member states, more than 63% responses from Germany (291), UK (65), France (45) and Spain (29); 407 replies from the audit profession; all AF4 replied to the consultation (2 & 2.1)* Different views on role of the auditor and communication issues; tendency that financial health assessment is not the purpose of an audit and more related to credit rating agencies; AF4 support that audit is an opinion about if the financial statements give a true and fair view in accordance with the relevant reporting framework (2.2) Broad support of ISAs adoption from professional bodies, AF4, mid-tier firms, SMPs, investors, public authorities, and academics; the view from businesses was less supportive (concerns about applicability for SMPs and SMEs) (3) High salience of governance and independence issues and mixed opinions - Appointment and remuneration through third parties not strongly supported, only in exceptional cases (professional bodies/associations) or for certain PIEs (public authorities); just strong support by investors; AF4 underscore that independence is the unshakeable bedrock of the audit profession and current system works well - Mixed view on mandatory rotation, issue to introduce a limitation/re-tendering for audit engagements for PIEs (e.g. 10 years) introduced (professional bodies/associations, investors, academics); AF strongly against rotation because of studies which proved that rotation negatively impacts audit quality - Conflicting views on prohibition of non-audit services; professional bodies/associations, AF4 and businesses were more opposed against such actions; mid-tier firms and SMPs, and public authorities say that it should be considered for PIEs; investors were more supporting a stronger regulation; academics were strongly supporting either a full cessation of non-audit services or a prohibition for audit clients - The profession and academics supported a maximum level of fees from any single client to reduce economic dependence

Stage	Date	Steps	Documents	Issues/Outcomes
Stage 1 (5/5)	13.10.2010 - 08.12.2010	EC own initiative of non-legal procedure: Consultation on audit policy Green Paper "Lessons from the crisis"	- Access to the consultation (EC summary of responses and individual responses) * Numbers refer to the sections of the Green Paper	- Mixed views on publication of financial statements, organisational requirements and ownership rules with regard to the transparency, governance and structure of audit firms; higher transparency asked by investors and academics - General support to allow access to group auditors' information (4) General support for EU-wide coordination of audit oversight bodies (more integrated) (5) Conflicting views on concentration and market structure single issues - Professional bodies/associations, AF4 and public authorities see no systemic risk for the financial stability in case of a failure of the AF4; mid-tier firms and SMPs, investors and academics see the market concentration as a problem; no clear opinion by businesses about systemic risk of AF4 failure - Very divergent views on joint audits / audit consortia; the AF4 argued against this action and the mid-tier firms and SMPs supported this consideration - Mandatory rotation (please see above) - AF4 against elimination of Big 4 only-clauses, quality certification could be discussed; mid-tier and SMPs would like to see these clauses to be prohibited - Development of a contingency plan supported by professional bodies/regulators, AF4 and public authorities; contingency plans including living wills only supported by investors - No support of reversals of current consolidation; AF4 displayed that the merger from Price Waterhouse and Coopers and Lybrand and the takeovers by Deloitte and EY of certain Arthur Andersen activities were approved by the EC; no support of reversals (6) Creation of a European market - Harmonisation (e.g. qualification and training) of a European market generally supported, but European passport considered as not feasible (EU member state differences) (7) Simplification: Small and medium-sized enterprises (SMEs) and practitioners (SMPs) - Different views from interest groups; support of mid-tier firms and SMPs, businesses, academics for kind of limited audits and less regulation/oversight; no strong level of support from other interest groups (8) General support for strong international cooperation

Source: Author's own illustration

Appendix L: Analytical table of the AFs Stage 2

Table Appendix L: AFs Stage 2 analytical table

Stage	Date	Steps	Documents	Issues/Outcomes
Stage 2 (1/8)	09. - 10.02. 2011	Conference: Financial reporting and auditing. A time for change?	- Chitty (2011)	<p>Outcomes:</p> <ul style="list-style-type: none"> - Key messages by Michel Barnier: "No change in no option"; "The audit market does not work properly" - No single market in the EU and absence is bad for the economy and for society - Measures are needed to make the market more competitive - Quality standards for financial reporting needed to enhance transparency - 2011 will be a year of considerable importance for the audit market - The EU is still coming out of the crisis and lessons learnt are needed - Independence of auditors cannot be assumed and limits of self-regulation are reached - Roles like auditing and providing strategic advisory cannot be combined - Measures focus on restriction of audit services, rotation of auditors, restriction if length of service, enhanced role of audit committee, and greater choice for customers
	09.11.2011	Study on the effects of the implementation of the "acquis" on statutory audits of annual and consolidated accounts including the consequences on the audit market	- Full ESCP study - Executive summary - Annex of the study	<p>Outcomes:</p> <p>(1) Heterogeneous European audit market, with diverse characteristics and two segments</p> <ul style="list-style-type: none"> - Market differences with respect to thresholds for statutory audits, auditor's liability, education and professional training, and market shares as a percentage of GDP - Specific market dynamics for the segments of listed and large companies, and small- and medium-sized firms <p>(2) Main issues for the assessment of market functions</p> <p>(2.1) High concentration in the EU market</p> <ul style="list-style-type: none"> - Market share of the Big 4 moderate in relation to the whole market (below 26% in 19 member states); market shares in Denmark, Luxembourg, Sweden and the UK ranging from 35% to 44% - On the contrary, average market share of the AF4 for listed companies is above 90%; situation is critical in the case of a demise of one of the AF4 - Mid-tier firms are rather national players than international players; weak position in the market for PIEs, the mid-tier firms are challenged by entry barriers (e.g. lack of size and capacity, customer preferences, sector expertise, etc.) <p>(2.2) Quality and independence issues</p> <ul style="list-style-type: none"> - Quality of audit services increasingly challenged because of growing mistrust by investors and regulators - Independence challenged because of low switching rates promotes a mandatory rotation; historical switching rate of UK FTSE250 firms - Independence also challenged because of relatively high level of non-audit services (between 10% and 40%) <p>(2.3) Risks regarding audit fees</p> <ul style="list-style-type: none"> - Market concentration does not correlate with fee levels and shows a good functioning of price setting; strong competition between the AF4 - Risks concern price-making of single AF4 for most concentrated market segments; decreasing fees through price competition could harm audit quality; cross-subsidisation of loss-making audit fees and high-margin consulting services a strong risk because of M&A activity of the AF4 since 2005 <p>(3) Possible measures to improve the EU market adjust to national contexts of EU member states</p> <p>(3.1) No single action is sufficient</p> <ul style="list-style-type: none"> - No "magic bullet" sufficient and a package of measures is necessary <p>(3.2) Priority step to introduce joint audits</p> <ul style="list-style-type: none"> - Concept of joint audits to tackle market concentration and growth of competition (French example); process needs significant time <p>(3.3) Other measures to open up the EU market to mid-tier firms</p> <ul style="list-style-type: none"> - Restriction of "Big 4 clauses" in bank covenants - Reinforce audit committees during tendering and appointment - Disclosure of year of initial auditor appointment - Encourage public sector audits by mid-tier firms to foster growth - Limitation of auditors' liability

Stage	Date	Steps	Documents	Issues/Outcomes
Stage 2 (2/8)	09.11.2011	Study on the effects of the implementation of the "acquis" on statutory audits of annual and consolidated accounts including the consequences on the audit market	<ul style="list-style-type: none"> - Full ESCP study - Executive summary - Annex of the study 	<p>(3.4) Measures to reduce the mistrust and independence concerns</p> <ul style="list-style-type: none"> - Mandatory rotation - Encouraged tendering processes - Long-form of audit reports - Fee restriction for fees from single clients (e.g. 15%) - Stricter rules with regard to the provision of non-audit services for audit clients - Submission of non-audit assignments to the audit committee - Implement ISAs across the EU <p>(3.5) Implication for future reform</p> <ul style="list-style-type: none"> - Legislation should be developed on two levels, for listed firms at EU level (Regulation) and for not-listed firms at national level (Directive); market concentration, non-audit services, joint audits, mandatory rotation could be addressed on EU level for PIEs; more flexible options for non-listed, national audit markets in the EU member states (e.g. company reporting and audit requirements)
	30.11.2011	EC adopted proposals for a regulation of public-interest entities audits and for a directive to enhance the single market for statutory audits	<ul style="list-style-type: none"> - Press release - Frequently asked questions - Technical briefing by Claire Bury - Proposal regulation to increase the quality of audits of financial statements of public-interest entities - Proposal directive to enhance the single market for statutory audits - Impact assessment summary and full text - Video: Financial system reform: towards sounder auditing 	<p>Goals:</p> <ul style="list-style-type: none"> - Clarify and define the role of the auditor - Reinforce the independence and professional scepticism of auditors - Create a more dynamic top-end audit market - Improve the supervision of auditors in the EU - Facilitate the EU cross-border provision of statutory audits - Reduce unnecessary burdens for SMEs <p>Directive Issues:</p> <ul style="list-style-type: none"> - Articulation between the Directive and the new Regulation for statutory audits of PIEs - New definition of statutory audits on the basis of EU member state texts and now also for obliged or voluntary small undertakings - Modification of the ownership rules; majority of voting rights by licensed accountants excluded; ban of minimum of capital or voting rights of auditors or audit firms to increase access to capital - Passport for audit firms throughout the EU member states to allow audit firms to provide statutory audits in other EU member states when the leading audit partner is approved in the concerned member state - Passport for statutory auditors to allow the provision of cross-border statutory audits on a temporary or occasional basis - Cooperation of competing EU authorities with regard to educational requirements and aptitude tests - Requirement to carry out audits in accordance with ISAs - New rules for oversight authorities (e.g. approval, registration and quality assurance of audit firms and auditors) - Prohibition of contractual clauses for the appointment of auditors or audit firms ("Big 4 only"-clauses) - Special rules for the audit of small- and medium-sized undertakings - Special rules for SMEs with regard to proportionate application of new laws - New delegated and implementing powers of the EC for the directive

Stage	Date	Steps	Documents	Issues/Outcomes
Stage 2 (3/8)	30.11.2011	EC adopted proposals for a regulation of public-interest entities audits and for a directive to enhance the single market for statutory audits	<ul style="list-style-type: none"> - Press release - Frequently asked questions - Technical briefing by Claire Bury - Proposal regulation to increase the quality of audits of financial statements of public-interest entities - Proposal directive to enhance the single market for statutory audits - Impact assessment summary and full text - Video: Financial system reform: towards sounder auditing 	<p>Regulation Issues:</p> <p>Title II - Conditions for carrying out statutory audit of PIEs</p> <p>Chapter 1 - Independence and avoidance of conflicts of interest</p> <ul style="list-style-type: none"> - Development of adequate policies and procedures to ensure compliance with independence, internal quality control systems and employee supervision - Prohibition to take up a key management position, become an audit committee member, non-executive member of the administrative body or join the supervisory board within two years after the termination of the audit engagement - Limitation of related financial audit services fees to 10% and appropriate safeguards when total audit fees for a firm reach a significant percentage of total annual fees of the audit firm - Prohibition of certain non-audit services which are fundamentally incompatible with the audit - Assessment of non-audit services which are not fundamentally incompatible by the audit committee - EC empowered to adopt the lists of authorised and prohibited services - Prohibition of non-audit services for audit firms of significant dimension (AF4 pure audit firms) - Independence assessment and confirmation of auditors before accepting or continuing an engagement <p>Chapter 2 - Confidentiality and professional secrecy</p> <ul style="list-style-type: none"> - No use of professional secrecy of auditors to prevent the application <p>Chapter 3 - Performance of the statutory audit</p> <ul style="list-style-type: none"> - Auditors should form an opinion about the true and fair view of the financial statements and the accordance with financial reporting frameworks; no assurance about future viability - Assurance of professional scepticism by auditors and alert about material misstatement due to error or fraud - Basic requirements for statutory audits of PIEs (e.g. key audit partner, sufficient resources, client account record, organisational requirements) - Appropriate measures of the auditor in case of an incident with serious consequences for the integrity of the statutory audit - Additional audit work and information to the oversight authority for group audits of consolidated statements, where the work performed by third-country auditors cannot be documented - Own internal quality reviews before submission of the audit report by independent auditors <p>Chapter 4 - Audit reporting</p> <ul style="list-style-type: none"> - Disclosure of methodology to the public (balance sheet testing, system testing, key risk areas, etc.); explanations for qualified, adverse opinions or disclaimed opinions - New rules for the content of audit reports (e.g. direct verifications or system and compliance testing, levels of applied materiality) - More detailed report for the audit committee (e.g. going concern), which can also be requested by the oversight responsibility - Obligation of a regular dialogue with the supervision authorities for all PIEs

Stage	Date	Steps	Documents	Issues/Outcomes
Stage 2 (4/8)	30.11.2011	EC adopted proposals for a regulation of public-interest entities audits and for a directive to enhance the single market for statutory audits	<ul style="list-style-type: none"> - Press release - Frequently asked questions - Technical briefing by Claire Bury - Proposal regulation to increase the quality of audits of financial statements of public-interest entities - Proposal directive to enhance the single market for statutory audits - Impact assessment summary and full text - Video: Financial system reform: towards sounder 	<ul style="list-style-type: none"> Chapter 5 - Transparency reporting and record keeping - Disclosure of financial information (audit fees by PIE, audit fees by other entities, fees for other services), also on network level - Transparency reports with own corporate governance rules and additional information on audit fees - 5 years record keeping of PIE audit data Title 3 - The appointment of statutory auditors or audit firms by PIEs - Audit committees should be composed by non-executive members with sufficient knowledge about auditing and accounting - Recommendation and explanation for the appointment of auditors from the audit committee to shareholders meeting (duly justified preference) - Prohibition of contractual clauses (bank covenants with "Big 4 only"-clauses) - Mandatory rotation after 6 years (exceptional: 8 years); in case of joint audits 9 years (exceptional 12 years); 4 years cooling-off period; mandatory handover file for incoming auditor - Claim empowerment for audit committee, shareholders, supervision authorities to national court for dismissal of the auditor in case of Title 4 - Surveillance Chapter 1 - Competent authorities - Competent authority for PIE auditors (supervisory and investigative powers) on EU member state level; independent and adequately staffed; applied professional secrecy - Cooperation with other direct authorities and other PIE supervisors (e.g. banking or insurance) on national level Chapter 2 - Quality assurance, investigation, etc. - Review of audit quality assurance; investigations for correct audits; market monitoring incl. concentration issues; transparent report of their activities Chapter 3 - Cooperation between national supervisory authorities and EU supervisory authorities - Cooperation with ESMA for guidance - Voluntary pan-European audit quality certification - ESMA is entrusted to build colleges of supervisory authorities for special tasks Chapter 4 - Cooperation with third countries - ESMA can decide on cooperation agreements Title 5 - Supervisory measures and penalties - Enhanced supervisory measures and sanctioning powers Title 6 - Reporting and transitional and final provisions - Transitional regime for mandatory rotation, tendering, and pure audit firms - Regulatory technical standards should be regularly provided by ESMA

Stage	Date	Steps	Documents	Issues/Outcomes
Stage 2 (5/8)	17.12.2013	Commission proposal: The EU member states and the EP reached a preliminary agreement on a revised Directive and a new Regulation on audit. COREPER endorsed the compromise texts on 18.12.2013. The co-legislators will formally approve the compromise text in the next months	- Statement by Commissioner Barnier	Barnier commented that EU reform was less ambitious than initially proposed Issues: (1) A clarified societal role for auditors - More detailed and informative audit reports, with a focus on information to investors - Stricter transparency requirements with stronger reporting obligations to supervisory authorities; stronger sanctioning power of supervisors - Stronger supervision rules for audit committees and dismissal options for auditors (5% of shareholdings) (2) A strong independence regime - Mandatory rotation after 10 years; extension by up to 10 years in case of tenders; extension of 14 years in case of joint audits; calibrated transition period - Limits for the provision of certain non-audit services - 70% cap on the provision of non-audit services (3) A more dynamic and competitive EU audit market - Enhanced cross-border mobility and harmonisation of ISAs - Prohibition of "Big 4 only" third party clauses - Incentives for joint audit and tendering - Proportionate application for SMPs - Monitoring tools for market concentration - Enhanced cooperation between national supervisors at EU level; ESMA for international cooperation (third countries)
	03.04.2014	Commission proposal: The European Parliament approved in plenary session the preliminary agreement on a revised Directive and a new Regulation on statutory audit. The new rules will strengthen the quality of statutory audit, reinforce the independence of statutory auditors, and improve supervision. Stricter requirements will apply to the statutory audit of public-interest entities	- Statement by Commissioner Barnier - Frequently asked questions - Press release of the European Parliament	Barnier commented again that EU reform was less ambitious than initially proposed Outcomes: (1) A clarified societal role for auditors - More detailed and informative audit reports, with a focus on information to investors - Stricter transparency requirements with stronger reporting obligations to supervisory authorities; stronger sanctioning power of supervisors - Stronger supervision rules for audit committees and dismissal options for auditors (5% of shareholdings) (2) A strong independence regime - Mandatory rotation after 10 years for PIE audits; extension by up to 10 years in case of tenders; extension of 14 years in case of joint audits; calibrated transition period - Limits for the provision of certain non-audit services to audited PIEs - 70% cap on the provision of non-audit services to PIEs (3) A more dynamic and competitive EU audit market - Enhanced cross-border mobility and harmonisation of ISAs - Prohibition of "Big 4 only" third-party clauses - Incentives for joint audit and tendering as well as prohibition of certain PIE non-audit services - Monitoring tools for market concentration - Establishment of the Committee of European Audit Oversight Bodies (CEAOB) for better cooperation on national levels; specific role for ESMA with regard to third countries

Stage	Date	Steps	Documents	Issues/Outcomes
Stage 2 (6/8)	27.05.2014	The Official Journal of the European Union published the amending Directive and the new Regulation on statutory audit	<ul style="list-style-type: none"> - Directive 2014/56/EU amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts - Regulation 537/2014 on specific requirements regarding statutory audit of public-interest entities - Corrigenda to Regulation 537/2014 (11.06.2014; 13.06.2014) 	<p>Directive:</p> <p>Chapter I: Subject matters and definitions</p> <ul style="list-style-type: none"> - Article 1: Articulation between the Directive and the new Regulation - Article 2: New definition of statutory audits as being required by Union law, required by national laws for small undertakings, and voluntary audits of small undertakings; changes for necessary new definitions (e.g. third-country auditor and audit entity, competent authority, public interest entity, etc.) <p>Chapter II: Approval, continuing education and mutual recognition</p> <ul style="list-style-type: none"> - Article 3: Slight changes for the designation of competent authorities by each member state; changed ownership rules to increase access to capital - Article 3a (new): Recognition of audit firms in EU member states and the possibility to perform statutory audits in other member states (EU passport for audit firms and auditors) - Article 5: Slight change for communication of the withdrawal of an approval for auditors or audit firms to host member state - Article 6: Cooperation for educational qualifications between member states and with the CEAOB - Article 8: ISAs as necessary theoretical knowledge for tests - Article 10: Minor changes for practical training requirements - Article 13: Minor change of sanctions instead of penalties for failings of continuing education <p>Chapter III: Registration</p> <ul style="list-style-type: none"> - Article 15: Minor wording change of public register requirement - Article 17: Minor addition for registration of audit firms <p>Chapter IV: Professional ethics, independence, objectivity, confidentiality and professional secrecy</p> <ul style="list-style-type: none"> - Article 21: Scepticism added in title and explicit paragraph on professional scepticism - Article 22: More detailed independence and objectivity rules; 22a - new rules for later employment of auditors in audited companies (1 year stand-still for audits and 2 year stand-still for PIE audits); 22b - stronger independence testing by auditors and monitoring of member states - Article 23: No professional secrecy for the enforcement of the Directive and Regulation amended; also access to group auditors facilitated and specifications for third-country audits - Article 24a: New detailed rules for internal organisation, policies and procedures of audit firms; additional rules for member state supervision - Article 25a: New scope definition without assurance of future viability and the efficiency and effectiveness of the management of the audited firm (only where applicable) <p>Chapter V: Auditing standards and audit reporting</p> <ul style="list-style-type: none"> - Article 26: ISAs as new standards on EU level <p>Chapter VI: Quality assurance</p> <ul style="list-style-type: none"> - Article 29: Changes for quality assurance systems including proportionate reviews for small- and medium-sized audit firms <p>Chapter VII: New chapter for investigations and sanctions</p> <ul style="list-style-type: none"> - Article 30: Systems of investigations and sanctions precised - Article 30a: New sanctioning powers for member states - Article 30b: Effective application of sanctions - Article 30c: Publication of sanctions and measures - Article 30d: Right of appeal - Article 30e: Reporting of breaches - Article 30f: Exchange of information with CEAOB <p>Chapter VIII: Public oversight and regulatory arrangements between member states</p> <ul style="list-style-type: none"> - Article 32: Principles of member state public oversight more precised - Article 34: Mutual recognition of member state oversight more precised - Article 36: Specifications for professional secrecy and regulatory cooperation between member states <p>Chapter IX: Appointment and dismissal</p> <p>Chapter X: New chapter for audit committee</p> <ul style="list-style-type: none"> Article 39: Audit committee required for each PIE and has to be ensured by member states; further specification for audit committees <p>Chapter XI: International aspects</p> <ul style="list-style-type: none"> - Article 45: Adjusted registration rules for third-country auditors - Articles 46 and 47: New derogation of equivalence rules and specification of cooperation with third countries <p>Chapter XII: Transitional and final provisions adjusted to new legislation</p>

Stage	Date	Steps	Documents	Issues/Outcomes
Stage 2 (7/8)	27.05.2014	The Official Journal of the European Union published the amending Directive and the new Regulation on statutory audit	<ul style="list-style-type: none"> - Directive 2014/56/EU amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts - Regulation 537/2014 on specific requirements regarding statutory audit of public-interest entities - Corrigenda to Regulation 537/2014 (11.06.2014; 13.06.2014) 	<p>Regulation:</p> <p>Title I: Subject matter, scope and definitions</p> <p>Article 1: Subject matter</p> <p>Article 2: Scope</p> <p>Article 3: Definitions</p> <p>Title II: Conditions for carrying out statutory audit of PIEs</p> <p>Article 4: Audit fees shall be no contingent fees; non-audit fees are not allowed to be more than 70% of the average audit fees of the last 3 years (exception upon request); disclosure to and decision by audit committee about the statutory auditor or audit firm continuation, if the audit fees of the last 3 years were more than 15% of the total fees of the auditor or audit firm (threat of independence); possibility for more stringent rules in member states</p> <p>Article 5: Prohibition of the provision of non-audit services (e.g. specific tax services and advice, support for management decision-making, legal services, cost control services, etc.); further restrictions by member states possible; subject to approval by audit committee; specific rules for third-country services</p> <p>Article 6: Strict auditor confirmation about independence on yearly level to audit committee, after auditor's assessment and documentation</p> <p>Article 7: Irregularities such as fraud have to be communicated to the audited company and, of no actions taken by the audited firm, to the competent authority</p> <p>Article 8: Engagement quality control review requested before audit reports are issued by independent auditor; specific details required</p> <p>Article 9: ISAs as auditing standards throughout the EU</p> <p>Article 10: Specifications for audit reports</p> <p>Article 11: Additional long-form audit report to the audit committee (including independence statements, level of material audit testings, methodology explanations, etc.)</p> <ul style="list-style-type: none"> - Article 12: Specific reporting rules to supervisors of PIEs - Article 13: Transparency report for auditors and audit firms of PIEs requested - Article 14: Information for competent authorities each year about audited PIEs and revenues (audit and non-audit services) - Article 15: 5 years duty of record keeping <p>Title III: The appointment of statutory auditors and audit firms by PIEs</p> <ul style="list-style-type: none"> - Article 16: Appointment by shareholder meeting on recommendation of the audit committee; at least 2 choices and communication of the recommendation to competent authority; no "Big 4 only"-clauses; quality standards defined by the EU or national law; further specifications on tender process and appointment - Article 17: Maximum duration of 10 years; 4 years cooling-off period; extension by up to 10 years in case of yearly tendering processes; extension of up to 14 years in case of joint audits; additional exception of maximum 2 years after an extension; key audit partner rotation after not more than 7 years; gradual rotation of audit teams - Article 18: Duty to handover a file in case of a replacement by - Article 19: Information about the dismissal and resignation of auditors from member state authorities to EU authority <p>Title IV: Surveillance</p> <p>Chapter 1: Competent authorities</p> <ul style="list-style-type: none"> - Article 20: Designation of competent authority by member states - Article 21: Specific conditions for independence of competent authorities - Article 22: Professional secrecy in relation to competent authorities - Article 23: Powers of competent authorities - Article 24: Delegation of tasks to other bodies or authorities - Article 25: Cooperation with other competent authorities at national level <p>Chapter II: Quality assurance, market monitoring, and transparency of competent authorities</p> <ul style="list-style-type: none"> - Article 26: Specifications for quality assurance of competent authorities (e.g. inspectors, scope, reports, etc.) - Article 27: Requirement of market quality and competition monitoring of competent authorities (e.g. market concentration, quality of audit committees, etc.) - Article 28: Rules on transparency for competent authorities (e.f. annual activity reports) <p>Chapter III: Cooperation between competent authorities and EU supervision</p> <ul style="list-style-type: none"> - Article 29: Obligation to cooperate - Article 30: Establishment of the CEA OB (1 member of each member state, regular meetings, specification of role, etc.)

Stage	Date	Steps	Documents	Issues/Outcomes
Stage 2 (8/8)	27.05.2014	The Official Journal of the European Union published the amending Directive and the new Regulation on statutory audit	<ul style="list-style-type: none"> - Directive 2014/56/EU amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts - Regulation 537/2014 on specific requirements regarding statutory audit of public-interest entities - Corrigenda to Regulation 537/2014 (11.06.2014; 13.06.2014) 	<ul style="list-style-type: none"> - Article 31: Cooperation with regard to quality assurance reviews, investigations and on-site inspections - Article 32: Colleges of competent authorities for specific cases - Article 33: Possibility of delegation of tasks - Article 34: Confidentiality and professional secrecy in relation to cooperation among competent authorities - Article 35: Protection of personal data Chapter IV: Cooperation with third-country authorities and with international organisations and bodies - Article 36: Agreement on exchange of information and notification to CEAOB - Article 37: Disclosure of information received from third countries - Article 38: Disclosure of information transferred to third countries - Article 39: Exercise of the delegation for ISAs; 5 years from 16th June 2014 and further specifications - Article 40: Review and reports by the EC on the competent authorities and CEAOB - Article 41: Transitional provisions for the new laws - Article 42 - 44: Right for appropriate national provisions, repeal of a former decision, and entry into force from 17 June 2016; just prohibition of "Big 4 only"-clause shall apply from 17 June 2017
	16.06.2014 - EU laws dated 16.04.2014	New legislation to improve the quality of statutory audit across the EU has now entered into force. Key measures include strengthening the independence of statutory auditors, making the audit report more informative, and improving audit supervision throughout the Union. Stricter requirements will apply to public-interest entities. The new legislation will become applicable in mid-2016	<ul style="list-style-type: none"> - Press release - Frequently asked questions - Text of Directive 2014/56/EU amending Directive 2006/43/EC - Text of Regulation 537/2014 - Consolidated version of Directive 2006/43/EC 	- please refer to the above information from 27.05.2014

Source: Author's own illustration

Appendix M: Current stage of the AFs and analytical table

The amended directive and the new regulation carried many implications for the EU member states. Consequently, the lobbying activities of the AF4 moved to the competent authorities in the EU member states. The AF4 were interested to influence the EU member states for a favourable application of the new EU laws. One of the major criticisms of the AF4 was the missing harmonisation of mandatory rotation cycles across the EU member states. The AF4 claimed that the EU faced time pressure for adopting the new laws before the EU parliamentary period ended by mid of 2014. They accused the EC that they ignored this problem. From the perspective of larg PIE audits, this is a correct objection. For example, an international PIE headquartered in Germany could have other rotation rules than its subsidiaries in other EU member states. A feasible alternative could have been that the rotation cycle of the PIE headquarter firm would specify the rotation cycles of the subsidiaries as well. On the other hand, this action would have influenced the autonomy of each EU member state. The challenge of a proper implementation of the new EU rules was discussed by the EC. The letter from Jonathan Faull, General Director for Internal Market and Services, was addressed to the national oversight bodies and dealt with the mandatory rotation of PIE audits. To give example, the EC answered more questions about the new laws with regard to other rules such as the calculation of the 70% fee cap on non-audit services or new rules on audit reports.

Table Appendix M: Current stage of the AFs analytical table

Stage	Date	Steps	Documents	Issues/Outcomes
Current stage (1/1)	03.09.2014	The EC published "Questions and answers" in order to facilitate the implementation of the new EU regulatory framework on statutory audit, and contribute to a consistent application of the new framework across the Union. The Q&A is a work in progress	- Questions and answers on the audit reform - Letter by Jonathan Faull - Director-General for Internal Market and Services - to the national oversight bodies on the mandatory rotation of statutory auditors and audit firms and transitional provisions	Issues: - Information by Jonathan Faull particularly with regard to mandatory rotation and exceptional transition periods - Further questions answered by the EC on specific rules such as entry into force, calculation of the 70% fee cap, prohibition of non-audit services, new rules on audit reports, and application of ISAs

Source: Author's own illustration

Appendix N: Analytical table of the preferences of the AF4

Table Appendix N: AF4 preferences on level of single proposed measures

No.	Reform issues and measures	Stage	Preference of AF4	Risk for AF4 business model
I New EU reform for AFs				
1	Initiation of a new EU reform to enhance the quality and independence of audits across the EU	1	Free liberal market should be maintained, but commitment to support better EU rules and a reform for future stability, growth and public trust	High
2	Better explanation of the societal role of the audit with regard to the veracity of financial statements	1	Support of discussion and dialogue with regulators about the societal role because of the crisis and reduce the expectation gap (greater clarity)	Low
II Role of the auditor				
II.I Communication by auditors to stakeholders				
1	Audit reports should provide comfort on the financial health of companies	1	Disagreement because auditor's role is to give an opinion about true and fair financial statements in accordance with relevant reporting frameworks; going concern statement already included	Medium
1.2 D	Auditors should form an opinion about the true and fair view of the financial statements and the accordance with financial reporting frameworks; no additional assurance about future viability	2	Agreement because auditor's role is to give a opinion about true and fair financial statements in accordance with relevant reporting frameworks; going concern statement already included	Low
2	Better explanation about the audit methodology to bridge the expectation gap and clarify the role of auditors	1	Some support; more detailed methodology explanations can be discussed to close the expectation gap here as well, but there are better measures for clarifications (e.g. the report to the audit committee); against disproportionate costs of more substantive audits	Medium
2.1 R	Disclosure of methodology to the public (balance sheet testing, system testing, key risk areas, etc.); explanations for qualified, adverse opinions or disclaimed opinions	2	Some support; more detailed methodology explanations can be discussed to close the expectation gap here as well, but there are better measures for clarifications (e.g. the report to the audit committee); against disproportionate costs of more substantive audits	Medium
3	Reinforcement of professional scepticism	1	Not assessed as necessary because professional scepticism is already demonstrated by the profession; ongoing reinforcement is driven by the profession and already a key requirement; also included in ISAs	Low
3.1 R	Assurance of professional scepticism by auditors and alert about material misstatement due to error or fraud	2	Not assessed as necessary; however, acceptance to increase the quality of communication of the profession; this kind of information already included in the vast majority of audit reports	Low

No.	Reform issues and measures	Stage	Preference of AF4	Risk for AF4 business model
4	Change of the qualification of audit reports to address the "all or nothing"-paradigm	1	No support because the existing system sends out a clear statement to the market with a going concern statement; relative performances are not reasonable for financial statements because of subjective preferences	Medium
5	Better provision of information to external stakeholders	1	Weak support because longer reports do not increase the understanding; the companies are responsible to provide all necessary information; against disproportionate costs because of new rules; some support for special PIE rules and some context areas of corporate reporting (e.g. business model)	Low
5.1 R	New rules for the content of audit reports (e.g. direct verifications or system and compliance testing, levels of applied materiality)	2	No preference against this measure because of support of higher transparency and many reports already include this information	Low
6	Better internal communication between external auditors, internal auditors, and the audit committee	1	Supported on the basis of the new ISAs because better transparency could be achieved; however, dialogues are assessed as already adequate and sufficient; importance of high-quality internal and external audit teams	Low
6.1 R	More-detailed report for the audit committee (e.g. going concern), which can also be requested by the oversight responsibility	2	Measure supported because of previous recommendations	Low
7	A role for auditors to ensure the information in the field of CSR	1	Decision depends on the need of and value for stakeholders and new standards for the reporting; profession already provides such information for many clients	Medium
8	More regular communication by the auditor to stakeholders and a reduction of the time gap between year-end and audit opinion	1	Some support, but quality is more important than frequency and speed; many PIEs ask already for voluntary audits (half-year, quarter); cost/benefit analysis is necessary; no reduction of the time gap needed and only on specific case consultations	Medium
II.II	International Standards on Accounting			
1	Introduction of ISAs in the EU	1	Broad support for the implementation of ISAs because of better standards, reduced costs and overall harmonisation of the market	Low
2	Legally binding rules and further encouragement through non-binding legal instruments	1	Legally binding rules supported to reach a consistency throughout the EU (EU Regulation proposed by the AF4)	Low
2.2 D	Requirement to carry out audits in accordance with ISAs	2	Legally binding rules supported to reach a consistency throughout the EU (EU Regulation proposed by the AF4)	Low

No.	Reform issues and measures	Stage	Preference of AF4	Risk for AF4 business model
3	ISAs adapted for the needs of SMEs and SMPs	1	No support because ISAs already contain specific considerations	Low
III Governance and independence of audit firms (conflicts of interest)				
1	Change of the appointment and remuneration model (third party instead of audited entity); for all firms or just for PIEs	1	No support at all because no existing conflicts and current system works well with effective audit committees (adequate safeguards); problem of disenfranchisement of audit committees and shareholders and regulator's liability for audit failures; some support for early notification of regulators about proposed PIE auditors	High
1.1 R	Recommendation and explanation for the appointment of auditors from the audit committee to shareholders meeting (duly justified preference); audit committees should be composed by non-executive members with sufficient knowledge	2	Support because of existing professional processes and avoidance of third-party appointments	Low
1.2 R	Claim empowerment for audit committee, shareholders, supervision authorities to national court for dismissal of the auditor in case of proper grounds	2	Support because of existing professional processes and avoidance of third-party appointments	Low
2	Mandatory rotation to limit the continuous engagement of audit firms	1	Strong opposition because mandatory audits harm audit quality, increases costs for the firms and carries many difficulties for multi-national companies	High
2.1 R	Mandatory rotation after 6 years (8 years in case of regular tendering); in case of joint audits 9 years (exceptional 12 years); 4 years cooling-off period; mandatory handover file for incoming auditor	2	Strong opposition because mandatory audits harm audit quality, increases costs for the firms and carries many difficulties for multinational companies	High
3	Establishment of pure audit firms and ban of non-audit services; for all firms or just for PIEs	1	Strong opposition because of economic independence of audit firms, necessary skills and expertise, and growth for the businesses in Europe; non-audit services have no impact on totally unrelated firms; some appreciation for specific restrictions or audit committee approvals for PIEs (systemic companies)	High

No.	Reform issues and measures	Stage	Preference of AF4	Risk for AF4 business model
3.1 R	Prohibition of certain non-audit services which are fundamentally incompatible with the audit; assessment of non-audit services which are not fundamentally incompatible by the audit committee; EC empowered to adopt the lists of authorised and prohibited services; prohibition of non-audit services for audit firms of significant dimension (AF4 pure audit firms)	2	Strong opposition because of economic independence of audit firms, necessary skills and expertise, and growth for the businesses in Europe; non-audit services have no impact on totally unrelated firms; some appreciation for specific restrictions or audit committee approvals for PIEs (systemic companies)	High
4	Reduce maximum level of audit fees from single customers (importance for SMPs)	1	Support for a maximum level and transparency of fees because of auditor economic independence	Low
5	More transparency about the financial statements of audit firms	1	No support because existing laws (e.g. Article 40 of the 8th Directive) are sufficient and provide adequate transparency, e.g. transparency reports of PIE auditors to local oversight authorities	Low
5.1 R	Disclosure of financial information (audit fees by PIE, audit fees by other entities, fees for other services), also on network level	2	No support because existing laws (e.g. Article 40 of the 8th Directive) are sufficient and provide adequate transparency, e.g. transparency reports of PIE auditors to local oversight authorities	Low
6	Strengthening of audit firms' corporate governance and more organisational requirements	1	Support about alternative structures only, but just preferred on a voluntary basis	Medium
6.1 R	Development of adequate policies and procedures to ensure compliance with independence, internal quality control systems and employee supervision	2	Support to strengthen the independence of audit firms and quality of services; measures already adopted in a large extent by the AF4 in advance	Medium
6.2 R	Prohibition to take up a key management position, become an audit committee member, non-executive member of the administrative body or join the supervisory board within two years after the termination of the audit engagement	2	Support to strengthen the independence of audit firms and quality of services; measures already adopted in a large extent by the AF4 in advance	Low
6.3 R	Limitation of related financial audit services fees to 10% and appropriate safeguards when total audit fees for a firm reach a significant percentage of total annual fees of the audit firm	2	Support to strengthen the independence of audit firms and quality of services; measures already adopted in a large extent by the AF4 in advance	Low
6.4 R	Independence assessment and confirmation of auditors before accepting or continuing an engagement	2	Support to strengthen the independence of audit firms and quality of services; measures already adopted in a large extent by the AF4 in advance	Low
6.5 R	Basic requirements for statutory audits of PIEs (e.g. key audit partner, sufficient resources, client account record, organisational requirements)	2	Support to strengthen the independence of audit firms and quality of services; measures already adopted in a large extent by the AF4 in advance	Low

No.	Reform issues and measures	Stage	Preference of AF4	Risk for AF4 business model
6.6 R	Appropriate measures of the auditor in case of an incident with serious consequences for the integrity of the statutory audit	2	Support to strengthen the independence of audit firms and quality of services; measures already adopted in a large extent by the AF4 in advance	Low
6.7 R	Own internal quality reviews before submission of the audit report by independent auditors	2	Support to strengthen the independence of audit firms and quality of services; measures already adopted in a large extent by the AF4 in advance	Low
7	Revisiting ownership rules and the partnership model to raise capital from external sources	1	Support for alternative structures only on a voluntary basis; capital would be allocated more to the leading firms, if this measure will be established	Low
7.1 D	Modification of the ownership rules; majority of voting rights by licensed accountants excluded; ban of minimum of capital or voting rights of auditors or audit firms to increase access to capital	2	Support for alternative structures only on a voluntary basis; capital would be allocated more to the leading firms, if this measure will be established	Low
8	Enforce the role of group auditors	1	Support for better group auditor's access to documents, which are already fostered by the ISAs (ISA 600)	Low
8.1 R	Additional audit work and information to the oversight authority for group audits of consolidated statements, where the work performed by third-country auditors can not be documented	2	Support for better group auditor's access to documents, which are already fostered by the ISAs (ISA 600)	Low
IV	Supervision			
1	Better integration and cooperation of audit firm supervision at EU level	1	Support for EU-wide coordination of audit oversight bodies, but no integration into a new European oversight authority	Low
1.1 D	New rules for oversight authorities (e.g. approval, registration and quality assurance of audit firms and auditors)	2	Support for EU-wide coordination of audit oversight bodies, but no integration into a new European oversight authority	Low
1.2 D	New delegated and implementing powers of the EC for the directive	2	Support for EU-wide coordination of audit oversight bodies, but no integration into a new European oversight authority	Low
1.3 R	No use of professional secrecy of auditors to prevent the application of the regulation	2	Measure acceptable for the AF4 because of support of EU-wide coordination	Low
1.4 R	Competent authority for PIE auditors (supervisory and investigative powers) on EU member state level; independent and adequately staffed; applied professional secrecy	2	Measure acceptable for the AF4 because of support of EU-wide coordination	Low
1.5 R	Cooperation with other direct authorities and other PIE supervisors (e.g. banking or insurance) on national level	2	Measure acceptable for the AF4 because of support of EU-wide coordination	Low

No.	Reform issues and measures	Stage	Preference of AF4	Risk for AF4 business model
1.6 R	Cooperation with ESMA for guidance; voluntary pan-European audit quality certification; ESMA is entrusted to build colleges of supervisory authorities for special tasks; regulatory technical standards should be regularly provided by ESMA	2	Measure acceptable for the AF4 because of support of EU-wide coordination	Low
1.7 R	Enhanced supervisory measures and sanctioning powers of competent authorities	2	Measure acceptable for the AF4 because of support for increased stability of the audit market	Low
2	Increased consultation and communication between PIE auditors and regulators	1	Some support for increased communication (e.g. by auditors' contributions to the newly created European Systemic Risk Board), particularly between auditors of financial services firms and EU regulators of financial services firms	Low
2.1 R	Obligation of a regular dialogue with the supervision authorities for all PIEs	2	Support of this measure because of previous recommendations	Low
3	Transitional regime for mandatory rotation, tendering, and pure audit firms	2	Support of transitional periods, but strong opposition against the specific proposals	High
V	Concentration and market structure			
1	Mandatory joint audits and audit consortia for PIEs	1	No support because of concerns about audit quality and negative impact on coordination of audits; form of audits should be market-led	High
2	Mandatory rotation and tendering after a fixed period (please see III.2)	1	Strong opposition because mandatory audits harm audit quality, increases costs for the firms and carries many difficulties for multinational companies	High
2.1	Mandatory rotation after 6 years (exceptional: 8 years); in case of joint audits 9 years (exceptional 12 years); 4 years cooling-off period; mandatory handover file for incoming auditor	2	Strong opposition because mandatory audits harm audit quality, increases costs for the firms and carries many difficulties for multinational companies	High
3	Ban of "Big 4 only"-clauses	1	Support that these artificial clauses should be discouraged; reputation is built over many years; some support for European quality certification	Low
3.1 D	Prohibition of contractual clauses for the appointment of auditors or audit firms ("Big 4 only"-clauses)	2	Support that these artificial clauses should be discouraged; reputation is built over many years; some support for European quality certification	Low
3.2 R	Prohibition of contractual clauses (bank covenants with "Big 4 only"-clauses)	2	Support that these artificial clauses should be discouraged; reputation is built over many years; some support for European quality certification	Low

No.	Reform issues and measures	Stage	Preference of AF4	Risk for AF4 business model
4	Development of contingency plans including living wills for systemic-relevant AF4	1	Some support to develop contingency plans (serious consideration), e.g. for cases of disorderly failure; no support for living wills	Medium
5	Definition of circumstances for a reversal of the existing oligopoly	1	No support for any reversals because all past mergers have been approved by the EC	High
VI Creation of a European market				
1	Enhance cross-border mobility of audit professionals ("European passport for auditors")	1	General support, but caution for local requirements, which are crucial for quality standards of audits; support for harmonised qualification and training	Low
1.1 D	Passport for audit firms throughout the EU member states to allow audit firms to provide statutory audits in other EU member states when the leading audit partner is approved in the concerned member state; Passport for statutory auditors to allow the provision of cross-border statutory audits on a temporary or occasional basis	2	General support, but caution for local requirements, which are crucial for quality standards of audits; support for harmonised qualification and training requirements	Low
1.2 D	Cooperation of competing EU authorities with regard to educational requirements and aptitude tests	2	General support, but caution for local requirements, which are crucial for quality standards of audits; support for harmonised qualification and training requirements	Low
VII Simplification for SMEs and SMPs				
1	Limited audits for SMEs and SMPs	1	No general support for simplified reports, but some support to facilitate audits for SMEs	Low
1.1 D	Special rules for the audit of small- and medium-sized undertakings	2	No general support for simplified reports, but some support to facilitate audits for SMEs	Low
2	Specific adjustments for SMEs and SMPs with regard to a provision of non-audit services	1	No general support because non-audits service do no generally harm audit services; existing codes (IESBA Code of Ethics) already include specifications for SMEs	Low
2.1 D	Special rules for SMEs with regard to proportionate application of new laws	2	No strong preference against this measure	Low
3	Lower internal quality control rules and public oversight for limited audits	1	No support for less stringent internal controls	Low
VIII International cooperation				
1	Measurers for better international cooperation on audit oversight	1	Broad support for international harmonisation on initiatives of the EC and EGAOB	Low
1.1 R	ESMA can decide on cooperation agreements with third countries	2	Broad support for international harmonisation on initiatives of the EC and EGAOB	Low

Source: Author's own illustration

Appendix O: Analytical table of the AF4 DPA

Table Appendix O: DPA analysis of the AF4 preferences and outcomes

No.	Reform issues and measures	Stage	Preference of AF4	Outcome	Degree of preference attainment - Distance between outcome and ideal point
I New EU reform for AFs					
1	Initiation of a new EU reform to enhance the quality and independence of audits across the EU	1	Free liberal market should be maintained, but commitment to support better EU rules and a reform for future stability, growth and public trust	New EU reform initiated	Medium distance because AF4 were "forced to accept" this issue because of the crisis context; ideal point moved because of realising that issue is not avoidable
2	Better explanation of the societal role of the audit with regard to the veracity of financial statements	1	Support of discussion and dialogue with regulators about the societal role because of the crisis and reduce the expectation gap (greater clarity)	Discussion foremost during the 1st stage consultation process; new legal frameworks as a consequence	Close distance because of AF4 preference to strengthen the understanding about the role of auditors
II Role of the auditor					
II.1 Communication by auditors to stakeholders					
1	Audit reports should provide comfort on the financial health of companies	1	Disagreement because auditor's role is to give an opinion about true and fair financial statements in accordance with relevant reporting frameworks; going concern statement already included	No new definition transferred into law; measure was adjusted (see 1.2 D)	Close distance because measure was adjusted by the EC
1.2 D	Auditors should form an opinion about the true and fair view of the financial statements and the accordance with financial reporting frameworks; no additional assurance about future viability	2	Agreement because auditor's role is to give an opinion about true and fair financial statements in accordance with relevant reporting frameworks; going concern statement already included	Existing definition was reinforced and no assurance about the future viability	Close distance between ideal point and outcome
2	Better explanation about the audit methodology to bridge the expectation gap and clarify the role of auditors	1	Some support; more detailed methodology explanations can be discussed to close the expectation gap here as well, but there are better measures for clarifications (e.g. the report to the audit committee); against disproportionate costs of more substantive audits	Measure was included in later regulation for PIE audits just for long reports to the audit committee	Close distance between ideal point and outcome
2.1 R	Disclosure of methodology to the public (balance sheet testing, system testing, key risk areas, etc.); explanations for qualified, adverse opinions or disclaimed opinions	2	Some support; more detailed methodology explanations can be discussed to close the expectation gap here as well, but there are better measures for clarifications (e.g. the report to the audit committee); against disproportionate costs of more substantive audits	New specifications in the directive (Article 28) are applied for the regulation as well; in addition some further (minor) requirements; methodology and opinion explanations for long report to the audit committee	Close distance between ideal point and outcome
3	Reinforcement of professional scepticism	1	Not assessed as necessary because professional scepticism is already demonstrated by the profession; ongoing reinforcement is driven by the profession and already a key requirement; also included in ISAs	Article inserted in proposed regulation of PIE audits	Medium distance because AF4 do not see a specific clause as necessary
3.1 R	Assurance of professional scepticism by auditors and alert about material misstatement due to error or fraud	2	Not assessed as necessary; however, acceptance to increase the quality of communication of the profession; this kind of information already included in the vast majority of audit reports	Article excluded in final text of the regulation; adjustment made for directive (Article 21)	Medium distance because AF4 do not see a specific clause as necessary

No.	Reform issues and measures	Stage	Preference of AF4	Outcome	Degree of preference attainment - Distance between outcome and ideal point
4	Change of the qualification of audit reports to address the "all or nothing"-paradigm	1	No support because the existing system sends out a clear statement to the market with a going concern statement; relative performances are not reasonable for financial statements because of subjective preferences	No change of the qualification of audit reports	Close distance between ideal point and outcome
5	Better provision of information to external stakeholders	1	Weak support because longer reports do not increase the understanding; the companies are responsible to provide all necessary information; against disproportionate costs because of new rules; some support for special PIE rules and some context areas of corporate reporting (e.g. business model)	New rules included in final directive (Article 28) and regulation (Article 10), but no significant changes for reports	Medium distance because AF4 do not see a specific clause as necessary
5.1 R	New rules for the content of audit reports (e.g. direct verifications or system and compliance testing, levels of applied materiality)	2	No preference against this measure because of support of higher transparency and many reports already include this information	New rules included in final directive (Article 28) and regulation (Article 10), but no significant changes for reports	Medium distance because AF4 do not see a specific clause as necessary
6	Better internal communication between external auditors, internal auditors, and the audit committee	1	Supported on the basis of the new ISAs because better transparency could be achieved; however, dialogues is assessed as already adequate and sufficient; importance of high-quality internal and external audit teams	New rules included in final regulation (Article 11: Additional report to the audit committee)	Close distance between ideal point and outcome
6.1 R	More-detailed report for the audit committee (e.g. going concern), which can also be requested by the oversight responsibility	2	Measure supported because of previous recommendations	New rules included in final regulation (Article 11: Additional report to the audit committee)	Close distance between ideal point and outcome
7	A role for auditors to ensure the information in the field of CSR	1	Decision depends on the need of and value for stakeholders and new standards for the reporting; profession already provides such information for many clients	No new rules proposed by the EC during later steps	Close distance between ideal point and outcome
8	More regular communication by the auditor to stakeholders and a reduction of the time gap between year-end and audit opinion	1	Some support, but quality is more important than frequency and speed; many PIEs ask already for voluntary audits (half-year, quarter); cost/benefit analysis is necessary; no reduction of the time gap needed and only on specific case consultations	No rules for more frequent communication and a reduced time gap proposed in later directive and regulation	Close distance between ideal point and outcome
II.2 International Standards on Accounting					
1	Introduction of ISAs in the EU	1	Broad support for the implementation of ISAs because of better standards, reduced costs and overall harmonisation of the market	ISAs introduced as new binding standards throughout the EU	Close distance between ideal point and outcome
2	Legally binding rules and further encouragement through non-binding legal instruments	1	Legally binding rules supported to reach a consistency throughout the EU (EU regulation proposed by the AF4)	ISAs introduced as new binding standards throughout the EU	Close distance between ideal point and outcome
2.2 D	Requirement to carry out audits in accordance with ISAs	2	Legally binding rules supported to reach a consistency throughout the EU (EU regulation proposed by the AF4)	ISAs introduced as new binding standards throughout the EU	Close distance between ideal point and outcome
3	ISAs adapted for the needs of SMEs and SMPs	1	No support because ISAs already contain specific considerations	No adaption included in final laws	Close distance between ideal point and outcome

No.	Reform issues and measures	Stage	Preference of AF4	Outcome	Degree of preference attainment - Distance between outcome and ideal point
III Governance and independence of audit firms (conflicts of interest)					
1	Change of the appointment and remuneration model (third party instead of audited entity); for all firms or just for PIEs	1	No support at all because no existing conflicts and current system works well with effective audit committees (adequate safeguards); problem of disenfranchisement of audit committees and shareholders and regulator's liability for audit failures; some support for early notification of regulators about proposed PIE auditors	No change of the appointment and remuneration model; reinforced audit committee and stronger information to public authorities for PIE audits	Close distance between ideal point and outcome
1.1 R	Recommendation and explanation for the appointment of auditors from the audit committee to shareholders meeting (duly justified preference); audit committees should be composed by non-executive members with sufficient knowledge	2	Support because of existing professional processes and avoidance of third-party appointments	New laws for PIE audits established (Article 16); duly justified preference; requirement for non-executive members included in directive (Article 39)	Close distance between ideal point and outcome
1.2 R	Claim empowerment for audit committee, shareholders, supervision authorities to national court for dismissal of the auditor in case of proper grounds	2	Support because of existing professional processes and avoidance of third-party appointments	Specific dismissal clause included in regulation (Article 19) and in the directive (Article 38)	Close distance between ideal point and outcome
2	Mandatory rotation to limit the continuous engagement of audit firms	1	Strong opposition because mandatory audits harm audit quality, increases costs for the firms and carries many difficulties for multinational companies	Mandatory rotation introduced for PIE audits	Medium distance because AF4 wanted to avoid any form of mandatory rotation
2.1 R	Mandatory rotation after 6 years (8 years in case of regular tendering); in case of joint audits 9 years (exceptional 12 years); 4 years cooling-off period; mandatory handover file for incoming auditor	2	Strong opposition because mandatory audits harm audit quality, increases costs for the firms and carries many difficulties for multi-national companies	Mandatory rotation expanded to a 10 years cycle, additional 10 years in case of regular tendering or 14 years in case of joint audits; 4 years cooling-off period; transitional periods established	Medium distance because AF4 received much longer rotation cycles to manage their customer relationships
3	Establishment of pure audit firms and ban of non-audit services; for all firms or just for PIEs	1	Strong opposition because of economic independence of audit firms, necessary skills and expertise, and growth for the businesses in Europe; non-audit services have no impact on totally unrelated firms; some appreciation for specific restrictions or audit committee approvals for PIEs (systemic companies)	Measures were just brought forward by the EC to regulation proposal	Medium distance because focus was successfully moved to PIE audits
3.1 R	Prohibition of certain non-audit services which are fundamentally incompatible with the audit; assessment of non-audit services which are not fundamentally incompatible by the audit committee; EC empowered to adopt the lists of authorised and prohibited services; prohibition of non-audit services for audit firms of significant dimension (AF4 pure audit firms)	2	Strong opposition because of economic independence of audit firms, necessary skills and expertise, and growth for the businesses in Europe; non-audit services have no impact on totally unrelated firms; some appreciation for specific restrictions or audit committee approvals for PIEs (systemic companies)	Concept of pure audit firms dismissed; specific list for prohibited non-audit services (black list) established; fee cap of 70% for non-audit services in relation to last 3 years audit fees	Close distance because blacklist just focused on PIE audits and 70% not achieved for many PIE clients (impact on business model can be managed through channel 1 and channel 2 coordination)

No.	Reform issues and measures	Stage	Preference of AF4	Outcome	Degree of preference attainment - Distance between outcome and ideal point
4	Reduce maximum level of audit fees from single customers (importance for SMPs)	1	Support for a maximum level and transparency of fees because of auditor economic independence	Article 22 of the new directive speaks generally about no threats for independence	Close distance between ideal point and outcome because of independence rule
5	More transparency about the financial statements of audit firms	1	No support because existing laws (e.g. Article 40 of the 8th Directive) are sufficient and provide adequate transparency, e.g. transparency reports of PIE auditors to local oversight authorities	Measure taken forward for the PIE regulation	High distance because more transparency not assessed as necessary
5.1 R	Disclosure of financial information (audit fees by PIE, audit fees by other entities, fees for other services), also on network level	2	No support because existing laws (e.g. Article 40 of the 8th Directive) are sufficient and provide adequate transparency, e.g. transparency reports of PIE auditors to local oversight authorities	New rules established for PIE audits; Article 18 defines new transparency report requirements	High distance because more transparency not assessed as necessary
6	Strengthening of audit firms' corporate governance and more organisational requirements	1	Support about alternative structures only, but just preferred on a voluntary basis	Various measures included in proposal for PIE regulation (see 6.1 R - 6.7 R)	Close distance because of general support to increase level of independence for PIE audits on the basis of better corporate governance and organisational management
6.1 R	Development of adequate policies and procedures to ensure compliance with independence, internal quality control systems and employee supervision	2	Support to strengthen the independence of audit firms and quality of services; measures already adopted in a large extent by the AF4 in advance	New rules introduced on the basis of Article 8 (engagement quality control review) and Article 13 (transparency report); basis requirements defined in new directive (Articles 24a and 24b)	Close distance between ideal point and outcome
6.2 R	Prohibition to take up a key management position, become an audit committee member, non-executive member of the administrative body or join the supervisory board within two years after the termination of the audit engagement	2	Support to strengthen the independence of audit firms and quality of services; measures already adopted in a large extent by the AF4 in advance	New rules transferred to Directive (Article 22a)	Close distance between ideal point and outcome
6.3 R	Limitation of related financial audit services fees to 10% and appropriate safeguards when total audit fees for a firm reach a significant percentage of total annual fees of the audit firm	2	Support to strengthen the independence of audit firms and quality of services; measures already adopted in a large extent by the AF4 in advance	New rules established on the basis of Article 6 (threats of independence), Article 4 3. (15% maximum fees from single customer), and the new directive	Close distance between ideal point and outcome
6.4 R	Independence assessment and confirmation of auditors before accepting or continuing an engagement	2	Support to strengthen the independence of audit firms and quality of services; measures already adopted in a large extent by the AF4 in advance	New rules established on the basis of Article 6 (threats of independence) and the new directive	Close distance between ideal point and outcome
6.5 R	Basic requirements for statutory audits of PIEs (e.g. key audit partner, sufficient resources, client account record, organisational requirements)	2	Support to strengthen the independence of audit firms and quality of services; measures already adopted in a large extent by the AF4 in advance	New rules established on the basis of Article 6 (threats of independence) and the new directive	Close distance between ideal point and outcome

No.	Reform issues and measures	Stage	Preference of AF4	Outcome	Degree of preference attainment - Distance between outcome and ideal point
6.6 R	Appropriate measures of the auditor in case of an incident with serious consequences for the integrity of the statutory audit	2	Support to strengthen the independence of audit firms and quality of services; measures already adopted in a large extent by the AF4 in advance	New rules established on the basis of Article 7 (irregularities)	Close distance between ideal point and outcome
6.7 R	Own internal quality reviews before submission of the audit report by independent auditors	2	Support to strengthen the independence of audit firms and quality of services; measures already adopted in a large extent by the AF4 in advance	New rules established on the basis of Article 8 (engagement quality control review)	Close distance between ideal point and outcome
7	Revisiting ownership rules and the partnership model to raise capital from external sources	1	Support for alternative structures only on a voluntary basis; capital would be allocated more to the leading firms, if this measure will be established	Measure proposed for the amended directive	Close distance between ideal point and outcome
7.1 D	Modification of the ownership rules; majority of voting rights by licensed accountants excluded; ban of minimum of capital or voting rights of auditors or audit firms to increase access to capital	2	Support for alternative structures only on a voluntary basis; capital would be allocated more to the leading firms, if this measure will be established	New rules included in directive (Article 3)	Close distance between ideal point and outcome
8	Enforce the role of group auditors	1	Support for better group auditor's access to documents, which are already fostered by the ISAs (ISA 600)	New proposal brought forward	Close distance between ideal point and outcome
8.1 R	Additional audit work and information to the oversight authority for group audits of consolidated statements, where the work performed by third-country auditors can not be documented	2	Support for better group auditor's access to documents, which are already fostered by the ISAs (ISA 600)	New rules on the basis of the directive (Article 27)	Close distance between ideal point and outcome
IV Supervision					
1	Better integration and cooperation of audit firm supervision at EU level	1	Support for EU-wide coordination of audit oversight bodies, but no integration into a new European oversight authority	New rules for better supervision included in proposed directive and regulation	Close distance between ideal point and outcome
1.1 D	New rules for oversight authorities (e.g. approval, registration and quality assurance of audit firms and auditors)	2	Support for EU-wide coordination of audit oversight bodies, but no integration into a new European oversight authority	New rules included in amended directive (Article 32)	Close distance between ideal point and outcome
1.2 D	New delegated and implementing powers of the EC for the Directive	2	Support for EU-wide coordination of audit oversight bodies, but no integration into a new European oversight authority	New rules included in amended directive (Article 32)	Close distance between ideal point and outcome
1.3 R	No use of professional secrecy of auditors to prevent the application of the Regulation	2	Measure acceptable for the AF4 because of support of EU-wide coordination	New rules included in regulation (Article 34)	Close distance between ideal point and outcome
1.4 R	Competent authority for PIE auditors (supervisory and investigative powers) on EU member state level; independent and adequately staffed; applied professional secrecy	2	Measure acceptable for the AF4 because of support of EU-wide coordination	New rules adopted under Title IV; CEAOB established for coordination on EU level	Close distance between ideal point and outcome
1.5 R	Cooperation with other direct authorities and other PIE supervisors (e.g. banking or insurance) on national level	2	Measure acceptable for the AF4 because of support of EU-wide coordination	New rules adopted under Title IV; CEAOB established for coordination on EU level	Close distance between ideal point and outcome

No.	Reform issues and measures	Stage	Preference of AF4	Outcome	Degree of preference attainment - Distance between outcome and ideal point
1.6 R	Cooperation with ESMA for guidance; voluntary pan-European audit quality certification; ESMA is entrusted to build colleges of supervisory authorities for special tasks; regulatory technical standards should be regularly provided by ESMA	2	Measure acceptable for the AF4 because of support of EU-wide coordination	CEAOB as main coordination on EU level, new rules included for EU guidance	Close distance between ideal point and outcome
1.7 R	Enhanced supervisory measures and sanctioning powers of competent authorities	2	Measure acceptable for the AF4 because of support for increased stability of the audit market	New rules introduced on the basis of Article 23 of the regulation and Article 30 of the amended directive	Close distance between ideal point and outcome
2	Increased consultation and communication between PIE auditors and regulators	1	Some support for increased communication (e.g. by auditors' contributions to the newly created European Systemic Risk Board), particularly between auditors of financial services firms and EU regulators of financial services firms	New proposal brought forward	Close distance between ideal point and outcome
2.1 R	Obligation of a regular dialogue with the supervision authorities for all PIEs	2	Support of this measure because of previous recommendations	New rules established on the basis of Article 12 (report to supervisors of PIEs) and Article 14 (information for competent authorities)	Close distance between ideal point and outcome
3	Transitional regime for mandatory rotation, tendering, and pure audit firms	2	Support of transitional periods, but strong opposition against the specific proposals	Transitional provisions included (Article 41 of the regulation); transposition rules included in the amended directive	Close distance between ideal point and outcome
V Concentration and market structure					
1	Mandatory joint audits and audit consortia for PIEs	1	No support because of concerns about audit quality and negative impact on coordination of audits; form of audits should be market-led	Measure was excluded in later proposals	Close distance between ideal point and outcome
2	Mandatory rotation and tendering after a fixed period (please see III.2)	1	Strong opposition because mandatory audits harm audit quality, increases costs for the firms and carries many difficulties for multinational companies	Mandatory rotation introduced for PIE audits	Medium distance because AF4 wanted to avoid any form of mandatory rotation
2.1	Mandatory rotation after 6 years (exceptional: 8 years); in case of joint audits 9 years (exceptional 12 years); 4 years cooling-off period; mandatory handover file for incoming auditor	2	Strong opposition because mandatory audits harm audit quality, increases costs for the firms and carries many difficulties for multinational companies	Mandatory rotation expanded to a 10 years cycle, additional 10 years in case of regular tendering or 14 years in case of joint audits; 4 years cooling-off period; transitional periods established	Medium distance because AF4 received much longer rotation cycles to manage their customer relationships
3	Ban of "Big 4 only"-clauses	1	Support that these artificial clauses should be discouraged; reputation is built over many years; some support for European quality certification	Measure was included in later proposals	Close distance between ideal point and outcome

No.	Reform issues and measures	Stage	Preference of AF4	Outcome	Degree of preference attainment - Distance between outcome and ideal point
3.1 D	Prohibition of contractual clauses for the appointment of auditors or audit firms ("Big 4 only"-clauses)	2	Support that these artificial clauses should be discouraged; reputation is built over many years; some support for European quality certification	Ban of "Big 4 only"-clauses included in amended directive (Article 37)	Close distance between ideal point and outcome
3.2 R	Prohibition of contractual clauses (bank covenants with "Big 4 only"-clauses)	2	Support that these artificial clauses should be discouraged; reputation is built over many years; some support for European quality certification	Ban of "Big 4 only"-clauses included in new regulation (Article 16)	Close distance between ideal point and outcome
4	Development of contingency plans including living wills for systemic-relevant AF4	1	Some support to develop contingency plans (serious consideration), e.g. for cases of disorderly failure; no support for living wills	Measure was excluded in later proposals	Close distance between ideal point and outcome
5	Definition of circumstances for a reversal of the existing oligopoly	1	No support for any reversals because all past mergers have been approved by the EC	No measure included in later proposals	Close distance between ideal point and outcome
VI	Creation of a European market				
1	Enhance cross-border mobility of audit professionals ("European passport for auditors")	1	General support, but caution for local requirements, which are crucial for quality standards of audits; support for harmonised qualification and training requirements	Measure was included in proposal for an amended directive	Close distance between ideal point and outcome
1.1 D	Passport for audit firms throughout the EU member states to allow audit firms to provide statutory audits in other EU member states when the leading audit partner is approved in the concerned member state; Passport for statutory auditors to allow the provision of cross-border statutory audits on a temporary or occasional basis	2	General support, but caution for local requirements, which are crucial for quality standards of audits; support for harmonised qualification and training requirements	Changed rules included (Article 3a)	Close distance between ideal point and outcome
1.2 D	Cooperation of competing EU authorities with regard to educational requirements and aptitude tests	2	General support, but caution for local requirements, which are crucial for quality standards of audits; support for harmonised qualification and training requirements	Changed rules included (Article 14)	Close distance between ideal point and outcome
VII	Simplification for SMEs and SMPs				
1	Limited audits for SMEs and SMPs	1	No general support for simplified reports, but some support to facilitate audits for SMEs	Measure was included in proposal for an amended directive	Close distance between ideal point and outcome
1.1 D	Special rules for the audit of small- and medium-sized undertakings	2	No general support for simplified reports, but some support to facilitate audits for SMEs	Rules of proportionate application included in the amended directive (Articles 26 and 29)	Close distance between ideal point and outcome
2	Specific adjustments for SMEs and SMPs with regard to a provision of non-audit services	1	No general support because non-audit services do not generally harm audit services; existing codes (IESBA Code of Ethics) already include specifications for SMEs	Measure was included in proposal for an amended directive	Close distance between ideal point and outcome

No.	Reform issues and measures	Stage	Preference of AF4	Outcome	Degree of preference attainment - Distance between outcome and ideal point
2.1 D	Special rules for SMEs with regard to proportionate application of new laws	2	No strong preference against this measure	Rules of proportionate application included in the amended directive (Articles 26 and 29)	Close distance between ideal point and outcome
3	Lower internal quality control rules and public oversight for limited audits	1	No support for less-stringent internal controls	Rules of proportionate application included in the amended directive (Articles 26 and 29)	Close distance between ideal point and outcome
VIII International cooperation					
1	Measures for better international cooperation on audit oversight	1	Broad support for international harmonisation on initiatives of the EC and EGAOB	Measure was included in new regulation	Close distance between ideal point and outcome
1.1 R	ESMA can decide on cooperation agreements with third countries	2	Broad support for international harmonisation on initiatives of the EC and CEAOB	CEAOB responsible for coordination with third countries	Close distance between ideal point and outcome

Source: Author's own illustration

Appendix P: Analytical table of the case comparison

Table Appendix P: Case comparison analytical table

		CRA3	AF4
Political environment			
I	Institutions		
	EU arena and actors	<ul style="list-style-type: none"> - EU multi-level system and the EC, EP and CEU as main actors - Lower importance of national context and increased importance of centralised oversight body - Historically unregulated sector in the EU - Impaired relationships with the EU authorities because of the crisis - No repositioning of the political fight into the public domain, but few attempts especially during the third stage 	<ul style="list-style-type: none"> - EU multi-level system and the EC, EP and CEU as main actors - Higher importance of national context because of decentralised oversight authorities, federations and the existing directive - Strongly regulated sector with very high level of EU policy in the past - Historically burdened relationship with the EC; EP and CEU contacts much less impaired - No repositioning of the political fight into the public domain, but some channels used to increase pressure
II	Interest groups		
	Interest groups	<ul style="list-style-type: none"> - CRA3 was the main interest group because of the direct focus by the EC - Other interest groups involved, but on a smaller level and with less conflicts compared to the EU reform of audit firms 	<ul style="list-style-type: none"> - AF4 was the main interest group because of the direct focus by the EC - High level of involvement because of sector size and longer regulatory history (e.g. existing directive, local competent authorities, number of SMPs)
III	Information		
	Channels and sources	<ul style="list-style-type: none"> - Focus on EC proposals and EU decision-making texts - More issue-based lobbying with low use of own impact assessments - Low level of regulatory standards and rules 	<ul style="list-style-type: none"> - Focus on EC proposals and EU decision-making texts - Impact-based lobbying of the AF4 against EC impact assessments - Very high level of existing sector standards and existing rules
IV	Process and issues		
	EU reform process; goals, issues and proposed measures	<ul style="list-style-type: none"> - Three stage EU reform process with ongoing consultations - Similar goals: Increase independence and quality of services (fight conflicts of interest), and reduce existing market concentration - Comparable set of proposed measures (e.g. change of revenue model, mandatory rotation, supervision, etc.); many proposed measures with direct threats for the existing business model 	<ul style="list-style-type: none"> - Two stage EU reform process with broad consultation process as a first stage - Similar goals: Increase independence and quality of services (fight conflicts of interest), and reduce existing market concentration - Comparable set of proposed measures (e.g. change of revenue model, mandatory rotation, supervision, etc.); many proposed measures with direct threats for the existing business model
V	Preferences		
	Major goal and interests	<ul style="list-style-type: none"> - Avoidance of strong EU reform and harmful measures for their business model - Support of some measures due to the political pressure in the context of the crisis - Strong opposition against certain measures with a high risk for their existing business model and future strategy 	<ul style="list-style-type: none"> - Avoidance of strong EU reform and harmful measures for their business model - Support of the EU reform to increase the quality of services and contribute to the EU harmonisation of the profession ("blocking disguised as supportive") - Strong opposition against certain measures with a high risk for their existing business model and future strategy

		CRA3	AF4
VI	Conflicts		
	Conflicts with the EU authorities	<ul style="list-style-type: none"> - High level of conflict with the EC because of direct measures towards the CRA3 - Lower level of conflicts with the EP and CEU, but significantly impaired relationships because of the crisis 	<ul style="list-style-type: none"> - High level of conflict with the EC because of direct measures towards the AF4 - No strong conflicts with the EP and CEU; generally good relationships with the EP and CEU, but few problems because of informal actions and over-lobbying debate
	Conflicts amongst the interest groups	<ul style="list-style-type: none"> - Relatively small conflicts within the profession - Conflicts with other interest groups relatively small and strong support from the banking sector (customers) with regard to critical proposals 	<ul style="list-style-type: none"> - Strong conflicts within the profession with mid-sized firms focussed on single measures (e.g. market concentration, joint audits) - Conflicts with other interest groups relatively small and strong support from the preparers (customers)
Reform outcomes and degree of preference attainment			
	Reform outcomes and preference attainment	<ul style="list-style-type: none"> - No disruptive changes for the CRA3 business model - Generally low level of preference attainment, also with regard to critical issues such as new rules for sovereign debt ratings or civil liability; good results during the third stage with regard to critical reform outcomes for the CRA3 business model (no change of the issuer-pays model and no mandatory rotation) 	<ul style="list-style-type: none"> - No disruptive changes for the AF4 business model - Generally high level of preference attainment, including critical reform outcomes for the AF4 business model (no joint audits, no change of the appointment and remuneration model, limited ban of non-audit services for PIE audits, longer mandatory rotation cycles for PIE audits)
EU interest representation			
I	Direct and indirect actions		
	Direct actions	<ul style="list-style-type: none"> - More co-operative issue-based lobbying behaviour - Direct actions towards all EU authorities, but on a relatively small level with focus on the EP and CEU 	<ul style="list-style-type: none"> - More aggressive impact-focussed lobbying style ("blocking, disguised as co-operative") - Direct actions towards all EU authorities on a high level with a focus on the EP and CEU
	Indirect actions	<ul style="list-style-type: none"> - Indirect routes in main countries to increase voice at the CEU and create a higher level of awareness 	<ul style="list-style-type: none"> - Indirect routes in all 28 EU member states to increase voice at the CEU and receive access to crucial EP members
II	Alliance and identity building		
	Sector alliances	<ul style="list-style-type: none"> - No alliance and identity building of the CRA3 	<ul style="list-style-type: none"> - Very strong alliance of the AF4 and concerted actions for identity building
	Supporting alliances	<ul style="list-style-type: none"> - Alliance with issuers' and investors' federations during the third stage 	<ul style="list-style-type: none"> - Also supporting alliances with customers and federations
III	Venue shopping		
	Venue shopping towards the EC	<ul style="list-style-type: none"> - Participation at the EC venues, but low ranked because of distance between the EC and CRA3 	<ul style="list-style-type: none"> - Participation at the EC venues, but low ranked because of distance between the EC and CRA3
	Venue shopping towards the EU decision-makers	<ul style="list-style-type: none"> - Focus on EP and CEU, but on a rather medium level and not coordinated - No evidence of strong support by the EP and CEU 	<ul style="list-style-type: none"> - Very strong focus on EP and CEU with a high level of coordinated actions - Evidence of stronger support of the EP and CEU (mobilisation)

		CRA3	AF4
Political power and influence			
I	Access goods		
	Information	- Mediocre use of own information for access	- Information as an active force for access (impact assessments)
	Relationships	- Impaired relationships with all EU authorities	- Impaired relationship with EC, but excellent relationships with the EP and CEU
II	Structural characteristics		
	Financial resources	- High financial resources, but just limited use for EU lobbying	- Very high financial resources and extensive use for EU lobbying
	EU lobbying experience	- Weak level of EU lobbying experience - Need of external consultants to overcome own limitations	- Highly sophisticated level of EU lobbying experience - External consultants for supportive services
	Structural coercions	- Structural coercions important characteristic during the third stage for critical proposals (issuer-pays model, mandatory rotation)	- Structural coercion also important for certain measures (e.g. change of the appointment and remuneration model, non-audit services, etc.)
III	Issue characteristics		
	Focussing event	- Crisis strongly impaired the EU lobbying power and influence	- Crisis was a weak focussing event and did not impair the EU lobbying power and influence
	Scope and salience	- High scope and salience in media - Damaged public and political image - Still rather positive image in the professional environment	- Low scope and salience in media - Still positive public and political image, but some damages due to over-lobbying debate - Positive image on the professional environment
	Reform type	- First-time regulation of a historically unregulated industry in the EU limited the influence of the CRA3	- Amended directive and first-time regulation of an already highly regulated industry allowed to move proposed measures and reduce the impact of the EU reform
	Technicality	- High technicality just used for some proposed measures to illustrate existing market coercions	- High technicality of single measures was a key aspect for the significance of the impact assessments

Source: Author's own illustration

Appendix Q: Interview invitations

Q.1 Interview invitations in German and English

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Interviewanfrage (Email-Form)

Sehr geehrte(r) [Herr /Frau Name],

ich kontaktiere Sie auf Empfehlung von [Herrn /Frau Name], [Rolle /Firma]. Der Grund meiner Kontaktaufnahme ist, dass Ihre Sichtweise als Experte eine hohe Relevanz für meine Forschungsarbeit darstellt.

Neben meiner beruflichen Tätigkeit als Sanierungsspezialist in der deutschen PwC Praxis, bin ich seit 2011 externer Doktorand an der University of Manchester. Ich untersuche die Interessenvertretung der Big 4 Wirtschaftsprüfungsgesellschaften und Big 3 Ratingagenturen innerhalb des Prozesses der EU Regulierung des Finanzdienstleistungssektors. Das beigefügte Dokument (Kurzbeschreibung der Forschungsarbeit) stellt Ihnen die untersuchte Forschungsfrage und Methoden näher vor.

Für diese Studie führe ich eine Reihe von Experteninterviews durch. Ich wäre Ihnen sehr dankbar, wenn Sie mir ein wenig Ihrer Zeit zur Verfügung stellen würden und ich mit Ihnen ein Interview bezüglich der EU Interessenvertretung der international führenden Wirtschaftsprüfungsgesellschaften und Ratingagenturen im Rahmen der EU Regulierung durchführen dürfte.

Zwecks Terminkoordination schlage ich einen der folgenden Tage im [Monat] vor, an denen ich Sie sehr gerne in Ihrem Büro in [Standort] für ein Interview von maximal 60 Minuten besuchen würde. Beide Vorschläge sollen rein der vereinfachten Koordination dienen. Natürlich richte ich mich terminlich nach Ihren Präferenzen.

- Datum 1 am Nachmittag zwischen 14 und 17 Uhr
- Datum 2 am Vormittag zwischen 9 und 11 Uhr

Ich möchte formhalber darauf hinweisen, dass die Studie nicht den Zweck verfolgt, Informationen zu erhalten, welche als kommerziell vertraulich zu verstehen sind. Vielmehr möchte ich durch das Interview Ihre Sichtweise erhalten, um einen informierten Überblick über den Forschungsgegenstand zu erlangen. Alle Daten werden innerhalb der Studie vollständig anonymisiert und dienen lediglich akademischen Zwecken.

Ich würde mich sehr freuen, wenn Sie mir ein wenig Ihrer Zeit widmen würden. Einen Interviewleitfaden werde ich Ihnen natürlich gerne im Vorfeld zukommen lassen.

Wenn Sie weitere Fragen haben, kontaktieren Sie mich jederzeit sehr gerne über meine Email-Adresse (dirk.hickert@postgrad.manchester.ac.uk) oder per Telefon (+49 151 544 06198).

Ich danke Ihnen im Voraus für Ihre Unterstützung.

Mit freundlichen Grüßen, Dirk Hickert

Interview Invitation (Email-Form)

Dear [Mr. /Mrs. name],

[Mr. /Mrs. name] of [company/institutions] suggested that I contact you as an excellent person to provide an expert perspective on a study that I am conducting.

Beside my professional career as a business recovery specialist at PwC in Germany, I am since 2011 a part-time doctoral student at the University of Manchester. I am investigating the interest representation of the Big 4 audit firms and the Big 3 rating agencies during the process of the past EU regulations of the financial services sector. The attached document (brief description of research) explains the research question and methods in more detail.

For this study, I am conducting a series of interviews. I would be most grateful to any amount of time you could spare and conduct an interview with me on the EU interest representation of the leading international audit and rating firms during the past act of EU regulations.

I would like to suggest one of the following days in [month] to meet you at your office in [location] for a maximum 60 minutes interview. Both suggested appointments just serve an easier coordination. Of course, I will follow your own preferences.

- Date 1 in the afternoon between 2 and 5 pm
- Date 2 in the morning between 9 and 11 am

I think that I ought to add that it goes without saying that I am not seeking any information that might be regarded as commercially confidential. Instead, I am seeking an overview of the issue from your perspective to help me develop an informed overview of the research subject. All received data will be fully anonymised and used just for academic purposes.

I do hope that you are able to spare the time to meet me. I will provide you an interview guideline in advance as a matter of course.

If you have any questions about the study, please do not hesitate to contact me via email at dirk.hickert@postgrad.manchester.ac.uk or by phone +49 151 544 06198.

Thank you very much for your support in advance.

Kind regards, Dirk Hickert

Q.2 Brief description of research in German and English

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Arbeitstitel der Forschungsarbeit:

Wie funktioniert Interessenvertretung in Finanzdienstleistungssektoren?

Eine vergleichende Fallstudie der Interessenvertretung der Big 4 Wirtschaftsprüfungsgesellschaften und der Big 3 Ratingagenturen während der letzten Reformen auf Ebene der Europäischen Union

Kontaktinformationen:

Dirk Alois Peter Hickert, Doktorand

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Centre for Comparative and International Business Research (<http://research.mbs.ac.uk/ciber/>)

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Telefon: +49 151 544 06198

Abstract: Die jüngste Finanz- und Weltwirtschaftskrise provozierte ein Niveau an nationaler und überstaatlicher Regulierung, welche eine Einzigartigkeit in ihren Ausmaßen seit der Großen Depression zum Ende der 1920er Jahre aufweist. Diese regulative Geisteshaltung wurde stark durch das verlorene Vertrauen von Bürgern und Gesellschaften in das existierende Finanzsystem stimuliert. Dies zwang Gesetzgeber weltweit zu Reformen in Finanzdienstleistungssektoren neben dem Bankensektor. Konkreter kann dieses Phänomen anhand der Reformen des Wirtschaftsprüfungssektors und der Ratingagenturen auf Ebene der Europäischen Union (EU) festgestellt werden. Insbesondere die führenden Gesellschaften, die Big 4 Wirtschaftsprüfungsgesellschaften und Big 3 Ratingagenturen, mussten aufgrund des potenziellen Einflusses auf ihren Geschäftsbetrieb ihre Interessenvertretung auf Ebene der EU etablieren. Ich argumentiere an dieser Stelle, dass für die führenden Firmen beider Sektoren (1) spezielle Kriterien gleichermaßen die Fähigkeit einer effektiven EU Interessenvertretung festlegen, aber (2) die Reformergebnisse stark durch andere kontextuelle Faktoren beeinflusst werden. In dieser Beziehung empfehle ich, dass akademische Konzepte der Interessenvertretung zukünftig stärker komplementär als exklusiv in Anwendung gebracht werden sollten, um ein besseres Verständnis über den Einfluss von Interessengruppen in solch komplexen Sachverhalten zu erlangen.

Viele Wissenschaftler haben Interessengruppen aus verschiedenen Blickwinkeln innerhalb zahlreicher Sektoren und politischer Systeme untersucht. Die Mehrzahl dieser Studien hat seinen Ursprung in den USA. In den letzten 20 Jahren kann eine zunehmende Anzahl an explorativen und deskriptiven Studien der EU-Interessenvertretung festgestellt werden, jedoch wenige untersuchten, wie der Einfluss von Interessengruppen erklärt werden kann. Zudem wurden speziell die führenden Wirtschaftsprüfungsgesellschaften und Ratingagenturen innerhalb dieser Studien bisweilen vernachlässigt. Daher stellt die Erforschung der EU-Interessenvertretung beider Sektoren ein interessantes Forschungsfeld aus akademischer Sichtweise dar. Zusätzlich nehmen beide Sektoren aufgrund ihrer Systemrelevanz für die Stabilität des europäischen Finanzsystems eine wichtige Rolle aus gesellschaftlicher Perspektive ein und erhöhtes öffentliches Interesse ist heutzutage damit verbunden. Diese Studie adressiert diese existierende Forschungslücke und beabsichtigt empirische Belege für die zentrale Forschungsfrage zu erhalten: Wie funktioniert Interessenvertretung in Finanzdienstleistungssektoren?

Methode: Die Forschungsarbeit fokussiert auf die EU-Interessenvertretung der Big 4 Wirtschaftsprüfungsgesellschaften und Big 3 Ratingagenturen im Zuge der letzten EU-Reformen. Beide Fälle werden aggregiert und einzeln sowie fallübergreifend analysiert. Dabei werden, einem deduktiven Forschungsansatz folgend, Thesen von existierenden akademischen Konzepten und Theorien abgeleitet und durch empirische Erkenntnisse überprüft. Die Datenerhebung erfolgt durch Dokumente und Interviews. Die Interviews werden mit Experten beider Sektoren durchgeführt, welche tiefes Wissen über die Reformprozesse und Interessengruppen besitzen. Die erhaltenen Informationen werden selbstverständlich mit höchster Vertraulichkeit behandelt und jegliche personenbezogene Angaben werden unkenntlich gemacht.

Zeitplan: Die Feldforschung wird zwischen April und September 2014 erfolgen. Die Einreichung der finalen Dissertation mit anschließender mündlicher Verteidigung ist für das Frühjahr 2015 geplant. Ein Kurzbericht, welcher die wesentlichen Ergebnisse der Dissertation zusammenfasst, wird allen Interviewpartnern zur Verfügung gestellt.

Research Working Title:

How does interest representation in financial services sectors work?

A comparative case study of the Big 4 audit firms' and Big 3 rating agencies' interest representation during the latest reforms on level of the European Union

Contact Details:

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Abstract: The recent financial and world economic crisis has provoked a level of national and supranational regulation, showing singularity in its dimensions since the Great Depression in the late 1920s. This regulative mindset was strongly stimulated by citizens' and societies' lost trust in the existing financial system. Lawmakers all around the world were pressured to establish reforms in financial services sectors beside of the banking sector. More specifically, this phenomenon can be experienced based on the latest European Union (EU) reforms for the audit sector and for rating agencies. Particularly the leading corporations, the Big 4 audit firms and Big 3 rating agencies, had to establish their interest representation on EU level due to the potential impact on their business operations. At this point, I argue that for leading firms in both sectors (1) specific criteria equally determine the capability of effective EU interest representation, but (2) reform outcomes are strongly affected by other contextual factors. In this respect I propose that academic concepts of interest representation should be applied more complementary rather than exclusively in the future, to be able to achieve a better understanding about the influence of interest groups in such complex circumstances.

Many researchers have studied interest groups from different angles within various sectors and political systems. Most of those studies have their academic origins in the US. Over the last 20 years an increasing number of exploratory and descriptive studies of EU interest representation can be observed, but few investigating how influence of interest groups can be explained. Additionally, the leading auditing firms and rating agencies have been somehow neglected so far in those studies. Hence, researching EU interest representation of both sectors represents an interesting field of research from an academic standpoint. In addition, both sectors constitute from a societal perspective an important role due to the systemic relevance for the stability of the EU financial system and increased public interest is nowadays associated. This study is addressing this existing research gap and is aiming to receive empirical evidence for the central research question: How does interest representation in financial services sectors work?

Method: The research study focuses on the EU interest representation of the Big 4 audit firms and the Big 3 rating agencies during the latest EU reforms. Both cases will be aggregated and analysed using a within-case and cross-case analysis. Propositions derived by existing academic concepts and theories will be thereby examined through empirical insights following a deductive research approach. Data collection is based on documents and interviews. Interviews are being conducted with experts in both sectors, which possess a profound understanding about the reform processes and interest groups. Of course, the received information will be handled with the utmost confidentiality and any identifying information will be disguised.

Schedule: The fieldwork will take place between April and September 2014. The submission of the final thesis with the following oral defence is scheduled for early 2015. A short report, summarizing the key findings of the dissertation, will be distributed to all interview partners.

Appendix R: Example of semi-structured interview guideline

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Research Working Title:

Interest representation and influence in the EU:

A comparative case study of the Big 4 audit firms' and Big 3 rating agencies' interest representation during the past EU reforms

Contact Details:

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Supervisors: Dr. Matthew Allen, Dr. Jiajia Liu

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Telephone: +49 151 544 06198

Interview with xxx

Position: xxx

Date: xxx

Semi-structured interview guideline:

1. How would you describe the role of the Big 3 in the financial system (e.g. systemic relevance, independence, market concentration)?
 - a. From your perspective: In how far changed the perception of the rating sector since the financial crisis in 2008?
 - b. Does the sector need a new purpose definition or just a better communication about their contribution to society?
2. How did you perceive the political interest representation of the Big 3 since the crisis started and since the EU regulation was initiated in 2008?
 - a. Would you assess the new EU-legislation as a 'draconian punishment' or rather like a 'moderate political confession' of the Big 3 because of their misconduct within the financial crisis, which is just 'retailed to the public' as a tough regulation?
3. From a sector perspective: What are the strategic goals? Which issues of the sector and the existing business model had to be secured during the EU regulation?
 - a. Was a main strategic goal to remain the current market structure and business models, aiming to avoid any new market competitors (e.g. ERA, INCRA) and securing the future profitability of the sector?
 - b. Would you support the argument that the retention of the 'issuer payment model' and the 'investment decision dependency' based on the rating classifications are the main strategic anchors for the existing Big 3 business model?

Semi-structured interview guideline:

4. Which conflicts of interests or criticism do you see based on the existing business models of the Big 3 rating agencies?
 - a. How would you comment the conflicts resulting out of the 'issuer payment model', particularly in the field of complex structured finance/securitisation of derivatives?
 - b. How do you assess the criticism regarding the transparency of rating methods and rating committee decision making?
5. Which resources and methods enabled the existing oligopoly to represent their interest on EU level and antagonise EU regulation strengths and existing criticisms?
 - a. Would you assess the different EU-authorities as being dependent from information of or knowledge exchange with the leading rating agencies?
 - b. Did you experience problems of accessing the EU authorities because of an 'over-lobbying' debate in Brussels?
 - c. Did you also experience problems due to poor expertise and lacks of knowledge, when speaking to EU Commissioners and EU Parliament representatives?
 - d. How do you see the networking or alliance-building of the Big 3 on domestic and EU-level? Who were the leading opinion makers of the Big 3?
 - e. Which specific methods and techniques have been applied by the Big 3?
 - Cooperative (responsive) vs. blocking behaviour
 - Formal vs. informal meetings
 - Direct vs. collective actions
 - EU domestic levels & various EU venues (Commission, Parliament, EU Council of Ministers)
 - f. How did you perceive the Big 3's use of the formal EU-consultation process?
 - g. Would you support the arguments that
 - the systemic relevance (e.g. for the stability of the European and global financial system),
 - corresponding fear of politicians to engage in fundamental changes, combined with a lack of knowledge and technical competences,
 - the enormous financial resources and specialised staff,
 - and the existing networks, foremost with the leading investment banks,are the biggest assets of the Big 3 to influence EU-decision makers?

Semi-structured interview guideline:

6. Which role and impact did the public perception and media awareness (public salience of the issues 'role of the rating agencies in the financial crisis' and 'rating market regulation') have on the political influence of the sector?
 - a. Your opinion: Was the interest representation completely cut down at the beginning of the crisis due to the lack of trust from society (public perception) and political actors?
 - b. Did the public awareness and media coverage have a lasting impact on the ability to represent the interests of the Big 3?
 - c. Did the financial crisis just limit the influence for certain time (subprime crisis, bank sector ratings (Lehmann), EU country ratings (Greece, Italy, Spain, etc.)) and has just triggered the start of the reform?
 - d. Could the sector decrease the scope and the strengths of the EU regulation based on a smaller public interest and media coverage over time?
 - e. Was the sector actively reducing the public awareness and changing the public opinion stepwise to reduce the EU regulation results on an 'acceptable level' (accepted: publication of sovereign ratings on specific dates, compensation payments in case of gross negligence, but: no new 'door opener' for competitors, unchanged 'issuer payment model', rotation rules just for complex financial products)?
 - f. How strong do you assess the usage of lobbying campaigns (e.g. PR consultants, media campaigns, outside-lobbyists, press work and reports) of the Big 3 in light of the EU interest representation?
7. Outlook: How do you assess the future development of the rating sector in Europe and on a global scale?
 - a. Do you assess the market concentration and influence power of the existing oligopoly as sustainable?
 - b. What could shake up the sector and break the existing oligopoly with its business models, seeing that the most severe financial crisis could be handled very professionally?
 - c. Do you see a chance for competitors coming into place in the short run (international reach, branding and market recognition)?

Appendix S: Interview longlist (anonymised)

Status	Number	Name	Organisation	Position	Background	Status	Location	Country	Appointment
done	1	n.n.	AF4 1	Head of Public Affairs	Audit	done	Berlin	Germany	10.01.2014, 11.00am
done	2	Dr. n.n.	New Rating Agency 1	Founder	Rating	done	Düsseldorf	Germany	26.03.2014, 4.30pm
done	3	n.n.	Political Consultant	Managing Director	Rating & Audit	done	Cologne	Germany	03.07.2014, 11.00am
done	4	n.n.	AF4 1	Head of Public Affairs	Audit	done	Berlin	Germany	03.06.2014, 2.00pm
done	5	Prof. Dr. n.n.	AF4 1	Global Regulatory Leader, Partner	Audit	done	Frankfurt	Germany	27.05.2014, 4.00pm
done	6	n.n.	Foundation - New Rating Agency 2	Managing Director	Rating	done	Washington	USA	23.04.2014, 4.00pm
skipped	7	n.n.	Foundation - New Rating Agency 2	Senior Project Manager	Rating	skipped	Gütersloh	Germany	
skipped	8	n.n.	Foundation - New Rating Agency 2	Project Manager	Rating	skipped	Gütersloh	Germany	
done	9	n.n.	AF4 1 & former CRA3 2	Senior Consultant	Rating & Audit	done	Frankfurt	Germany	07.04.2014, 2.00pm
done	10	n.n.	AF4 2	Head of Compliance, Partner	Audit	done	Berlin	Germany	08.05.2014, 1.30pm
done	11	n.n.	Industry 1	Senior Manager, EU Relations	Audit	done	Brussels	Belgium	09.05.2014, 1.00pm
denied	12	n.n.	Industry 2	Head of European Affairs Department	Audit	denied	Brussels	Belgium	
done	13	n.n.	Industry 3	Head of Brussels Department	Audit	done	Brussels	Belgium	29.04.2014, 3.00pm
done	14	n.n.	Liaison Office of German Party	Undersecretary	Audit	done	Brussels	Belgium	30.07.2014, 1.00pm
done	15	n.n.	Economic Council of Party	European Economic Policy Rapporteur	Audit	done	Berlin	Germany	09.09.2014, 4.00pm
denied	16	n.n.	Industrial Association	Rapporteur	Audit	denied	Berlin	Germany	
denied	17	n.n.	CRA3 1	Director	Rating	denied	Frankfurt	Germany	
denied	18	n.n.	CRA3 2	Director	Rating & Audit	denied	Frankfurt	Germany	
done	19	n.n.	Strategic Consultancy 1	Senior Executive Advisor Financial Services	Rating	done	Frankfurt	Germany	07.04.2014, 10.00am
done	20	Dr. n.n.	Medium Rating Agency 1	CEO	Rating	done	Düsseldorf	Germany	24.06.2014, 1.30pm
skipped	21	n.n.	German Party 1	European Parliament	Rating	skipped	open	open	
done	22	n.n.	CRA3 3	Vice President Regulatory Affairs	Rating	done	London	UK	03.07.2014, 4.00pm
skipped	23	n.n.	CRA3 3	Associate - Analyst	Rating	skipped	Frankfurt	Germany	
denied	24	n.n.	German Party 1	European Parliament	Rating	denied	Berlin	Germany	
denied	25	n.n.	German Party 1	2009-2011 German Minister for Business and Technology	Rating	denied	Berlin	Germany	
denied	26	n.n.	German Party 2	Vice Chairman Bundestag	Rating	denied	Berlin	Germany	
denied	27	Dr. n.n.	German Party 2	Member of the Bundestag	Rating	denied	Berlin	Germany	
skipped	28	n.n.	German Party 3	Vice Chairman Bundestag	Rating	skipped	Berlin	Germany	
skipped	29	n.n.	German Party 4	European Parliament	Rating	skipped	Brussels	Belgium	
denied	30	n.n.	Political Think Tank	Political Economist	Rating	denied	Brussels	Belgium	
denied	31	Prof. Dr. n.n.	Strategic Consultancy 2	Partner	Rating	denied	Berlin	open	
skipped	32	n.n.	AF4 1	Audit Partner	Audit	skipped	Osnabrück	Germany	
skipped	33	n.n.	AF4 1	Audit Partner	Audit	skipped	Bielefeld	Germany	
skipped	34	n.n.	AF4 1	Advisory Partner	Audit	skipped	Düsseldorf	Germany	
done	35	Prof. n.n. & n.n.	German Institute of Auditors	Chairman & Director Public Relations	Audit	done	Düsseldorf	Germany	04.06.2014, 3.00pm
done	36	Dr. n.n. & n.n.	German Chamber of Auditors	Managing Director 1 & 2	Audit	done	Berlin	Germany	19.06.2014, 2.00pm
skipped	37	Prof. Dr. n.n.	AF4 1	Speaker of the Board	Audit	skipped	Frankfurt	Germany	
skipped	38	n.n.	AF4 1	Board Member	Audit	skipped	Frankfurt	Germany	
done	39	n.n.	AF4 1	Head of Market Communication	Audit	done	Frankfurt	Germany	24.06.2014, 3.00pm
done	40	n.n.	AF4 1	Director EU Public & Regulatory Affairs	Audit	done	Brussels	Belgium	21.05.2014, 10.00am
denied	41	n.n.	AF4 1	Global Relationship Partner EU Account	Audit	denied	Brussels	Belgium	
skipped	42	n.n.	AF4 1	EU Business Development Senior Manager	Audit	skipped	Brussels	Belgium	
skipped	43	n.n.	AF4 1	Audit Partner, Head of Cologne Branch	Audit	skipped	Cologne	Germany	
done	44	n.n.	CRA3 2	President, Head of European Office Network	Rating	done	Paris	France	31.07.2014, 2.00pm
denied	45	n.n.	CRA3 2	Senior Compliance Officer	Rating	denied	Frankfurt	Germany	
skipped	46	n.n.	AF4 3	Audit Partner	Audit	skipped	Düsseldorf	Germany	
skipped	47	n.n.	AF4 1	Advisory Partner	Audit	skipped	Amsterdam	Netherlands	
skipped	48	n.n.	AF4 1	Audit Partner	Audit	skipped	Amsterdam	Netherlands	
done	49	n.n.	AF4 1	Audit Partner	Audit	done	Rotterdam	Netherlands	16.06.2014, 10.00am
skipped	50	n.n.	European Parliament	Leader of the liberal fraction ALDE	Rating & Audit	skipped	Brussels	Belgium	
skipped	51	n.n.	European Commission	European Commission Special Assistant	Rating & Audit	skipped	Brussels	Belgium	
skipped	52	Prof. Dr. n.n.	U.S. University 1	Senior Lecturer	Rating & Audit	skipped	Yale	USA	
skipped	53	Prof. Dr. n.n.	Spanish University	Rector - Professor of Accounting	Audit	skipped	Madrid	Spain	
skipped	54	Dr. n.n.	Belgian University	Professor of International Politics	Rating & Audit	skipped	Antwerpen	Belgium	
skipped	55	Prof. Dr. n.n.	U.S. University 2	Professor of Political Science	Rating & Audit	skipped	Arlington	USA	
skipped	56	n.n.	German Business Journal 1	Journalist	Audit	skipped	Frankfurt	Germany	
skipped	57	n.n.	German Business Journal 1	Journalist	Audit	skipped	Frankfurt	Germany	
skipped	58	n.n.	German Newspaper 1	Journalist	Audit	skipped	Frankfurt	Germany	
skipped	59	n.n.	German Newspaper 2	Chef Correspondent	Audit	skipped	Frankfurt	Germany	
skipped	60	n.n.	German Newspaper 3	Journalist	Audit	skipped	Frankfurt	Germany	
skipped	61	n.n.	German Business Journal 2	Journalist	Audit	skipped	Frankfurt	Germany	
skipped	62	n.n.	German Business Journal 2	Journalist	Audit	skipped	Frankfurt	Germany	
skipped	63	n.n.	AF4 1	Board Member - Head of Financial Services	Rating & Audit	skipped	Frankfurt	Germany	
skipped	64	n.n.	AF4 1	Head of Management Consulting Financial Services	Rating & Audit	skipped	Frankfurt	Germany	
skipped	65	n.n.	AF4 3	Board Member	Audit	skipped	Düsseldorf	Germany	
done	66	n.n.	AF4 3	EMEA Head Public Policy	Audit	done	Brussels	Belgium	29.07.2014, 10.00am
denied	67	n.n.	CRA3 2	Former Managing Director Germany	Rating	denied	Frankfurt	Germany	
done	68	n.n.	CRA3 1	Managing Director Germany	Rating	done	Frankfurt	Germany	11.06.2014, 2.00pm
skipped	69	n.n.	CRA3 3	Managing Director Germany	Rating	skipped	Frankfurt	Germany	
denied	70	Prof. Dr. n.n.	German University 1	Professor of Sociology / CES Harvard	Rating	denied	Jena	Germany	
denied	71	Dr. n.n.	German University 1	Professor of Sociology	Rating	denied	Jena	Germany	
done	72	n.n.	German Newspaper 3	Head of Department Economic & Fiscal Policy	Rating	done	Frankfurt	Germany	04.07.2014, 3.00pm
skipped	73	Dr. n.n.	German University 2	Lecturer	Rating	skipped	Heidelberg	Germany	
denied	74	n.n.	European Commission	General Director EU Market - Financial Services	Rating & Audit	skipped	Brussels	Belgium	
skipped	75	n.n.	European Commission	Financial Companies Risk Management	Rating & Audit	skipped	Brussels	Belgium	
done	76	Dr. n.n.	European Commission	Head of DGF 4: Audit and Credit Agencies	Rating & Audit	done	Brussels	Belgium	20.08.2014, 10.00am
skipped	77	Prof. Dr. n.n.	German University 3	Institute of Monetary and Financial Stability	Rating	skipped	Frankfurt	Germany	
skipped	78	Dr. n.n.	CRA3 3	Former Managing Director Germany	Rating	skipped	Frankfurt	Germany	
skipped	79	n.n.	German Party 2	former Vice-President of German Bundestag	Rating	skipped	Berlin	Germany	
skipped	80	n.n.	AF4 1	Head of Transaction Services	Audit	skipped	Frankfurt	Germany	
skipped	81	n.n.	German Party 2	Chairman of the CDU/SCU Bundestagsfraktion	Rating	skipped	Berlin	Germany	
skipped	82	Dr. n.n.	German Party 2	Minister of Finance	Rating	skipped	Frankfurt	Germany	
done	83	n.n.	German Newspaper 2	Financial & Political Correspondent	Rating	done	Berlin	Germany	15.07.2014, 10.00am
denied	84	n.n.	Federal Financial Supervisory Authority	Former President	Rating & Audit	denied	Frankfurt	Germany	
skipped	85	n.n.	AF4 4	Global Regulatory & Public Policy Group	Audit	skipped	New York	USA	
done	86	n.n.	AF4 4	European Regulatory - Partner	Audit	done	Düsseldorf	Germany	08.08.2014, 10.00am
skipped	87	n.n.	German Bank 1	Board Member	Rating	skipped	Frankfurt	Germany	
skipped	88	n.n.	German Party 2	Assessor of the CDU/SCU Bundestagsfraktion	Rating	skipped	Berlin	Germany	
denied	89	Dr. n.n.	Federal Financial Supervisory Authority	President	Rating & Audit	denied	Frankfurt	Germany	
denied	90	Prof. Dr. n.n.	German University 4	Professor of Sociology	Rating	denied	Berlin	Germany	
done	91	n.n.	CRA3 3	Former CEO	Rating	done	New York	USA	13.05.2014, 4.00pm
skipped	92	Dr. n.n.	AF4 1	Partner	Audit	skipped	Frankfurt	Germany	
denied	93	n.n.	AF4 1	Global Relationship Partner EU Account	Audit	denied	Brussels	Belgium	21.05.2014, 10.00am
done	94	n.n.	AF4 1	Director - Global Regulatory Affairs & Public Policy	Audit	done	London	UK	10.06.2014, 12.00am
denied	95	n.n.	ESMA	Managing Director	Rating	denied	Brussels	Belgium	
denied	96	n.n.	ESMA	Vice President	Rating	denied	Brussels	Belgium	
denied	97	n.n.	Lobbying Monitor 1	Head of Network	Rating	denied	Frankfurt	Germany	
denied	98	n.n.	Lobbying Monitor 2	Head of Communication	Rating	denied	Brussels	Belgium	
done	99	n.n.	Lobbying Monitor 2	Head of Public Affairs	Rating	done	Brussels	Belgium	08.09.2014, 2.00pm
skipped	100	n.n.	CRA3 2	Head of Corporate Ratings	Rating	skipped			
skipped	101	n.n.	Medium Rating Agency 2	Managing Director	Rating	skipped			
done	102	n.n.	German Bank 2	Head of Public Relations	Rating	done	München	Germany	08.07.2014, 10.00am
done	103	n.n.	Lobbying Firm 1	Leader Financial Services Team	Rating	done	Brussels	Belgium	12.08.2014, 10.00am
done	104	Dr. n.n.	Financial Markets Institute	Head of Corporate Financing	Rating & Audit	done	Frankfurt	Germany	07.08.2014, 10.00am
			Short Analytics		Rating	46	33	done	
					Audit	42	0	confirmed	
					Rating & Audit	16	0	secured	
						104	0	pending	
							23	denied	
							48	skipped	
							104	total	
							32%	done	
							0%	confirmed	
							0%	secured	
							0%	pending	
							22%	denied	
							46%	skipped	
							100%	total	

Appendix T: NVivo10 codes

The following codes supported the analysis of the transcribed interviews. The equivalent German words were used for the analysis of the German transcripts. The allocation to the different categories is not limited because some codes revealed relevant aspects for other aspects of the analysis.

- General codes and Four I Model:

- issue
- institution
- lobbying
- outcome
- EC
- interest
- information
- action
- result
- EP
- preference
- influence
- interst representation
- ECO
- CEU

- Direct and indirect actions codes:

- direct
- member state
- informal
- indirect
- behaviour
- over-lobbying
- EU level
- style
- national

- Alliance and identity building codes:

- alliance
- together
- customer
- coordination
- identity
- bank
- common
- support
- federation

- Venue shopping codes:

- venue
- decision-making
- place
- proposal
- location
- contact

- Access goods codes:

- access
- dependency
- information
- impact assessment
- relationship
- demand

- Structural characteristics codes:

- power
- network
- structural
- consultant
- financial
- experience
- coercion
- budget
- resource
- employee
- contact
- market

- Issue characteristic codes:

- crisis
- salience/scope
- visibility
- focusing event
- media
- type
- reform
- public
- technicality

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